

1 SENATE BILL NO. 470

2 INTRODUCED BY MANGAN, BLACK, BOHLINGER, COCCHIARELLA, CROMLEY, DEPRATU,
3 ELLINGSON, GLASER, MAHLUM, MCNUTT, SPRAGUE, STAPLETON, STONINGTON, STORY, TAYLOR,
4 WHEAT

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A STATEWIDE GENERAL RETAIL SALES TAX AND
7 USE TAX ON THE SALE OF GOODS AND SERVICES; PROVIDING FOR THE ADMINISTRATION OF THE
8 SALES TAX AND USE TAX; EXEMPTING THE SALE OF CERTAIN GOODS AND SERVICES AND OTHER
9 TRANSACTIONS FROM THE SALES TAX AND USE TAX; PROVIDING A VENDOR ALLOWANCE FOR THE
10 ADMINISTRATIVE COSTS OF COLLECTING SALES TAX AND USE TAX ON THE STATE'S BEHALF;
11 DIRECTING THE DEPARTMENT OF REVENUE TO PURSUE BECOMING A SIGNATORY TO THE
12 STREAMLINED SALES AND USE TAX AGREEMENT; IMPOSING A SALES TAX AND USE TAX ON THE
13 SALE OF CERTAIN MOTOR VEHICLES; PROVIDING FOR THE ALLOCATION OF SALES TAX AND USE TAX
14 REVENUE; REDUCING PROPERTY TAXES BY APPROXIMATELY 25 PERCENT THROUGH THE
15 ELIMINATION OF 95 MILLS THAT ARE CURRENTLY REQUIRED TO BE LEVIED ON TAXABLE PROPERTY
16 IN EACH COUNTY FOR THE EQUALIZATION OF THE BASE FUNDING PROGRAMS FOR PUBLIC
17 ELEMENTARY AND HIGH SCHOOL EDUCATION; PROVIDING FOR INDIVIDUAL INCOME TAX RELIEF;
18 REMOVING THE TRIGGER FOR THE PHASE OUT ELIMINATION OF CLASS EIGHT PROPERTY TAX;
19 PROVIDING AN INDIVIDUAL INCOME TAX CAPITAL GAINS CREDIT; PROVIDING AN INDIVIDUAL INCOME
20 TAX AND CORPORATE LICENSE TAX CREDIT FOR THE AMOUNT OF PROPERTY TAXES PAID FOR
21 STATEWIDE SCHOOL AND UNIVERSITY SYSTEM PROPERTY TAX LEVIES; PROVIDING A REFUNDABLE
22 INDIVIDUAL INCOME TAX CREDIT TO OFFSET PAYMENT OF SALES TAXES DETERMINED BY
23 HOUSEHOLD COMBINED FEDERAL ADJUSTED GROSS INCOME; CLARIFYING THE DEFINITION OF
24 "CONSUMER PRICE INDEX" RELATING TO INDIVIDUAL INCOME TAX PROVISIONS; AMENDING THE
25 LIMITATIONS ON RECEIPTS FROM POLITICAL COMMITTEES TO CONFORM TO THE CHANGE IN THE
26 DEFINITION OF "CONSUMER PRICE INDEX"; AMENDING THE INDIVIDUAL INCOME TAX INCOME
27 BRACKETS AND RATES; LIMITING THE INDIVIDUAL INCOME TAX DEDUCTION FOR FEDERAL INCOME
28 TAX PAID; AMENDING THE AMOUNT OF INDIVIDUAL INCOME TAX DEDUCTION AND EXEMPTION
29 AMOUNTS; ESTABLISHING A REVENUE STABILIZATION AND DISASTER ACCOUNT THAT CAN BE
30 APPROPRIATED ONLY AFTER A DECLARATION BY THE GOVERNOR AND BY A TWO-THIRDS VOTE OF

1 ~~EACH HOUSE OF THE LEGISLATURE; PROVIDING FOR A REFUND OF EXCESS SALES TAX REVENUE~~
 2 ~~WHEN THE REVENUE STABILIZATION AND DISASTER ACCOUNT REACHES A THRESHOLD AMOUNT;~~
 3 ~~ALLOCATING A PORTION OF THE SALES TAX AND USE TAX REVENUE FOR USE IN THE STATE~~
 4 ~~GENERAL FUND; REDUCING INDIVIDUAL INCOME AND PROPERTY TAXES; PROVIDING A CONTINGENT~~
 5 ~~VOIDNESS PROVISION THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF~~
 6 ~~MONTANA; AMENDING SECTIONS ~~15-1-111, 15-1-112, 13-37-218, 15-1-501, 15-10-420, 15-23-703,~~~~
 7 ~~15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-6-138, 15-6-201, 15-16-101, 15-30-101,~~
 8 ~~15-30-103, 15-30-112, 15-30-121, 15-30-122, 15-30-142, 15-36-324, 47-3-243, 17-7-301, 20-3-106, 20-5-323,~~
 9 ~~20-5-324, 20-6-702, 20-7-102, 20-9-141, 20-9-212, 20-9-306, 20-9-307, 20-9-308, 20-9-331, 20-9-333, 20-9-343,~~
 10 ~~20-9-344, 20-9-347, 20-9-351, 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-501, 20-9-620, 23-2-512, 23-2-616,~~
 11 ~~23-2-817, 61-3-303, AND 67-3-201, 90-6-309, AND 90-6-403; MCA, AND SECTIONS 27 AND 31, CHAPTER~~
 12 ~~285, LAWS OF 1999; REPEALING SECTION 244, CHAPTER 574, LAWS OF 2001, AND SECTION 25,~~
 13 ~~CHAPTER 13, SPECIAL LAWS OF AUGUST 2002, AND SECTIONS 27 AND 31, CHAPTER 285, LAWS OF~~
 14 ~~1999; REPEALING SECTION 20-9-360, MCA; AND PROVIDING AN IMMEDIATE ~~A DELAYED AN~~ EFFECTIVE~~
 15 ~~DATE AND APPLICABILITY DATES."~~

16

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

18

19 NEW SECTION. Section 1. Definitions. For purposes of [sections 1 through ~~52~~ 53], unless the context
 20 requires otherwise, the following definitions apply:

21 (1) "Agreement" means the Streamlined Sales and Use Tax Agreement provided for under [sections
 22 53 through 60].

23 (2) (a) "Agriculture" means:

24 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables,
 25 and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial
 26 purposes; and

27 (ii) the raising of domestic animals or wildlife in domestication or a captive environment.

28 (b) Whenever the term agricultural is used, it is within the context of agriculture as defined in this
 29 section.

30 (3) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 1/2

1 of 1% or more of alcohol by volume.

2 (4) (a) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in
3 combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.

4 (b) The term does not include any preparation that contains flour and that requires refrigeration.

5 (5) "Certified automated system" means software certified jointly by the states that are signatories to
6 the agreement to calculate the tax imposed by each jurisdiction on a transaction, to determine the amount of tax
7 to remit to the appropriate state, and to maintain a record of the transaction.

8 (6) "Certified service provider" means an agent certified jointly by the states that are signatories to the
9 agreement to perform all of the seller's sales tax functions.

10 (7) "Computer" means an electronic device that accepts information in digital or similar form and
11 manipulates it for a result based on a sequence of instructions.

12 (8) "Computer software" means a set of coded instructions designed to cause a computer or automatic
13 data processing equipment to perform a task.

14 (9) "Delivery charges" means charges by the seller of personal property or services for preparation and
15 delivery to a location designated by the purchaser of personal property or services, including but not limited to
16 transportation, shipping, postage, handling, crating, and packing.

17 (10) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

18 (a) contains one or more of the following dietary ingredients:

19 (i) a vitamin;

20 (ii) a mineral;

21 (iii) an herb or other botanical;

22 (iv) an amino acid;

23 (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

24 or

25 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in
26 subsections (10)(a)(i) through (10)(a)(v);

27 (b) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended
28 for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole
29 item of a meal or of the diet; and

30 (c) is required to be labeled as a dietary supplement, identifiable by the "supplemental facts" box found

1 on the label and as required pursuant to 21 CFR 101.36.

2 (11) "Drug" means a compound, substance, or preparation and any component of a compound,
3 substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages:

4 (a) recognized in the official United State Pharmacopoeia, official Homeopathic Pharmacopoeia of the
5 United States, or official National Formulary and any supplement to them;

6 (b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

7 (c) intended to affect the structure or any function of the body.

8 (12) (a) "Durable medical equipment" means equipment, including repair and replacement parts for
9 equipment, that:

10 (i) can withstand repeated use;

11 (ii) is primarily and customarily used to serve a medical purpose;

12 (iii) generally is not useful to a person in the absence of illness or injury; and

13 (iv) is not worn in or on the body.

14 (b) The term does not include mobility enhancing equipment.

15 (13) "Electronic" means technology that relates to having electrical, digital, magnetic, wireless, optical,
16 electromagnetic, or similar capabilities.

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

19 (15) (a) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen,
20 dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for taste or
21 nutritional value.

22 (b) The term does not include alcoholic beverages, candy, dietary supplements, soft drinks, or tobacco.

23 (16) "Food sold through vending machines" means food dispensed from a machine or other mechanical
24 device that accepts payment.

25 (17) "Grooming and hygiene products" means soap and other cleaning solutions for the human body,
26 shampoo, toothpaste, mouthwash, antiperspirants, deodorant, suntan lotion, and sunscreen, regardless of
27 whether the items meet the definition of over-the-counter drugs.

28 (18) (a) "Lease" or "rental" means any transfer of possession or control of tangible personal property
29 for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or
30 extend.

1 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of
 2 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of
 3 the property, as defined in 26 U.S.C. 7701(h)(1).

4 (c) The definition of lease or rental in this subsection (18) must be used for sales tax and use tax
 5 purposes regardless of whether a transaction is characterized as a lease or rental under generally accepted
 6 accounting principles, the Internal Revenue Code, the Uniform Commercial Code, or other provisions of federal,
 7 state, or local law.

8 (d) The term does not include:

9 (i) a transfer of possession or control of property under a security agreement or deferred payment plan
 10 that requires the transfer of title upon completion of the required payments;

11 (ii) a transfer or possession or control of property under an agreement that requires the transfer of title
 12 upon completion of required payments and payment of an option price that does not exceed the greater of \$100
 13 or 1% of the total required payments; or

14 (iii) the provision of tangible personal property along with an operator for a fixed or indeterminate period
 15 of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed.
 16 For the purpose of this subsection (18)(d)(iii), an operator shall do more than maintain, inspect, or set up the
 17 tangible personal property.

18 (19) "Maintaining an office or other place of business" means:

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

21 (b) an agent, AN EMPLOYEE, OR AN INDEPENDENT CONTRACTOR operating within this state under the
 22 authority of the person or its ~~subsidiary~~ AFFILIATE, whether the place of business or agent is located within the
 23 state permanently or temporarily or whether or not the person or its ~~subsidiary~~ AFFILIATE is authorized to do
 24 business within this state.

25 (20) (a) "Manufacturing" means combining or processing components or materials, including the
 26 processing of ores in a mill, smelter, refinery, or reduction facility, to increase their value for sale in the ordinary
 27 course of business.

28 (b) The term does not include construction or mining.

29 (21) (a) "Mobility enhancing equipment" means equipment, including repair and replacement parts, that:

30 (i) is primarily and customarily used to provide or increase the ability to move from one place to another

1 and that is appropriate for use either in a home or in a motor vehicle;

2 (ii) is not generally used by persons with normal mobility; and

3 (iii) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor
4 vehicle manufacturer.

5 (b) The term does not include durable medical equipment.

6 (22) (a) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug,
7 as required by 21 CFR 201.66.

8 (b) An over-the-counter drug label includes:

9 (i) a drug facts panel; or

10 (ii) a statement of the active ingredients with a list of those ingredients contained in the compound,
11 substance, or preparation.

12 (c) The term does not include grooming and hygiene products.

13 (23) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited
14 liability partnership, corporation, or any other legal entity.

15 (24) (a) "Prepared food" means:

16 (i) food sold in a heated state or heated by the seller;

17 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

18 (iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses,
19 cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

20 (b) The term does not include food that is only cut, repackaged, or pasteurized by the seller or eggs,
21 fish, meat, poultry, or foods containing any of these raw animal foods if cooking of the animal foods by the
22 consumer is recommended by the food and drug administration in chapter 3, part 401.11, of its Food Code to
23 prevent food-borne illnesses.

24 (25) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or
25 other means of transmission by a licensed practitioner as authorized by the laws of Montana.

26 (26) (a) "Prewritten computer software" means computer software, including prewritten upgrades, that
27 is not designed and developed by the author or other creator to the specifications of a specific purchaser. The
28 combining of two or more prewritten computer software programs or prewritten portions of computer software
29 programs does not cause the combination to be other than prewritten computer software.

30 (b) Prewritten computer software includes software designed and developed by the author or other

1 creator to the specifications of a specific purchaser if it is sold to a person other than the purchaser. If a person
2 modifies or enhances computer software that the person has not written or created, the person is considered
3 to be the author or creator only of the person's modifications or enhancements. Prewritten computer software
4 or a prewritten portion of computer software that is modified or enhanced to any degree, if the modification or
5 enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten
6 computer software. However, if there is a reasonable, separately stated charge or an invoice or other statement
7 of the price given to the purchaser for the modification or enhancement, the modification or enhancement does
8 not constitute prewritten computer software.

9 (27) (a) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and
10 replacement parts, worn on or in the body to:

11 (i) artificially replace a missing portion of the body;

12 (ii) prevent or correct physical deformity or malfunction; or

13 (iii) support a weak or deformed portion of the body.

14 (b) The term does not include any treatment or enhancement undertaken for cosmetic purposes only.

15 (28) "Purchase price" applies to the measure subject to sales tax or use tax and has the same meaning
16 as sales price.

17 (29) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is
18 furnished.

19 (30) "Registration" or "seller's registration" means the numbered seller's registration described in [section
20 32].

21 (31) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease, or
22 subrent.

23 (32) "Sale", "selling", or "buying" means:

24 (a) the transfer of property for consideration; or

25 (b) the performance or receipt of a service for consideration.

26 (33) (a) "Sales price" applies to the measure subject to sales tax or use tax and means the total amount
27 of consideration, including cash, credit, property, and services, for which personal property or services are sold,
28 leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the
29 following:

30 (i) the seller's cost of the property sold; and

- 1 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the
2 seller, all taxes imposed on the seller, and any other expense of the seller;
- 3 (iii) charges by the seller for any services necessary to complete the sale, other than delivery and
4 installation charges;
- 5 (iv) delivery charges;
- 6 (v) installation charges; or
- 7 (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal
8 property have been bundled together and sold by the seller as a single product or piece of merchandise.
- 9 (b) The term does not include:
- 10 (i) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed
11 by a seller and taken by a purchaser on a sale;
- 12 (ii) interest, financing charges, and carrying charges from credit extended on the sale of personal
13 property or services if the amount is separately stated on the invoice, bill of sale, or similar document given to
14 the purchaser;
- 15 (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of
16 sale, or similar document given to the purchaser; and
- 17 (iv) trade-in value of tangible personal property when the trade-in and purchase occur in one transaction.
- 18 (34) "Sales tax" and "use tax" mean the applicable tax imposed by [section 2].
- 19 (35) "Seller" means a person that makes sales, leases, or rentals of personal property or services.
- 20 (36) "Service" means all activities engaged in for other persons for a fee, retainer, commission, or other
21 monetary charge that involve predominantly the performance of a service as distinguished from selling property.
22 In determining what is a service, the intended use, principal objective, or ultimate objective of the contracting
23 parties is irrelevant.
- 24 (37) (a) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners.
- 25 (b) The term does not include beverages that contain milk or milk products, soy, rice or similar milk
26 substitutes, or greater than 50% of vegetable or fruit juice by volume.
- 27 (38) "Tangible personal property" means personal property that can be seen, weighed, measured, felt,
28 or touched or that is in any other manner perceptible to the senses. Tangible personal property includes
29 electricity, water, gas, steam, and prewritten computer software.
- 30 (39) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains

1 tobacco.

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

4 (41) (a) "Value" means the total amount of property or the reasonable value of other consideration paid
5 for the use of the property, exclusive of any type of time-price differential.

6 (b) In a transaction in which the amount of money or other consideration paid does not represent the
7 value of the property or service purchased, the use tax must be imposed on the reasonable value of the property
8 purchased.

9

10 **NEW SECTION. Section 2. Imposition and rate of sales tax and use tax -- exceptions.** (1) A sales
11 tax of 4% is imposed on the sales price of all sales of services and tangible personal property. The sales tax is
12 imposed on the purchaser and, except when the purchaser has a direct payment permit as provided in [section
13 8], the sales tax must be collected by the seller and paid to the department by the seller. The seller holds all
14 sales taxes collected in trust for the state.

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

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

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

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

23 (d) acquired as the result of a transaction that was not initially subject to the sales tax imposed by
24 subsection (1) or the use tax imposed by subsection (2)(b) or (2)(c) but which transaction, because of the
25 purchaser's subsequent use of the property, is subject to the sales tax or use tax.

26 (3) (a) For the privilege of using services within this state, there is imposed on the person using services
27 a use tax equal to 4% of the value of the services at the time at which they were rendered.

28 (b) Services are taxable under this section if the services were initially not subject to the sales tax or
29 use tax but because of the buyer's subsequent use of the services in this state are subject to the sales tax or
30 use tax.

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

3 (5) The sale of property or services exempt or nontaxable under [sections 1 through ~~52~~ 53] is exempt
4 from the tax imposed in subsections (1) through (3).

5
6 **NEW SECTION. Section 3. Presumption of taxability -- value -- rounding rules.** (1) In order to
7 prevent evasion of the sales tax or use tax and to aid in the administration of the sales tax and use tax, it is
8 presumed that:

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

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

12 (2) The department shall adopt rules providing for the payment of the sales tax or use tax that comply
13 with the rounding rules adopted by the agreement.

14
15 **NEW SECTION. Section 4. Credit -- out-of-state taxes.** If a sales tax, use tax, or similar tax has been
16 levied by another state or a political subdivision of another state on property or a service that was purchased
17 outside this state but that will be used or consumed within this state and the tax was paid by the current user,
18 the amount of tax paid may be credited against any use tax due this state on the same property. The credit may
19 not exceed the sales tax or use tax due this state.

20
21 **NEW SECTION. Section 5. Separate statement of sales tax -- no advertising to absorb or refund**
22 **sales tax.** (1) If a person collects a sales tax or use tax in excess of the tax imposed by [section 2], both the tax
23 and the excess tax must be remitted to the department.

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

26 (3) A person may not advertise, hold out, or state to the public or to any customer that the sales tax or
27 use tax imposed by [sections 1 through ~~52~~ 53] will be absorbed or refunded.

28
29 **NEW SECTION. Section 6. Liability of user for payment of use tax.** (1) A person within this state who
30 uses property or a service is liable to the state for payment of the use tax if the use tax is payable on the value

1 of the property or service but has not been paid.

2 (2) The liability imposed by this section on the purchaser is discharged if the purchaser has paid the
3 use tax to the seller for payment to the department.

4
5 **NEW SECTION. Section 7. Collection of sales tax and use tax -- listing of business locations and**

6 **agents -- severability.** (1) Except when the purchaser has a direct payment permit as provided in [section 8],
7 a person engaging in the business of selling property or services subject to taxation under [sections 1 through
8 ~~52~~ 53] shall collect the sales tax or use tax from the purchaser and pay the sales tax or use tax collected to the
9 department.

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

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

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

17 (ii) canvassing;

18 (iii) demonstrating;

19 (iv) collecting money;

20 (v) warehousing or storing merchandise;

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

23 (vii) to the extent permitted by federal law, soliciting orders for property by means of telecommunications
24 or a television shopping system or by providing telecommunications services that use toll or toll-free numbers
25 and that are intended to be broadcast by cable, satellite, or other means to consumers within this state;

26 (viii) soliciting orders, pursuant to a contract with a broadcaster or publisher located within this state, for
27 property or services by means of advertising disseminated primarily to consumers located within this state;

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

30 (x) soliciting orders, pursuant to a contract with a cable or satellite television operator located within this

1 state, for tangible personal property or services by means of advertising transmitted or distributed over a cable
2 or satellite television system within this state; or

3 (xi) participating in an act that benefits from banking, financing, debt collection, telecommunications, or
4 marketing activities occurring within this state or that benefits from the location within this state of authorized
5 installation, servicing, or repair facilities.

6 (3) Multistate registration pursuant to the agreement may not be used as a factor to determine whether
7 the person is conducting an activity within the state subjecting the person to the sales tax or use tax.

8 (4) A person engaging in business within this state shall, before making any sales, register as a seller,
9 as provided in [section ~~32~~ 33] and, at the time of making a sale, whether within or outside of the state, collect
10 the sales tax or use tax imposed by [section 2] from the purchaser and give to the purchaser a receipt, in the
11 manner and form prescribed by rule, for the sales tax or use tax paid.

12 (5) (a) The department may authorize the collection of the sales tax or use tax imposed by [section 2]
13 by any seller who does not maintain a place of business within this state but who, to the satisfaction of the
14 department, is in compliance with the law or who has registered:

15 (i) as provided in [section ~~32~~ 33]; or

16 (ii) under the multistate central registration system established under the agreement.

17 (b) A person authorized under subsection (5)(a) shall collect the use tax upon all property that, to the
18 person's knowledge, is for use within this state and subject to taxation under [sections 1 through ~~52~~ 53].

19 (6) All sales tax and use tax required to be collected and all sales tax and use tax collected by any
20 person under [sections 1 through ~~52~~ 53] constitute a debt owed to this state by the person required to collect the
21 sales tax or use tax.

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

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

27 (a) the names and addresses of all of the person's agents operating within this state; and

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

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

1 affected.

2

3 **NEW SECTION. Section 8. Direct payment of sales tax -- direct payment permits.** (1) The
4 department may issue direct payment permits to any person liable for the payment of more than \$500 a year
5 in sales taxes or use taxes. A person who desires to make direct payment shall apply to the department, on
6 forms approved by the department. By applying for a direct payment permit, the applicant acknowledges that
7 the applicant assumes all obligations to pay the sales tax due and use tax due under [sections 1 through ~~52~~ 53]
8 made by the applicant as a direct payment permitholder. A direct payment permit may be revoked by the
9 department at any time upon 90 days' written notice to the permittee. A direct payment permitholder may be
10 audited by the department.

11 (2) A direct payment permitholder shall pay the sales tax and use tax authorized under [sections 1
12 through ~~52~~ 53] directly to the department. The permitholder must receive an exemption certificate, as provided
13 in [section 9], using the direct payment permit as a basis for the exemption.

14

15 **NEW SECTION. Section 9. Exemption certificate -- form -- rules.** (1) The department shall provide
16 for a uniform exemption certificate. An electronic or digitally usable version of an exemption certificate may also
17 be provided. A purchaser shall provide the exemption certificate number when purchasing goods or services
18 for resale or for other nontaxable transactions.

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

20 (a) a unique identification number;

21 (b) the nature of the exemption, such as:

22 (i) the purchase of types of property and services for resale;

23 (ii) the purchase of types of property and services for manufacturing, AGRICULTURE, MINING, RAIL
24 TRANSPORTATION, ELECTRIC POWER GENERATION FACILITIES, OR OTHER BUSINESSES;

25 (iii) that the purchaser holds a valid direct payment permit as described in [section 8]; or

26 (iv) that the purchaser is an entity exempt from payment of sales tax or use tax;

27 (c) the name and address of the purchaser; and

28 (d) if it is a paper certificate, a signature line for the purchaser.

29 (3) The department shall adopt rules to provide procedures for application for an exemption certificate
30 prior to January 1, ~~2004~~ 2005. The rules adopted by the department must ensure that each person eligible for

1 an exemption certificate within this state prior to January 1, ~~2004~~ 2005, that has applied in a timely fashion is
 2 issued an exemption certificate prior to January 1, ~~2004~~ 2005.

3
 4 **NEW SECTION. Section 10. Exemption certificate -- requirements.** (1) A purchaser shall provide
 5 an exemption certificate to the seller at the time that a nontaxable transaction occurs.

6 (2) A purchaser who presents an exemption certificate shall provide information on the purchaser's
 7 identity and the nature of the purchaser's exemption.

8 (3) If the seller accepts an exemption certificate at the time of the sale or lease and obtains proper
 9 information on the identity of the purchaser and the nature of the purchaser's exemption, the purchaser is liable
 10 for payment of the sales tax or use tax due on sales for which the purchaser incorrectly claimed an exemption.
 11 If the incorrect claim was made with the intent to evade the payment of the sales tax, the purchaser is subject
 12 to the penalty provided in [section ~~35~~ 36].

13
 14 **NEW SECTION. Section 11. Exempt services.** (1) The following BUSINESS services, as enumerated
 15 in the North American Industry Classification System Manual (NAICS), 1997, prepared by the United States
 16 office of management and budget, office of the president, are exempt from taxation:

- 17 (a) health services (NAICS sector 62);
 18 (b) educational services (NAICS sector 61), except all other schools and instruction (NAICS industry
 19 61169);
 20 (c) agriculture, forestry, and fishing and hunting services (sector 11), ~~except fishing, hunting, and~~
 21 ~~trapping (NAICS subsector 114);~~
 22 (d) radio and television broadcasting (NAICS group 5131);
 23 (e) transportation (NAICS sector 48), except:
 24 (i) nonscheduled air transportation (NAICS group 4812);
 25 (ii) truck transportation (NAICS subsector 484);
 26 (iii) transit and ground transportation (NAICS subsection 485), other than urban transit systems (NAICS
 27 industry 48511) and school and employee bus transportation (NAICS group 4854);
 28 (iv) pipeline transportation (NAICS subsector 486);
 29 (v) scenic and sightseeing transportation (NAICS subsector (487);
 30 (f) farm product warehousing and storage (NAICS industry 49313);

- 1 (g) water, sewage, and other systems (NAICS group 2213);
 2 (h) security brokerage (NAICS industry 52312); ~~and~~
 3 (i) advertising and related services (NAICS group 5418); ~~AND~~
 4 (J) FITNESS AND RECREATIONAL SPORTS CENTERS (NAICS INDUSTRY 713940); AND
 5 (K) NEWSPAPER PUBLISHING AND RELATED SERVICE (NAICS INDUSTRY 51111).
 6 (2) The following are also specifically exempt from the sales tax and use tax imposed in [section 2]:
 7 (a) services rendered by an employee for the employee's employer;
 8 (b) commissions earned or service fees paid by an insurance company to an agent, insurance producer,
 9 or representative for the sale of an insurance policy;
 10 (c) the rental or lease of a motor vehicle rented or leased under a single contract for more than 28 days;
 11 (d) services provided by a corporation to:
 12 (i) another corporation that is centrally assessed and that has identical ownership to the corporation
 13 providing the service; and
 14 (ii) a subsidiary that is wholly owned by the corporation providing the service and that is centrally
 15 assessed;
 16 (e) retail telecommunications services subject to the retail telecommunications excise tax under Title
 17 15, chapter 53; ~~and~~
 18 (f) gambling that is regulated under Title 23, chapter 5; ~~AND~~
 19 (G) STATE LOTTERY GAMES THAT ARE AUTHORIZED UNDER TITLE 23, CHAPTER 7.
 20

21 **NEW SECTION. Section 12. Exemption -- government agencies -- ~~exception UTILITIES.~~** (1) Except
 22 as provided in subsection (2), all sales by, sales to, or uses by the United States, this state, an agency or
 23 instrumentality of the United States or of this state, a political subdivision of this state, an Indian tribe, or a foreign
 24 government are exempt from the sales tax and use tax.

25 (2) The sale of natural gas, water, electricity, ~~telecommunications services~~, refuse collection, ~~or~~ AND
 26 other utility services is ~~not~~ exempt from the sales tax and use tax.
 27

28 **NEW SECTION. Section 13. Exemption -- food products.** (1) Except as provided in subsection (3),
 29 the sale or use of food and food ingredients is exempt from the sales tax and use tax.

30 (2) The sale of food purchased under the special supplemental food program for women, infants, and

1 children as specified in 42 U.S.C. 1786, as amended, is exempt from the sales tax and use tax.

2 (3) Except as provided in subsection (4), the sale of prepared food and food sold through vending
3 machines is taxable.

4 (4) Prepared food offered or delivered as part of a residential living arrangement and consumed by an
5 individual that is party to the arrangement or by patients of a health care facility is exempt from the sales tax and
6 use tax.

7
8 **NEW SECTION. Section 14. Exemption -- medicine, drugs, and certain devices.** The following are
9 exempt from the sales tax and use tax imposed in [section 2]:

10 (1) prescriptions, over-the-counter drugs, insulin, and oxygen; and

11 (2) therapeutic and prosthetic devices, durable medical equipment, and mobility enhancing equipment.

12
13 **NEW SECTION. Section 15. Exemption -- MOTOR VEHICLES -- fuel. (1) THE SALE AND USE OF A VEHICLE**
14 **WITH A GROSS VEHICLE WEIGHT IN EXCESS OF 12,000 POUNDS THAT IS SUBJECT TO A TAX OR FEE IMPOSED UNDER TITLE**
15 **61, CHAPTER 3, PART 5, DESCRIBED IN SUBSECTION (2) ARE EXEMPT FROM THE SALES TAX AND USE TAX.**

16 **(2) THE FOLLOWING VEHICLES ARE EXEMPT UNDER SUBSECTION (1):**

17 **(A) A VEHICLE, EXCEPT A MOTOR HOME, AS DEFINED IN 61-1-130, THAT EXCEEDS THE MAXIMUM LIMIT FOR**
18 **CONSIDERATION AS A LIGHT VEHICLE, AS DEFINED IN 61-1-139; AND**

19 **(B) A VEHICLE THAT HAS A MANUFACTURER'S RATED CAPACITY OF 1 TON OR MORE AND IS REQUIRED, UNDER**
20 **61-10-201, TO PAY THE FEE FOR A MAXIMUM GROSS LOADED WEIGHT OF 1 TON OR MORE.**

21 **(3) THE SALE OF A MOTOR HOME, AS DEFINED IN 61-1-130, IS SUBJECT TO THE SALES TAX AND USE TAX.**

22 ~~(1)~~~~(2)~~~~(4)~~ The sale and use of gasoline, ethanol blended for fuel, and special fuel, including natural gas
23 or propane, upon which tax has been paid or will be paid under Title 15, chapter 70, are exempt from the sales
24 tax and use tax.

25 ~~(2)~~~~(3)~~~~(5)~~ The sale and use of special fuel that is exempt from taxation under Title 15, chapter 70, part
26 3, are exempt from the sales tax and use tax.

27
28 **NEW SECTION. Section 16. Exemption -- insurance premiums.** The premiums paid to an insurance
29 company, a health service corporation, a health maintenance organization, or a fraternal benefit society or to
30 an agent or producer of an insurance company, health services corporation, health maintenance organization,

1 or fraternal benefit society are exempt from the sales tax.

2

3 **NEW SECTION. Section 17. Exemption -- dividends and interest.** The following are exempt from
4 the sales tax and use tax imposed in [section 2]:

5 (1) interest on money loaned or deposited;

6 (2) dividends or interest that accrue from stocks, bonds, or securities;

7 (3) proceeds from the sale of stocks, bonds, or securities; and

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

10

11 **NEW SECTION. Section 18. Exemption -- isolated or occasional sale or lease of property.** (1) The
12 isolated or occasional sale or lease of property, OTHER THAN A MOTOR VEHICLE, by a person that is not regularly
13 engaged in or that does not claim to be engaged in the business of selling or leasing the same or a similar
14 property is exempt from the sales tax and use tax.

15 (2) An occasional sale includes a sale that is occasional but not continuous and that is made for the
16 purpose of fundraising by a nonprofit organization, including but not limited to a youth club, a service club, or
17 a fraternal organization.

18

19 **NEW SECTION. Section 19. Exemption -- personal effects.** The use by an individual of personal or
20 household effects brought into the state for the establishment by the individual of an initial residence within this
21 state and the use of property brought into the state by a nonresident for the nonresident's own nonbusiness use
22 while temporarily within this state are exempt from the use tax.

23

24 **NEW SECTION. SECTION 20. EXEMPTION -- AGRICULTURE. (1) EXCEPT AS PROVIDED IN SUBSECTION (2),**
25 **SALES BY, SALES TO, OR USES BY A PERSON ENGAGED IN AGRICULTURE ARE EXEMPT FROM THE SALES TAX AND USE TAX.**

26 **(2) (A) A PURCHASE BY A PERSON ENGAGED IN AGRICULTURE IS EXEMPT FROM THE SALES TAX OR USE TAX ONLY**
27 **IF THE PROPERTY OR SERVICE PURCHASED IS USED EXCLUSIVELY IN OR FOR THE PERSON'S AGRICULTURAL OPERATION.**

28 **(B) A SALE BY A PERSON ENGAGED IN AGRICULTURE IS EXEMPT FROM THE SALES TAX AND USE TAX ONLY IF THE**
29 **PROPERTY OR SERVICE SOLD IS SUBSTANTIALLY A NONRETAIL AGRICULTURAL SALE.**

30

1 **NEW SECTION. Section 21. Exemption -- feed -- fertilizers -- EQUIPMENT.** The sale or use of the
2 following when used in the course of an agricultural business is exempt from the sales tax and use tax:

- 3 (1) feed for livestock;
- 4 (2) semen, ova, and embryos used in animal husbandry;
- 5 (3) seeds, roots, and bulbs;
- 6 (4) soil conditioners and fertilizers;
- 7 (5) insecticides, insects used to control weeds or the population of other insects, fungicides, weedicides,
8 and herbicides;

9 (6) water for commercial irrigation; ~~and~~

10 (7) AGRICULTURAL IMPLEMENTS AND EQUIPMENT; AND

11 ~~(7)~~(8) agricultural services that are used, applied, distributed, or otherwise employed in the sale or use
12 of property or a service described in subsections (1) through ~~(6)~~ (7).

13

14 **NEW SECTION. Section 22. Exemption -- agricultural products -- livestock feeding.** (1) (a) The
15 sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer, trapper,
16 or nonprofit marketing association is exempt from the sales tax.

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

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

22

23 **NEW SECTION. Section 23. Exemption -- minerals -- exceptions.** (1) The sale or lease of interests
24 in minerals is exempt from the sales tax and use tax.

25 (2) Except as provided in subsections (5) and (6), the sale or use of a mineral is exempt from the sales
26 tax and use tax.

27 (3) (a) Minerals used by the producer of the minerals for purposes of exploring for, producing, or
28 transporting minerals are exempt from the sales tax and use tax

29 (b) The exemption provided in subsection (3)(a) does not include the use of refined petroleum products
30 used for exploring for, producing, or transporting minerals.

1 (4) The sale or use of platinum and palladium, whenever refined and preserved in coins, ingots, bars,
2 rods, rolls, ribbons, wire, or other similar forms, is exempt from the sales tax and use tax.

3 (5) Minerals used as or integrated into jewelry, art, or sculpture or used as a decorative embellishment
4 or adornment, either in their own right, in combination with other property, or after being refined, reduced,
5 polished, cut, faceted, or otherwise processed, are not included in the exemption provided in this section.

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

8 (7) For the purposes of this section, the term "mineral" has the meaning as provided in 15-38-103.
9

10 **NEW SECTION. Section 24. Exemption -- certain chemicals, reagents, and substances.** (1) The
11 sale or use by a person of any chemical, reagent, or other substance that is normally used or consumed in the
12 processing of ores or petroleum, in a mill, smelter, refinery, or reduction facility, or in acidizing oil wells is exempt
13 from the sales tax and use tax.

14 (2) The sale or use of explosives, blasting material, or dynamite is not exempt from the sales tax and
15 use tax.
16

17 **NEW SECTION. Section 25. Nontaxability -- sale for resale.** (1) The sale of property for resale is
18 nontaxable if:

19 (a) the sale is made to a purchaser with an exemption certificate; and
20 (b) the purchaser resells the property either by itself or in combination with other property in the ordinary
21 course of business and the property will ultimately be subject to the sales tax or use tax.

22 (2) The sale of a service for resale is nontaxable if:

23 (a) the sale is made to a purchaser with an exemption certificate;
24 (b) the purchaser resells the service and separately states the value of the service purchased in the
25 charge for the service in the subsequent sale; and

26 (c) the subsequent sale is in the ordinary course of business and subject to the sales tax or use tax.
27

28 ~~NEW SECTION. Section 25. Nontaxability -- sale to miner or manufacturer FOR MANUFACTURING AND~~
29 ~~MINING USES. (1) The sale OR USE of property OR A SERVICE to a purchaser engaged in the business of mining or~~
30 ~~manufacturing is nontaxable if:~~

1 ~~_____ (a) the purchaser has an exemption certificate; and~~
 2 ~~_____ (b) (i) the purchaser incorporates the property as an ingredient or component part of the product in the~~
 3 ~~business of mining or manufacturing; or~~
 4 ~~_____ (ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned~~
 5 ~~in place, in accordance with state regulations, when production of the mineral from a mine or wellhead~~
 6 ~~permanently ceases.~~

7 ~~_____ (b) THE PURCHASER IS ENGAGED IN AND USES THE PROPERTY OR SERVICE IN EITHER OF THE FOLLOWING:~~

8 ~~_____ (i) MINING. FOR THE PURPOSES OF THIS SECTION, THE TERM "MINING" MEANS THE CARRYING ON OF OPERATIONS~~
 9 ~~OF ANY KIND FOR THE PURPOSE OF EXTRACTING FROM THE EARTH ANY MINERAL, AS DEFINED IN 15-38-103, AND~~
 10 ~~INCLUDES OPERATIONS OF ANY KIND FOR THE EXTRACTION OF ANY MINERAL FROM ANY OTHER MINERAL. THE TERM DOES~~
 11 ~~NOT INCLUDE MANUFACTURING.~~

12 ~~_____ (ii) MANUFACTURING. FOR THE PURPOSES OF THIS SECTION, THE TERM "MANUFACTURING" HAS THE MEANING~~
 13 ~~PROVIDED IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM MANUAL (1997) PREPARED BY THE UNITED~~
 14 ~~STATES OFFICE OF MANAGEMENT AND BUDGET.~~

15 ~~_____ (c) (i) THE PURCHASER INCORPORATES THE PROPERTY AS AN INGREDIENT OR COMPONENT PART OF THE~~
 16 ~~PRODUCT IN THE BUSINESS OF MINING OR MANUFACTURING; OR~~

17 ~~_____ (ii) THE PURCHASER USES THE PROPERTY TO EXTRACT A MINERAL AND THE PROPERTY IS REQUIRED TO BE~~
 18 ~~ABANDONED IN PLACE, IN ACCORDANCE WITH STATE REGULATIONS, WHEN PRODUCTION OF THE MINERAL FROM A MINE~~
 19 ~~OR WELLHEAD PERMANENTLY CEASES.~~

20 ~~_____ (2) THE SALE OR USE OF ANY CHEMICAL, REAGENT, OR OTHER SUBSTANCE THAT IS USED OR CONSUMED IN THE~~
 21 ~~PROCESSING OF ORES OR PETROLEUM IN A MILL, SMELTER, REFINERY, OR REDUCTION FACILITY OR IN ACIDIZING OIL WELLS~~
 22 ~~IS NONTAXABLE IF THE PURCHASER HAS AN EXEMPTION CERTIFICATE AND THE PURCHASER IS ENGAGED IN AND USES THE~~
 23 ~~PROPERTY OR SERVICE IN MINING OR MANUFACTURING.~~

24 ~~_____ (2)(3) For the purposes of this section, electrical energy or electricity used or consumed by electrolytic~~
 25 ~~reduction used in the reduction or refinement of ores is considered a component part of the product.~~

26
 27 **NEW SECTION. SECTION 26. NONTAXABILITY -- AGRICULTURE -- CONSTRUCTION -- MANUFACTURING -- MINING**
 28 **-- CERTAIN SUBSTANCES -- OTHER BUSINESSES. (1) THE SALE OF PROPERTY OR A SERVICE TO OR THE USE OF PROPERTY**
 29 **OR A SERVICE BY A PURCHASER IS NONTAXABLE IF:**

30 **(A) THE PURCHASER HAS AN EXEMPTION CERTIFICATE;**

- 1 (B) THE PURCHASER IS ENGAGED IN AND USES THE PROPERTY OR SERVICE IN ANY OF THE FOLLOWING:
- 2 (i) AGRICULTURE;
- 3 (ii) THE CONSTRUCTION INDUSTRY, AS DEFINED IN 39-71-116, AND THE ITEM PURCHASED IS INCORPORATED INTO
4 AN IMPROVEMENT TO REAL PROPERTY THAT IS TO BE USED FOR COMMERCIAL OR RESIDENTIAL PURPOSES OR IN THE
5 CONSTRUCTION OF PUBLIC PROPERTY;
- 6 (iii) MINING. FOR THE PURPOSES OF THIS SECTION, THE TERM "MINING" MEANS THE CARRYING ON OF OPERATIONS
7 OF ANY KIND FOR THE PURPOSE OF EXTRACTING FROM THE EARTH ANY MINERAL, AS DEFINED IN 15-38-103, AND
8 INCLUDES OPERATIONS OF ANY KIND FOR THE EXTRACTION OF ANY MINERAL FROM ANY OTHER MINERAL. THE TERM DOES
9 NOT INCLUDE MANUFACTURING.
- 10 (iv) MANUFACTURING. FOR THE PURPOSES OF THIS SECTION, THE TERM "MANUFACTURING" HAS THE MEANING
11 PROVIDED IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM MANUAL, 1997, PREPARED BY THE UNITED
12 STATES OFFICE OF MANAGEMENT AND BUDGET.
- 13 (v) RAIL TRANSPORTATION (NAICS 482). FOR THE PURPOSES OF THIS SECTION, THE TERM "RAIL
14 TRANSPORTATION" HAS THE MEANING PROVIDED IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM MANUAL,
15 1997, PREPARED BY THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET.
- 16 (vi) ELECTRIC POWER GENERATION. FOR THE PURPOSES OF THIS SECTION, THE TERM "ELECTRIC POWER
17 GENERATION" HAS THE MEANING PROVIDED IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM MANUAL, 1997,
18 PREPARED BY THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET.
- 19 (C) (i) THE PURCHASER INCORPORATES THE PROPERTY AS AN INGREDIENT OR COMPONENT PART OF THE
20 PRODUCT IN THE BUSINESS OF MINING OR MANUFACTURING; OR
- 21 (ii) THE PURCHASER USES THE PROPERTY TO EXTRACT A MINERAL AND THE PROPERTY IS REQUIRED TO BE
22 ABANDONED IN PLACE, IN ACCORDANCE WITH STATE REGULATIONS, WHEN PRODUCTION OF THE MINERAL FROM A MINE
23 OR WELLHEAD PERMANENTLY CEASES.
- 24 (2) THE SALE OR USE OF ANY CHEMICAL, REAGENT, OR OTHER SUBSTANCE THAT IS USED OR CONSUMED IN THE
25 PROCESSING OF ORES OR PETROLEUM IN A MILL, SMELTER, REFINERY, OR REDUCTION FACILITY OR IN ACIDIZING OIL WELLS
26 IS NONTAXABLE IF THE PURCHASER HAS AN EXEMPTION CERTIFICATE AND THE PURCHASER IS ENGAGED IN AND USES THE
27 PROPERTY OR SERVICE IN MINING OR MANUFACTURING.
- 28 (3) THE SALE OF PROPERTY OR A SERVICE TO OR THE USE OF PROPERTY OR A SERVICE BY A PURCHASER IS
29 NONTAXABLE IF:
- 30 (A) THE PURCHASER HAS AN EXEMPTION CERTIFICATE; AND

1 (B) THE PURCHASER IS ENGAGED IN BUSINESS FOR THE PURPOSE OF MONETARY BENEFIT AND THE PROPERTY
2 OR SERVICE IS USED EXCLUSIVELY IN THE PURCHASER'S BUSINESS.

3
4 NEW SECTION. Section 27. Nontaxability -- sale or lease of real property or improvements and
5 lease of mobile homes. (1) (a) The sale or lease of real property or improvements is nontaxable.

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

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

9
10 NEW SECTION. Section 28. Nontaxability -- transactions in interstate commerce -- certain
11 property used in interstate commerce. The following are nontaxable:

12 (1) A transaction in interstate commerce is nontaxable to the extent that the imposition of the sales tax
13 or use tax would be unlawful under the United States constitution.

14 (2) Transmitting messages or conversations by radio is nontaxable when the transmissions originate
15 from a point outside this state and are received at a point within this state.

16 (3) The sale of radio or television broadcast time for airing an advertisement is nontaxable if:

17 (a) the advertising message is supplied by or on behalf of a national or regional seller;

18 (b) the advertiser does not have its principal place of business within this state; or

19 (c) the advertiser is not incorporated under the laws of this state.

20
21 NEW SECTION. Section 29. Nontaxability -- sale of certain services to out-of-state purchaser. (1)
22 Except as provided in subsection (3), sales of a service are not taxable if the sale is made to a purchaser that
23 delivers to the seller either an exemption certificate or other evidence acceptable to the department that the
24 transaction and the person that delivers the exemption certificate or other evidence acceptable to the department
25 meet the conditions set out in subsection (2).

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

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

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

30 (c) concurrent with the performance of the service, does not have a regular place of work within this

1 state or spend more than brief and occasional periods of time within this state and:

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

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

5 (3) Architectural, engineering, surveying, or graphic design services are nontaxable if the product
6 resulting from the service or the service is used or applied exclusively outside of Montana. For the purposes of
7 this subsection, the provisions of subsection (2) do not apply.

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

11
12 **NEW SECTION. Section 30. Nontaxability -- sale of tangible personal property for leasing.** The
13 sale of property, other than furniture or appliances that are purchased for use as described in [section ~~26(2)~~
14 27(2)], is nontaxable if:

15 (1) the sale is made to a purchaser that has an exemption certificate;

16 (2) the purchaser is engaged in a business deriving more than 50% of its receipts from selling or leasing
17 property of the type leased; and

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

20
21 **NEW SECTION. Section 31. Nontaxability -- lease for subsequent lease.** The lease of property,
22 other than furniture or appliances that are purchased for use as described in [section ~~26(2)~~ 27(2)], is nontaxable
23 if:

24 (1) the lease is made to a lessee who has an exemption certificate; and

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

27
28 **NEW SECTION. Section 32. Nontaxability -- use tax -- use of property for leasing.** The value of
29 leased property is not considered in computing the use tax due if the person holding the property for lease:

30 (1) is engaged in a business that derives a substantial portion of its receipts from selling or leasing

1 property of the type leased;

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

4 (3) does not use the property in a manner incidental to the performance of a service that is taxable
5 under [section 2].

6
7 **NEW SECTION. Section 33. Seller's registration -- rules.** (1) A person that wishes to engage in
8 business within this state shall register as a seller before engaging in business within this state.

9 (2) Registration may be directly with the department or through the multistate central registration system
10 as provided in the agreement. Sellers registered through the multistate central registration system agree to
11 collect and remit sales taxes and use taxes for taxable Montana sales and comply with audit and compliance
12 provisions established through the agreement.

13 (3) The department shall register each applicant eligible to engage in business within this state and
14 provide a separate, numbered seller's registration for each location in which the applicant is maintaining an office
15 or other place of business. A registration is valid until revoked or suspended but is not assignable. A registration
16 is valid only for the person in whose name it is issued and for the transaction of business at the place
17 designated. Except as provided in [section ~~33(1)(e)~~ 34(1)(C)], the registration must be conspicuously displayed
18 at all times at the place for which it is issued.

19 (4) The department shall adopt rules to provide procedures for application and for registering sellers
20 engaging in business within this state prior to January 1, ~~2004~~ 2005. The rules adopted by the department must
21 ensure that each person engaging in business within this state prior to January 1, ~~2004~~ 2005, has the opportunity
22 to be registered prior to January 1, ~~2004~~ 2005.

23
24 **NEW SECTION. Section 34. Seller's registration application -- requirements -- place of business**
25 **-- form.** (1) (a) A person that wishes to engage in business within this state shall file with the department an
26 application for a seller's registration. If the person has more than one location in which the person is maintaining
27 an office or other place of business, an application may include multiple locations.

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

30 (c) An applicant who does not maintain an office or other place of business and who moves from place

1 to place is considered to have only one place of business and shall attach proof of registration to the applicant's
2 cart, stand, vehicle, or other merchandising device.

3 (2) Each person or class of persons required to file a return under [sections 1 through ~~52~~ 53], other than
4 persons with direct payment permits and certified service providers, is required to file an application for a seller's
5 registration.

6 (3) Each application for registration may be either an electronic or a paper form as prescribed by the
7 department. The application must meet the requirements of the multistate central registration system under the
8 agreement even if the applicant intends to make local retail sales only in Montana. The form must set forth the
9 name under which the applicant intends to transact business, the location of the applicant's place or places of
10 business, and other information that the department requires. The application must be made by the owner if the
11 owner is a natural person, by a member or partner if the owner is an association or partnership, or by an
12 authorized person if the owner is a corporation.

13
14 **NEW SECTION. Section 35. Revocation or suspension of seller's registration -- appeal.** (1) Subject
15 to the provisions of subsection (2), the department may, for reasonable cause, suspend or revoke a seller's
16 registration held by a person that fails to comply with the provisions of [sections 1 through ~~52~~ 53].

17 (2) A proposed revocation or suspension is subject to the uniform dispute review procedure established
18 in 15-1-211.

19 (3) If a registration is revoked, the department may not allow a new registration except upon application
20 accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of [sections
21 1 through ~~52~~ 53]. The department may require security in addition to that authorized by [section ~~37~~ 38 or ~~42~~ 43]
22 in an amount reasonably necessary to ensure compliance with [sections 1 through ~~52~~ 53] as a condition for
23 registration of the applicant.

24 (4) A person aggrieved by the department's final decision to suspend or revoke a seller's registration
25 may appeal the department's decision to the state tax appeal board within 30 days after the date on which the
26 department issued its final decision.

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

28
29 **NEW SECTION. Section 36. Improper use of subject of purchase obtained with exemption**
30 **certificate -- penalty.** (1) (a) If a purchaser that uses an exemption certificate uses the subject of the purchase

1 for a purpose other than one allowed as nontaxable under [sections 1 through ~~52~~ 53], the use is considered a
2 taxable sale as of the time of first use by the purchaser and the sales price is the price that the purchaser paid.

3 (b) (i) If the sole nonexempt use is rental while holding for sale, the purchaser shall include in the sales
4 price the amount of the rental charged.

5 (ii) Upon subsequent sale of the property, the seller shall include the entire amount of the sales price,
6 without deduction of amounts previously received as rentals.

7 (2) A person that uses an exemption certificate for purchase of property or services that will be used
8 for other than the claimed exempt use is subject to a penalty, payable to the department. The penalty for each
9 transaction in which an improper use of an exemption certificate has occurred is the greater of:

10 (a) \$100; or

11 (b) 20% of the sales price of the good or service.

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

14
15 **NEW SECTION. Section 37. Commingling exemption certificate goods.** If a purchaser uses an
16 exemption certificate when purchasing fungible goods and commingles these goods with fungible goods that
17 were not purchased with an exemption certificate but that are of such similarity that the identity of the goods in
18 the commingled mass cannot be determined, sales from the mass of commingled goods are considered to be
19 sales of the goods purchased with the exemption certificate until the quantity of commingled goods sold equals
20 the quantity of goods originally purchased under the exemption certificate.

21
22 **NEW SECTION. Section 38. Liability for payment of tax -- security for retailer without place of**
23 **business -- penalty.** (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes
24 have been paid to the department.

25 (2) A seller that does not maintain an office or other place of business within this state is liable for the
26 sales tax or use tax in accordance with [sections 1 through ~~52~~ 53] and may be required to furnish adequate
27 security, as provided in [section ~~42~~ 43], to ensure collection and payment of the taxes. The seller's registration
28 provided for in [section ~~32~~ 33] may be canceled at any time if the department considers the security inadequate
29 or believes that the taxes can be collected more effectively in another manner.

30 (3) An agent, canvasser, or employee of a person doing business within this state who is not registered

1 as a seller may not sell, solicit orders for, or deliver any property or services within Montana. If a person, agent,
2 canvasser, or employee violates the provisions of [sections 1 through 52 53], the person, agent, canvasser, or
3 employer is subject to a \$250 fine for each separate transaction or event determined to be in violation.

4
5 **NEW SECTION. Section 39. Application for permission to report on accrual basis.** (1) A person
6 that is a registered seller may apply to the department for permission to report and pay the sales tax or use tax
7 on an accrual basis.

8 (2) The application must be made on a form, prescribed by the department, that contains all information
9 required by the department.

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

12
13 **NEW SECTION. Section 40. Returns -- payment -- authority of department.** (1) Each person
14 engaged in business within this state or using property or services within this state that are subject to tax under
15 [sections 1 through 52 53] shall file a return. Sellers that are registered under the agreement and use either a
16 certified automated system or a certified service provider are subject to the reporting and payment provisions
17 of subsection (2) of this section. All other sellers are subject to the reporting and payment provisions of
18 subsection (3).

19 (2) (a) On or before the 20th day of each month, a return, in a form adopted by the department in
20 conformance with the agreement, with a remittance of the tax owed for the preceding month, must be filed with
21 the department. The filing and the remittance may be done electronically.

22 (b) The seller and any agent of the seller, for the purposes of reporting or paying the sales tax or use
23 tax, are subject to the audit and accountability provisions of the agreement.

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

25 (i) a seller required to collect the tax;

26 (ii) a purchaser with a direct payment permit; and

27 (iii) a person that:

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

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

1 (b) A return must be filed with and payment must be received by the department on or before the 20th
 2 day of each month for taxes owed for sales occurring during the preceding month. A seller that has a tax liability
 3 that averages less than ~~\$100 a month~~ \$2,500 A QUARTER may report and pay the tax on a quarterly basis and
 4 shall file the return with payment made to the department before the 20th day of the month after the end of the
 5 quarter.

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

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

10 (4) (a) A person required to report and to collect and pay to the department the tax collected by the
 11 person under [sections 1 through ~~52 53~~] shall keep records, render statements, make returns, and comply with
 12 the provisions of [sections 1 through ~~52 53~~] and the rules prescribed by the department. Each return or statement
 13 must include the information required by the rules of the department. The department shall comply with the
 14 provisions of the agreement in determining reports and records management requirements in reference to
 15 sellers that are registered under the agreement.

16 (b) For the purpose of determining compliance with the provisions of [sections 1 through ~~52 53~~], the
 17 department is authorized to examine or cause to be examined any books, papers, records, or memoranda
 18 relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda
 19 are the property of or in the possession of the person filing the return or another person. In determining
 20 compliance, the department may use statistical sampling and other sampling techniques consistent with
 21 generally accepted auditing standards. The department may also:

- 22 (i) require the attendance of a person having knowledge or information relevant to a return;
 23 (ii) compel the production of books, papers, records, or memoranda by the person required to attend;
 24 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is
 25 or may be jeopardized because of delay;
 26 (iv) take testimony on matters material to the determination; and
 27 (v) administer oaths or affirmations.

28
 29 **NEW SECTION. Section 41. Credit for bad debts -- taxes paid if account collected.** (1) (a) Sales
 30 taxes paid by a person filing a return under [section ~~39 40~~] on sales found to be worthless and actually deducted

1 by the person as a bad debt for federal income tax purposes may be credited on a subsequent payment of the
2 tax. A bad debt must be deducted on the return for the period during which the bad debt is written off as
3 uncollectible in the seller's books and records and must be eligible to be deducted for federal income tax
4 purposes, whether or not the seller is actually required to file federal income tax returns.

5 (b) A bad debt deduction may not include:

6 (i) a finance charge or interest, either on the sale itself or that is attributed to the late payment of the
7 purchase price;

8 (ii) the sales tax or use tax imposed in [section 2];

9 (iii) any uncollectible amount on property that remains in the possession of the seller until the full
10 purchase price is paid;

11 (iv) any expense incurred in attempting to collect any debt; or

12 (v) repossessed property.

13 (2) If a bad debt that has been deducted is subsequently collected, the sales tax or use tax must be paid
14 and reported on the return filed for the period in which the collection is made. If the amount of bad debt exceeds
15 the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed
16 within 5 years of the date of the return on which the bad debt could first be collected.

17 (3) For the purposes of reporting a payment received on a previously claimed bad debt, any payments
18 made on the bad debt are applied first proportionally to the taxable price of the property or service and the tax
19 on the property or service and second to interest, service charges, and any other charges.

20 (4) If filing responsibilities have been assumed by a certified service provider, the certified service
21 provider may claim, on behalf of the seller, any bad debt allowance.

22 (5) If the books and records of the seller claiming the bad debt allowance support an allocation of the
23 bad debts among several states, the bad debts may be allocated among those states.

24

25 NEW SECTION. **Section 42. Vendor allowance.** (1) In lieu of the vendor allowance provided in
26 subsection (3), a certified service provider must receive a monetary allowance determined as provided in the
27 agreement, and the seller using the certified service provider may not receive a vendor allowance. The vendor
28 allowance must be funded entirely from sales tax proceeds collected by the seller using the certified service
29 provider.

30 (2) In addition to the vendor allowance provided in subsection (3), a registered seller using a certified

1 automated system must receive a percentage of the tax determined to be payable to the state. The percentage
2 must be determined as provided in the agreement.

3 (3) (a) A person filing a TIMELY return under [section ~~39~~ 40] may claim a ~~monthly~~ vendor allowance for
4 each permitted location FOR EACH FILING PERIOD in the amount of ~~1.5% of the tax determined to be payable to~~
5 ~~the state or \$50 a month, whichever is less.~~

6 ~~(b) A person filing a quarterly return may claim 5% of the tax determined to be payable to the state or~~
7 ~~\$150 a quarter, whichever is less~~ 5% OF TAX LIABILITY UP TO \$100 AND 0.5% OF TAX LIABILITY OVER \$100, NOT TO
8 EXCEED \$50 FOR EACH FILING PERIOD.

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

10
11 NEW SECTION. Section 43. Security -- limitations -- bond. (1) The department may require a person
12 registered under [section ~~32~~ 33] to deposit with the department security in a form and amount that the
13 department determines is appropriate. The security deposit may not be more than twice the estimated average
14 liability for the period for which a return is required to be filed or \$10,000, whichever is less.

15 (2) In lieu of security, the department may require a person registered under [section ~~32~~ 33] to file a
16 bond, issued by a surety company authorized to transact business within this state, to guarantee solvency and
17 responsibility.

18 (3) In addition to the other requirements of this section, the department may require the corporate
19 officers, directors, or shareholders of a corporation to provide a personal guaranty and assumption of liability
20 for the payment of the tax due under [sections 1 through ~~52~~ 53].

21
22 NEW SECTION. Section 44. Examination of return -- adjustments -- delivery of notices and
23 demands. (1) If the department determines that the amount of tax due is different from the amount reported,
24 the amount of tax computed on the basis of the examination conducted pursuant to [section ~~39~~ 40] constitutes
25 the tax to be paid.

26 (2) (a) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess
27 must be paid to the department within 30 days after notice of the amount and demand for payment are mailed
28 or delivered to the person making the return unless the taxpayer files a timely objection as provided in 15-1-211.

29 (b) If the amount of the tax found due by the department is less than that reported as due on the return
30 and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the

1 person making the return.

2 (3) The notice and demand provided for in this section must state the amounts of the tax and interest
3 and must be:

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

6 (b) served personally upon the taxpayer.

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

9

10 **NEW SECTION. Section 45. Penalties and interest for violation.** The provisions of 15-1-216 apply
11 to returns, reports, and failure to pay the tax required under [sections 1 through ~~52~~ 53].

12

13 **NEW SECTION. Section 46. Authority to collect delinquent taxes.** (1) (a) The department shall
14 collect taxes that are delinquent as determined under [sections 1 through ~~52~~ 53].

15 (b) If a tax imposed by [sections 1 through ~~52~~ 53] or any portion of the tax is not paid when due, the
16 department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

17 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has
18 expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state,
19 except wages subject to the provisions of 25-13-614 and retirement benefits.

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

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

24

25 **NEW SECTION. Section 47. Limitations.** (1) Except in the case of a person that purposely or
26 knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of
27 [sections 1 through ~~52~~ 53], a deficiency may not be assessed or collected with respect to a month or quarter for
28 which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally
29 served upon the taxpayer within 5 years from the date that the return was filed. For purposes of this section, a
30 return filed before the last day prescribed for filing is considered to be filed on the last day.

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

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

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

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

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

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

14
15 **NEW SECTION. Section 48. Refunds -- interest -- limitations.** (1) A claim for a refund or credit as
16 a result of overpayment of taxes collected under [sections 1 through ~~52~~ 53] must be filed within 5 years of the
17 date that the return was due, without regard to any extension of time for filing.

18 (2) (a) Interest on an overpayment must be paid or credited at the same rate as the rate charged on
19 delinquent taxes in 15-1-216.

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

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

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

26 (ii) the amount of overpayment and interest does not exceed \$1.

27

28 **NEW SECTION. Section 49. Administration -- rules.** (1) The department shall:

29 (a) administer and enforce the provisions of [sections 1 through ~~52~~ 53];

30 (b) cause to be prepared and distributed forms and information that are necessary to administer the

1 provisions of [sections 1 through ~~52~~ 53]; and

2 (c) adopt rules that are necessary or appropriate to administer and enforce the provisions of [sections
3 1 through ~~52~~ 53].

4 (2) (a) In administering the provisions of [sections 1 through ~~52~~ 53], the department shall, when
5 applicable and not in conflict with Montana law, follow the provisions of the agreement.

6 (b) The department shall report to the revenue and transportation interim committee, as provided in
7 5-5-227, on:

8 (i) the operation of the agreement and the benefits and costs to the state of its participation in the
9 agreement; and

10 (ii) changes to the agreement that require changes in Montana law for compliance with the agreement.
11

12 **NEW SECTION. Section 50. Revocation of corporate license -- hearing authorized -- appeal.** (1)

13 If a corporation authorized to do business within this state and required to pay the taxes imposed under [sections
14 1 through ~~52~~ 53] fails to comply with any of the provisions of [sections 1 through ~~52~~ 53] or any rule of the
15 department, the department may, for reasonable cause, certify to the secretary of state a copy of an order finding
16 that the corporation has failed to comply with specific statutory provisions or rules.

17 (2) The secretary of state shall, upon receipt of the certification, revoke the certificate authorizing the
18 corporation to do business within this state and may issue a new certificate only when the corporation has
19 obtained from the department an order finding that the corporation has complied with its obligations under
20 [sections 1 through ~~52~~ 53].

21 (3) An order authorized in this section may not be made until the corporation is given an opportunity to
22 be heard before the department as provided in Title 2, chapter 4.

23 (4) A final decision of the department may be appealed to the state tax appeal board.
24

25 **NEW SECTION. Section 51. Taxpayer quitting business -- liability of successor.** (1) (a) All taxes

26 payable under [sections 1 through ~~52~~ 53] are due and payable immediately whenever a taxpayer quits business,
27 sells, exchanges, or otherwise disposes of the business, or disposes of the stock of goods.

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

30 (2) Except as provided in subsection (4), a person that becomes a successor is liable for the full amount

1 of the tax and shall withhold from the sales price payable to the predecessor taxpayer a sum sufficient to pay
2 any tax due until the predecessor taxpayer produces either a receipt from the department showing payment in
3 full of any tax due or a statement from the department that tax is not due.

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

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

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

11 (ii) an assessment is not issued by the department against the predecessor taxpayer of the business
12 within 6 months of receipt of the notice of acquisition from the successor.

13 (b) If an assessment is issued by the department, a copy of the assessment must also be mailed to the
14 successor. If a copy of the assessment is not mailed to the successor as required in this subsection (4)(b), the
15 successor is not liable for the tax due.

16

17 **NEW SECTION. Section 52. Tax as debt.** (1) The tax imposed by [sections 1 through ~~52~~ 53] and
18 related interest and penalties become a personal debt of the person required to file a return from the time that
19 the liability arises, regardless of when the time for payment of the liability occurs.

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

24 (3) (a) This section applies to those corporate officers, directors, or shareholders required by the
25 department to personally guarantee the payment of the taxes for their corporations.

26 (b) In addition to the liability imposed by subsection (3)(a), the officer or employee of a corporation
27 whose duty it is to collect, truthfully account for, and pay to the state the amounts imposed by [sections 1 through
28 ~~52~~ 53] and who fails to pay the tax is liable to the state for the amounts imposed by [sections 1 through ~~52~~ 53]
29 plus the penalty and interest due, if any, on the amounts.

30

1 **NEW SECTION. Section 53. Information -- confidentiality -- agreements with another state.** (1)

2 (a) Except as provided in subsections (2) and (3), it is unlawful for an employee of the department or any other
3 public official or public employee to divulge or otherwise make known information that is disclosed in a report
4 or return required to be filed under [sections 1 through ~~52~~ 53] or information that concerns the affairs of the
5 person making the return and that is acquired from the person's records, officers, or employees in an
6 examination or audit.

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

11 (2) (a) In addition to the agreement, the department may enter into other agreements with the taxing
12 officials of other states for the interpretation and administration of the laws of the other officials' states that
13 provide for the collection of a sales tax or use tax in order to promote fair and equitable administration of the
14 laws and to eliminate double taxation.

15 (b) In order to implement the provisions of [sections 1 through ~~52~~ 53], the department may furnish
16 information on a reciprocal basis to the taxing officials of another state if the information remains confidential
17 under statutes within the state receiving the information, provided that the statutes are similar to the
18 confidentiality provisions of this section.

19 (3) In order to facilitate processing of returns and payment of taxes required by [sections 1 through ~~52~~
20 53], the department may contract with vendors and may disclose data to the vendors. The data disclosed must
21 be administered by the vendor in a manner consistent with this section.

22

23 **NEW SECTION. Section 54. Uniform sales and use tax administration.** [Sections ~~53~~ 54 through ~~60~~
24 61] may be cited as the "Uniform Sales and Use Tax Administration Act".

25

26 **NEW SECTION. Section 55. Definitions.** As used in [sections ~~53~~ 54 through ~~60~~ 61], the following
27 definitions apply:

28 (1) "Agreement" means the Streamlined Sales and Use Tax Agreement.

29 (2) "Certified automated system" means software certified jointly by the states that are signatories to
30 the agreement to calculate the tax imposed by each jurisdiction on a transaction, to determine the amount of tax

1 to remit to the appropriate state, and to maintain a record of the transaction.

2 (3) "Certified service provider" means an agent certified jointly by the states that are signatories to the
3 agreement to perform all of the seller's sales tax functions.

4 (4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited
5 liability partnership, corporation, or any other legal entity.

6 (5) "Sales tax" means the tax levied under [section 2].

7 (6) "Seller" means a person making sales, leases, or rentals of personal property or services.

8 (7) "State" means any state of the United States and the District of Columbia.

9 (8) "Use tax" means the tax levied under [section 2].

10

11 **NEW SECTION. Section 56. Authority to enter agreement.** (1) The department is authorized and
12 directed to enter into the agreement with one or more states to simplify and modernize sales tax and use tax
13 administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of
14 commerce. In furtherance of the agreement, the department is authorized to act jointly with other states that are
15 members of the agreement to establish standards for certification of a certified service provider and a certified
16 automated system and to establish performance standards for multistate sellers.

17 (2) The department is further authorized to take other actions reasonably required to implement the
18 provisions of [sections ~~53~~ 54 through ~~60~~ 61]. Other actions authorized by this section include but are not limited
19 to the adoption of rules and the joint procurement, with other member states, of goods and services in
20 furtherance of the agreement.

21 (3) The department or the department's designee is authorized to represent this state before the other
22 states that are signatories to the agreement.

23

24 **NEW SECTION. Section 57. Relationship to state law.** A provision of the agreement, in whole or part,
25 does not invalidate or amend any provision of the law of this state. Adoption of the agreement by this state does
26 not amend or modify any law of this state. Implementation of any condition of the agreement within this state,
27 whether adopted before, at, or after membership of this state in the agreement, must be by the action of this
28 state.

29

30 **NEW SECTION. Section 58. Agreement requirements.** The department may not enter into the

1 agreement unless the agreement requires each state to abide by the following requirements:

2 (1) The agreement must set restrictions to achieve over time more uniform rates in Montana through
3 the following:

4 (a) limiting the number of state rates;

5 (b) limiting the application of maximums on the amount of state tax that is due on a transaction;

6 (c) limiting the application of thresholds on the application of state tax.

7 (2) The agreement must establish uniform standards for the following:

8 (a) the sourcing of transactions to taxing jurisdictions;

9 (b) the administration of exempt sales;

10 (c) the allowances that a seller may take for bad debts;

11 (d) sales tax and use tax returns and remittances.

12 (3) The agreement must require states to develop and adopt uniform definitions of sales tax and use
13 tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with
14 the uniform definitions.

15 (4) The agreement must provide for an electronic multistate central registration system that allows a
16 seller to register to collect and remit sales taxes and use taxes for all signatory states.

17 (5) The agreement must provide that registration with the multistate central registration system and the
18 collection of sales taxes and use taxes in the signatory states will not be used as a factor in determining whether
19 the seller has nexus with a state for any tax.

20 (6) The agreement must provide for reduction of the burdens of complying with local sales taxes and
21 use taxes through the following:

22 (a) restricting variances between the state and local tax bases;

23 (b) requiring states to administer any sales taxes and use taxes levied by local jurisdictions within the
24 state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds
25 to, or be subject to independent audits from local taxing jurisdictions;

26 (c) restricting the frequency of changes in the local sales tax and use tax rates and setting effective
27 dates for the application of local jurisdictional boundary changes to local sales taxes and use taxes;

28 (d) providing notice of changes in local sales tax and use tax rates and of changes in the boundaries
29 of local taxing jurisdictions.

30 (7) The agreement must outline any monetary allowances that are to be provided by the states to sellers

1 or certified service providers.

2 (8) The agreement must require each state to certify compliance with the terms of the agreement prior
3 to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement
4 while a member.

5 (9) The agreement must require each state to adopt a uniform policy for certified service providers that
6 protects the privacy of consumers and maintains the confidentiality of tax information.

7 (10) The agreement must provide for the appointment of an advisory council of private sector
8 representatives and an advisory council of nonmember state representatives to consult with in the administration
9 of the agreement.

10
11 **NEW SECTION. Section 59. Cooperating sovereigns.** The agreement is an accord among individual
12 cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism
13 among the member states to establish and maintain a cooperative, simplified system for the application and
14 administration of sales taxes and use taxes under the adopted law of each member state.

15
16 **NEW SECTION. Section 60. Limited binding and beneficial effect.** (1) The agreement binds and
17 inures only to the benefit of this state and the other member states. No person, other than a member state, is
18 an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law
19 of this state and the other member states and not by the terms of the agreement.

20 (2) Consistent with subsection (1), no person has any cause of action or defense under the agreement
21 or by virtue of this state's approval of the agreement. No person may challenge, in any action brought under any
22 provision of law, any action or inaction by any department, agency, or other instrumentality of this state or any
23 political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

24 (3) The law of this state or the application of the law of this state may not be declared invalid as to any
25 person or circumstance on the ground that the provision or application is inconsistent with the agreement.

26
27 **NEW SECTION. Section 61. Seller and third-party liability.** (1) A certified service provider is the agent
28 of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales
29 taxes and use taxes. As the seller's agent, the certified service provider is liable for sales tax and use tax due
30 each member state on all sales transactions that the certified service provider processes for the seller, except

1 as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales
 2 tax or use tax due on transactions processed by the certified service provider unless the seller misrepresented
 3 the type of items that the seller sells or unless the seller committed fraud. In the absence of probable cause to
 4 believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit
 5 on the transactions processed by the certified service provider. A seller is subject to audit for transactions not
 6 processed by the certified service provider. The member states acting jointly may perform a system check of
 7 the seller and review the seller's procedures to determine if the certified service provider's system is functioning
 8 properly and the extent to which the seller's transactions are being processed by the certified service provider.

9 (2) A person that provides a certified automated system is responsible for the proper functioning of that
 10 system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified
 11 automated system. A seller that uses a certified automated system remains responsible and is liable to the state
 12 for reporting and remitting tax.

13 (3) A seller that has a proprietary system for determining the amount of tax due on transactions and has
 14 signed an agreement establishing a performance standard for that system is liable for the failure of the system
 15 to meet the performance standard.

16
 17 ~~NEW SECTION. Section 61. Sales tax and use tax account -- allocation.~~ (1) There is within the state
 18 ~~special revenue fund an account for sales tax and use tax money.~~

19 ~~(2) All money collected under [sections 1 through 52] must be paid by the department into the account~~
 20 ~~for sales tax and use tax.~~

21 ~~(3) There must be retained in the account for sales tax and use tax the amounts necessary under~~
 22 ~~[sections 1 through 52] to repay overpayments, pay any erroneous receipts illegally assessed or collected or that~~
 23 ~~are excessive in amount, and pay any other refunds otherwise required.~~

24 ~~(4) After retaining the amount necessary for the purposes of subsection (3), all remaining revenue in~~
 25 ~~the sales tax and use tax account is allocated as follows:~~

26 ~~(a) for fiscal years 2004 and 2005, the first \$180 million each year is allocated as follows:~~

27 ~~(i) 34.737% for county equalization of the elementary BASE funding program, as described in 20-9-331;~~

28 ~~(ii) 23.158% for county equalization of the high school BASE funding program, as described in 20-9-333;~~

29 and

30 ~~(iii) the remainder for state equalization aid, as defined in 20-9-343;~~

1 ~~———— (b) for fiscal years 2004 and 2005, the next \$104 million each year is allocated for state equalization~~
 2 ~~aid, as defined in 20-9-343, through the guarantee account established in 20-9-622;~~

3 ~~———— (c) for fiscal years 2004 and 2005, the next \$96 million each year is allocated to the state general fund;~~
 4 ~~and~~

5 ~~———— (d) the remainder, if any, in the account at the close of fiscal years 2004 and 2005, after the allocations~~
 6 ~~provided for in subsections (4)(a) through (4)(c), is allocated to an account in the state general fund to be used~~
 7 ~~for income tax relief as provided in [section 62]. For the purposes of this subsection (4)(d), the remainder~~
 8 ~~includes all taxes, interest, and penalties received on taxes due during the fiscal year, regardless of when the~~
 9 ~~taxes, interest, and penalties were actually paid or collected.~~

10 ~~———— (5) If the total amount of revenue deposited into the account in fiscal year 2004 is less than \$480 million,~~
 11 ~~the allocations in subsections (4)(a) through (4)(d) must be reduced in proportion to the revenue shortfall.~~

12 ~~———— (6) For fiscal years beginning after June 30, 2005, all revenue in the sales tax and use tax account~~
 13 ~~remains in the account until appropriated by the legislature.~~

14 ~~———— (A) FOR COLLECTIONS MADE DURING CALENDAR YEAR 2004:~~

15 ~~———— (i) TO DIRECT STATE AID TO SCHOOLS, IN AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN 44.7% AND 80%~~
 16 ~~OF THE BASIC ENTITLEMENT PLUS THE 40% OF THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT; AND~~

17 ~~———— (ii) OF THE REMAINDER:~~

18 ~~———— (A) 60% TO THE REVENUE STABILIZATION AND DISASTER ACCOUNT ESTABLISHED IN [SECTION 62]; AND~~

19 ~~———— (B) 40% TO THE STATE GENERAL FUND;~~

20 ~~———— (B) FOR COLLECTIONS MADE BETWEEN JANUARY 1, 2005, AND JUNE 30, 2005:~~

21 ~~———— (i) THE AMOUNT NECESSARY TO THE STATE GENERAL FUND FOR REIMBURSEMENT FOR INCREASED DIRECT STATE~~
 22 ~~AID TO SCHOOLS, THE TAX CREDITS FOR PAYMENTS OF STATEWIDE SCHOOL LEVIES, THE LOW INCOME SALES TAX~~
 23 ~~REFUNDABLE INCOME TAX CREDIT, THE REDUCTION OF INCOME TAX RATES, AND THE CAPITAL GAINS INCOME TAX CREDIT;~~
 24 ~~AND~~

25 ~~———— (ii) THE BALANCE TO THE REVENUE STABILIZATION AND DISASTER ACCOUNT ESTABLISHED IN [SECTION 62];~~

26 ~~———— (C) FOR EACH FISCAL YEAR BEGINNING AFTER JUNE 30, 2005:~~

27 ~~———— (i) THE AMOUNT NECESSARY TO THE STATE GENERAL FUND FOR REIMBURSEMENT FOR INCREASED DIRECT STATE~~
 28 ~~AID TO SCHOOLS, THE TAX CREDITS FOR PAYMENTS OF STATEWIDE SCHOOL LEVIES, THE LOW INCOME SALES TAX~~
 29 ~~REFUNDABLE INCOME TAX CREDIT, THE REDUCTION OF INCOME TAX RATES, AND THE CAPITAL GAINS INCOME TAX CREDIT;~~
 30 ~~AND~~

1 ~~—— (ii) THE BALANCE TO THE REVENUE STABILIZATION AND DISASTER ACCOUNT ESTABLISHED IN [SECTION 62];~~
2 ~~—— (A) FOR COLLECTIONS MADE DURING CALENDAR YEAR 2004:~~
3 ~~—— (i) TO THE GENERAL FUND FOR REIMBURSEMENT FOR DIRECT STATE AID TO SCHOOLS, IN AN AMOUNT EQUAL TO~~
4 ~~THE DIFFERENCE BETWEEN 44.7% AND 80% OF THE BASIC ENTITLEMENT PLUS 40% OF THE SPECIAL EDUCATION~~
5 ~~ALLOWABLE COST PAYMENT; AND~~
6 ~~—— (ii) 55% OF THE BALANCE TO BE DEPOSITED IN THE STATE GENERAL FUND; AND~~
7 ~~—— (iii) THE REMAINING 45% OF THE BALANCE ALLOCATED TO THE DEPARTMENT OF REVENUE TO BE REFUNDED ON~~
8 ~~A PRO RATA BASIS TO EACH TAXPAYER WHO FILED A STATE INCOME TAX RETURN, PURSUANT TO 15-30-103, FOR TAX YEAR~~
9 ~~2002. THE AMOUNT MUST BE CALCULATED BY THE DEPARTMENT OF REVENUE BY DIVIDING THE AMOUNT AVAILABLE FOR~~
10 ~~REFUND BY THE TOTAL INDIVIDUAL INCOME TAX LIABILITY AS DETERMINED BY THE DEPARTMENT FROM ALL RETURNS FOR~~
11 ~~2002. THE DEPARTMENT OF REVENUE SHALL CALCULATE THE AMOUNT OF EACH TAXPAYER'S REFUND BASED ON THE~~
12 ~~AMOUNT IN THE "TOTAL TAX" LINE OF THE TAXPAYER'S RETURN. A REFUND MAY NOT BE ISSUED IF THE AMOUNT OF THE~~
13 ~~REFUND IS \$10 OR LESS. THE PAYMENTS MUST BE MAILED IN AUGUST 2005 TO EACH TAXPAYER AT THE MOST CURRENT~~
14 ~~ADDRESS FOR THE TAXPAYER ON THE DEPARTMENT'S RECORDS.~~
15 ~~—— (B) FOR COLLECTIONS MADE BETWEEN JANUARY 1, 2005, AND JUNE 30, 2005:~~
16 ~~—— (i) THE AMOUNT NECESSARY TO THE STATE GENERAL FUND FOR REIMBURSEMENT FOR DIRECT STATE AID TO~~
17 ~~SCHOOLS, THE TAX CREDITS FOR PAYMENTS OF STATEWIDE SCHOOL LEVIES, THE LOW-INCOME SALES TAX REFUNDABLE~~
18 ~~INCOME TAX CREDIT, THE REDUCTION OF INCOME TAX RATES, AND THE CAPITAL GAINS INCOME TAX CREDIT;~~
19 ~~—— (ii) 10% OF THE BALANCE TO THE REVENUE STABILIZATION AND DISASTER ACCOUNT ESTABLISHED IN [SECTION~~
20 ~~62]; AND~~
21 ~~—— (iii) THE REMAINING 90% OF THE BALANCE ALLOCATED TO THE DEPARTMENT OF REVENUE TO BE REFUNDED ON~~
22 ~~A PRO RATA BASIS TO EACH TAXPAYER WHO FILED A STATE INCOME TAX RETURN, PURSUANT TO 15-30-103, FOR TAX YEAR~~
23 ~~2003. THE AMOUNT MUST BE CALCULATED BY THE DEPARTMENT OF REVENUE BY DIVIDING THE AMOUNT AVAILABLE FOR~~
24 ~~REFUND BY THE TOTAL INDIVIDUAL INCOME TAX LIABILITY AS DETERMINED BY THE DEPARTMENT FROM ALL RETURNS FOR~~
25 ~~2003. THE DEPARTMENT OF REVENUE SHALL CALCULATE THE AMOUNT OF EACH TAXPAYER'S REFUND BASED ON THE~~
26 ~~AMOUNT IN THE "TOTAL TAX" LINE OF THE TAXPAYER'S RETURN. A REFUND MAY NOT BE ISSUED IF THE AMOUNT OF THE~~
27 ~~REFUND IS \$10 OR LESS. THE PAYMENTS MUST BE MAILED TO EACH TAXPAYER AT THE MOST CURRENT ADDRESS FOR THE~~
28 ~~TAXPAYER ON THE DEPARTMENT'S RECORDS.~~
29 ~~—— (C) FOR EACH FISCAL YEAR BEGINNING AFTER JUNE 30, 2005:~~
30 ~~—— (i) THE AMOUNT NECESSARY TO THE STATE GENERAL FUND FOR REIMBURSEMENT FOR DIRECT STATE AID TO~~

1 ~~SCHOOLS, THE TAX CREDITS FOR PAYMENTS OF STATEWIDE SCHOOL LEVIES, THE LOW-INCOME SALES TAX REFUNDABLE~~
 2 ~~INCOME TAX CREDIT, THE REDUCTION OF INCOME TAX RATES, AND THE CAPITAL GAINS INCOME TAX CREDIT;~~

3 ~~—— (ii) AN AMOUNT, NOT TO EXCEED 20% OF THE BALANCE, TO BE DEPOSITED IN THE GENERAL FUND UPON~~
 4 ~~APPROVAL BY A VOTE OF 60% OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVE AND 60% OF THE MEMBERS OF THE~~
 5 ~~SENATE;~~

6 ~~—— (iii) THE BALANCE, AFTER ANY DEPOSIT IN THE GENERAL FUND UNDER SUBSECTION (4)(C)(ii) TO BE ALLOCATED~~
 7 ~~AS FOLLOWS:~~

8 ~~—— (A) 10% TO BE DEPOSITED IN THE REVENUE STABILIZATION AND DISASTER ACCOUNT ESTABLISHED IN SECTION~~
 9 ~~62] IF THE ACCOUNT HAS NOT REACHED THE ACCOUNT LIMIT; AND~~

10 ~~—— (B) THE REMAINDER TO THE DEPARTMENT OF REVENUE FOR DISTRIBUTION AS A REFUND TO INCOME TAXPAYERS~~
 11 ~~WHO FILED AN INCOME TAX RETURN FOR TAXES DUE UNDER 15-30-103 FOR THE SALES TAX REFUND TAX YEAR. THE SALES~~
 12 ~~TAX REFUND TAX YEAR IS THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR. THE AMOUNT~~
 13 ~~AVAILABLE FOR REFUND MUST BE REFUNDED ON A PRO RATA BASIS TO EACH TAXPAYER WHO FILED A STATE INCOME TAX~~
 14 ~~RETURN, PURSUANT TO 15-30-103, FOR THE SALES TAX REFUND TAX YEAR. THE AMOUNT MUST BE CALCULATED BY THE~~
 15 ~~DEPARTMENT OF REVENUE BY DIVIDING THE AMOUNT AVAILABLE FOR REFUND BY THE TOTAL INDIVIDUAL INCOME TAX~~
 16 ~~LIABILITY AS DETERMINED BY THE DEPARTMENT FROM ALL RETURNS FOR THE SALES TAX REFUND TAX YEAR. THE~~
 17 ~~DEPARTMENT OF REVENUE SHALL CALCULATE THE AMOUNT OF EACH TAXPAYER'S REFUND BASED ON THE AMOUNT IN THE~~
 18 ~~"TOTAL TAX" LINE OF THE TAXPAYER'S RETURN. A REFUND MAY NOT BE ISSUED IF THE AMOUNT OF THE REFUND IS \$10~~
 19 ~~OR LESS. THE PAYMENTS MUST BE MAILED TO THE MOST CURRENT ADDRESS FOR THE TAXPAYER ON THE DEPARTMENT'S~~
 20 ~~RECORDS NO LATER THAN DECEMBER 15.~~

21 ~~—— (5) FOR THE PURPOSES OF SUBSECTION (4):~~

22 ~~—— (A) THE TERM "TAXPAYER" DOES NOT INCLUDE A FIDUCIARY OR A BENEFICIARY OF AN ESTATE OR TRUST WHO WAS~~
 23 ~~REQUIRED TO FILE AN INCOME TAX RETURN PURSUANT TO 15-30-135 UNLESS A RETURN WAS FILED ON BEHALF OF A~~
 24 ~~DECEDENT;~~

25 ~~—— (B) A RETURN FILED USING THE FILING STATUS MARRIED FILING JOINTLY IS CONSIDERED TO HAVE BEEN FILED BY~~
 26 ~~A SINGLE TAXPAYER.~~

27 ~~—— (7)(5)(6) This section provides only for the allocation of sales tax and use tax revenue. Allocations made~~
 28 ~~under this section may not be expended from the account for sales tax and use tax money until appropriated~~
 29 ~~by the legislature.~~

30

1 NEW SECTION. SECTION 62. SALES TAX AND USE TAX ACCOUNT -- ALLOCATION. (1) THERE IS A SALES TAX
 2 AND USE TAX ACCOUNT IN THE STATE SPECIAL REVENUE FUND.

3 (2) ALL MONEY COLLECTED UNDER [SECTIONS 1 THROUGH 53] MUST BE PAID BY THE DEPARTMENT INTO THE
 4 ACCOUNT.

5 (3) THERE MUST BE RETAINED IN THE ACCOUNT THE AMOUNTS NECESSARY UNDER [SECTIONS 1 THROUGH 53]
 6 TO REPAY OVERPAYMENTS, PAY ANY ERRONEOUS RECEIPTS ILLEGALLY ASSESSED OR COLLECTED OR THAT ARE
 7 EXCESSIVE IN AMOUNT, AND PAY ANY OTHER REFUNDS OTHERWISE REQUIRED.

8 (4) FOR FISCAL YEAR 2006 AND FOR EACH SUBSEQUENT FISCAL YEAR, THERE IS ALLOCATED FROM THE ACCOUNT
 9 THE AMOUNT NECESSARY, AS CERTIFIED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION, TO FULLY FUND DIRECT STATE
 10 AID FOR 80% OF THE BASIC ENTITLEMENT, AS DEFINED IN 20-9-306, AND 80% OF THE TOTAL PER-ANB ENTITLEMENT,
 11 AS DEFINED IN 20-9-306, FOR THE GENERAL FUND BUDGETS OF ELEMENTARY SCHOOLS AND HIGH SCHOOLS AND 40%
 12 OF THE SPECIAL EDUCATION ALLOWABLE COST PAYMENTS, AS DESCRIBED IN 20-9-321, FOR ELEMENTARY SCHOOLS AND
 13 HIGH SCHOOLS. THE AMOUNT ALLOCATED IN THIS SUBSECTION IS FOR DISTRIBUTION AS PROVIDED FOR IN 20-9-344 AND
 14 20-9-347, AS APPLICABLE.

15 (5) AFTER RETAINING THE AMOUNT NECESSARY FOR THE PURPOSES OF SUBSECTION (3) AND ALLOWING FOR
 16 THE ALLOCATION MADE IN SUBSECTION (4), ALL REMAINING REVENUE IN THE ACCOUNT IS AVAILABLE FOR APPROPRIATION
 17 BY THE LEGISLATURE.

18 (6) (A) AT THE END OF EACH FISCAL YEAR, THE STATE TREASURER SHALL RETAIN IN THE ACCOUNT THE AMOUNT
 19 OF FUNDS NECESSARY:

20 (I) FOR THE PURPOSES DESCRIBED IN SUBSECTION (3); AND

21 (II) TO ENSURE THAT ADEQUATE FUNDS ARE AVAILABLE FOR THE PURPOSES DESCRIBED IN SUBSECTION (4) UNTIL
 22 ADEQUATE SALES TAX AND USE TAX COLLECTIONS ARE DEPOSITED IN THE ACCOUNT DURING THE NEXT FISCAL YEAR.

23 (B) SUBSEQUENT TO RETAINING IN THE ACCOUNT THE AMOUNT DESCRIBED IN SUBSECTION (6)(A), THE STATE
 24 TREASURER SHALL TRANSFER ANY REMAINING FUNDS TO THE STATE GENERAL FUND.

25

26 ~~NEW SECTION. Section 62. Income tax relief -- excess sales tax revenue distribution. (1) Excess~~
 27 ~~sales tax revenue allocated pursuant to [section 61(4)(d)] must be redistributed to taxpayers as income tax relief~~
 28 ~~as provided in this section.~~

29 ~~(2) Each year, the department shall determine the amount of excess sales tax revenue to be distributed~~
 30 ~~as income tax relief to individual income taxpayers and shall distribute the amount of excess sales tax revenue~~

1 as provided in subsections (3) and (4).

2 ~~—— (3) (a) Fifty percent of the excess sales tax revenue must be distributed on a per-taxpayer basis.~~

3 ~~—— (b) Each year, the department shall divide the amount of excess sales tax revenue described in~~
 4 ~~subsection (3)(a) by the number of state individual income taxpayers who filed income tax returns pursuant to~~
 5 ~~15-30-103 for the previous tax year.~~

6 ~~—— (c) The quotient determined under subsection (3)(b) equals the amount of income tax relief to which~~
 7 ~~each individual income taxpayer is entitled.~~

8 ~~—— (d) The department shall include on each Montana state individual income tax form the amount of the~~
 9 ~~income tax relief provided under subsection (3)(c). The form must provide that after the taxpayer's determination~~
 10 ~~of taxes, the amount of the income tax relief is subtracted from the amount of taxes owed by the taxpayer. If the~~
 11 ~~amount of income tax relief exceeds the amount of taxes due, the department shall pay the excess amount to~~
 12 ~~the taxpayer, but only if the amount to be paid exceeds \$10.~~

13 ~~—— (4) (a) Fifty percent of the excess sales tax revenue must be distributed as income tax relief on a~~
 14 ~~proportional basis of individual income taxes paid.~~

15 ~~—— (b) The department shall determine each individual income taxpayer's proportional share by:~~

16 ~~—— (i) dividing the amount of individual income tax paid pursuant to 15-30-103 by the taxpayer in the~~
 17 ~~previous tax year by the total amount of individual income taxes paid pursuant to 15-30-103 in the previous tax~~
 18 ~~year; and~~

19 ~~—— (ii) multiplying the quotient determined under subsection (4)(b)(i) by the amount of excess sales tax~~
 20 ~~revenue described in subsection (4)(a).~~

21 ~~—— (c) Before December 31 of each year, the department shall distribute to each individual income taxpayer~~
 22 ~~who filed an income tax return pursuant to 15-30-103 for the previous tax year the taxpayer's proportional share~~
 23 ~~determined pursuant to subsection (4)(b).~~

24 ~~—— (5) (a) A return filed using the filing status married filing jointly is considered to have been filed by one~~
 25 ~~taxpayer.~~

26 ~~—— (b) A fiduciary or a beneficiary of an estate or trust who was required to file an income tax return~~
 27 ~~pursuant to 15-30-135 is not considered a taxpayer unless a return was filed on behalf of the decedent the~~
 28 ~~previous year.~~

29

30 ~~—— **Section 63.** Section 15-1-111, MCA, is amended to read:~~

1 ~~—————"15-1-111. (Temporary) Reimbursement to local governments and schools—duties of department~~
2 ~~**and county treasurer -- statutory appropriation.** (1) Prior to September 1, 1990, the department's agent in~~
3 ~~the county shall supply the following information to the department for each taxing jurisdiction within the county:~~
4 ~~————(a) the number of mills levied in the jurisdiction for tax year 1989;~~
5 ~~————(b) the number of mills levied in the jurisdiction for tax year 1990;~~
6 ~~————(c) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all~~
7 ~~personal property not secured by real property; and~~
8 ~~————(d) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all~~
9 ~~personal property secured by real property.~~
10 ~~————(2) After receipt of the information from its agent, the department shall calculate the amount of revenue~~
11 ~~lost to each taxing jurisdiction, using current year mill levies, due to the annual reduction in personal property~~
12 ~~tax rates set forth in 15-6-138, prior to 1994, and any reduction in taxes based upon recalculation of the effective~~
13 ~~tax rate for property in 15-6-145, prior to 1994. The department shall total the amounts for all taxing jurisdictions~~
14 ~~within the county.~~
15 ~~————(3) (a) The department shall remit to the county treasurer 50% of the amount of revenue reimbursable,~~
16 ~~determined pursuant to subsection (1), on or before November 30 and the remaining 50% on or before May 31.~~
17 ~~————(b) For tax year 1993 through tax year 1998, the department shall remit to the county treasurer of each~~
18 ~~county the same amount remitted to the county treasurer for the fiscal year 1991, as adjusted by the result of~~
19 ~~dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must~~
20 ~~be remitted on or before November 30 and the remaining 50% on or before May 31.~~
21 ~~————(c) (i)(1) (a) For tax year 1999 2004 through tax year 2008, the department shall remit to the county~~
22 ~~treasurer of each county the same amount remitted to the county treasurer for the fiscal year 1991 2003,~~
23 ~~progressively reduced by 10% 20% of the 1991 2003 amount each year, in accordance with the following~~
24 ~~schedule:~~

	Tax Year	Percentage of 1991 <u>2003</u>
	Remittance Amount	
27	1999	90
28	2000	80
29	2001	70
30	2002	60



1 ~~Section 64.~~ Section 15-1-112, MCA, is amended to read:

2 ~~"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing~~
 3 ~~jurisdictions. (1) On or before January 1, 1996, for the reduction in payment under subsection (4) and by June~~
 4 ~~1 of 1996, 1997, and 1998 for all other reimbursements in this section, the department shall determine a~~
 5 ~~reimbursement amount associated with reducing the tax rate in 15-6-138 and provide that information to each~~
 6 ~~county treasurer. The reimbursement amount must be determined for each local government taxing jurisdiction~~
 7 ~~that levied mills on the taxable value of property described in 15-6-138 in the corresponding tax year. However,~~
 8 ~~the reimbursement does not apply to property described in 15-6-138 that has a reduced tax rate under~~
 9 ~~15-24-1402.~~

10 ~~(2) (a) The reimbursement amount to be used as the basis for the payment reduction under subsection~~
 11 ~~(4) is the product of multiplying the tax year 1995 taxable value of property described in 15-6-138 for each local~~
 12 ~~government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction and then multiplying by 1/9th.~~

13 ~~(b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996 is the~~
 14 ~~amount determined under subsection (2)(a) unless the tax year 1996 market value of property described in~~
 15 ~~15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for~~
 16 ~~property described in 15-6-138 in the same jurisdiction.~~

17 ~~(ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular~~
 18 ~~jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated 1996 tax~~
 19 ~~from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual~~
 20 ~~taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the~~
 21 ~~jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual tax year 1996 taxable value of~~
 22 ~~property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the~~
 23 ~~simulated 1996 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

24 ~~(c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997 is the~~
 25 ~~amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value of property~~
 26 ~~described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995~~
 27 ~~market value for property described in 15-6-138 in the same jurisdiction.~~

28 ~~(ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular~~
 29 ~~jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated 1997 tax~~
 30 ~~from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual~~

1 taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the
 2 jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual tax year 1997 taxable value of
 3 property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the
 4 simulated 1997 tax is greater than the 1995 tax, the reimbursement amount is zero.

5 ~~———— (d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998 is the~~
 6 ~~amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market value of property~~
 7 ~~described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995~~
 8 ~~market value for property described in 15-6-138 in the same jurisdiction.~~

9 ~~———— (ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular~~
 10 ~~jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated 1998 tax~~
 11 ~~from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual~~
 12 ~~taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the~~
 13 ~~jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual tax year 1998 taxable value of~~
 14 ~~property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the~~
 15 ~~simulated 1998 tax is greater than the 1995 tax, the reimbursement amount is zero.~~

16 ~~———— (3)(1) (a) The department shall, as provided in subsection (2)(a), annually determine a reimbursement~~
 17 ~~amount associated with reducing the tax rate in 15-6-138 pursuant to Chapter 570, Laws of 1995. The~~
 18 ~~reimbursement amounts must be determined for each local government based on the reimbursement amount~~
 19 ~~by each local government for tax year 2003. The department shall total for each county the reimbursement~~
 20 ~~amounts for each local government within the respective county. The reimbursement amount for the county must~~
 21 ~~be paid to the treasurer of each county for distribution as provided for in subsection (3):~~

22 ~~———— (b) For purposes of this section, "local government taxing jurisdiction" means a local government rather~~
 23 ~~than a state taxing jurisdiction that levies or levied mills against property described in 15-6-138, including county~~
 24 ~~governments, incorporated city and town governments, consolidated county and city governments, tax increment~~
 25 ~~financing districts, local elementary and high school districts, local community college districts, miscellaneous~~
 26 ~~districts, and special districts. The term includes countywide mills levied for equalization of school retirement or~~
 27 ~~transportation.~~

28 ~~———— (b)(c) The term does not include county or state school equalization levies the vocational technical~~
 29 ~~education levy provided for in 20-9-331, 20-9-333, 20-9-360, and 20-25-439.~~

30 ~~———— (c)(d) Each tax increment financing district must receive the benefit of the state mill on the incremental~~

1 taxable value of the district.

2 ~~———(4) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
3 ~~in June of 1996 by an amount equal to 38% of the reimbursement amount determined under subsection (2)(a)~~
4 ~~for all of the local government taxing jurisdictions in the county.~~

5 ~~———(5) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
6 ~~in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the~~
7 ~~local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

8 ~~———(6) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
9 ~~in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local~~
10 ~~government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for~~
11 ~~tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department~~
12 ~~under subsection (2).~~

13 ~~———(7) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
14 ~~in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the~~
15 ~~local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

16 ~~———(8) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
17 ~~in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local~~
18 ~~government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for~~
19 ~~tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department~~
20 ~~under subsection (2).~~

21 ~~———(9) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
22 ~~in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1998 for all of the~~
23 ~~local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

24 ~~———(10) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
25 ~~in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998 for all of the local~~
26 ~~government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

27 ~~———(11) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
28 ~~in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement amount~~
29 ~~determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined~~
30 ~~by the department under subsection (2).~~

1 ~~———— (12) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360~~
 2 ~~in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement amount determined~~
 3 ~~in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the~~
 4 ~~department under subsection (2).~~

5 ~~———— (13)(2) (a) The reimbursement amount for tax year 1999 2004 and each subsequent tax year for 9 5~~
 6 ~~years must be progressively reduced each year by 10% 20% of the reimbursement amount for tax year 1998~~
 7 ~~2003, according to the following schedule:~~

8	Tax Year	Percentage of 1998 <u>2003</u>
9	Reimbursement Amount	
10	1999	90
11	2000	80
12	2001	70
13	2002	60
14	2003	50
15	2004	40 <u>80</u>
16	2005	30 <u>60</u>
17	2006	20 <u>40</u>
18	2007	10 <u>20</u>
19	2008 and following years	0

20 ~~———— (b) The Of the reimbursement amount, for each tax year must be the basis for reducing the amount~~
 21 ~~remitted to the state for the levy imposed under 20-9-360 31% must be distributed in December of the same tax~~
 22 ~~year and 69% must be distributed in June of the following year.~~

23 ~~———— (14)(3) The county treasurer shall use the funds from the reduced payment to the state for the levy~~
 24 ~~imposed under 20-9-360 to reimburse each local government taxing jurisdiction in the amount determined by~~
 25 ~~the department under subsection (2). The reimbursement must be distributed to funds within local government~~
 26 ~~taxing jurisdictions in the same manner as taxes on property described in 15-6-138 are distributed. The~~
 27 ~~reimbursement in June must be distributed based on the prior year's mill levy, and the reimbursement in~~
 28 ~~December must be based on the current year's mill levy.~~

29 ~~———— (15)(4) Each local government taxing jurisdiction receiving reimbursements shall consider the amount~~
 30 ~~of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the~~

1 amount that would otherwise have to be raised by the mill levy.

2 ~~———— (16)(5) A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no longer~~
 3 ~~be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created~~
 4 ~~after January 1, 1996, will not be considered for revenue loss or reimbursement purposes. If a local government~~
 5 ~~taxing jurisdiction that existed prior to January of 1996 is split between two or more taxing jurisdictions or is~~
 6 ~~annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the~~
 7 ~~revenue loss and reimbursement is attributed to the new jurisdictions."~~

8

9 ~~———— **NEW SECTION. SECTION 62. REVENUE STABILIZATION AND DISASTER ACCOUNT.** (1) THERE IS WITHIN THE~~
 10 ~~STATE SPECIAL REVENUE FUND A REVENUE STABILIZATION AND DISASTER ACCOUNT. EXCEPT AS PROVIDED IN SUBSECTION~~
 11 ~~(4), MONEY IN THE ACCOUNT MAY BE USED ONLY FOR EXTRAORDINARY EXPENSES RELATING TO DISASTERS OR FISCAL~~
 12 ~~EMERGENCIES RELATED TO UNANTICIPATED SALES TAX REVENUE SHORTFALLS. TO APPROPRIATE MONEY IN THE ACCOUNT,~~
 13 ~~THE GOVERNOR SHALL DECLARE THAT EITHER A DISASTER OR FISCAL EMERGENCY AS CONTEMPLATED BY THIS SECTION~~
 14 ~~EXISTS AND THE LEGISLATURE SHALL PASS AN IMPLEMENTING APPROPRIATION MEASURE BY A TWO-THIRDS VOTE OF~~
 15 ~~THOSE PRESENT AND VOTING IN EACH HOUSE.~~

16 ~~———— (2) THE REVENUE STABILIZATION AND DISASTER ACCOUNT MUST BE MANAGED BY THE DEPARTMENT OF~~
 17 ~~ADMINISTRATION. INTEREST EARNED ON THE ACCOUNT MUST BE RETAINED IN THE STATE SPECIAL REVENUE FUND.~~

18 ~~———— (3) EXCEPT AS PROVIDED IN SUBSECTION (4), THE REVENUE STABILIZATION AND DISASTER ACCOUNT IS LIMITED~~
 19 ~~TO AN AMOUNT EQUAL TO 6% OF ALL GENERAL FUND APPROPRIATIONS FOR THE BIENNIUM, INCLUDING STATUTORY~~
 20 ~~APPROPRIATIONS OF THE GENERAL FUND. THE AMOUNT IN EXCESS OF THE ACCOUNT LIMIT MUST BE DISTRIBUTED AS~~
 21 ~~PROVIDED IN SUBSECTION (4).~~

22 ~~———— (4) (A) IF ON JULY 1 THE BALANCE IN THE REVENUE STABILIZATION AND DISASTER ACCOUNT EXCEEDS THE~~
 23 ~~ACCOUNT LIMIT BY AT LEAST \$15 MILLION, THE LEGISLATURE MAY TRANSFER AN AMOUNT NOT TO EXCEED 20% OVER THE~~
 24 ~~ACCOUNT LIMIT TO THE STATE GENERAL FUND AND SHALL APPROPRIATE AT LEAST 80% OF THE AMOUNT IN EXCESS OF~~
 25 ~~THE ACCOUNT LIMIT TO THE DEPARTMENT OF REVENUE FOR DISTRIBUTION AS A REFUND TO INCOME TAXPAYERS WHO FILED~~
 26 ~~AN INCOME TAX RETURN FOR TAXES DUE UNDER 15-30-103 FOR THE SALES TAX REFUND TAX YEAR. THE SALES TAX~~
 27 ~~REFUND TAX YEAR IS THE INCOME TAX YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR. THE AMOUNT~~
 28 ~~AVAILABLE FOR REFUND MUST BE REFUNDED ON A PRO RATA BASIS TO EACH TAXPAYER WHO FILED A STATE INCOME TAX~~
 29 ~~RETURN, PURSUANT TO 15-30-103, FOR THE SALES TAX REFUND TAX YEAR. THE AMOUNT MUST BE CALCULATED BY THE~~
 30 ~~DEPARTMENT OF REVENUE BY DIVIDING THE AMOUNT AVAILABLE FOR REFUND BY THE TOTAL INDIVIDUAL INCOME TAX~~

~~LIABILITY AS DETERMINED BY THE DEPARTMENT FROM ALL RETURNS FOR THE SALES TAX REFUND TAX YEAR. THE DEPARTMENT OF REVENUE SHALL CALCULATE THE AMOUNT OF EACH TAXPAYER'S REFUND BASED ON THE AMOUNT IN THE "TOTAL TAX" LINE OF THE TAXPAYER'S RETURN. A REFUND MAY NOT BE ISSUED IF THE AMOUNT OF THE REFUND IS \$10 OR LESS. THE PAYMENTS MUST BE MAILED TO THE MOST CURRENT ADDRESS FOR THE TAXPAYER ON THE DEPARTMENT'S RECORDS NO LATER THAN DECEMBER 15.~~

~~(b) FOR THE PURPOSES OF THIS SUBSECTION (4):~~

~~(i) THE TERM "TAXPAYER" DOES NOT INCLUDE A FIDUCIARY OR A BENEFICIARY OF AN ESTATE OR TRUST WHO WAS REQUIRED TO FILE AN INCOME TAX RETURN PURSUANT TO 15-30-135 UNLESS A RETURN WAS FILED ON BEHALF OF A DECEDENT;~~

~~(ii) A RETURN FILED USING THE FILING STATUS MARRIED FILING JOINTLY IS CONSIDERED TO HAVE BEEN FILED BY A SINGLE TAXPAYER.~~

~~(5) THE LIMIT ON THE REVENUE STABILIZATION AND DISASTER ACCOUNT IN SUBSECTION (3) MUST BE MULTIPLIED BY THE INFLATION FACTOR, AS DEFINED IN 15-30-101, EACH YEAR.~~

14

NEW SECTION. SECTION 63. SALES TAX REFUNDABLE INCOME TAX CREDIT. (1) ONE INDIVIDUAL TAXPAYER IN EACH HOUSEHOLD IS ALLOWED A CREDIT AGAINST THE TAXES IMPOSED BY 15-30-103 TO PARTIALLY OFFSET THE PAYMENT OF HOUSEHOLD SALES TAXES IN AN AMOUNT THAT IS A PERCENTAGE OF THE HOUSEHOLD COMBINED FEDERAL ADJUSTED GROSS INCOME, AS FOLLOWS:

<u>HOUSEHOLD COMBINED FEDERAL ADJUSTED GROSS HOUSEHOLD INCOME</u>	<u>PERCENTAGE AMOUNT ALLOWED</u>
<u>\$15,000 \$16,000 OR LESS</u>	<u>3.1% \$300</u>
<u>\$16,001 TO \$20,000</u>	<u>\$250</u>
<u>\$20,001 TO \$25,000</u>	<u>1.15% \$200</u>
<u>\$25,001 TO \$30,000</u>	<u>0.575% \$150</u>
<u>\$30,001 TO \$35,000</u>	<u>0.30% \$100</u>
<u>OVER \$35,000</u>	<u>0.1% \$0</u>

(2) IF THE AMOUNT OF THE CREDIT DETERMINED UNDER SUBSECTION (1) IS MORE THAN THE AMOUNT OF TAX OWED UNDER 15-30-103, THE EXCESS MUST BE REFUNDED TO THE TAXPAYER.

(3) A FIDUCIARY OR A BENEFICIARY OF AN ESTATE OR TRUST WHO WAS REQUIRED TO FILE AN INCOME TAX

1 RETURN PURSUANT TO 15-30-135 IS NOT CONSIDERED A TAXPAYER UNLESS A RETURN WAS FILED ON BEHALF OF THE
 2 DECEDENT FOR THE PREVIOUS YEAR.

3 (4) FOR THE PURPOSES OF THIS SECTION:

4 (A) "GROSS HOUSEHOLD INCOME" HAS THE SAME MEANING AS PROVIDED IN 15-30-171; AND

5 (B) "INCOME" HAS THE SAME MEANING AS PROVIDED IN 15-30-171.

6

7 NEW SECTION. SECTION 64. CAPITAL GAINS CREDIT. AN INDIVIDUAL TAXPAYER IS ALLOWED A CREDIT
 8 AGAINST THE TAXES IMPOSED BY 15-30-103 IN AN AMOUNT EQUAL TO 2% OF THE TAXPAYER'S NET CAPITAL GAINS AS
 9 SHOWN ON THE TAXPAYER'S INDIVIDUAL INCOME TAX RETURN FILED PURSUANT TO 15-30-142. THE CREDIT ALLOWED
 10 UNDER THIS SECTION MAY NOT EXCEED THE TAXPAYER'S INCOME TAX LIABILITY.

11

12 NEW SECTION. SECTION 65. SCHOOL EQUALIZATION CREDIT FOR INDIVIDUAL. (1) (A) A TAXPAYER IS
 13 ENTITLED TO A CREDIT AGAINST THE TAXES IMPOSED IN 15-30-103.

14 (B) (I) THE AMOUNT OF THE CREDIT IS EQUAL TO THE AMOUNT OF PROPERTY TAX REPORTED TO THE TAXPAYER
 15 UNDER 15-16-101(2)(A)(VII) FOR THE LEVIES IMPOSED IN 15-10-107, 20-9-331, 20-9-333, AND 20-9-360, NOT TO
 16 EXCEED ~~\$5,000~~ \$20,000, AS ADJUSTED IN SUBSECTION (1)(B)(II).

17 (II) THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION IS EQUAL TO THE ADJUSTED AMOUNT CALCULATED
 18 BY MULTIPLYING THE AMOUNT DETERMINED UNDER SUBSECTION (1)(B)(I) BY THE RATIO THAT THE TAXPAYER'S MONTANA
 19 SOURCE INCOME, AS DEFINED IN 15-30-101, BEARS TO THE TAXPAYER'S TOTAL INCOME FROM ALL SOURCES.

20 (C) IF THE AMOUNT OF THE CREDIT DETERMINED UNDER THIS SUBSECTION (1) IS MORE THAN THE AMOUNT OF
 21 TAX OWED UNDER 15-30-103, THE EXCESS MUST BE REFUNDED TO THE TAXPAYER.

22 (2) A RETURN FILED USING THE FILING STATUS MARRIED FILING JOINTLY IS CONSIDERED TO HAVE BEEN FILED
 23 BY ONE TAXPAYER.

24 (2) IF MORE THAN ONE TAXPAYER OWNS AN INTEREST IN PROPERTY FOR WHICH A CREDIT IS ALLOWED UNDER
 25 THIS SECTION, EACH TAXPAYER IS ENTITLED TO CLAIM A PRO RATA SHARE OF THE CREDIT. HOWEVER, THE TOTAL AMOUNT
 26 OF CREDIT CLAIMED BY ALL ELIGIBLE TAXPAYERS FOR A SINGLE PIECE OF PROPERTY MAY NOT EXCEED THE MAXIMUM
 27 CREDIT SET FORTH IN SUBSECTION (1)(B).

28 (3) A FIDUCIARY OR A BENEFICIARY OF AN ESTATE OR TRUST WHO WAS REQUIRED TO FILE AN INCOME TAX
 29 RETURN PURSUANT TO 15-30-135 IS NOT CONSIDERED A TAXPAYER UNLESS A RETURN WAS FILED ON BEHALF OF THE
 30 DECEDENT FOR THE PREVIOUS YEAR.

1
2 **NEW SECTION. SECTION 66. STATE EQUALIZATION CREDIT -- PENALTY FOR VIOLATION. (1) A PERSON WHO**
3 **FALSELY OR FRAUDULENTLY CLAIMS KNOWINGLY OR PURPOSELY, AS THOSE TERMS ARE DEFINED IN 45-2-101, FILES A**
4 **FALSE OR FRAUDULENT CLAIM FOR THE CREDIT ALLOWED IN [SECTION 65] SHALL PAY AS A PENALTY AN AMOUNT EQUAL**
5 **TO THREE TIMES THE AMOUNT OF THE CREDIT CLAIMED.**

6 **(2) THE PENALTY IMPOSED IN THIS SECTION IS IN ADDITION TO ANY OTHER PENALTY IMPOSED UNDER THIS**
7 **CHAPTER AND MUST BE PAID TO THE DEPARTMENT FOR DEPOSIT IN THE STATE GENERAL FUND.**

8
9 **NEW SECTION. SECTION 67. SCHOOL EQUALIZATION CREDIT FOR BUSINESS. (1) (A) A TAXPAYER IS ENTITLED**
10 **TO A CREDIT AGAINST THE TAXES IMPOSED UNDER THIS CHAPTER.**

11 **(B) (i) THE AMOUNT OF THE CREDIT IS EQUAL TO THE AMOUNT OF PROPERTY TAX REPORTED TO THE TAXPAYER**
12 **UNDER 15-16-101(2)(A)(VII) FOR THE LEVIES IMPOSED IN 15-10-107, 20-9-331, 20-9-333, AND 20-9-360, NOT TO**
13 **EXCEED ~~\$5,000~~ \$20,000, AS ADJUSTED IN SUBSECTION (1)(B)(ii).**

14 **(ii) THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION IS EQUAL TO THE ADJUSTED AMOUNT CALCULATED**
15 **BY MULTIPLYING THE AMOUNT DETERMINED UNDER SUBSECTION (1)(B)(i) BY THE APPORTIONMENT FRACTION DETERMINED**
16 **UNDER 15-31-305.**

17 **(C) IF THE AMOUNT OF THE CREDIT DETERMINED UNDER THIS SUBSECTION (1) IS MORE THAN THE AMOUNT OF**
18 **TAX OWED UNDER THIS CHAPTER, THE EXCESS MUST BE REFUNDED TO THE TAXPAYER.**

19 **(2) IF THE CREDIT UNDER THIS SECTION IS CLAIMED BY A SMALL BUSINESS CORPORATION, AS DEFINED IN**
20 **15-30-1101, OR A PARTNERSHIP, AS DEFINED IN 15-30-101, THE CREDIT MUST BE ATTRIBUTED TO SHAREHOLDERS OR**
21 **PARTNERS USING THE SAME PROPORTION USED TO REPORT THE CORPORATION'S OR PARTNERSHIP'S INCOME OR LOSS**
22 **FOR MONTANA INCOME TAX PURPOSES.**

23
24 **NEW SECTION. SECTION 68. STATE EQUALIZATION CREDIT -- PENALTY FOR VIOLATION. (1) A PERSON WHO**
25 **FALSELY OR FRAUDULENTLY CLAIMS KNOWINGLY OR PURPOSELY, AS THOSE TERMS ARE DEFINED IN 45-2-101, FILES A**
26 **FALSE OR FRAUDULENT CLAIM FOR THE CREDIT ALLOWED IN [SECTION 67] SHALL PAY AS A PENALTY AN AMOUNT EQUAL**
27 **TO THREE TIMES THE AMOUNT OF THE CREDIT CLAIMED.**

28 **(2) THE PENALTY IMPOSED IN THIS SECTION IS IN ADDITION TO ANY OTHER PENALTY IMPOSED UNDER THIS**
29 **CHAPTER AND MUST BE PAID TO THE DEPARTMENT FOR DEPOSIT IN THE STATE GENERAL FUND.**

30

1 **SECTION 69.** SECTION 13-37-218, MCA, IS AMENDED TO READ:

2 **"13-37-218. Limitations on receipts from political committees.** A candidate for the state senate may
3 receive no more than ~~\$1,000~~ \$2,300 in total combined monetary contributions from all political committees
4 contributing to the candidate's campaign, and a candidate for the state house of representatives may receive
5 no more than ~~\$600~~ \$1,400 in total combined monetary contributions from all political committees contributing
6 to the candidate's campaign. The limitations in this section must be multiplied by the inflation factor as defined
7 in 15-30-101 for the year in which general elections are held. The resulting figure must be rounded off to the
8 nearest \$50 increment. The commissioner shall publish the revised limitations as a rule. In-kind contributions
9 must be included in computing these limitation totals. The limitation provided in this section does not apply to
10 contributions made by a political party eligible for a primary election under 13-10-601."
11

12 **Section 70.** Section 15-1-501, MCA, is amended to read:

13 **"15-1-501. Disposition of money from certain designated license and other taxes.** (1) The state
14 treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3)
15 all money received from the collection of:

- 16 (a) income taxes, interest, and penalties collected under chapter 30;
17 (b) all taxes, interest, and penalties collected under chapter 31;
18 (c) oil and natural gas production taxes distributed to the general fund under 15-36-324;
19 (d) electrical energy producer's license taxes under chapter 51;
20 (e) the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;
21 (f) liquor license taxes under Title 16;
22 (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided
23 in 61-5-121;
24 (h) estate taxes under Title 72, chapter 16; ~~and~~
25 (i) fees based on the value of currency on deposit and tangible personal property held for safekeeping
26 by a foreign capital depository as provided in 15-31-803; ~~and~~
27 (j) sales tax and use tax collections, if any, allocated to the general fund in [section-61(4) 62(6)(B)].

28 (2) The department shall also deposit to the credit of the state general fund all money received from
29 the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under
30 the operation of the Montana Alcoholic Beverage Code.

1 (3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according
 2 to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax
 3 revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department
 4 of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

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

8

9 ~~Section 66. Section 15-10-420, MCA, is amended to read:~~

10 ~~"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a~~
 11 ~~governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount~~
 12 ~~of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3~~
 13 ~~years. The maximum number of mills that a governmental entity may impose is established by calculating the~~
 14 ~~number of mills required to generate the amount of property tax actually assessed in the governmental unit in~~
 15 ~~the prior year based on the current year taxable value, less the current year's value of newly taxable property,~~
 16 ~~plus one-half of the average rate of inflation for the prior 3 years.~~

17 ~~(b) A governmental entity that does not impose the maximum number of mills authorized under~~
 18 ~~subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between~~
 19 ~~the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill~~
 20 ~~authority carried forward may be imposed in a subsequent tax year.~~

21 ~~(c) For the purposes of subsection (1)(a),:~~

22 ~~(i) the department shall calculate one-half of the average rate of inflation for the prior 3 years by using~~
 23 ~~the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published~~
 24 ~~by the bureau of labor statistics of the United States department of labor; and~~

25 ~~(ii) the amount of property taxes and the number of mills assessed in the prior year excludes the amount~~
 26 ~~assessed and the mills levied under 20-9-331, 20-9-333, and 20-9-360, as those sections read on January 1,~~
 27 ~~2003.~~

28 ~~(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional~~
 29 ~~levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including~~
 30 ~~newly taxable property.~~

- 1 ~~———(3) For purposes of this section, newly taxable property includes:~~
- 2 ~~———(a) annexation of real property and improvements into a taxing unit;~~
- 3 ~~———(b) construction, expansion, or remodeling of improvements;~~
- 4 ~~———(c) transfer of property into a taxing unit;~~
- 5 ~~———(d) subdivision of real property; and~~
- 6 ~~———(e) transfer of property from tax-exempt to taxable status.~~
- 7 ~~———(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the~~
- 8 ~~release of taxable value from the incremental taxable value of a tax increment financing district because of:~~
- 9 ~~———(i) a change in the boundary of a tax increment financing district;~~
- 10 ~~———(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or~~
- 11 ~~———(iii) the termination of a tax increment financing district.~~
- 12 ~~———(b) For the purpose of subsection (3)(d), the subdivision of real property includes the first sale of real~~
- 13 ~~property that results in the property being taxable as class four property or as nonagricultural land as described~~
- 14 ~~in 15-6-133(1)(c).~~
- 15 ~~———(c) For the purposes of this section, newly taxable property does not include an increase in appraised~~
- 16 ~~value of land that was previously valued at 75% of the value of improvements on the land, as provided in~~
- 17 ~~15-7-111(4) and (5), as those subsections applied on December 31, 2001.~~
- 18 ~~———(5) Subject to subsection (8), subsection (1)(a) does not apply to:~~
- 19 ~~———(a) school district levies established in Title 20; or~~
- 20 ~~———(b) the portion of a governmental entity's property tax levy for premium contributions for group benefits~~
- 21 ~~excluded under 2-9-212 or 2-18-703.~~
- 22 ~~———(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes~~
- 23 ~~received under 15-6-131 and 15-6-132.~~
- 24 ~~———(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may~~
- 25 ~~increase the number of mills to account for a decrease in reimbursements.~~
- 26 ~~———(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for~~
- 27 ~~purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills~~
- 28 ~~calculated by the department may not exceed the mill levy limits established in those sections. The mill~~
- 29 ~~calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of~~
- 30 ~~mills, then the calculation must be rounded up to the nearest whole mill.~~

1 ~~———— (9) (a) The provisions of subsection (1) do not prevent or restrict:~~

2 ~~———— (i) a judgment levy under 2-9-316 or 7-7-2202;~~

3 ~~———— (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or~~

4 ~~———— (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.~~

5 ~~———— (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes~~
6 ~~actually assessed in a subsequent year.~~

7 ~~———— (10) The department may adopt rules to implement this section. The rules may include a method for~~
8 ~~calculating the percentage of change in valuation for purposes of determining the elimination of property, new~~
9 ~~improvements, or newly taxable property in a governmental unit."~~

10

11 ~~———— **Section 67.** Section 15-23-703, MCA, is amended to read:~~

12 ~~———— **"15-23-703. Taxation of gross proceeds -- taxable value for county classification and guaranteed**~~

13 ~~**tax base aid to schools.** (1) The department shall compute from the reported gross proceeds from coal a tax~~
14 ~~roll that must be transmitted to the county treasurer on or before September 15 each year. The department may~~
15 ~~not levy or assess any mills against the reported gross proceeds of coal but shall levy a tax of 5% against the~~
16 ~~value of the reported gross proceeds as provided in 15-23-701(1)(d). The county treasurer shall proceed to give~~
17 ~~full notice, as provided in 15-16-101, to each coal producer of the taxes due and shall collect the taxes.~~

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

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

24 ~~———— (4) (a) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit distribute the~~
25 ~~amount determined under subsection (3) and the amounts received under 15-23-706: as provided in subsections~~
26 ~~(4)(b) and (4)(c) of this section.~~

27 ~~———— (a)(b) The county treasurer shall forward to the state and for deposit in the state special revenue fund~~
28 ~~described in 15-10-107 an amount equal to 0.006 times the total amount determined under subsection (4)(a)~~
29 ~~of this section. This amount is equivalent to the amount that would be generated by the levy imposed in~~
30 ~~15-10-107 for support of the Montana university system and is intended to be used by the Montana university~~

1 ~~system for the same purposes as described in 15-10-107.~~

2 ~~—— (c) After forwarding the amount calculated under subsection (4)(b), the county treasurer shall forward~~
 3 ~~the remainder of the amount determined under subsection (4)(a):~~

4 ~~—— (i) to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions~~
 5 ~~required by the levies for state and county purposes, except for county elementary and high school equalization,~~
 6 ~~in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction, except for~~
 7 ~~county elementary and high school equalization; and~~

8 ~~—— (b)(ii) to school districts in the county that either levied mills in school fiscal year 1990 against 1988~~
 9 ~~production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu~~
 10 ~~of levying mills against production, in the same manner that property taxes collected or property taxes that would~~
 11 ~~have been collected would have been distributed in the 1990 school fiscal year in the school district.~~

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

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

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

22 ~~—— (a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the~~
 23 ~~county in the same proportion that all other property tax proceeds, except proceeds for county elementary and~~
 24 ~~high school equalization, were distributed in the county in fiscal year 1990.~~

25 ~~—— (b) If the allocation in subsection (6)(a) exceeds the total budget for a taxing unit, the commissioners~~
 26 ~~may direct the county treasurer to allocate the excess to any taxing unit within the county.~~

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

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

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

3 ~~———— (8) The county treasurer shall credit all taxes collected under this part from coal mines that began~~
 4 ~~production after December 31, 1988, as follows:~~

5 ~~———— (a) for fiscal year 2005, in the relative proportions required by the levies for state,;~~

6 ~~———— (i) support of the Montana university system as provided in 15-10-107; and~~

7 ~~———— (ii) county, and school district, except county elementary and high school equalization, purposes in the~~
 8 ~~same manner as property taxes were distributed in the previous fiscal year 2004; and~~

9 ~~———— (b) for fiscal year 2006 and succeeding fiscal years, as all other property taxes are distributed for the~~
 10 ~~fiscal year."~~

11

12 ~~———— **Section 68.** Section 15-24-1402, MCA, is amended to read:~~

13 ~~———— "**15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after~~
 14 ~~a construction permit is issued, qualifying improvements or modernized processes that represent new industry~~
 15 ~~or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their~~
 16 ~~taxable value. Subject to 15-10-420, each year thereafter after the 5-year period, the percentage must be~~
 17 ~~increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the~~
 18 ~~property must be taxed at 100% of its taxable value.~~

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

24 ~~———— (b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but~~
 25 ~~the tax benefits may not be denied an industrial facility that previously qualified for the benefits.~~

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

30 ~~———— (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The~~

1 application by the taxpayer must first be approved by the governing body of the appropriate local taxing
 2 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for
 3 the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body
 4 of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.
 5 ~~———— (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed~~
 6 ~~for local high school district and elementary school district purposes and to the number of mills levied and~~
 7 ~~assessed by the governing body approving the benefit over which the governing body has sole discretion. The~~
 8 ~~benefit described in subsection (1) may does not apply to levies or assessments required under Title 15, chapter~~
 9 ~~10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.~~

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

12
 13 ~~———— **Section 69.** Section 15-24-1703, MCA, is amended to read:~~

14 ~~———— "**15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of delinquent~~
 15 ~~property taxes pursuant to this part:~~

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

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

20
 21 ~~———— **Section 70.** Section 15-24-1802, MCA, is amended to read:~~

22 ~~———— "**15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or~~
 23 ~~leased and operated by a local economic development organization is eligible for an exemption from property~~
 24 ~~taxes as provided in this section:~~

25 ~~———— (2) In order to qualify for the tax exemption described in this section, the governing body of the county,~~
 26 ~~consolidated government, incorporated city or town, or school district in which the property is located shall~~
 27 ~~approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing~~
 28 ~~body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is~~
 29 ~~approved, the governing body shall do so approve the exemption by a separate resolution for each business~~
 30 ~~incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator~~

1 until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until
 2 all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude
 3 approval. Prior to holding the hearing, the governing body shall determine that the local economic development
 4 organization:

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

7 ~~_____ (b) is engaged in economic development and business assistance work in the area; and~~

8 ~~_____ (c) owns or leases and operates or will operate the business incubator.~~

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

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

16

17 ~~_____ **Section 71.** Section 15-24-1902, MCA, is amended to read:~~

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

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

29 ~~_____ (a) the local economic development organization:~~

30 ~~_____ (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation~~

1 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

2 ~~—— (ii) is engaged in economic development and business assistance work in the area; and~~

3 ~~—— (iii) owns and operates or will own and operate the industrial development park; or~~

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

5 ~~—— (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department~~

6 ~~shall make the assessment change for the tax exemption provided for in this section.~~

7 ~~—— (4) The tax exemption described in subsection (1) applies only to the number of mills levied and~~

8 ~~assessed by the governing body approving the exemption over which the governing body has sole discretion.~~

9 ~~If the governing body of a county, consolidated government, or incorporated city or town approves the~~

10 ~~exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or~~

11 ~~20-9-333 or otherwise required under state law.~~

12 ~~—— (5) If a local economic development organization sells, leases, or otherwise disposes of the exempt~~

13 ~~property to a purchaser or lessee that is not a local economic development organization or a unit of federal,~~

14 ~~state, or local government, the tax exemption provided in this section terminates. The termination of the~~

15 ~~exemption applies January 1 of the taxable tax year immediately following the sale, lease, or other disposition~~

16 ~~of the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203."~~

17

18 ~~—— **Section 72.** Section 15-24-2002, MCA, is amended to read:~~

19 ~~—— "**15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land~~

20 ~~owned by a local economic development organization that the local economic development organization intends~~

21 ~~to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property~~

22 ~~taxes as provided in this section.~~

23 ~~—— (2) In order to qualify for the tax exemption described in this section, the governing body of the affected~~

24 ~~county, consolidated government, incorporated city or town, or school district in which the building and land are~~

25 ~~located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing.~~

26 ~~The governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing~~

27 ~~body shall approve a tax exemption by a separate resolution. The governing body may not grant approval for~~

28 ~~the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not~~

29 ~~preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic~~

30 ~~development organization:~~

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

3 ~~_____ (b) is engaged in economic development and business assistance work in the area; and~~

4 ~~_____ (c) owns or will own the building and land.~~

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

7 ~~_____ (4) The tax exemption described in subsection (1) applies only to the number of mills levied and~~
 8 ~~assessed by the governing body approving the exemption over which the governing body has sole discretion.~~

9 ~~If the governing body of a county, consolidated government, or incorporated city or town approves the~~
 10 ~~exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or~~
 11 ~~20-9-333 and other levies required under state law.~~

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

17

18 **SECTION 71. SECTION 15-6-138, MCA, IS AMENDED TO READ:**

19 **"15-6-138. (Temporary) Class eight property -- description -- taxable percentage.** (1) Class eight
 20 property includes:

21 (a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(bb);

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

24 (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage
 25 tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units,
 26 communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and
 27 similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and
 28 supplies except those included in class five;

29 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools
 30 and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk

1 processors ~~as providers~~ as provided in 15-6-201, and supplies except those included in class five;

2 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are

3 specifically included and taxed in another class;

4 (f) special mobile equipment as defined in 61-1-104;

5 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in

6 commercial establishments as defined in this section;

7 (h) x-ray and medical and dental equipment;

8 (i) citizens' band radios and mobile telephones;

9 (j) radio and television broadcasting and transmitting equipment;

10 (k) cable television systems;

11 (l) coal and ore haulers;

12 (m) theater projectors and sound equipment; and

13 (n) all other property that is not included in any other class in this part, except that property that is

14 subject to a fee in lieu of a property tax.

15 (2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000

16 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a

17 mining or quarrying environment.

18 (3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or

19 service, wholesale, retail, or food-handling business.

20 (4) Class eight property is taxed at 3% of its market value.

21 ~~(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana~~

22 ~~wage and salary income, in the last full year for which data is available, is at least 2.85% from the prior year, then~~

23 ~~the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero.~~

24 ~~_____ (b) The department shall calculate the percentage growth in subsection (5)(a) by using the formula~~

25 ~~$(W/CPI) - 1$, where:~~

26 ~~_____ (i) W is the Montana wage and salary income for the most current available year divided by the Montana~~

27 ~~wage and salary income for the year prior to the most current available year; and~~

28 ~~_____ (ii) CPI is the consumer price index for the most current available year used in subsection (5)(b)(i)~~

29 ~~divided by the consumer price index for the year prior to the most current available year as used in subsection~~

30 ~~(5)(b)(i).~~

1 ~~————(c) For purposes of determining the percentage growth in subsection (5)(a), the department shall use~~
 2 ~~the wage and salary data series referred to as the bureau of economic analysis of the United States department~~
 3 ~~of commerce Montana wage and salary disbursements. Inflation must be measured by the consumer price~~
 4 ~~index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the~~
 5 ~~bureau of labor statistics of the United States department of labor.~~

6 ~~————(6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in~~
 7 ~~market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency--secs.~~
 8 ~~27(2), 31(4), Ch. 285, L. 1999.)"~~

9

10 **SECTION 72. SECTION 15-6-201, MCA, IS AMENDED TO READ:**

11 **"15-6-201. (Temporary) Exempt categories.** (1) The following categories of property are exempt from
 12 taxation:

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

14 (i) the United States, except:

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

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

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

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

20 (iv) municipal corporations;

21 (v) public libraries; and

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

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

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

30 (d) property that is:

- 1 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
- 2 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
3 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 4 (iii) not maintained and operated for private or corporate profit;
- 5 (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
6 local governmental entity by institutions of purely public charity if the property is directly used for purely public
7 charitable purposes;
- 8 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
9 Montana;
- 10 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
11 corporate profit;
- 12 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
13 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
14 purposes or for furnishing or equipping the family residence;
- 15 (i) truck canopy covers or toppers and campers;
- 16 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 17 (k) motor homes;
- 18 (l) all watercraft;
- 19 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
20 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
21 irrigation of agricultural land;
- 22 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
23 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
24 to explore, prospect, or dig for oil, gas, coal, or minerals;
- 25 (o) (i) property that is owned and used by a corporation or association organized and operated
26 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
27 physical or mental impairments that constitute or result in substantial impediments to employment and that is
28 not operated for gain or profit; and
- 29 (ii) property that is owned and used by an organization owning and operating facilities that are for the
30 care of the retired, aged, or chronically ill and that are not operated for gain or profit;

1 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and
2 machinery with a market value of less than \$100;

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

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

10 (A) construct, repair, and maintain improvements to real property; or

11 (B) repair and maintain machinery, equipment, appliances, or other personal property;

12 (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,
13 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and
14 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and
15 that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

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

17 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
18 33-25-105;

19 (u) timber as defined in 15-44-102;

20 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in
21 61-1-114, and travel trailers as defined in 61-1-131;

22 (w) all vehicles registered under 61-3-456;

23 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors,
24 including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

25 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection
26 (1)(x)(i);

27 (y) motorcycles and quadricycles;

28 (z) ~~the following percentage~~ 31% of the market value of residential property as described in
29 15-6-134(1)(e) and (1)(f);

30 ~~(i) 23% for tax year 2000;~~

- 1 ~~(ii) 27.5% for tax year 2001; and~~
- 2 ~~(iii) 31% for tax year 2002 and succeeding tax years;~~
- 3 (aa) ~~the following percentage~~ 13% of the market value of commercial property as described in
- 4 15-6-134(1)(g):
- 5 ~~(i) 9% for tax year 2000;~~
- 6 ~~(ii) 11% for tax year 2001; and~~
- 7 ~~(iii) 13% for tax year 2002 and succeeding tax years;~~
- 8 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used
- 9 by an industrial dairy;
- 10 (cc) items of personal property intended for rent or lease in the ordinary course of business if each item
- 11 of personal property satisfies all of the following:
- 12 (i) the acquired cost of the personal property is less than \$15,000;
- 13 (ii) the personal property is owned by a business whose primary business income is from rental or lease
- 14 of personal property to individuals and no one customer of the business accounts for more than 10% of the total
- 15 rentals or leases during a calendar year; and
- 16 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
- 17 (dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from
- 18 grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion
- 19 of construction of the manufacturing facility; and
- 20 (ee) light vehicles as defined in 61-1-139.
- 21 (2) (a) For the purposes of subsection (1)(e):
- 22 (i) the term "institutions of purely public charity" includes any organization that meets the following
- 23 requirements:
- 24 (A) The organization offers its charitable goods or services to persons without regard to race, religion,
- 25 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
- 26 Revenue Code, as amended.
- 27 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
- 28 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
- 29 performances or entertainment or by other similar types of fundraising activities.
- 30 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used

1 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
 2 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
 3 with the department a copy of its federal tax return reporting any unrelated business taxable income received
 4 by the charity during the tax year, together with a statement indicating whether the exempt property was used
 5 to generate any unrelated business taxable income.

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

- 12 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- 13 (ii) held for future display; or
- 14 (iii) used to house or store a public display.

15 (3) For the purposes of subsection (1)(bb):

16 (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes
 17 the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products
 18 solely for export from the state, either directly by the dairy or after the milk or milk product has been further
 19 processed by an industrial milk processor. After export, any unprocessed milk must be further processed into
 20 other dairy products.

21 (b) "industrial milk processor" means a facility and integral machinery used solely to process milk into
 22 milk products for export from the state.

23 (4) The following portions of the appraised value of a capital investment in a recognized nonfossil form
 24 of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt
 25 from taxation for a period of 10 years following installation of the property:

- 26 (a) \$20,000 in the case of a single-family residential dwelling;
- 27 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

28 ~~15-6-201. (Effective on occurrence of contingency) Exempt categories. (1) The following categories~~
 29 ~~of property are exempt from taxation:~~

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

- 1 ~~—— (i) the United States, except:~~
2 ~~—— (A) if congress passes legislation that allows the state to tax property owned by the federal government~~
3 ~~or an agency created by congress; or~~
4 ~~—— (B) as provided in 15-24-1103;~~
5 ~~—— (ii) the state, counties, cities, towns, and school districts;~~
6 ~~—— (iii) irrigation districts organized under the laws of Montana and not operating for profit;~~
7 ~~—— (iv) municipal corporations;~~
8 ~~—— (v) public libraries; and~~
9 ~~—— (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;~~
10 ~~—— (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church~~
11 ~~and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably~~
12 ~~necessary for convenient use of the buildings;~~
13 ~~—— (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and~~
14 ~~for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human~~
15 ~~services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department~~
16 ~~of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.~~
17 ~~—— (d) property that is:~~
18 ~~—— (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 24;~~
19 ~~—— (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care~~
20 ~~and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and~~
21 ~~—— (iii) not maintained and operated for private or corporate profit;~~
22 ~~—— (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or~~
23 ~~local governmental entity by institutions of purely public charity if the property is directly used for purely public~~
24 ~~charitable purposes;~~
25 ~~—— (f) evidence of debt secured by mortgages of record upon real or personal property in the state of~~
26 ~~Montana;~~
27 ~~—— (g) public museums, art galleries, zoos, and observatories that are not used or held for private or~~
28 ~~corporate profit;~~
29 ~~—— (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing~~
30 ~~machines, and wearing apparel of members of the family, used by the owner for personal and domestic~~

1 ~~purposes or for furnishing or equipping the family residence;~~
2 ~~—— (i) truck canopy covers or toppers and campers;~~
3 ~~—— (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;~~
4 ~~—— (k) motor homes;~~
5 ~~—— (l) all watercraft;~~
6 ~~—— (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or~~
7 ~~nonprofit corporation organized to furnish potable water to its members or customers for uses other than the~~
8 ~~irrigation of agricultural land;~~
9 ~~—— (n) the right of entry that is a property right reserved in land or received by mesne conveyance~~
10 ~~(exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another~~
11 ~~to explore, prospect, or dig for oil, gas, coal, or minerals;~~
12 ~~—— (o) (i) property that is owned and used by a corporation or association organized and operated~~
13 ~~exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with~~
14 ~~physical or mental impairments that constitute or result in substantial impediments to employment and that is~~
15 ~~not operated for gain or profit; and~~
16 ~~—— (ii) property that is owned and used by an organization owning and operating facilities that are for the~~
17 ~~care of the retired, aged, or chronically ill and that are not operated for gain or profit;~~
18 ~~—— (p) all farm buildings with a market value of less than \$500 and all agricultural implements and~~
19 ~~machinery with a market value of less than \$100;~~
20 ~~—— (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training~~
21 ~~and practice for or competition in international sports and athletic events and that is not held or used for private~~
22 ~~or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization~~
23 ~~that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted~~
24 ~~under the Montana Nonprofit Corporation Act.~~
25 ~~—— (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily~~
26 ~~hand-held and that are used to:~~
27 ~~—— (A) construct, repair, and maintain improvements to real property; or~~
28 ~~—— (B) repair and maintain machinery, equipment, appliances, or other personal property;~~
29 ~~—— (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,~~
30 ~~launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and~~

~~1 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and~~
~~2 that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;~~
~~3 (s) harness, saddlery, and other tack equipment;~~
~~4 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in~~
~~5 33-25-105;~~
~~6 (u) timber as defined in 15-44-102;~~
~~7 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in~~
~~8 61-1-114, and travel trailers as defined in 61-1-131;~~
~~9 (w) all vehicles registered under 61-3-456;~~
~~10 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors,~~
~~11 including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and~~
~~12 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection~~
~~13 (1)(x)(i);~~
~~14 (y) motorcycles and quadricycles;~~
~~15 (z) the following percentage of the market value of residential property as described in 15-6-134(1)(e)~~
~~16 and (1)(f):~~
~~17 (i) 23% for tax year 2000;~~
~~18 (ii) 27.5% for tax year 2001; and~~
~~19 (iii) 31% for tax year 2002 and succeeding tax years;~~
~~20 (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):~~
~~21 (i) 9% for tax year 2000;~~
~~22 (ii) 11% for tax year 2001; and~~
~~23 (iii) 13% for tax year 2002 and succeeding tax years;~~
~~24 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used~~
~~25 by an industrial dairy;~~
~~26 (cc) items of personal property intended for rent or lease in the ordinary course of business if each item~~
~~27 of personal property satisfies all of the following:~~
~~28 (i) the acquired cost of the personal property is less than \$15,000;~~
~~29 (ii) the personal property is owned by a business whose primary business income is from rental or lease~~
~~30 of personal property to individuals and no one customer of the business accounts for more than 10% of the total~~

- 1 ~~rentals or leases during a calendar year; and~~
- 2 ~~—— (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;~~
- 3 ~~—— (dd) all agricultural implements and equipment;~~
- 4 ~~—— (ee) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;~~
- 5 ~~—— (ff) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class~~
- 6 ~~five;~~
- 7 ~~—— (gg) all goods and equipment that are intended for rent or lease, except goods and equipment that are~~
- 8 ~~specifically included and taxed in another class;~~
- 9 ~~—— (hh) special mobile equipment as defined in 61-1-104;~~
- 10 ~~—— (ii) furniture, fixtures, and equipment, except that specifically included in another class, used in~~
- 11 ~~commercial establishments as defined in this section;~~
- 12 ~~—— (jj) x-ray and medical and dental equipment;~~
- 13 ~~—— (kk) citizens' band radios and mobile telephones;~~
- 14 ~~—— (ll) radio and television broadcasting and transmitting equipment;~~
- 15 ~~—— (mm) cable television systems;~~
- 16 ~~—— (nn) coal and ore haulers;~~
- 17 ~~—— (oo) theater projectors and sound equipment; and~~
- 18 ~~—— (pp) light vehicles as defined in 61-1-139.~~
- 19 ~~—— (2) (a) For the purposes of subsection (1)(e):~~
- 20 ~~—— (i) the term "institutions of purely public charity" includes any organization that meets the following~~
- 21 ~~requirements:~~
- 22 ~~—— (A) The organization offers its charitable goods or services to persons without regard to race, religion,~~
- 23 ~~creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal~~
- 24 ~~Revenue Code, as amended.~~
- 25 ~~—— (B) The organization accomplishes its activities through absolute gratuity or grants. However, the~~
- 26 ~~organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public~~
- 27 ~~performances or entertainment or by other similar types of fundraising activities:~~
- 28 ~~—— (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used~~
- 29 ~~by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal~~
- 30 ~~Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually~~

1 with the department a copy of its federal tax return reporting any unrelated business taxable income received
 2 by the charity during the tax year, together with a statement indicating whether the exempt property was used
 3 to generate any unrelated business taxable income.

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

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

11 ~~—— (ii) held for future display; or~~

12 ~~—— (iii) used to house or store a public display.~~

13 ~~—— (3) For the purposes of subsection (1)(bb):~~

14 ~~—— (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes~~
 15 ~~the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products~~
 16 ~~solely for export from the state, either directly by the dairy or after the milk or milk product has been further~~
 17 ~~processed by an industrial milk processor. After export, any unprocessed milk must be further processed into~~
 18 ~~other dairy products.~~

19 ~~—— (b) "industrial milk processor" means a facility and integral machinery used solely to process milk into~~
 20 ~~milk products for export from the state.~~

21 ~~—— (4) The following portions of the appraised value of a capital investment in a recognized nonfossil form~~
 22 ~~of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt~~
 23 ~~from taxation for a period of 10 years following installation of the property:~~

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

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

26

27 **SECTION 73. SECTION 15-16-101, MCA, IS AMENDED TO READ:**

28 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the receipt
 29 of the property tax record, the county treasurer shall publish a notice specifying:

30 (a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next

1 November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount
2 then due will be delinquent and will draw interest at the rate of 5/6 of 1% per month from the time of delinquency
3 until paid and 2% will be added to the delinquent taxes as a penalty;

4 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the
5 next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate
6 of 5/6 of 1% per month from the time of delinquency until paid and 2% will be added to the delinquent taxes as
7 a penalty; and

8 (c) the time and place at which payment of taxes may be made.

9 (2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice,
10 postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due
11 and delinquent for other years. The written notice must include:

12 (i) the taxable value of the property;

13 (ii) the total mill levy applied to that taxable value;

14 (iii) the value of each mill in that county;

15 (iv) itemized city services and special improvement district assessments collected by the county;

16 (v) the number of the school district in which the property is located; ~~and~~

17 (vi) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and
18 other tax; and

19 (vii) the amount of the total tax due that is levied pursuant to 15-10-107, 20-9-331, 20-9-333, and
20 20-9-360. The amount reported under this subsection (2)(a)(vii) is the amount of the school equalization credit
21 that may be claimed under [section 65 or 67], SUBJECT TO THE LIMITATIONS OF [SECTION 65 OR 67], because of the
22 enactment of the sales tax. The notice must have a conspicuous explanation to the taxpayer that the amount
23 is refundable through an income or corporate tax filing. The notice or a copy of the notice is intended to be saved
24 for use when filing an individual or corporate tax return.

25 (b) If the property is the subject of a tax sale for which a tax sale certificate has been issued under
26 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property
27 is the subject of a tax sale and that the taxpayer may contact the county treasurer for complete information.

28 (3) The municipality shall, upon request of the county treasurer, provide the information to be included
29 under subsection (2)(a)(iv) ready for mailing.

30 (4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper

1 published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to
 2 publish or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax
 3 due for the current year or of delinquent tax will not affect the legality of the tax.

4 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
 5 tax is not owed and a new tax bill does not need to be prepared."

6

7 **SECTION 74. SECTION 15-30-101, MCA, IS AMENDED TO READ:**

8 **"15-30-101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the
 9 following definitions apply:

10 (1) "Base year structure" means the following elements of the income tax structure:

11 (a) the tax brackets established in 15-30-103, but unadjusted by 15-30-103(2), in effect on June 30 of
 12 the taxable year;

13 (b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the
 14 taxable year;

15 (c) the maximum standard deduction provided in 15-30-122, but unadjusted by 15-30-122(2), in effect
 16 on June 30 of the taxable year.

17 (2) "Consumer price index" means the consumer price index, United States city average, for all items,
 18 for all urban consumers (CPI-U) using the ~~1967~~ 1982-84 base of 100 as published by the bureau of labor
 19 statistics of the U.S. department of labor.

20 (3) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

21 (a) that is treated as an association for federal income tax purposes;

22 (b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not
 23 in effect; and

24 (c) that is not a disregarded entity.

25 (4) "Department" means the department of revenue.

26 (5) "Disregarded entity" means a business entity:

27 (a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in
 28 United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or
 29 as those regulations may be labeled or amended; or

30 (b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided

1 in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

2 (6) "Dividend" means:

3 (a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or
4 members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

5 (b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

6 (7) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person,
7 whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

8 (8) "Foreign government" means any jurisdiction other than the one embraced within the United States,
9 its territories, and its possessions.

10 (9) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in
11 section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding
12 unemployment compensation included in federal gross income under the provisions of section 85 of the Internal
13 Revenue Code (26 U.S.C. 85) as amended.

14 (10) "Inflation factor" means a number determined for each tax year by dividing the consumer price index
15 for June of the tax year by the consumer price index for June ~~1980~~ 2004 2005.

16 (11) "Information agents" includes all individuals and entities acting in whatever capacity, including
17 lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all
18 officers and employees of the state or of any municipal corporation or political subdivision of the state, having
19 the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities,
20 compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits,
21 and income with respect to which any person or fiduciary is taxable under this chapter.

22 (12) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be
23 labeled or further amended. References to specific provisions of the Internal Revenue Code mean those
24 provisions as they may be otherwise labeled or further amended.

25 (13) "Knowingly" is as defined in 45-2-101.

26 (14) "Limited liability company" means a limited liability company, domestic limited liability company, or
27 a foreign limited liability company as defined in 35-8-102.

28 (15) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

29 (16) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

30 (a) a resident taxpayer on a lottery ticket; or

- 1 (b) a nonresident taxpayer on a lottery ticket purchased in Montana.
- 2 (17) (a) "Montana source income" means:
- 3 (i) wages, salary, tips, and other compensation for services performed in the state or while a resident
4 of the state;
- 5 (ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise
6 transferred while a resident of the state, or used or held in connection with a trade, business, or occupation
7 carried on in the state;
- 8 (iii) gain attributable to the sale or other transfer of intangible property received or accrued while a
9 resident of the state;
- 10 (iv) interest received or accrued while a resident of the state or from an installment sale of real property
11 or tangible commercial or business personal property located in the state;
- 12 (v) dividends received or accrued while a resident of the state;
- 13 (vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state
14 or while a resident of the state;
- 15 (vii) net income or loss derived from farming activities carried on in the state or while a resident of the
16 state;
- 17 (viii) net rents from real property and tangible personal property located in the state or received or
18 accrued while a resident of the state;
- 19 (ix) net royalties from real property and from tangible real property to the extent the property is used in
20 the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state
21 is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical
22 location of the property in the state during the royalty period in the tax year and the denominator of which is the
23 number of days of physical location of the property everywhere during all royalty periods in the tax year. If the
24 physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state
25 in which it was located at the time the person paying the royalty obtained possession.
- 26 (x) patent royalties to the extent the person paying them employs the patent in production, fabrication,
27 manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are
28 received or accrued while a resident of the state;
- 29 (xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties
30 are received or accrued while a resident of the state;

- 1 (xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:
2 (A) derived from a trade, business, occupation, or profession carried on in the state;
3 (B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of
4 property located in the state; or
5 (C) taken into account while a resident of the state;
- 6 (xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or
7 item of income, gain, loss, deduction, or credit:
8 (A) derived from a trade, business, occupation, or profession carried on in the state;
9 (B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of
10 property located in the state; or
11 (C) taken into account while a resident of the state;
- 12 (xiv) social security benefits received or accrued while a resident of the state;
13 (xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits
14 received while a resident of the state; and
15 (xvi) any other income attributable to the state, including but not limited to lottery winnings, state and
16 federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks.
- 17 (b) The term does not include:
18 (i) compensation for military service of members of the armed services of the United States who are
19 not Montana residents and who are residing in Montana solely by reason of compliance with military orders and
20 does not include income derived from their personal property located in the state except with respect to personal
21 property used in or arising from a trade or business carried on in Montana; or
22 (ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their
23 domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located
24 in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there
25 is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.
- 26 (18) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this
27 chapter.
28 (19) "Nonresident" means a natural person who is not a resident.
29 (20) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued
30 or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the

1 method of accounting upon the basis of which the taxable income is computed under this chapter.

2 (21) "Partner" means a member of a partnership or a manager or member of any other entity, if treated
3 as a partner for federal income tax purposes.

4 (22) "Partnership" means a general or limited partnership, limited liability partnership, limited liability
5 company, or other entity, if treated as a partnership for federal income tax purposes.

6 (23) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

7 (24) "Pension and annuity income" means:

8 (a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term
9 is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the
10 result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary
11 upon the cessation of employment;

12 (b) payments received as the result of past service and cessation of employment in the uniformed
13 services of the United States;

14 (c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are
15 included in federal adjusted gross income;

16 (d) distributions from individual retirement, deferred compensation, and self-employed retirement plans
17 recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the
18 extent that the distributions are not considered to be premature distributions for federal income tax purposes;
19 or

20 (e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular
21 employment.

22 (25) "Purposely" is as defined in 45-2-101.

23 (26) "Received", for the purpose of computation of taxable income under this chapter, means received
24 or accrued, and the term "received or accrued" must be construed according to the method of accounting upon
25 the basis of which the taxable income is computed under this chapter.

26 (27) "Resident" applies only to natural persons and includes, for the purpose of determining liability to
27 the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the
28 state of Montana and any other person who maintains a permanent place of abode within the state even though
29 temporarily absent from the state and who has not established a residence elsewhere.

30 (28) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the

1 Internal Revenue Code (26 U.S.C. 1362) is in effect.

2 (29) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in
3 proportion to their previous holdings.

4 (30) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and
5 exemptions provided for in this chapter.

6 (31) ~~"Taxable year" or "tax year"~~ "Tax year" means the taxpayer's taxable year for federal income tax
7 purposes.

8 (32) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other
9 obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation."
10

11 **SECTION 75. SECTION 15-30-103, MCA, IS AMENDED TO READ:**

12 **"15-30-103. Rate of tax.** (1) There ~~shall~~ must be levied, collected, and paid for each ~~taxable tax~~ year
13 ~~commencing on or after December 31, 1968~~, upon the taxable income of ~~every~~ each taxpayer subject to this
14 tax, after making allowance for exemptions and deductions as ~~hereinafter~~ provided in this chapter, a tax on the
15 ~~following~~ brackets of taxable income as adjusted under subsection (2) at the following rates:

16 (a) on the first ~~\$1,000~~ \$2,300 of taxable income or any part ~~thereof~~ of that income, ~~2%~~ 1%;

17 (b) on the next ~~\$1,000~~ \$1,800 of taxable income or any part ~~thereof~~ of that income, ~~3%~~ 2%;

18 (c) on the next ~~\$2,000~~ \$2,100 of taxable income or any part ~~thereof~~ of that income, ~~4%~~ 3%;

19 (d) on the next ~~\$2,000~~ \$2,200 of taxable income or any part ~~thereof~~ of that income, ~~5%~~ 4%;

20 (e) on the next ~~\$2,000~~ \$2,400 of taxable income or any part ~~thereof~~ of that income, ~~6%~~ 5%;

21 (f) on the next ~~\$2,000~~ \$3,100 of taxable income or any part ~~thereof~~ of that income, ~~7%~~ 6%;

22 ~~(g) on the next \$4,000 of taxable income or any part thereof, 8%;~~

23 ~~—— (h) on the next \$6,000 of taxable income or any part thereof, 9%;~~

24 ~~—— (i) on the next \$15,000 of taxable income or any part thereof, 10%;~~

25 ~~—— (j)(g) on any taxable income in excess of \$35,000~~ \$13,900 or any part ~~thereof~~ of that income, ~~11%~~ 6.9%.

26 (2) By November 1 of each year, the department shall multiply the bracket amount contained in
27 subsection (1) by the inflation factor for that ~~taxable tax~~ year and round the cumulative brackets to the nearest
28 \$100. The resulting adjusted brackets are effective for that ~~taxable tax~~ year and ~~shall~~ must be used as the basis
29 for imposition of the tax in subsection (1) of this section."
30

1 **SECTION 76. SECTION 15-30-112, MCA, IS AMENDED TO READ:**

2 **"15-30-112. Exemptions.** (1) Except as provided in subsection (6), in the case of an individual, the
3 exemptions provided by subsections (2) through (5) ~~shall~~ must be allowed as deductions in computing taxable
4 income.

5 (2) (a) An exemption of ~~\$800 \$1,840 \$1,900~~ shall be is allowed for ~~taxable years beginning after~~
6 ~~December 31, 1978, for the taxpayer~~ all taxpayers.

7 (b) An additional exemption of ~~\$800 \$1,840 \$1,900~~ shall be is allowed for ~~taxable years beginning after~~
8 ~~December 31, 1978,~~ for the spouse of the taxpayer if a separate return is made by the taxpayer and if the
9 spouse, for the calendar year in which the ~~taxable tax~~ tax year of the taxpayer begins, ~~has no~~ does not have gross
10 income and is not the dependent of another taxpayer.

11 (3) (a) An additional exemption of ~~\$800 \$1,840 \$1,900~~ shall be is allowed for ~~taxable years beginning~~
12 ~~after December 31, 1978,~~ for the taxpayer if ~~he~~ the taxpayer has attained the age of 65 before the close of ~~his~~
13 ~~taxable~~ the taxpayer's tax year.

14 (b) An additional exemption of ~~\$800 \$1,840 \$1,900~~ shall be is allowed for ~~taxable years beginning after~~
15 ~~December 31, 1978,~~ for the spouse of the taxpayer if a separate return is made by the taxpayer and if the
16 spouse has attained the age of 65 before the close of ~~such taxable~~ the tax year and, for the calendar year in
17 which the ~~taxable tax~~ tax year of the taxpayer begins, ~~has no~~ does not have gross income and is not the dependent
18 of another taxpayer.

19 (4) (a) An additional exemption of ~~\$800 \$1,840 \$1,900~~ shall be is allowed for ~~taxable years beginning~~
20 ~~after December 31, 1978,~~ for the taxpayer if ~~he~~ the taxpayer is blind at the close of ~~his taxable~~ the taxpayer's
21 tax year.

22 (b) An additional exemption of ~~\$800 \$1,840 \$1,900~~ shall be is allowed for ~~taxable years beginning after~~
23 ~~December 31, 1978,~~ for the spouse of the taxpayer if a separate return is made by the taxpayer and if the
24 spouse is blind and, for the calendar year in which the ~~taxable tax~~ tax year of the taxpayer begins, ~~has no~~ does not
25 have gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the
26 determination of whether the spouse is blind ~~shall~~ must be made as of the close of the ~~taxable tax~~ tax year of the
27 taxpayer, except that if the spouse dies during ~~such taxable~~ the tax year, ~~such~~ the determination ~~shall~~ must be
28 made as of the time of ~~such~~ death.

29 (c) For purposes of this subsection (4), an individual is blind only if ~~his~~ the person's central visual acuity
30 does not exceed 20/200 in the better eye with correcting lenses or if ~~his~~ visual acuity is greater than 20/200 but

1 is accompanied by a limitation in the fields of vision ~~such to an extent~~ that the widest diameter of the visual field
2 subtends an angle no greater than 20 degrees.

3 (5) (a) An exemption of ~~\$800 \$1,840 \$1,900~~ shall be ~~is~~ allowed for ~~taxable years beginning after~~
4 ~~December 31, 1978~~, for each dependent:

5 (i) whose gross income for the calendar year in which the ~~taxable tax~~ year of the taxpayer begins is less
6 than \$800; or

7 (ii) who is a child of the taxpayer and who:

8 (A) has not attained the age of 19 years at the close of the calendar year in which the ~~taxable tax~~ year
9 of the taxpayer begins; or

10 (B) is a student.

11 (b) ~~No An~~ exemption shall be ~~is not~~ allowed under this subsection (5) for ~~any a~~ dependent who has
12 made a joint return with ~~his~~ the dependent's spouse for the ~~taxable tax~~ year beginning in the calendar year in
13 which the ~~taxable tax~~ year of the taxpayer begins.

14 (c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson,
15 daughter, or stepdaughter of the taxpayer.

16 (d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each
17 of 5 calendar months during the calendar year in which the ~~taxable tax~~ year of the taxpayer begins:

18 (i) is a full-time student at an educational institution; or

19 (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited
20 agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection
21 (5)(d)(ii), the term "educational institution" means only an educational institution ~~which that~~ normally maintains
22 a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the
23 place where its educational activities are carried on.

24 (6) The department, by November 1 of each year, shall multiply all the exemptions provided in this
25 section by the inflation factor for that ~~taxable tax~~ year and round the product to the nearest \$10. The resulting
26 adjusted exemptions are effective for that ~~taxable tax~~ year and shall ~~must~~ be used in calculating the tax imposed
27 in 15-30-103."

28

29 **SECTION 77. SECTION 15-30-121, MCA, IS AMENDED TO READ:**

30 **"15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are

1 allowed as deductions:

2 (a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and
3 211 of the Internal Revenue Code of 1954 (26 U.S.C. 161 and 211), or as sections 161 and 211 are labeled or
4 amended, subject to the following exceptions, which are not deductible:

5 (i) items provided for in 15-30-123;

6 (ii) state income tax paid;

7 (iii) premium payments for medical care as provided in subsection (1)(g)(i);

8 (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii);

9 (b) federal income tax paid within the tax year, not to exceed \$5,000 \$6,000 for each taxpayer filing
10 singly, head of household, or married filing separately or not to exceed \$10,000 \$12,000 for taxpayers using the
11 filing status married filing jointly;

12 (c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through
13 (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as
14 follows:

15 (i) expenses for household and dependent care services necessary for gainful employment incurred
16 for:

17 (A) a dependent under 15 years of age for whom an exemption can be claimed;

18 (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income
19 do not apply, who is unable to provide self-care because of physical or mental illness; and

20 (C) a spouse who is unable to provide self-care because of physical or mental illness;

21 (ii) employment-related expenses incurred for the following services, but only if the expenses are
22 incurred to enable the taxpayer to be gainfully employed:

23 (A) household services that are attributable to the care of the qualifying individual; and

24 (B) care of an individual who qualifies under subsection (1)(c)(i);

25 (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household
26 is furnished by an individual or, if the individual is married during the applicable period, is furnished by the
27 individual and the individual's spouse;

28 (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:

29 (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during
30 the year only to the extent that the expenses do not exceed \$4,800;

1 (B) expenses for services in the household are deductible under subsection (1)(c)(i) for
2 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
3 employment-related expenses incurred for services outside the taxpayer's household are deductible, but only
4 if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that
5 the expenses incurred during the year do not exceed:

6 (I) \$2,400 in the case of one qualifying individual;

7 (II) \$3,600 in the case of two qualifying individuals; and

8 (III) \$4,800 in the case of three or more qualifying individuals;

9 (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during
10 which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by
11 one-half of the excess of the combined adjusted gross income over \$18,000;

12 (vi) for purposes of this subsection (1)(c):

13 (A) married couples shall file a joint return or file separately on the same form;

14 (B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred
15 are deductible only if:

16 (I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent
17 that they are a direct result of the employment; or

18 (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

19 (C) an individual legally separated from the individual's spouse under a decree of divorce or of separate
20 maintenance may not be considered as married;

21 (D) the deduction for employment-related expenses must be divided equally between the spouses when
22 filing separately on the same form;

23 (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year
24 and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not
25 deductible as employment-related expenses;

26 (d) in the case of an individual, political contributions determined in accordance with the provisions of
27 section 218(a) and (b) of the Internal Revenue Code (now repealed) that were in effect for the tax year ended
28 December 31, 1978;

29 (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed
30 as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

1 (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject
2 to the conditions set forth in 15-30-156;

3 (g) the entire amount of premium payments made by the taxpayer, except premiums deducted in
4 determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:

5 (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the
6 taxpayer's dependents, and the parents and grandparents of the taxpayer; and

7 (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified
8 long-term care services, as defined in 26 U.S.C. 7702B(c), for:

9 (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

10 (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the
11 taxpayer for tax years beginning after December 31, 1996;

12 (h) light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the tax year;
13 and

14 (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
15 81-7-118, or 81-7-201.

16 (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home
17 or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child
18 and at least one unrelated child in the ordinary course of business may deduct employment-related expenses
19 considered to have been paid for the care of the child.

20 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal
21 to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours
22 of care. The employment-related expenses apply regardless of whether any expenses actually have been paid.
23 Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

24 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
25 deduction under this subsection (2)."

26

27 **SECTION 78. SECTION 15-30-122, MCA, IS AMENDED TO READ:**

28 **"15-30-122. Standard deduction.** (1) A standard deduction equal to 20% of adjusted gross income is
29 allowed if elected by the taxpayer on a return. The standard deduction is in lieu of all deductions allowed under
30 15-30-121. The minimum standard deduction is ~~\$665~~ ~~\$1,530~~ \$1,580, as adjusted under the provisions of

1 subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of
 2 ~~\$1,500~~ \$3,460, as adjusted under the provisions of subsection (2). However, in the case of a single joint return
 3 of husband and wife or in the case of a single individual who qualifies to file as a head of household on the
 4 federal income tax return, the minimum standard deduction is ~~\$1,330~~ twice the amount of the minimum standard
 5 deduction for a single return, as adjusted under the provisions of subsection (2), or 20% of adjusted gross
 6 income, whichever is greater, to a maximum standard deduction of ~~\$3,000~~ twice the amount of the maximum
 7 standard deduction for a single return, as adjusted under the provisions of subsection (2). The standard
 8 deduction may not be allowed to either the husband or the wife if the tax of one of the spouses is determined
 9 without regard to the standard deduction. For purposes of this section, the determination of whether an individual
 10 is married must be made as of the last day of the tax year unless one of the spouses dies during the tax year,
 11 in which case the determination must be made as of the date of death.

12 (2) By November 1 of each year, the department shall multiply both the minimum and the maximum
 13 standard deduction for single returns by the inflation factor for that tax year and round the product to the nearest
 14 \$10. ~~The minimum and maximum standard deduction for joint returns and qualified head of household returns~~
 15 ~~must be twice the amount of the minimum and maximum standard deduction for single returns.~~ The resulting
 16 adjusted deductions are effective for that tax year and must be used in calculating the tax imposed in
 17 15-30-103."

18

19 **SECTION 79. SECTION 15-30-142, MCA, IS AMENDED TO READ:**

20 **"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits.** (1) For both
 21 resident and nonresident taxpayers, each single individual and each married individual not filing a joint return
 22 with a spouse and having a gross income for the tax year of more than ~~\$1,500~~ ~~\$3,460~~ \$3,560, as adjusted under
 23 the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross
 24 income for the tax year of more than ~~\$3,000~~ ~~\$6,920~~ \$7,120, as adjusted under the provisions of subsection (7),
 25 are liable for a return to be filed on forms and according to rules that the department may prescribe. The gross
 26 income amounts referred to in the preceding sentence must be increased by ~~\$800~~ ~~\$1,840~~ \$1,900, as adjusted
 27 under the provisions of 15-30-112(6), for each additional personal exemption allowance that the taxpayer is
 28 entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-112(3) and (4).

29 (2) In accordance with instructions set forth by the department, each taxpayer who is married and living
 30 with husband or wife and is required to file a return may, at the taxpayer's option, file a joint return with husband

1 or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the
2 tax must be computed on the aggregate taxable income and the liability with respect to the tax is joint and
3 several. If a joint return has been filed for a tax year, the spouses may not file separate returns after the time for
4 filing the return of either has expired unless the department consents.

5 (3) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized
6 agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

7 (4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241,
8 shall compute the amount of income tax payable and shall, at the time of filing the return required by this
9 chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld,
10 as provided by 15-30-202, and any payment made by reason of an estimated tax return provided for in
11 15-30-241. However, the tax computed must be greater by \$1 than the amount withheld and paid by estimated
12 return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by
13 more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

14 (5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

15 (6) If the amount of tax as verified is greater than the amount paid, the excess must be paid by the
16 taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added
17 as provided in 15-1-216. In that case, there may not be a penalty because of the understatement if the deficiency
18 is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

19 (7) By November 1 of each year, the department shall multiply the minimum amount of gross income
20 necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective
21 for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to
22 file a return.

23 (8) Individual income tax forms distributed by the department for each tax year must contain instructions
24 and tables based on the adjusted base year structure for that tax year."

25

26 **Section 80.** Section 15-36-324, MCA, is amended to read:

27 **"15-36-324. (Temporary) Distribution of taxes -- rules.** (1) For each calendar quarter, the department
28 shall determine the amount of tax, late payment interest, and penalty collected under this part. For purposes of
29 distribution of the taxes to county and school taxing units, the department shall determine the amount of oil and
30 natural gas production taxes paid on production in the taxing unit.

1 (2) Except as provided in subsections (3) through (5), oil production taxes must be distributed as
2 follows:

3 (a) The amount equal to 39.3% of the oil production taxes, including late payment interest and penalty,
4 collected under this part must be distributed as provided in subsection (9).

5 (b) The remaining 60.7% of the oil production taxes, plus accumulated interest earned on the amount
6 allocated under this subsection (2)(b), must be deposited in the state special revenue fund in the state treasury
7 and transferred to the county and school taxing units for distribution as provided in subsection (12).

8 (3) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,
9 collected from working interest owners on qualifying production occurring during the first 12 months of production
10 must be distributed as provided in subsection (10).

11 (4) (a) The amount equal to 100% of the oil production taxes, including late payment interest and
12 penalty, collected from working interest owners on production from horizontally completed wells occurring during
13 the first 18 months of production must be distributed as provided in subsection (10).

14 (b) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,
15 collected from working interest owners on the incremental production from horizontally recompleted wells
16 occurring during the first 18 months of production must be distributed as provided in subsection (9).

17 (5) (a) The amount equal to 13.8% of the oil production taxes, including late payment interest and
18 penalty, collected from working interest owners on the first 10 barrels of stripper oil production wells must be
19 distributed as provided in subsection (10).

20 (b) The remaining 86.2% of the oil production taxes, plus accumulated interest earned on the amount
21 allocated under this subsection (5)(b), must be deposited in the state special revenue fund in the state treasury
22 and transferred to the county and school taxing units for distribution as provided in subsection (12).

23 (c) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,
24 collected from working interest owners on stripper well exemption production from pre-1999 wells and post-1999
25 wells must be distributed as provided in subsection (10).

26 (6) Except as provided in subsections (7) and (8), natural gas production taxes must be allocated as
27 follows:

28 (a) The amount equal to 14% of the natural gas production taxes, including late payment interest and
29 penalty, collected under this part must be distributed as provided in subsection (11).

30 (b) The remaining 86% of the natural gas production taxes, plus accumulated interest earned on the

1 amount allocated under this subsection (6)(b), must be deposited in the state special revenue fund in the state
2 treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

3 (7) The amount equal to 100% of the natural gas production taxes, including late payment interest and
4 penalty, collected from working interest owners under this part on production from wells occurring during the first
5 12 months of production must be distributed as provided in subsection (10).

6 (8) The amount equal to 100% of natural gas production taxes, including late payment interest and
7 penalty, collected from working interest owners on production from horizontally completed wells occurring during
8 the first 18 months of production must be distributed as provided in subsection (10).

9 (9) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of
10 oil production taxes specified in subsections (2)(a) and (4)(b), including late payment interest and penalty
11 collected, as follows:

12 (a) 86.21% to the state general fund;

13 (b) 5.17% to the state special revenue fund for the purpose of paying expenses of the board as provided
14 in 82-11-135; and

15 (c) 8.62% to be distributed as follows:

16 (i) a total of \$400,000, including the proceeds from subsections (10)(b)(i) and (11)(c)(i), to the coal bed
17 methane protection account established in 76-15-904;

18 (ii) for the fiscal year ending June 30, 2003, all of the remaining proceeds to the state general fund;

19 (iii) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the
20 reclamation and development grants special revenue account established in 90-2-1104; and

21 (iv) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the orphan
22 share account established in 75-10-743.

23 (10) The department shall distribute the state portion of oil and natural gas production taxes specified
24 in subsections (3), (4)(a), (5)(a), (5)(c), (7), and (8), including late payment interest and penalty collected, as
25 follows:

26 (a) 37.5% to the state special revenue fund for the purpose of paying expenses of the board as provided
27 in 82-11-135; and

28 (b) 62.5% to be distributed as follows:

29 (i) a total of \$400,000, including the proceeds from subsections (9)(c)(i) and (11)(c)(i), to the coal bed
30 methane protection account established in 76-15-904;

1 ~~—— (ii) for the fiscal year ending June 30, 2003, all of the remaining proceeds to the state general fund;~~
 2 ~~(iii)(ii) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the~~
 3 ~~reclamation and development grants special revenue account established in 90-2-1104; and~~
 4 ~~(iv)(iii) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the~~
 5 ~~orphan share account established in 75-10-743.~~

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

9 (a) 76.8% to the state general fund;

10 (b) 8.7% to the state special revenue fund for the purpose of paying expenses of the board as provided
 11 in 82-11-135; and

12 (c) 14.5% to be distributed as follows:

13 (i) a total of \$400,000, including the proceeds from subsections (9)(c)(i) and (10)(b)(i), to the coal bed
 14 methane protection account established in 76-15-904;

15 ~~—— (ii) for the fiscal year ending June 30, 2003, all of the remaining proceeds to the state general fund;~~

16 ~~(iii)(ii) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the~~
 17 ~~reclamation and development grants special revenue account established in 90-2-1104; and~~

18 ~~(iv)(iii) for the fiscal years beginning on or after July 1, 2003, 50% of the remaining proceeds to the~~
 19 ~~orphan share account established in 75-10-743.~~

20 (12) (a) By the dates referred to in subsection (13), the department shall, except as provided in
 21 subsection (12)(b), calculate and distribute oil and natural gas production taxes received under subsections
 22 (2)(b), (5)(b), and (6)(b) to each eligible county in proportion to the oil and natural gas production taxes received
 23 under subsections (2)(b), (5)(b), and (6)(b) that are attributable to production in that county.

24 (b) The department shall distribute 5% of the oil and natural gas production taxes received under
 25 subsections (2)(b), (5)(b), and (6)(b) from pre-1999 wells to eligible counties in proportion to the underfunding
 26 that would have occurred from the tax liability distribution of pre-1985 oil and natural gas production taxes for
 27 production in calendar year 1997.

28 (c) Except as provided in subsection (12)(d), the county treasurer shall distribute the money received
 29 under subsection (12)(b) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988
 30 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in

1 the taxing unit, except that a distribution may not be made to a municipal taxing unit.

2 (d) The board of county commissioners of a county may direct the county treasurer to reallocate the
3 distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in
4 subsection (12)(c), to another taxing unit or taxing units, other than an elementary school or high school, within
5 the county under the following conditions:

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

9 (ii) If the allocation in subsection (12)(d)(i) exceeds the total budget for a taxing unit, the commissioners
10 may direct the county treasurer to allocate the excess to any taxing unit within the county.

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

13 (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds of the
14 district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year
15 1990.

16 (ii) If the allocation under subsection (12)(e)(i) exceeds the total budget for a fund, the trustees may
17 allocate the excess to any budgeted fund of the school district.

18 (f) The county treasurer shall distribute oil and natural gas production taxes received under subsection
19 (12)(a) between county and school taxing units in the relative proportions required by the levies for state, county,
20 and school district purposes in the same manner as property taxes were distributed in the preceding fiscal year.

21 (g) The allocation to the county in subsection (12)(f) must be distributed by the county treasurer in the
22 relative proportions required by the levies for county taxing units and in the same manner as property taxes were
23 distributed in the preceding fiscal year.

24 (h) The money distributed in subsection (12)(f) that is required for the county mill levies for school
25 district retirement obligations and transportation schedules must be deposited to the funds established for these
26 purposes.

27 (i) The oil and natural gas production taxes distributed under subsection (12)(c) that are required for
28 the 6-mill university levy imposed under 20-25-423 ~~and for the county equalization levies imposed under~~
29 ~~20-9-331 and 20-9-333, as those sections read on July 1, 1989,~~ must be remitted by the county treasurer to the
30 department.

1 (j) The oil and natural gas production taxes distributed under subsection (12)(f) that are required for the
2 6-mill university levy imposed under 20-25-423, ~~for the county equalization levies imposed under 20-9-331 and~~
3 ~~20-9-333, and for the state equalization aid levy imposed under 20-9-360~~ must be remitted by the county
4 treasurer to the department.

5 (k) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the
6 amounts determined in subsections (12)(i) and (12)(j) is for the exclusive use and benefit of the county and
7 school taxing units.

8 (13) The department shall remit the amounts to be distributed in subsection (12) to the county treasurer
9 by the following dates:

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

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

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

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

20 (14) The department shall provide to each county by May 31 of each year the amount of gross taxable
21 value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by
22 60%. The resulting value must be treated as taxable value for county classification purposes.

23 (15) ~~(a) In the event that~~ If the board revises the privilege and license tax pursuant to 82-11-131, the
24 department shall, by rule, change the formula under this section for distribution of taxes collected under
25 15-36-304. The revised formula must provide for the distribution of taxes in an amount equal to the rate adopted
26 by the board for its expenses.

27 (b) Before the department adopts a rule pursuant to subsection (15)(a), it shall present the proposed
28 rule to the appropriate administrative rule review committee.

29 (16) The distribution to taxing units under this section is statutorily appropriated as provided in 17-7-502.
30 (Terminates June 30, 2011--sec. 10, Ch. 531, L. 2001; sec. 8(2), Ch. 12, Sp. L. August 2002.)

1 **15-36-324. (Effective July 1, 2011) Distribution of taxes -- rules.** (1) For each calendar quarter, the
2 department shall determine the amount of tax, late payment interest, and penalty collected under this part. For
3 purposes of distribution of the taxes to county and school taxing units, the department shall determine the
4 amount of oil and natural gas production taxes paid on production in the taxing unit.

5 (2) Except as provided in subsections (3) through (5), oil production taxes must be distributed as
6 follows:

7 (a) The amount equal to 39.3% of the oil production taxes, including late payment interest and penalty,
8 collected under this part must be distributed as provided in subsection (9).

9 (b) The remaining 60.7% of the oil production taxes, plus accumulated interest earned on the amount
10 allocated under this subsection (2)(b), must be deposited in the state special revenue fund in the state treasury
11 and transferred to the county and school taxing units for distribution as provided in subsection (12).

12 (3) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,
13 collected from working interest owners on qualifying production occurring during the first 12 months of production
14 must be distributed as provided in subsection (10).

15 (4) (a) The amount equal to 100% of the oil production taxes, including late payment interest and
16 penalty, collected from working interest owners on production from horizontally completed wells occurring during
17 the first 18 months of production must be distributed as provided in subsection (10).

18 (b) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,
19 collected from working interest owners on the incremental production from horizontally recompleted wells
20 occurring during the first 18 months of production must be distributed as provided in subsection (9).

21 (5) (a) The amount equal to 13.8% of the oil production taxes, including late payment interest and
22 penalty, collected from working interest owners on the first 10 barrels of stripper oil production wells must be
23 distributed as provided in subsection (10).

24 (b) The remaining 86.2% of the oil production taxes, plus accumulated interest earned on the amount
25 allocated under this subsection (5)(b), must be deposited in the state special revenue fund in the state treasury
26 and transferred to the county and school taxing units for distribution as provided in subsection (12).

27 (c) The amount equal to 100% of the oil production taxes, including late payment interest and penalty,
28 collected from working interest owners on stripper well exemption production from pre-1999 wells and post-1999
29 wells must be distributed as provided in subsection (10).

30 (6) Except as provided in subsections (7) and (8), natural gas production taxes must be allocated as

1 follows:

2 (a) The amount equal to 14% of the natural gas production taxes, including late payment interest and
3 penalty, collected under this part must be distributed as provided in subsection (11).

4 (b) The remaining 86% of the natural gas production taxes, plus accumulated interest earned on the
5 amount allocated under this subsection (6)(b), must be deposited in the state special revenue fund in the state
6 treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

7 (7) The amount equal to 100% of the natural gas production taxes, including late payment interest and
8 penalty, collected from working interest owners under this part on production from wells occurring during the first
9 12 months of production must be distributed as provided in subsection (10).

10 (8) The amount equal to 100% of natural gas production taxes, including late payment interest and
11 penalty, collected from working interest owners on production from horizontally completed wells occurring during
12 the first 18 months of production must be distributed as provided in subsection (10).

13 (9) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of
14 oil production taxes specified in subsections (2)(a) and (4)(b), including late payment interest and penalty
15 collected, as follows:

16 (a) 86.21% to the state general fund;

17 (b) 5.17% to the state special revenue fund for the purpose of paying expenses of the board as provided
18 in 82-11-135; and

19 (c) 8.62% to be distributed as follows:

20 (i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;

21 (ii) 25% to the reclamation and development grants special revenue account established in 90-2-1104;

22 and

23 (iii) 25% to the orphan share account established in 75-10-743.

24 (10) The department shall distribute the state portion of oil and natural gas production taxes specified
25 in subsections (3), (4)(a), (5)(a), (5)(c), (7), and (8), including late payment interest and penalty collected, as
26 follows:

27 (a) 37.5% to the state special revenue fund for the purpose of paying expenses of the board as provided
28 in 82-11-135; and

29 (b) 62.5% to be distributed as follows:

30 (i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;

- 1 (ii) 25% to the reclamation and development grants special revenue account established by 90-2-1104;
- 2 and
- 3 (iii) 25% to the orphan share account established in 75-10-743.
- 4 (11) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of
- 5 natural gas production taxes specified in subsection (6)(a), including late payment interest and penalty collected,
- 6 as follows:
- 7 (a) 76.8% to the state general fund;
- 8 (b) 8.7% to the state special revenue fund for the purpose of paying expenses of the board as provided
- 9 in 82-11-135; and
- 10 (c) 14.5% to be distributed as follows:
- 11 (i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;
- 12 (ii) 25% to the reclamation and development grants special revenue account established in 90-2-1104;
- 13 and
- 14 (iii) 25% to the orphan share account established in 75-10-743.
- 15 (12) (a) By the dates referred to in subsection (13), the department shall, except as provided in
- 16 subsection (12)(b), calculate and distribute oil and natural gas production taxes received under subsections
- 17 (2)(b), (5)(b), and (6)(b) to each eligible county in proportion to the oil and natural gas production taxes received
- 18 under subsections (2)(b), (5)(b), and (6)(b) that are attributable to production in that county.
- 19 (b) The department shall distribute 5% of the oil and natural gas production taxes received under
- 20 subsection (2)(b), (5)(b), and (6)(b) from pre-1999 wells to eligible counties in proportion to the underfunding
- 21 that would have occurred from the tax liability distribution of pre-1985 oil and natural gas production taxes for
- 22 production in calendar year 1997.
- 23 (c) Except as provided in subsection (12)(d), the county treasurer shall distribute the money received
- 24 under subsection (12)(b) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988
- 25 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in
- 26 the taxing unit, except that a distribution may not be made to a municipal taxing unit.
- 27 (d) The board of county commissioners of a county may direct the county treasurer to reallocate the
- 28 distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in
- 29 subsection (12)(c), to another taxing unit or taxing units, other than an elementary school or high school, within
- 30 the county under the following conditions:

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

4 (ii) If the allocation in subsection (12)(d)(i) exceeds the total budget for a taxing unit, the commissioners
5 may direct the county treasurer to allocate the excess to any taxing unit within the county.

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

8 (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds of the
9 district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year
10 1990.

11 (ii) If the allocation under subsection (12)(e)(i) exceeds the total budget for a fund, the trustees may
12 allocate the excess to any budgeted fund of the school district.

13 (f) The county treasurer shall distribute oil and natural gas production taxes received under subsection
14 (12)(a) between county and school taxing units in the relative proportions required by the levies for state, county,
15 and school district purposes in the same manner as property taxes were distributed in the preceding fiscal year.

16 (g) The allocation to the county in subsection (12)(f) must be distributed by the county treasurer in the
17 relative proportions required by the levies for county taxing units and in the same manner as property taxes were
18 distributed in the preceding fiscal year.

19 (h) The money distributed in subsection (12)(f) that is required for the county mill levies for school
20 district retirement obligations and transportation schedules must be deposited to the funds established for these
21 purposes.

22 (i) The oil and natural gas production taxes distributed under subsection (12)(c) that are required for
23 the 6-mill university levy imposed under 20-25-423 ~~and for the county equalization levies imposed under~~
24 ~~20-9-331 and 20-9-333, as those sections read on July 1, 1989,~~ must be remitted by the county treasurer to the
25 department.

26 (j) The oil and natural gas production taxes distributed under subsection (12)(f) that are required for the
27 6-mill university levy imposed under 20-25-423, ~~for the county equalization levies imposed under 20-9-331 and~~
28 ~~20-9-333, and for the state equalization aid levy imposed under 20-9-360~~ must be remitted by the county
29 treasurer to the department.

30 (k) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the

1 amounts determined in subsections (12)(i) and (12)(j) is for the exclusive use and benefit of the county and
2 school taxing units.

3 (13) The department shall remit the amounts to be distributed in subsection (12) to the county treasurer
4 by the following dates:

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

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

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

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

15 (14) The department shall provide to each county by May 31 of each year the amount of gross taxable
16 value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by
17 60%. The resulting value must be treated as taxable value for county classification purposes.

18 (15) (a) ~~In the event that~~ If the board revises the privilege and license tax pursuant to 82-11-131, the
19 department shall, by rule, change the formula under this section for distribution of taxes collected under
20 15-36-304. The revised formula must provide for the distribution of taxes in an amount equal to the rate adopted
21 by the board for its expenses.

22 (b) Before the department adopts a rule pursuant to subsection (15)(a), it shall present the proposed
23 rule to the appropriate administrative rule review committee.

24 (16) The distribution to taxing units under this section is statutorily appropriated as provided in 17-7-502."
25

26 ~~Section 74. Section 17-3-213, MCA, is amended to read:~~

27 ~~"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in~~
28 ~~federal law. (1) The board of county commissioners in each county shall decide among payment options~~
29 ~~provided in subsections (2) through (4), as provided in Public Law 106-393, to determine how the forest reserve~~
30 ~~funds and Public Law 106-393 funds apportioned to each county must be distributed by the county treasurer~~

1 pursuant to this section:

2 ~~———— (2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived~~
 3 ~~from national forest system lands, as provided in 16 U.S.C. 500, all funds received must be distributed as~~
 4 ~~provided in subsection (5):~~

5 ~~———— (3) (a) Except as provided in subsection (4), if a county elects to receive the county's full payment under~~
 6 ~~Public Law 106-393, a minimum of 80% up to a maximum of 85% of the county's full payment must be~~
 7 ~~designated by the county for distribution as provided in subsection (5):~~

8 ~~———— (b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in~~
 9 ~~accordance with Public Law 106-393:~~

10 ~~———— (4) If a county's full payment is less than \$100,000, the county may elect to distribute up to 100% of the~~
 11 ~~payment as provided in subsection (5):~~

12 ~~———— (5) The total amount designated by a county in accordance with subsection (3)(a) or (4) must be~~
 13 ~~distributed as follows:~~

14 ~~———— (a) to the general road fund, 66 2/3% of the amount designated; and~~

15 ~~———— (b) to the following countywide school levies, 33 1/3% of the amount designated to the following:~~

16 ~~———— (i) county equalization for elementary schools provided for in 20-9-331;~~

17 ~~———— (ii) county equalization for high schools provided for in 20-9-333;~~

18 ~~———— (iii) the county transportation fund provided for in 20-10-146; and~~

19 ~~———— (iv) the elementary and high school district retirement fund obligations provided for in 20-9-501.~~

20 ~~———— (6) (a) The apportionment of money to the funds provided for under subsection (5)(b) must be made~~
 21 ~~by the county superintendent based on:~~

22 ~~———— (i) for county equalization for elementary schools under subsection (5)(b)(i), the proportion that 33 mills~~
 23 ~~bears to the total number of mills levied for all funds;~~

24 ~~———— (ii) for county equalization for high schools under subsection (5)(b)(ii), the proportion that 22 mills bears~~
 25 ~~to the total number of mills levied for all funds; and~~

26 ~~———— (iii) the proportion that the mill levy of each fund in subsections (5)(b)(iii) and (5)(b)(iv) bears to the total~~
 27 ~~number of mills levied for all the funds:~~

28 ~~———— (b) Whenever the total amount of money available for apportionment under subsection (5)(b) is greater~~
 29 ~~than the total requirements of a levy, the excess money and any interest income must be retained in a separate~~
 30 ~~reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated as provided in~~

1 subsection (5)(b):

2 ——— (7) ~~In counties in which special road districts have been created according to law, the board of county~~
 3 ~~commissioners shall distribute a proportionate share of the 66 2/3% distributed under subsection (5)(b) for the~~
 4 ~~general road fund to the special road districts within the county based upon the percentage that the total area~~
 5 ~~of the road district bears to the total area of the entire county."~~

6

7 **Section 81.** Section 17-7-301, MCA, is amended to read:

8 **"17-7-301. Authorization to expend during first year of biennium from appropriation for second**

9 **year -- proposed supplemental appropriation defined -- limit on second-year expenditures.** (1) An agency

10 may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year

11 of the biennium if authorized by the general appropriations act. An agency that is not authorized in the general

12 appropriations act to make first-year expenditures may be granted spending authorization by the approving

13 authority upon submission and approval of a proposed supplemental appropriation to the approving authority.

14 The proposal submitted to the approving authority must include a plan for reducing expenditures in the second

15 year of the biennium that allows the agency to contain expenditures within appropriations. If the approving

16 authority finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for

17 the first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance

18 of the agency during the year for which the appropriation was made, the approving authority shall, after careful

19 study and examination of the request and upon review of the recommendation for executive branch proposals

20 by the budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

21 (2) The plan for reducing expenditures required by subsection (1) is not required if the proposed

22 supplemental appropriation is:

23 (a) due to an unforeseen and unanticipated emergency for fire suppression;

24 (b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351,

25 and is to complete the state's funding of ~~guaranteed tax base aid~~, transportation aid; or equalization aid to

26 elementary and secondary schools for the current biennium; or

27 (c) requested by the attorney general and:

28 (i) is to pay the costs associated with litigation in which the department of justice is required to provide

29 representation to the state of Montana; or

30 (ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice

1 is responsible for confinement of an arrested person in a detention center.

2 (3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the
3 approving authority may authorize an expenditure during the first fiscal year of the biennium to be made from
4 the appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving
5 authority shall require the agency to implement the plan for reducing expenditures in the second year of the
6 biennium that contains agency expenditures within appropriations.

7 (4) The agency may expend the amount authorized by the approving authority only for the purposes
8 specified in the authorization.

9 (5) The approving authority shall report to the next legislature in a special section of the budget the
10 amounts expended as a result of all authorizations granted by the approving authority and shall request that any
11 necessary supplemental appropriation bills be passed.

12 (6) As used in this part, "proposed supplemental appropriation" means an application for authorization
13 to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year
14 of the biennium.

15 (7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the
16 second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly
17 referred to as a "supplemental appropriation".

18 (b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in
19 the second year of the biennium that contains agency expenditures within appropriations. The approving
20 authority is responsible for ensuring the implementation of the plan. If, in the second year of a biennium,
21 mandated expenditures that are required by state or federal law will cause an agency to exceed appropriations
22 or available funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce
23 to the greatest extent possible the expenditures in excess of appropriations or funding. An agency may not
24 transfer funds between fund types in order to implement a plan."

25

26 **Section 82.** Section 20-3-106, MCA, is amended to read:

27 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction has
28 the general supervision of the public schools and districts of the state and shall perform the following duties or
29 acts in implementing and enforcing the provisions of this title:

30 (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the

- 1 provisions of 20-3-362;
- 2 (2) issue, renew, or deny teacher certification and emergency authorizations of employment;
- 3 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
4 20-5-314;
- 5 (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of
6 20-6-502, 20-6-503, 20-6-504, or 20-6-505;
- 7 (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;
- 8 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the
9 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103
10 and 20-9-506;
- 11 (7) establish a system of communication for calculating joint district revenue in accordance with the
12 provisions of 20-9-151;
- 13 (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions
14 prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment
15 in accordance with the approval and disbursement provisions of 20-9-166;
- 16 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- 17 (10) prescribe and furnish the annual report forms to enable the districts to report to the county
18 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the
19 county superintendents to report to the superintendent of public instruction in accordance with the provisions
20 of 20-3-209;
- 21 (11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance
22 with the provisions of 20-9-313 and 20-9-314;
- 23 (12) distribute BASE aid and special education allowable cost payments in support of the BASE funding
24 program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, 20-9-347, and 20-9-366
25 through 20-9-369;
- 26 (13) provide for the uniform and equal provision of transportation by performing the duties prescribed
27 by the provisions of 20-10-112;
- 28 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;
- 29 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in
30 accordance with the provisions of 20-9-703 and 20-9-704;

- 1 (16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance
2 with the provisions of 20-9-705;
- 3 (17) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of
4 20-1-303;
- 5 (18) recommend standards of accreditation for all schools to the board of public education and evaluate
6 compliance with the standards and recommend accreditation status of every school to the board of public
7 education in accordance with the provisions of 20-7-101 and 20-7-102;
- 8 (19) collect and maintain a file of curriculum guides and assist schools with instructional programs in
9 accordance with the provisions of 20-7-113 and 20-7-114;
- 10 (20) establish and maintain a library of visual, aural, and other educational media in accordance with
11 the provisions of 20-7-201;
- 12 (21) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance
13 with the provisions of the textbooks part of this title;
- 14 (22) as the governing agent and executive officer of the state of Montana for K-12 career and
15 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of
16 20-7-301;
- 17 (23) supervise and coordinate the conduct of special education in the state in accordance with the
18 provisions of 20-7-403;
- 19 (24) administer the traffic education program in accordance with the provisions of 20-7-502;
- 20 (25) administer the school food services program in accordance with the provisions of 20-10-201 through
21 20-10-203;
- 22 (26) review school building plans and specifications in accordance with the provisions of 20-6-622;
- 23 (27) prescribe the method of identification and signals to be used by school safety patrols in accordance
24 with the provisions of 20-1-408;
- 25 (28) provide schools with information and technical assistance for compliance with the student
26 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for
27 the board of public education and the legislature;
- 28 (29) upon request and in compliance with confidentiality requirements of state and federal law, disclose
29 to interested parties all school district student assessment data for a test required by the board of public
30 education;

1 (30) administer the distribution of guaranteed tax base aid for retirement and facilities in accordance with
2 20-9-366 through 20-9-369; and

3 (31) perform any other duty prescribed from time to time by this title, any other act of the legislature, or
4 the policies of the board of public education."
5

6 **Section 83.** Section 20-5-323, MCA, is amended to read:

7 **"20-5-323. Tuition and transportation rates.** (1) Except as provided in subsections (2) through (5),
8 whenever a child has approval to attend a school outside of the child's district of residence under the provisions
9 of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the
10 per-ANB maximum rate established in 20-9-306 for the year of attendance.

11 (2) The tuition for a child with a disability must be determined under rules adopted by the superintendent
12 of public instruction for the calculation of tuition for special education pupils.

13 (3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student
14 without disabilities who requires a program with costs that exceed the average district costs must be determined
15 as the actual individual costs of providing that program according to the following:

16 (a) the district of attendance and the district, person, or entity responsible for the tuition payments shall
17 approve an agreement with the district of attendance for the tuition cost;

18 (b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306~~(4)~~(9),
19 received in the year for which the tuition charges are calculated must be subtracted from the per-student
20 program costs for a Montana resident student; and

21 (c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

22 (4) When a child attends a public school of another state or province, the amount of daily tuition may
23 not be greater than the average annual cost for each student in the child's district of residence. This calculation
24 for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the
25 preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal
26 year. For the purposes of this subsection, the following do not apply:

27 (a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

28 (b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

29 (c) an order issued under Title 40, chapter 4, part 2; or

30 (d) out-of-state placement by a state agency.

1 (5) When a child is placed by a state agency in an out-of-state residential facility, the state agency
2 making the placement is responsible for the education costs resulting from the placement.

3 (6) The amount, if any, charged for transportation may not exceed the lesser of the average
4 transportation cost for each student in the child's district of residence or 25 cents a mile. The average
5 expenditures for the district transportation fund for the preceding school fiscal year must be calculated by
6 dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

7

8 ~~Section 78.~~ Section 20-5-324, MCA, is amended to read:

9 ~~"20-5-324. Tuition report and payment provisions -- exemption.~~ (1) At the close of the school term
10 of each school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

11 ~~(a) the name and district of residence of each child who is attending a school of the district under a~~
12 ~~mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(b), (1)(d), or~~
13 ~~(1)(e);~~

14 ~~(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);~~

15 ~~(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of~~
16 ~~20-5-323, and the tuition cost for each reported child; and~~

17 ~~(d) the names, districts of attendance, and amount of tuition to be paid by the district for resident~~
18 ~~students attending public schools out of state.~~

19 ~~(2) The county superintendent shall send, as soon as practicable, the reported information to the county~~
20 ~~superintendent of the county in which a reported child resides.~~

21 ~~(3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to the~~
22 ~~superintendent of public instruction, who shall determine the total per-ANB entitlement for which the district~~
23 ~~would be eligible if the student were enrolled in the resident district. The reimbursement amount is the difference~~
24 ~~between the actual amount paid and the amount calculated in this subsection.~~

25 ~~(4) Notwithstanding the requirements of subsection (5)(a), tuition payment provisions for out-of-district~~
26 ~~placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.~~

27 ~~(5) (a) When a child has approval to attend a school outside the child's district of residence under the~~
28 ~~provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b), the district of residence shall finance the tuition amount from~~
29 ~~the district tuition fund and any transportation amount from the transportation fund.~~

30 ~~(b) When a child has approval to attend a school outside the child's district of residence under the~~

1 provisions of 20-5-321(1)(c), the parent or guardian of the child shall finance the tuition and transportation
2 amount.

3 ~~———(6) When a child has mandatory approval under the provisions of 20-5-321(1)(d) or (1)(e), the tuition
4 and transportation obligation for an elementary school child attending a school outside of the child's district of
5 residence must be financed by the basic county tax for elementary equalization of elementary BASE funding
6 program, as provided in 20-9-331, for the child's county of residence or for a high school child attending a school
7 outside the district of residence by the basic county tax for high school equalization of high school BASE funding
8 program, as provided in 20-9-333, for the child's county of residence.~~

9 ~~———(7) By December 31 of the school fiscal year, the county superintendent or the trustees shall pay at least
10 one-half of any tuition and transportation obligation established under this section out of the money realized to
11 date from the appropriate elementary or high school county equalization fund provided for in 20-9-335 or from
12 the district tuition or transportation fund. The remaining tuition and transportation obligation must be paid by June
13 15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school
14 district that is entitled to tuition and transportation. Except as provided in subsection (9), the county treasurer
15 shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts
16 must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation
17 receipts to the transportation fund of a school district entitled to a transportation payment.~~

18 ~~———(8) The superintendent of public instruction shall reimburse the district of residence for the per-ANB
19 entitlement determined in subsection (3).~~

20 ~~———(9) (a) Any tuition receipts received under the provisions of 20-5-323(3) for the current school fiscal year
21 that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund
22 and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for
23 which the tuition was received.~~

24 ~~———(b) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a
25 disability that exceed the tuition amount received for a pupil without disabilities may be deposited in the district
26 miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support
27 the costs of the program for which the tuition was received.~~

28 ~~———(c) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts
29 of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year
30 in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the~~

1 ~~district general fund budget.~~

2 ~~———(10) The provisions of this section do not apply to out-of-state placements made by a state agency~~
 3 ~~pursuant to 20-7-422."~~

4

5 **Section 84.** Section 20-6-702, MCA, is amended to read:

6 **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2)
 7 through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for
 8 high school districts.

9 (2) The number of elected trustees of the K-12 school district must be based on the classification of the
 10 attached elementary district under the provisions of 20-3-341 and 20-3-351.

11 (3) Calculations for the following must be made separately for the elementary school program and the
 12 high school program of a K-12 school district:

13 (a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in
 14 accordance with the provisions of 20-9-311;

15 (b) the ~~basic county tax for elementary equalization and~~ BASIC COUNTY TAX FOR ELEMENTARY
 16 EQUALIZATION AND revenue for the elementary BASE funding program for the district must be determined in
 17 accordance with the provisions of 20-9-331, and the ~~basic county tax for high school equalization and~~ BASIC
 18 COUNTY TAX OR HIGH SCHOOL EQUALIZATION AND revenue for the high school BASE funding program for the district
 19 must be determined in accordance with 20-9-333, ~~and~~

20 ~~———(c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be~~
 21 ~~calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget~~
 22 ~~levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program~~
 23 ~~amounts for elementary school programs to the BASE funding program amounts for high school programs.~~

24 (4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school
 25 district must be calculated and funded as a high school district retirement obligation under the provisions of
 26 20-9-501.

27 (5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for
 28 any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and
 29 programs of the district.

30 (6) Tuition for attendance in the K-12 school district must be determined separately for high school

1 pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual
2 expenditures used for calculations in 20-5-323 must be based on an amount prorated between the elementary
3 and high school programs in the appropriate funds of each district in the year prior to the attachment of the
4 districts."

5

6 **Section 85.** Section 20-7-102, MCA, is amended to read:

7 **"20-7-102. Accreditation of schools.** (1) The conditions under which each elementary school, each
8 middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school
9 operates must be reviewed by the superintendent of public instruction to determine compliance with the
10 standards of accreditation. The accreditation status of every school must then be established by the board of
11 public education upon the recommendation of the superintendent of public instruction. Notification of the
12 accreditation status for the applicable school year or years must be given to each district by the superintendent
13 of public instruction.

14 (2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that
15 multiyear accreditation may only be granted to schools that are in compliance with 20-4-101.

16 (3) A nonpublic school may, through its governing body, request that the board of public education
17 accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

18 (4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary
19 school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in
20 20-9-306(10)(c)(i)(9)(c)(i)."

21

22 **Section 86.** Section 20-9-141, MCA, is amended to read:

23 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The
24 county superintendent shall compute the levy requirement for each district's general fund on the basis of the
25 following procedure:

26 (a) Determine the funding required for the district's final general fund budget less the sum of direct state
27 aid and the special education allowable cost payment for the district by totaling:

28 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided
29 in 20-9-303; and

30 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of

1 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the maximum
2 general fund budget.

3 (b) Determine the money available for the reduction of the property tax on the district for the general
4 fund by totaling:

5 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

6 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the
7 following:

8 (A) interest earned by the investment of general fund cash in accordance with the provisions of
9 20-9-213(4); and

10 (B) any other revenue received during the school fiscal year that may be used to finance the general
11 fund; ~~excluding any guaranteed tax base aid;~~

12 (iii) anticipated oil and natural gas production taxes;

13 (iv) pursuant to subsection ~~(4)~~ (3), anticipated revenue from coal gross proceeds under 15-23-703; and

14 (v) school district block grants distributed under section 244, Chapter 574, Laws of 2001.

15 (c) ~~Notwithstanding the provisions of subsection (2), subtract~~ Subtract the money available to reduce
16 the property tax required to finance the general fund that has been determined in subsection (1)(b) from any
17 general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine
18 the general fund BASE budget levy requirement.

19 (d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any
20 tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324,
21 except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received
22 for a pupil without disabilities, as calculated under 20-5-323(2).

23 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be
24 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as
25 provided in 20-9-353 to determine any additional general fund levy requirements.

26 ~~(2) The county superintendent shall calculate the number of mills to be levied on the taxable property~~
27 ~~in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget~~
28 ~~amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:~~

29 ~~— (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified~~
30 ~~by the superintendent of public instruction; and~~

1 ~~_____ (b) the current total taxable valuation of the district, as certified by the department of revenue under~~
 2 ~~15-10-202, divided by 1,000:~~

3 ~~_____ (3)(2) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be~~
 4 ~~reported to the county commissioners on the fourth Monday of August by the county superintendent as the~~
 5 ~~general fund net levy requirement for the district, and a levy must be set by the county commissioners in~~
 6 ~~accordance with 20-9-142.~~

7 ~~(4)(3) For each school district, the department of revenue shall calculate and report to the county~~
 8 ~~superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross~~
 9 ~~proceeds under 15-23-703."~~

10

11 ~~_____ **Section 82.** Section 20-9-212, MCA, is amended to read:~~

12 ~~_____ **"20-9-212. Duties of county treasurer.** The county treasurer of each county:~~

13 ~~_____ (1) must shall receive and shall hold all school money subject to apportionment and keep a separate~~
 14 ~~accounting of its apportionment to the several districts that are entitled to a portion of the money according to~~
 15 ~~the apportionments ordered by the county superintendent or by the superintendent of public instruction. A~~
 16 ~~separate accounting must be maintained for each county fund supported by a countywide levy for a specific,~~
 17 ~~authorized purpose, including:~~

18 ~~_____ (a) the basic county tax for elementary equalization;~~

19 ~~_____ (b) the basic county tax for high school equalization;~~

20 ~~_____ (c)(a) the county tax in support of the transportation schedules;~~

21 ~~_____ (d)(b) the county tax in support of the elementary and high school district retirement obligations; and~~

22 ~~_____ (e)(c) any other county tax for schools, including the community colleges, that may be authorized by~~
 23 ~~law and levied by the county commissioners.~~

24 ~~_____ (2) whenever requested, shall notify the county superintendent and the superintendent of public~~
 25 ~~instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1)~~
 26 ~~and the amount of any other school money subject to apportionment and apportion the county and other school~~
 27 ~~money to the districts in accordance with the apportionment ordered by the county superintendent or the~~
 28 ~~superintendent of public instruction;~~

29 ~~_____ (3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;~~

30 ~~_____ (4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district~~

1 school money;

2 ~~——— (5) must shall receive all revenue collected by and for each district and shall deposit these receipts in~~
3 ~~the fund designated by law or by the district if a fund is not designated by law. Interest and penalties on~~
4 ~~delinquent school taxes must be credited to the same fund and district for which the original taxes were levied.~~

5 ~~——— (6) shall send all revenue received for a joint district, part of which is situated in the county, to the county~~
6 ~~treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3~~
7 ~~months after that date until the end of the school fiscal year;~~

8 ~~——— (7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and~~
9 ~~revenue anticipation notes as provided in Title 7, chapter 6, part 11;~~

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

13 ~~——— (9) when directed by the trustees of a district, shall invest the money of the district within 3 working days~~
14 ~~of the direction;~~

15 ~~——— (10) each month, shall give to the trustees of each district an itemized report for each fund maintained~~
16 ~~by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of~~
17 ~~revenue received, and the cash balance;~~

18 ~~——— (11) shall remit promptly to the department of revenue receipts for the county tax for a~~
19 ~~vocational-technical program within a unit of the university system when levied by the board of county~~
20 ~~commissioners under the provisions of 20-25-439;~~

21 ~~——— (12) shall invest the money received from the basic for county taxes for elementary and high school~~
22 ~~equalization, the county levy in support of the elementary and high school district retirement obligations, and the~~
23 ~~county levy in support of the transportation schedules within 3 working days of receipt. The money must be~~
24 ~~invested until the working day before it is required to be distributed to school districts within the county or~~
25 ~~remitted to the state. Permissible investments are specified in 20-9-213(4). All investment income must be~~
26 ~~deposited, and credited proportionately, in the funds established to account for the taxes received for the~~
27 ~~purposes specified in subsections (1)(a) through (1)(d).~~

28 ~~——— (13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county~~
29 ~~equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned and~~
30 ~~excluding any amount required for tuition paid under the provisions of 20-5-324(6) or (7), in repayment of the~~

1 ~~state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be~~
 2 ~~used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."~~

3

4 **Section 87.** Section 20-9-306, MCA, is amended to read:

5 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
 6 definitions apply:

7 (1) "BASE" means base amount for school equity.

8 (2) "BASE aid" means:

9 ~~——(a) direct state aid for 44.7% 80% of the basic entitlement and 44.7% 80% of the total per-ANB~~
 10 ~~entitlement for the general fund budget of a district and 40% of the special education allowable cost payment;~~

11 ~~and~~

12 ~~——(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,~~
 13 ~~up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and up to 40%~~
 14 ~~of the special education allowable cost payment.~~

15 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the
 16 basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost
 17 payment.

18 ~~(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may~~
 19 ~~be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through~~
 20 ~~20-9-369.~~

21 ~~(5)(4)~~ "BASE funding program" means the state program for the equitable distribution of the state's
 22 share of the cost of Montana's basic system of public elementary schools and high schools, through county
 23 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in
 24 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

25 ~~(6)(5)~~ "Basic entitlement" means:

26 (a) \$213,819 for each high school district;

27 (b) \$19,244 for each elementary school district or K-12 district elementary program without an approved
 28 and accredited junior high school or middle school; and

29 (c) the prorated entitlement for each elementary school district or K-12 district elementary program with
 30 an approved and accredited junior high school or middle school, calculated as follows:

1 (i) \$19,244 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten
2 through grade 8; plus

3 (ii) \$213,819 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade
4 8.

5 ~~(7)(6)~~ "Direct state aid" means ~~44.7%~~ 80% of the basic entitlement, ~~and 44.7%~~ 80% of the total per-ANB
6 entitlement, ~~and 40% of the special education allowable cost payments~~ for the general fund budget of a district
7 and funded with state and county equalization aid.

8 ~~(8)(7)~~ "Maximum general fund budget" means a district's general fund budget amount calculated from
9 the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

10 (a) 175% of special education allowable cost payments; or

11 (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures
12 to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a
13 maximum allowable ratio of 200%.

14 ~~(9)(8)~~ "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted
15 that is above the BASE budget and below the maximum general fund budget for a district.

16 ~~(10)(9)~~ "Total per-ANB entitlement" means the district entitlement resulting from the following
17 calculations:

18 (a) for a high school district or a K-12 district high school program, a maximum rate of \$5,205 for the
19 first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800
20 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

21 (b) for an elementary school district or a K-12 district elementary program without an approved and
22 accredited junior high school or middle school, a maximum rate of \$3,906 for the first ANB is decreased at the
23 rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess
24 of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

25 (c) for an elementary school district or a K-12 district elementary program with an approved and
26 accredited junior high school or middle school, the sum of:

27 (i) a maximum rate of \$3,906 for the first ANB for kindergarten through grade 6 is decreased at the rate
28 of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving
29 the same amount of entitlement as the 1,000th ANB; and

30 (ii) a maximum rate of \$5,205 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents

1 per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800
2 receiving the same amount of entitlement as the 800th ANB."

3

4 **Section 88.** Section 20-9-307, MCA, is amended to read:

5 **"20-9-307. BASE funding program -- district general fund budget -- funding sources.** (1) A basic
6 system of free quality public elementary schools and high schools must be established and maintained
7 throughout the state of Montana to provide equality of educational opportunity to all school-age children.

8 (2) The state shall in an equitable manner fund and distribute to the school districts the state's share
9 of the cost of the basic school system through BASE aid to support the BASE funding program in the manner
10 established in this title.

11 (3) The budgetary vehicle for achieving the financing system established in subsection (2) is the general
12 fund budget of the school district. The purpose of the district general fund budget is to finance those instructional,
13 administrative, facility maintenance, and other operational costs of a district not financed by other funds
14 established for special purposes in this title.

15 (4) The BASE funding program for the districts in the state is financed by a combination of the following
16 sources:

17 (a) county equalization money, as provided in 20-9-331 and 20-9-333;

18 (b) state equalization aid, as provided in 20-9-343, ~~including guaranteed tax base aid for eligible districts~~
19 ~~as provided in 20-9-366 through 20-9-369;~~

20 (c) appropriations for special education;

21 (d) a district levy, as provided in 20-9-303, for support of a school not approved as an isolated school
22 under the provisions of 20-9-302; and

23 (e) district levies or other revenue, as provided by 20-9-308 and 20-9-353."

24

25 **Section 89.** Section 20-9-308, MCA, is amended to read:

26 **"20-9-308. BASE budgets and maximum general fund budgets.** (1) The trustees of a district shall
27 adopt a general fund budget that is at least equal to the BASE budget established for the district and, except as
28 provided in subsection (3), does not exceed the maximum general fund budget established for the district.

29 (2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for
30 the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a

1 proposition to the electors of the district, as provided in 20-9-353.

2 (3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous
3 year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a
4 general fund budget up to the maximum general fund budget amount or the previous year's general fund budget,
5 whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a
6 maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget
7 by no later than the end of the 5-year period. A school district whose adopted general fund budget for the
8 previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous
9 year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:

10 (A) in the first year, 20% of the range between the district's adopted general fund budget for the
11 previous school fiscal year and the maximum general fund budget for the current school fiscal year;

12 (B) in the second year, 25% of the range between the district's adopted general fund budget for the
13 previous school fiscal year and the maximum general fund budget for the current school fiscal year;

14 (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the
15 previous school fiscal year and the maximum general fund budget for the current school fiscal year;

16 (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the
17 previous school fiscal year and the maximum general fund budget for the current school fiscal year; and

18 (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for
19 the previous school fiscal year and the maximum general fund budget for the current school fiscal year.

20 (ii) The trustees of a district whose general fund budget was above the maximum general fund budget
21 established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to
22 exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may
23 continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget
24 adopted for the current year may not exceed the lesser of:

25 (A) the adopted budget for the previous year; or

26 (B) the district's maximum general fund budget for the current year plus the over maximum budget
27 amount adopted for the previous year.

28 (b) The trustees of the district shall submit a proposition to raise any general fund budget amount that
29 is in excess of the maximum general fund budget for the district to the electors who are qualified under
30 20-20-301 to vote on the proposition, as provided in 20-9-353.

- 1 (4) The BASE budget for the district must be financed by the following sources of revenue:
- 2 (a) state equalization aid, as provided in 20-9-343; ~~including any guaranteed tax base aid for which the~~
- 3 ~~district may be eligible, as provided in 20-9-366 through 20-9-369;~~
- 4 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;
- 5 (c) a district levy for support of a school not approved as an isolated school under the provisions of
- 6 20-9-302;
- 7 (d) payments in support of special education programs under the provisions of 20-9-321; and
- 8 (e) nonlevy revenue, as provided in 20-9-141; ~~and;~~ AND
- 9 (F) A BASE BUDGET LEVY ON THE TAXABLE VALUE OF ALL PROPERTY WITHIN THE DISTRICT
- 10 ~~—— (f) a BASE budget levy on the taxable value of all property within the district.~~
- 11 (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
- 12 property within the district or other revenue available to the district, as provided in 20-9-141."

- 13
- 14 ~~—— Section 86. Section 20-9-331, MCA, is amended to read:~~
- 15 ~~—— "20-9-331. Basic county tax for elementary equalization and other revenue Revenue for county~~
- 16 ~~**equalization of elementary BASE funding program.** (1) (a) Subject to 15-10-420, the county commissioners~~
- 17 ~~of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable~~
- 18 ~~property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-521,~~
- 19 ~~61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204, for For the purposes of~~
- 20 ~~elementary equalization and state BASE funding program support. The, the revenue collected from this levy~~
- 21 ~~under this section must be apportioned to the support of the elementary BASE funding programs of the school~~
- 22 ~~districts in the county and to the state general fund in the following manner:~~
- 23 ~~—— (a) In order to determine the amount of revenue raised by this levy that is retained by the county, the~~
- 24 ~~sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding~~
- 25 ~~programs of all elementary districts of the county.~~
- 26 ~~—— (b) If the basic levy and other revenue prescribed by this section produce produces more revenue than~~
- 27 ~~is required to repay a state advance, if any, for county equalization, the county treasurer shall remit the surplus~~
- 28 ~~funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately~~
- 29 ~~upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than~~
- 30 ~~June 20 of the fiscal year for which the levy has been set state advance was received.~~

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

5 ~~———(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the~~
 6 ~~elementary county equalization fund under the provisions of 17-3-222;~~

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

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

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

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

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

16 ~~———(g) oil and natural gas production taxes; and~~

17 ~~———(h) any money appropriated by the legislature that is designated as county elementary equalization~~
 18 ~~money."~~

19

20 ~~———~~ **Section 87.** Section 20-9-333, MCA, is amended to read:

21 ~~———"20-9-333. Basic county tax for high school equalization and other revenue~~ **Revenue for county**
 22 **equalization of high school BASE funding program.** (1) ~~(a)~~ Subject to 15-10-420, the county commissioners
 23 of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable
 24 property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-521,
 25 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204, for ~~For~~ the purposes of high
 26 school equalization and state BASE funding program support. ~~The, the~~ revenue collected from this levy ~~under~~
 27 ~~this section~~ must be apportioned to the support of the BASE funding programs of high school districts in the
 28 county and to the state general fund in the following manner:

29 ~~———(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the~~
 30 ~~sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high~~

1 school tuition obligation and the total of the BASE funding programs of all high school districts of the county.
 2 ~~———— (b) If the basic levy and other revenue prescribed by this section produce produces more revenue than~~
 3 ~~is required to repay a state advance, if any, for county equalization, the county treasurer shall remit the surplus~~
 4 ~~funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately~~
 5 ~~upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than~~
 6 ~~June 20 of the fiscal year for which the levy has been set state advance was made.~~
 7 ~~———— (2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue~~
 8 ~~from the following sources must be used for the equalization of the high school BASE funding program of the~~
 9 ~~county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county~~
 10 ~~treasurer in accordance with 20-9-212(1):~~
 11 ~~———— (a) any money remaining at the end of the immediately preceding school fiscal year in the county~~
 12 ~~treasurer's accounts for the various sources of revenue established in this section;~~
 13 ~~———— (b) any federal or state money distributed to the county as payment in lieu of property taxation, including~~
 14 ~~federal forest reserve funds allocated under the provisions of 17-3-213;~~
 15 ~~———— (c) gross proceeds taxes from coal under 15-23-703; and~~
 16 ~~———— (d) oil and natural gas production taxes; and~~
 17 ~~———— (e) any money appropriated by the legislature that is designated as county high school equalization~~
 18 ~~money."~~

19
 20 **Section 90.** Section 20-9-343, MCA, is amended to read:

21 **"20-9-343. Definition of and revenue for state equalization aid.** (1) As used in this title, the term
 22 "state equalization aid" means revenue as required in this section for:

23 (a) ~~distribution to the public schools for guaranteed tax base aid; BASE aid, state reimbursement for~~
 24 ~~school facilities, and grants for school technology purchases; and~~

25 (b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

26 (2) The superintendent of public instruction may spend throughout the biennium funds appropriated for
 27 the purposes of ~~guaranteed tax base aid; BASE aid for the BASE funding program, state reimbursement for~~
 28 ~~school facilities, negotiated payments authorized under 20-7-420(3), and school technology purchases.~~

29 ~~———— (3) From July 1, 2001, through June 30, 2003, the following money must be paid into the guarantee~~
 30 ~~account provided for in 20-9-622 for the public schools of the state as indicated:~~

1 ~~_____ (a) interest and income money described in 20-9-341 and 20-9-342; and~~
 2 ~~_____ (b) investment income earned by investing interest and income money described in 20-9-341 and~~
 3 ~~20-9-342.~~

4 ~~(4)(3)~~ Beginning July 1, 2003, the The following money must be paid into the guarantee account
 5 provided for in 20-9-622 for the public schools of the state as indicated:

6 (a) (i) subject to subsection ~~(4)(a)(ii)~~ (3)(a)(ii), interest and income money described in 20-9-341 and
 7 20-9-342; and

8 (ii) an amount of money equal to the income money attributable to the difference between the average
 9 sale value of 18 million board feet and the total income produced from the annual timber harvest on common
 10 school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for
 11 the purposes of 20-9-533;

12 (b) investment income earned by investing interest and income money described in 20-9-341 and
 13 20-9-342."

14

15 **Section 91.** Section 20-9-344, MCA, is amended to read:

16 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public
 17 education shall administer and distribute the BASE aid and state advances for county equalization in the manner
 18 and with the powers and duties provided by law. To this end, the board of public education ~~shall~~:

19 (a) shall adopt policies for regulating the distribution of BASE aid and state advances for county
 20 equalization in accordance with the provisions of law;

21 (b) ~~have the power to~~ may require reports from the county superintendents, budget boards, county
 22 treasurers, and trustees as it considers necessary; and

23 (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each
 24 district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the
 25 distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution
 26 to any district on account of any difference that may occur during the school fiscal year between budgeted and
 27 actual receipts from any other source of school revenue.

28 (2) The board of public education may order the superintendent of public instruction to withhold
 29 distribution of BASE aid from a district when the district fails to:

30 (a) submit reports or budgets as required by law or rules adopted by the board of public education; or

1 (b) maintain accredited status.

2 (3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or
3 county equalization money, the district is entitled to a contested case hearing before the board of public
4 education, as provided under the Montana Administrative Procedure Act.

5 (4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return
6 the overpayment to the state upon the request of the superintendent of public instruction in the manner
7 prescribed by the superintendent of public instruction.

8 (5) Except as provided in 20-9-347(2), 10% of the BASE aid payment must be distributed according to
9 the following schedule:

10 ~~—— (a) monthly from August to ~~October~~ May of the school fiscal year, 10% of the direct state aid to each~~
11 ~~district;~~

12 ~~—— (b) from December to April of the school fiscal year, 10% of the direct state aid to each district;~~

13 ~~—— (c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each~~
14 ~~district or county that has submitted a final budget to the superintendent of public instruction in accordance with~~
15 ~~the provisions of 20-9-134;~~

16 ~~—— (d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each~~
17 ~~district or county; and~~

18 ~~—— (e) in June of the school fiscal year, the remaining payment to each district of direct state aid.~~

19 (6) The distribution provided for in subsection (5) must occur by the last working day of each month."
20

21 ~~—— **Section 90.** Section 20-9-347, MCA, is amended to read:~~

22 ~~—— **"20-9-347. Distribution of BASE aid and special education allowable cost payments in support**~~
23 ~~**of BASE funding program -- exceptions.** (1) The superintendent of public instruction shall:~~

24 ~~—— (a) supply the county treasurer and the county superintendent with a monthly report of the payment of~~
25 ~~BASE aid in support of the BASE funding program of each district of the county;~~

26 ~~—— (b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that~~
27 ~~is no less than the amount anticipated to be raised for available through the elementary and high school county~~
28 ~~equalization funds as provided in 20-9-331 and 20-9-333; and~~

29 ~~—— (c) adopt rules to implement the provisions of subsection (1)(b).~~

30 ~~—— (2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in~~

1 ~~20-9-344 for distribution of the BASE aid payments if the distribution will cause a district to register warrants~~
 2 ~~under the provisions of 20-9-212(8).~~

3 ~~—— (b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the~~
 4 ~~superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed~~
 5 ~~in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's~~
 6 ~~warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to~~
 7 ~~authorize the superintendent of public instruction to exceed a district's annual payment for BASE aid.~~

8 ~~—— (3) The superintendent of public instruction shall:~~

9 ~~—— (a) distribute special education allowable cost payments to districts; and~~

10 ~~—— (b) supply the county treasurer and the county superintendent of schools with a report of payments for~~
 11 ~~special education allowable costs to districts of the county."~~

12

13 **Section 92.** Section 20-9-351, MCA, is amended to read:

14 **"20-9-351. Funding of deficiency in BASE aid.** If the money available for BASE aid is not the result
 15 of a reduction in spending under 17-7-140 and is not sufficient to provide ~~the guaranteed tax base aid required~~
 16 ~~under 20-9-366 through 20-9-369~~ and BASE aid support determined under 20-9-347, the superintendent of
 17 public instruction shall request the budget director to submit a request for a supplemental appropriation in the
 18 second year of the biennium that is sufficient to complete the funding of BASE aid for the elementary and high
 19 school districts for the current biennium."

20

21 **Section 93.** Section 20-9-366, MCA, is amended to read:

22 **"20-9-366. Definitions.** As used in 20-9-366 through 20-9-369, the following definitions apply:

23 (1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school
 24 ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000,
 25 with the quotient divided by the total county elementary ANB count or the total county high school ANB count
 26 used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement
 27 amounts.

28 (2) ~~(a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an~~
 29 ~~eligible district means the taxable valuation in the previous year of all property in the district divided by the sum~~
 30 ~~of the district's current year BASE budget amount less direct state aid.~~

1 ~~(b)(2)~~ "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation
 2 in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of
 3 the district used to calculate the district's current year total per-ANB entitlement amount.

4 ~~(3)(a)~~ "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base
 5 ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable
 6 valuation in the previous year of all property in the state, multiplied by 175% and divided by the total sum of
 7 either the state elementary school districts' or the high school districts' current year BASE budget amounts less
 8 total direct state aid.

9 ~~(b)(3)~~ "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for
 10 school facility entitlement and retirement guaranteed tax base purposes, means the sum of the taxable valuation
 11 in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided
 12 by the total state elementary ANB count or the total state high school ANB amount used to calculate the
 13 elementary school districts' and high school districts' current year total per-ANB entitlement amounts."
 14

15 **Section 94.** Section 20-9-367, MCA, is amended to read:

16 **"20-9-367. Eligibility to receive guaranteed tax base retirement aid or state advance or**
 17 **reimbursement for school facilities.** ~~(1) If the district guaranteed tax base ratio of any elementary or high~~
 18 ~~school district is less than the corresponding statewide elementary or high school guaranteed tax base ratio, the~~
 19 ~~district may receive guaranteed tax base aid based on the number of mills levied in the district in support of up~~
 20 ~~to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement, and up to 40% of the special~~
 21 ~~education allowable cost payment budgeted within the general fund budget.~~

22 ~~(2)(1)~~ If the county retirement mill value per elementary ANB or the county retirement mill value per high
 23 school ANB is less than the corresponding statewide mill value per elementary ANB or high school ANB, the
 24 county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the
 25 retirement fund budgets of the respective elementary or high school districts in the county.

26 ~~(3)(2)~~ For the purposes of 20-9-370 and 20-9-371, if the district mill value per elementary ANB or the
 27 district mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB
 28 or statewide mill value per high school ANB, the district may receive a state advance or reimbursement for
 29 school facilities in support of the debt service fund."
 30

1 **Section 95.** Section 20-9-368, MCA, is amended to read:

2 **"20-9-368. Amount of guaranteed tax base aid.** (1) The amount of guaranteed tax base aid per ANB
3 that a county may receive in support of the retirement fund budgets of the elementary school districts in the
4 county is the difference between the county mill value per elementary ANB and the statewide mill value per
5 elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the
6 elementary districts in the county.

7 (2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the
8 retirement fund budgets of the high school districts in the county is the difference between the county mill value
9 per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied
10 in support of the retirement fund budgets for the high school districts in the county.

11 ~~(3) The amount of guaranteed tax base aid that a district may receive in support of up to 35.3% of the~~
12 ~~basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted within the general fund budget, and~~
13 ~~up to 40% of the special education payment is calculated in the following manner:~~

14 ~~—— (a) multiply the sum of the district's BASE budget amount less direct state aid by the corresponding~~
15 ~~statewide guaranteed tax base ratio;~~

16 ~~—— (b) subtract the taxable valuation of the district from the product obtained in subsection (3)(a); and~~

17 ~~—— (c) divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax~~
18 ~~base aid for each mill levied.~~

19 ~~(4)(3)~~ Guaranteed tax base aid provided to any county or district under this section is earmarked to
20 finance the fund or portion of the fund for which it is provided. If a county or district receives more guaranteed
21 tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

22

23 **Section 96.** Section 20-9-369, MCA, is amended to read:

24 **"20-9-369. Duties of superintendent of public instruction and department of revenue.** (1) The
25 superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

26 ~~(a) providing each school district and county superintendent, by March 1 of each year, with the~~
27 ~~preliminary statewide and district guaranteed tax base ratios and, by May 1 of each year, with the final statewide~~
28 ~~and district guaranteed tax base ratios, for use in calculating the guaranteed tax base aid available for the~~
29 ~~ensuing school fiscal year;~~

30 ~~(b)(a)~~ providing each school district and county superintendent, by March 1 of each year, with the

1 preliminary statewide, county, and district mill values per ANB and, by May 1 of each year, with the final
 2 statewide, county, and district mill values per ANB, for use in calculating the ~~guaranteed tax base aid~~ and state
 3 advance and reimbursement for school facilities available to counties and districts for the ensuing school fiscal
 4 year;

5 ~~(e)~~(b) requiring each county and district that qualifies and applies for ~~guaranteed tax base aid~~ state
 6 advances and reimbursements for school facilities to report to the county superintendent all budget and
 7 accounting information required to administer the guaranteed tax base aid;

8 ~~(d)~~(c) keeping a record of the complete data concerning appropriations available for ~~guaranteed tax~~
 9 ~~base aid~~ state advances and reimbursement for school facilities and the entitlements for the aid of the counties
 10 and districts that qualify;

11 ~~(e)~~(d) distributing the ~~guaranteed tax base aid~~ state advances and reimbursement for school facilities
 12 entitlement to each qualified county or district from the appropriations for that purpose.

13 (2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

14 (3) The department of revenue shall provide the superintendent of public instruction by December 1 of
 15 each year a final determination of the taxable value of property within each school district and county of the state
 16 reported to the department of revenue based on information delivered to the county clerk and recorder as
 17 required in 15-10-305.

18 ~~(4) The superintendent of public instruction shall calculate the district and statewide guaranteed tax~~
 19 ~~base ratios by applying the prior year's direct state aid payment."~~

20

21 **Section 97.** Section 20-9-501, MCA, is amended to read:

22 **"20-9-501. Retirement fund.** (1) The trustees of a district employing personnel who are members of
 23 the teachers' retirement system or the public employees' retirement system or who are covered by
 24 unemployment insurance or who are covered by any federal social security system requiring employer
 25 contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's
 26 contributions to the systems. The district's contribution for each employee who is a member of the teachers'
 27 retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's contribution
 28 for each employee who is a member of the public employees' retirement system must be calculated in
 29 accordance with 19-3-316. The district's contributions for each employee covered by any federal social security
 30 system must be paid in accordance with federal law and regulation. The district's contribution for each employee

1 who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

2 (2) The trustees of a district required to make a contribution to a system referred to in subsection (1)
3 shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After
4 the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the
5 systems in accordance with the financial administration provisions of this title.

6 (3) When the final retirement fund budget has been adopted, the county superintendent shall establish
7 the levy requirement by:

8 (a) determining the sum of the money available to reduce the retirement fund levy requirement by
9 adding:

10 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
11 year;

12 (ii) oil and natural gas production taxes;

13 (iii) coal gross proceeds taxes under 15-23-703;

14 (iv) countywide school retirement block grants distributed under section 245, Chapter 574, Laws of 2001;

15 (v) any fund balance available for reappropriation as determined by subtracting the amount of the
16 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
17 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
18 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and
19 must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement
20 fund budget.

21 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
22 fiscal year, excluding any guaranteed tax base aid.

23 (b) notwithstanding the provisions of subsection (8), subtracting the money available for reduction of
24 the levy requirement, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final
25 retirement fund budget.

26 (4) The county superintendent shall:

27 (a) total the net retirement fund levy requirements separately for all elementary school districts, all high
28 school districts, and all community college districts of the county, including any prorated joint district or special
29 education cooperative agreement levy requirements; and

30 (b) report each levy requirement to the county commissioners on the fourth Monday of August as the

1 respective county levy requirements for elementary district, high school district, and community college district
2 retirement funds.

3 (5) The county commissioners shall fix and set the county levy or district levy in accordance with
4 20-9-142.

5 (6) The net retirement fund levy requirement for a joint elementary district or a joint high school district
6 must be prorated to each county in which a part of the district is located in the same proportion as the district
7 ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the
8 counties affected shall jointly determine the net retirement fund levy requirement for each county as provided
9 in 20-9-151.

10 (7) The net retirement fund levy requirement for districts that are members of special education
11 cooperative agreements must be prorated to each county in which the district is located in the same proportion
12 as the special education cooperative budget is prorated to the member school districts. The county
13 superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each
14 county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net
15 retirement fund levy for each county in the same manner as provided in 20-9-152.

16 (8) The county superintendent shall calculate the number of mills to be levied on the taxable property
17 in the county to finance the retirement fund net levy requirement by dividing the amount determined in
18 subsection (4)(a) by the sum of:

19 (a) the amount of guaranteed tax base aid for retirement that the county will receive for each mill levied,
20 as certified by the superintendent of public instruction; and

21 (b) the taxable valuation of the district divided by 1,000.

22 (9) The levy for a community college district may be applied only to property within the district."
23

24 **Section 98.** Section 20-9-620, MCA, is amended to read:

25 **"20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue"
26 means, except for that portion of revenue described in ~~20-9-343(4)(a)(iii)~~ 20-9-343(3)(a)(ii) and available on or
27 after July 1, 2003, 77-1-607, and 77-1-613, 95% of all revenue from the management of school trust lands and
28 the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital
29 gains.

30 (2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the

1 permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

2

3 **Section 99.** Section 23-2-512, MCA, is amended to read:

4 **"23-2-512. Identification number.** (1) The owner of ~~each~~ a motorboat, sailboat, or personal watercraft
5 requiring numbering by this state shall file an application for number in the office of the county treasurer in the
6 county where the motorboat, sailboat, or personal watercraft is owned, on forms prepared and furnished by the
7 department of justice. The application must be signed by the owner of the motorboat, sailboat, or personal
8 watercraft and be accompanied by a fee of \$3.50. Any alteration, change, or false statement contained in the
9 application will render the certificate of number void. Upon receipt of the application in approved form and the
10 information required under subsection (2)(a), (2)(b), or (2)(c), as applicable, the county treasurer shall issue to
11 the applicant a certificate of number prepared and furnished by the department of justice, stating the number
12 assigned to the motorboat, sailboat, or personal watercraft and the name and address of the owner.

13 (2) ~~(a) The~~ Before the application for certification or recertification may be accepted by the county
14 treasurer, the applicant, upon the filing of the application, shall:

15 (a) pay to the county treasurer the fee in lieu of tax required for a motorboat 10 feet in length or longer,
16 a sailboat 12 feet in length or longer, or a personal watercraft for the current year of certification ~~before the~~
17 ~~application for certification or recertification may be accepted by the county treasurer;~~ and

18 (ii) except as provided in subsection (2)(b) or (2)(c), provide verification that the sales tax or use tax
19 imposed in [section 2] has been paid.

20 (b) The owner of a motorboat, sailboat, or personal watercraft that was acquired by the applicant prior
21 to [the applicability date of section 2] is not required to pay the sales tax or use tax or provide verification that
22 the sales tax or use tax has been paid.

23 (c) If the applicant is unable to provide the verification required under subsection (2)(a)(ii) or proof of
24 nontaxability under subsection (2)(b), the applicant shall:

25 (i) pay the applicable amount of sales tax or use tax determined according to the provisions of [section
26 2]; or

27 (ii) provide evidence that the purchase was either exempt or nontaxable under [sections 1 through 52
28 53].

29 (d) The department of justice may adopt rules to assist the county treasurer in implementing this section.

30 (3) If the ownership of a motorboat, sailboat, or personal watercraft changes, a new application form

1 with the certification fee must be filed within a reasonable time with the county treasurer and a new certificate
2 of number assigned in the same manner as provided for in an original assignment of number.

3 (4) If an agency of the United States government has in force a comprehensive system of identification
4 numbering for motorboats in the United States, the numbering system employed pursuant to this part by the
5 department of justice must be in conformity.

6 (5) Every certificate of number and the license decals assigned under this part continue in effect for a
7 period not to exceed 1 year unless terminated or discontinued in accordance with the provisions of this part.
8 Certificates of number and license decals must show the date of expiration and may be renewed by the owner
9 in the same manner provided for in the initial securing of the certificate.

10 (6) Certificates of number expire on December 31 of each year and may not be in effect unless renewed
11 under this part.

12 (7) ~~In the event of a transfer of~~ Whenever ownership transfers, the purchaser shall furnish the county
13 treasurer notice within a reasonable time of the acquisition of all or any part of the purchaser's interest, other
14 than the creation of a security interest, in a motorboat, sailboat, or personal watercraft numbered in this state
15 or of the loss, theft, destruction, or abandonment of the motorboat, sailboat, or personal watercraft. The transfer,
16 loss, theft, destruction, or abandonment terminates the certificate of number for the motorboat, sailboat, or
17 personal watercraft. Recovery from theft or transfer of a part interest that does not affect the owner's right to
18 operate the motorboat, sailboat, or personal watercraft does not terminate the certificate of number.

19 (8) A holder of a certificate of number shall notify the county treasurer within a reasonable time if the
20 holder's address no longer conforms to the address appearing on the certificate and shall furnish the county
21 treasurer with the new address. The department of justice may provide by rule for the surrender of the certificate
22 bearing the former address and its replacement with a certificate bearing the new address or the alteration of
23 an outstanding certificate to show the new address of the holder.

24 (9) (a) The number assigned must be painted on or attached to each outboard side of the forward half
25 of the motorboat, sailboat, or personal watercraft or, if there are no sides, at a corresponding location on both
26 outboard sides of the foredeck of the motorboat, sailboat, or personal watercraft. The number assigned must
27 read from left to right in Arabic numerals and block characters of good proportion at least 3 inches tall excluding
28 border or trim of a color that contrasts with the color of the background and be so maintained as to be clearly
29 visible and legible. The number may not be placed on the obscured underside of the flared bow where it cannot
30 be easily seen from another vessel or ashore. Numerals, letters, or devices other than those used in connection

1 with the identifying number issued may not be placed in the proximity of the identifying number. Numerals,
2 letters, or devices that might interfere with the ready identification of the motorboat, sailboat, or personal
3 watercraft by its identifying number may not be carried in a manner that interferes with the motorboat's,
4 sailboat's, or personal watercraft's identification. A number other than the number and license decal assigned
5 to a motorboat, sailboat, or personal watercraft or granted reciprocity under this part may not be painted,
6 attached, or otherwise displayed on either side of the forward half of the motorboat, sailboat, or personal
7 watercraft.

8 (b) The certificate of number must be pocket size and available to federal, state, or local law
9 enforcement officers at all reasonable times for inspection on the motorboat, sailboat, or personal watercraft
10 whenever the motorboat, sailboat, or personal watercraft is on waters of this state.

11 (c) Boat liveries are not required to have the certificate of number on board each motorboat, sailboat,
12 or personal watercraft, but a rental agreement must be carried on board livery motorboats, sailboats, or personal
13 watercraft in place of the certificate of number.

14 (10) (a) Fees, other than the fee in lieu of tax, collected under this section must be transmitted to the
15 department of revenue, as provided in 15-1-504, for deposit in the state general fund.

16 (b) Sales tax and use tax collected under subsection (2) must be transmitted to the department of
17 revenue for deposit in the sales tax and use tax account under [section 64 62].

18 (11) An owner of a motorboat, sailboat, or personal watercraft shall within a reasonable time notify the
19 department of justice, giving the motorboat's, sailboat's, or personal watercraft's identifying number and the
20 owner's name when the motorboat, sailboat, or personal watercraft is transferred, lost, destroyed, or abandoned
21 or within 60 days after a change of the state of principal use or if a motorboat becomes documented as a vessel
22 of the United States."

23

24 **Section 100.** Section 23-2-616, MCA, is amended to read:

25 **"23-2-616. Registration and decals -- application and issuance -- use of certain fees.** (1) Except
26 for a snowmobile registered under 23-2-621, a snowmobile may not be operated on public lands by any person
27 in Montana unless it has been registered and there is displayed in a conspicuous place on both sides of the cowl
28 a decal as visual proof that the fee in lieu of property tax has been paid on it for the current year and the
29 immediately previous year as required by 15-16-202.

30 (2) Application for registration must be made to the county treasurer upon forms to be furnished by the

1 department of justice ~~for this purpose, which.~~ The forms may be obtained at the county treasurer's office in the
2 county where the owner resides. The application must contain the following information:

3 (a) the name and address of the owner;

4 (b) the certificate of ownership number;

5 (c) the make of the snowmobile;

6 (d) the model name of the snowmobile;

7 (e) the year of manufacture;

8 (f) a statement evidencing payment of the fee in lieu of property tax as required by 15-16-202; and

9 (g) other information that the department of justice may require.

10 (3) The application must be accompanied by a decal-registration fee of \$6.50, and, if the snowmobile
11 has previously been registered, by the registration certificate for the most recent year in which the snowmobile
12 was registered. The treasurer shall sign the application and issue a registration receipt that must contain
13 information considered necessary by the department of justice and a listing of fees paid. The owner shall retain
14 possession of the registration receipt until it is surrendered to the county treasurer for reregistration or to a
15 purchaser or subsequent owner pursuant to a transfer of ownership.

16 (4) The county treasurer shall forward the signed application to the department of justice and shall issue
17 to the applicant a decal in the style and design prescribed by the department of justice and of a different color
18 than the preceding year, numbered in sequence.

19 (5) (a) The county treasurer may not accept any application under this section until the applicant has:

20 (i) paid the decal-registration fee and the fee in lieu of property tax on the snowmobile for the current
21 year and the immediately previous year as required by 15-16-202; and

22 (ii) except as provided in subsection (5)(b) or (5)(c), provide verification that the sales tax or use tax
23 imposed in [section 2] has been paid.

24 (b) The owner of a snowmobile that was acquired by the applicant prior to [the applicability date of
25 section 2] is not required to pay the sales tax or use tax or provide verification that the sales tax or use tax
26 imposed in [section 2] has been paid.

27 (c) If the applicant is unable to provide the verification required under subsection (5)(a)(ii) or proof of
28 nontaxability under subsection (5)(b), the applicant shall:

29 (i) pay the applicable amount of sales tax or use tax determined according to the provisions of [section
30 2]; or

1 (ii) provide evidence that the purchase was either exempt or nontaxable under [sections 1 through 52
2 53].

3 (d) The department of justice may adopt rules to assist the county treasurer in implementing this section.

4 (6) All money collected from payment of decal-registration fees and all interest accruing from use of this
5 money must be forwarded to the department of revenue, as provided in 15-1-504, for deposit in the state general
6 fund.

7 (7) (a) The county treasurer shall credit all fees in lieu of tax collected on snowmobiles to the state
8 general fund.

9 (b) Sales tax and use tax collected under subsection (5) must be transmitted to the department of
10 revenue for deposit in the sales tax and use tax account under [section 64 62]."

11
12 **Section 101.** Section 23-2-817, MCA, is amended to read:

13 **"23-2-817. Registration fee -- application and issuance -- disposition.** (1) Each off-highway vehicle
14 is subject to an annual registration fee of \$2.

15 (2) The county treasurer shall collect the annual fee when the fee in lieu of tax is collected.

16 (3) Application for registration must be made to the county treasurer of the county in which the owner
17 resides, on a form furnished by the department of justice for that purpose. The application must contain:

18 (a) the name and home mailing address of the owner;

19 (b) the certificate of ownership number;

20 (c) the name of the manufacturer of the off-highway vehicle;

21 (d) the model number or name;

22 (e) the year of manufacture;

23 (f) a statement evidencing payment of the fee in lieu of property tax; and

24 (g) ~~such any~~ other information ~~as required by~~ the department of justice ~~may require~~.

25 (4) If the off-highway vehicle was previously registered, the application must be accompanied by the
26 registration certificate for the most recent year in which it was registered.

27 (5) (a) Upon payment of the registration fee, ~~the county treasurer shall sign the application and issue~~
28 ~~a registration receipt, which~~ and, except as provided in subsection (5)(b) or (5)(c), upon verification by the
29 applicant that the sales tax or use tax imposed in [section 2] has been paid, the county treasurer shall sign the
30 application and issue a registration receipt.

1 **(b)** The owner of an off-highway vehicle that was acquired by the applicant prior to [the applicability date
2 of section 2] is not required to pay the sales tax or use tax or provide verification that the sales tax or use tax
3 has been paid.

4 **(c)** If the applicant is unable to provide the verification required under subsection (5)(a) or proof of
5 nontaxability under subsection (5)(b), the applicant shall:

6 **(i)** pay the applicable amount of sales tax or use tax determined according to the provisions of [section
7 2]; or

8 **(ii)** provide evidence that the purchase was either exempt or nontaxable under [sections 1 through 52
9 53].

10 **(d)** The registration receipt must contain the information considered necessary by the department of
11 justice and a listing of the fees paid. The owner shall retain possession of the registration receipt until it is
12 surrendered to the county treasurer for reregistration or to a purchaser or subsequent owner pursuant to a
13 transfer of ownership.

14 ~~(5)(6)~~ **(a)** All registration fees collected must be forwarded to the department of justice and deposited
15 in the state general fund.

16 **(b)** Sales tax and use tax collected under subsection (5) must be transmitted to the department of
17 revenue for deposit in the sales tax and use tax account under [section ~~64~~ 62]."

18
19 **Section 102.** Section 61-3-303, MCA, is amended to read:

20 **"61-3-303. Application for registration.** (1) Each The owner of a motor vehicle operated or driven
21 upon the public highways of this state shall for each motor vehicle owned, except as otherwise provided in this
22 section, file in the office of the county treasurer in the county where the owner permanently resides at the time
23 of making the application or, if the vehicle is owned by a corporation or used primarily for commercial purposes,
24 in the taxing jurisdiction of the county where the vehicle is permanently assigned an application for registration
25 or reregistration on a form prescribed by the department. The application must contain:

26 **(a)** the name and address of the owner, giving the county, school district, and town or city within whose
27 corporate limits the motor vehicle is taxable, if taxable, or within whose corporate limits the owner's residence
28 is located if the motor vehicle is not taxable;

29 **(b)** the name and address of the holder of any security interest in the motor vehicle;

30 **(c)** a description of the motor vehicle, including make, year model, engine or serial number,

1 manufacturer's model or letter, gross weight, declared weight on all trucks for which the manufacturer's rated
2 capacity is 1 ton or less, and type of body and, if a truck, the manufacturer's rated capacity;

3 (d) the declared weight on all trailers operating intrastate, except travel trailers or trailers and
4 semitrailers registered as provided in 61-3-711 through 61-3-733;

5 (e) a space in which the person registering the vehicle may indicate the person's desire to donate \$1
6 or more to promote awareness and education efforts for procurement of organ and tissue donations for
7 anatomical gifts; and

8 (f) other information that the department may require.

9 (2) A person who files an application for registration or reregistration of a motor vehicle, except of a
10 mobile home or a manufactured home as those terms are defined in 15-1-101(1), shall upon the filing of the
11 application pay to the county treasurer:

12 (a) the registration fee, as provided in 61-3-311 and 61-3-321 or 61-3-456;

13 (b) except as provided in 61-3-456 or unless it has been previously paid, the motor vehicle fees in lieu
14 of tax or registration fees under 61-3-560 through 61-3-562 imposed against the vehicle for the current year of
15 registration and the immediately previous year; and

16 (c) a donation of \$1 or more if the person has indicated on the application that the person wishes to
17 donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana
18 to favorably impact anatomical gifts.

19 (3) (a) The application may not be accepted by the county treasurer unless:

20 (i) the payments required by subsection (2) accompany the application; and

21 (ii) except as provided in subsection (3)(b) or (3)(c), verification FROM A MOTOR VEHICLE DEALER is
22 received from the applicant that the sales tax or use tax imposed in [section 2] has been paid OR PAYMENT HAS
23 BEEN MADE TO THE COUNTY TREASURER OF THE SALES OR USE TAX ON THE VEHICLE BASED UPON THE VALUATION
24 DETERMINED UNDER 61-3-503 FOR LIGHT VEHICLES OR BY A NATIONALLY RECOGNIZED VALUATION GUIDE SPECIFIED BY
25 THE DEPARTMENT.

26 (b) The owner of a motor vehicle that was acquired by the applicant prior to [the applicability date of
27 section 2] is not required to pay the sales tax or use tax or provide verification that the sales tax or use tax
28 imposed in [section 2] has been paid.

29 (c) If the applicant is unable to provide the verification required under subsection (3)(a)(ii) or proof of
30 nontaxability under subsection (3)(b), the applicant shall:

1 (i) pay the applicable amount of sales tax or use tax determined according to the provisions of [section
2 2]; or

3 (ii) provide evidence that the purchase was either exempt or nontaxable under [sections 1 through 52
4 53].

5 (d) The department of justice may adopt rules to assist the county treasurer in implementing this section.

6 (e) Except as provided in 61-3-560 through 61-3-562, the department may not assess or impose and
7 the county treasurer may not collect taxes or fees for a period other than:

8 (a)(i) the current year; and

9 (b)(ii) the immediately previous year if the vehicle was not registered or operated on the highways of the
10 state, regardless of the period of time since the vehicle was previously registered or operated.

11 (4) The department may make full and complete investigation of the status of the vehicle. An applicant
12 for registration or reregistration shall submit proof from appropriate records of the proper county at the request
13 of the department.

14 (5) (a) Revenue that accrues from the voluntary donation provided in subsection (2)(c) must be
15 forwarded by the respective county treasurer for deposit in the state special revenue fund to the credit of an
16 account established by the department of public health and human services to support activities related to
17 awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

18 (b) Sales tax and use tax collected under subsection (3) must be transmitted to the department of
19 revenue for deposit in the sales tax and use tax account under [section 64 62]."

20

21 **Section 103.** Section 67-3-201, MCA, is amended to read:

22 **"67-3-201. Aircraft registration and licensing required.** (1) Except as provided in 67-3-102 and in
23 subsection (6) of this section, a person may not operate or cause or authorize to be operated a civil aircraft within
24 this state unless the aircraft has an appropriate effective registration, license, certificate, or permit issued or
25 approved by the United States government ~~which~~ that has been registered with the department and the
26 registration with the department is in force.

27 (2) (a) Aircraft customarily kept in this state must be registered on or before March 1 of each year with
28 the department, ~~which must.~~ Whenever registering an aircraft, the department shall:

29 (i) charge a fee, ~~therefor~~ according to the fee schedule in 67-3-206, for registering the aircraft; and

30 (ii) except as provided in subsection (2)(b) or (2)(c), receive verification from the applicant that the sales

1 tax or use tax imposed in [section 2] has been paid.

2 (b) The owner of an aircraft that was acquired by the applicant prior to [the applicability date of section
3 2] is not required to pay the sales tax or use tax or provide verification that the sales tax or use tax has been
4 paid.

5 (c) If the applicant is unable to provide the verification required under subsection (2)(a)(ii) or proof of
6 nontaxability under subsection (2)(b), the applicant shall:

7 (i) pay the applicable amount of sales tax or use tax determined according to the provisions of [section
8 2]; or

9 (ii) provide evidence that the purchase was either exempt or nontaxable under [sections 1 through 52
10 53].

11 (d) The registration must be renewed annually on or before March 1 each year.

12 (e) The department may adopt rules to implement this section.

13 (3) Section 67-3-202 and subsections (2) and (4) through (6) of this section do not apply to:

14 (a) aircraft owned and operated by the federal government, ~~the~~ this state, or any political subdivision
15 thereof of the federal government or this state;

16 (b) aircraft owned and held by an aircraft dealer solely for the purpose of resale;

17 (c) aircraft operated by an airline company and regularly scheduled for the primary purpose of carrying
18 persons or property for hire in interstate or international transportation; or

19 (d) dismantled or otherwise nonflyable aircraft.

20 (4) An aircraft must be registered in ~~a particular county of the~~ this state. ~~This county must be in~~ the
21 county of the owner's principal residence, if the owner is a natural person, or the owner's principal place of doing
22 business in ~~the~~ this state, if the owner is not a natural person. ~~However, if~~ If the owner declares by affidavit that
23 the aircraft is customarily kept at a landing facility in another county within ~~the~~ this state, ~~he~~ the owner may
24 register the aircraft as property within ~~such~~ the other county.

25 (5) Aircraft not registered in ~~the~~ this state but entering ~~the~~ this state to engage in commercial operations
26 ~~shall~~ must be registered prior to commencing operation.

27 (6) ~~(a) Owners~~ The owner of an ultralight aircraft for which ~~no~~ an appropriate effective license,
28 certificate, or permit is not or has not been issued by the United States government shall pay the fee required
29 in 67-3-206 and, if due, the tax required to be paid under subsection (6)(b) of this section and file with the
30 department an appropriate registration recognized and approved by the United States government.

1 **(b) The requirements under subsection (2) for verification that the sales tax or use tax has paid, that**
 2 **the sales tax or use tax is not required to be paid, or that payment of the sales tax or use tax is due also apply**
 3 **under this subsection (6).**

4 **(7) Sales tax and use tax collected under subsections (2) and (6) must be transmitted to the department**
 5 **of revenue for deposit in the sales tax and use tax account under [section 64 62]."**

6
 7 ~~Section 103. Section 90-6-309, MCA, is amended to read:~~

8 ~~"90-6-309. Tax prepayment -- large-scale mineral development. (1) After permission to commence~~
 9 ~~operation is granted by the appropriate governmental agency, and upon request of the governing body of a~~
 10 ~~county in which a facility is to be located, a person intending to construct or locate a large-scale mineral~~
 11 ~~development in this state shall prepay property taxes as specified in the impact plan. This prepayment shall~~
 12 ~~exclude does not include the 6-mill university levy established under 20-25-423 and may exclude the mandatory~~
 13 ~~county levies for the school BASE funding program established in 20-9-331 and 20-9-333.~~

14 ~~(2) The person who is to prepay under this section is not obligated to prepay the entire amount~~
 15 ~~established in subsection (1) at one time. Upon request of the governing body of an affected local government~~
 16 ~~unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.~~

17 ~~(3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an~~
 18 ~~appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as~~
 19 ~~needed for expenditures created by the impacts of the large-scale mineral development.~~

20 ~~(4) When the mineral development facilities are completed and assessed by the department of revenue,~~
 21 ~~they the facilities are subject during the first 3 years and thereafter to taxation in the same manner as all other~~
 22 ~~property similarly situated, except that in each year after the start of production, the local government unit that~~
 23 ~~received a property tax prepayment shall provide for repayment of prepaid property taxes in accordance with~~
 24 ~~subsection (5).~~

25 ~~(5) A local government unit that received all or a portion of the property tax prepayment under this~~
 26 ~~section shall provide for tax crediting as specified in the impact plan. The However, tax credit allowed in any year~~
 27 ~~may not, however, exceed the tax obligation of the developer for that year, and the time period for tax crediting~~
 28 ~~is limited to the productive life of the mining operation."~~

29
 30 ~~Section 104. Section 90-6-403, MCA, is amended to read:~~

1 ~~—————"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain~~
 2 ~~taxable valuation. (1) When an impact plan for a large-scale mineral development approved pursuant to~~
 3 ~~90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected~~
 4 ~~local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this~~
 5 ~~section, the increase in taxable valuation of the mineral development that occurs after the issuance and~~
 6 ~~validation of a permit under 82-4-335 is not subject to the usual application of county and school district property~~
 7 ~~tax mill levies. This increase in taxable valuation must be allocated to local government units as provided in~~
 8 ~~90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the~~
 9 ~~application of property tax mill levies in the local government unit to which it is allocated. The increase in taxable~~
 10 ~~valuation allocated to the local government unit is considered newly taxable property in the recipient local~~
 11 ~~government unit as provided in 15-10-420.~~

12 ~~————(2) Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains~~
 13 ~~subject to the all statewide mill levies and basic county levies for elementary and high school BASE funding~~
 14 ~~programs as provided in 20-9-331 and 20-9-333.~~

15 ~~————(3) The provisions of subsection (1) remain in effect until the large-scale mineral development ceases~~
 16 ~~operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."~~

17
 18 ~~———— NEW SECTION. Section 105. Transition. (1) Beginning on [the applicability date of this section]:~~

19 ~~————(a) the department of revenue:~~

20 ~~————(i) may promulgate rules for implementing and administering the sales tax and use tax provided for in~~
 21 ~~[sections 1 through 52], the income tax relief provided for in [section 62], and changes in the department's duties~~
 22 ~~resulting from [sections 63 through 105] and this section;~~

23 ~~————(ii) may proceed with activities that will result in the state of Montana becoming a signatory of the~~
 24 ~~Uniform Sales and Use Tax Administration Act provided for in [sections 53 through 60];~~

25 ~~————(iii) shall work collaboratively with municipalities, counties, and school districts in implementing [sections~~
 26 ~~63 through 105] to maximize a smooth transition with respect to the assessment of property taxes, budget~~
 27 ~~preparation and adoption, and other fiscal considerations;~~

28 ~~————(b) the department of justice may promulgate rules for implementing the registration of boats and other~~
 29 ~~watercraft, snowmobiles, and off-highway vehicles within the context of [sections 98 through 100]; and~~

30 ~~————(c) the department of transportation may promulgate rules for implementing the registration of certain~~

1 ~~motor vehicles and certain aircraft within the context of [sections 101 and 102].~~

2 ~~———(2) For property tax levies and for county and school budgeting purposes, the county levy for elementary~~
 3 ~~equalization required in 20-9-331, the county levy for high school equalization required in 20-9-333, and the~~
 4 ~~statewide levy required in 20-9-360, as those sections read on December 31, 2002, must be levied in 2003 and~~
 5 ~~are generally payable in November 2003 and May 2004.~~

6

7 ~~——— **NEW SECTION. Section 106. Repealer.** Section 20-9-360, MCA, is repealed.~~

8

9 **SECTION 104. SECTION 25, CHAPTER 13, SPECIAL LAWS OF AUGUST 2002, IS AMENDED TO READ:**

10 **"Section 25.** Section 244, Chapter 574, Laws of 2001, is amended to read:

11 **"Section 244. School district block grants.** (1) (a) ~~The~~ Except for the district general fund, the office
 12 of public instruction shall provide a block grant to each school district based on the revenue received by each
 13 district in fiscal year 2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions,
 14 aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections
 15 167(1) through (5) and 169(6), Chapter 584, Laws of 1999.

16 (b) Block grants must be calculated using the electronic reporting system that is used by the office of
 17 public instruction and school districts. The electronic reporting system must be used to allocate a portion of the
 18 block grant amount into each district's fiscal year 2002 budget as an anticipated revenue source by fund, except
 19 the district general fund.

20 (c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount
 21 actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block
 22 grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall
 23 use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year 2002.

24 (2) If the ~~biennial~~ fiscal year 2003 appropriation provided in [section 248(1)] is insufficient to fund the
 25 school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office of public instruction shall
 26 prorate the block grants to meet the remaining appropriation. School districts shall anticipate the prorated block
 27 grant amounts provided by the office of public instruction in their budgets for fiscal year 2003.

28 (3) Each year, 70% of each district's block grant must be distributed in November and 30% of each
 29 district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed. ~~If~~
 30 ~~the appropriation for block grants is greater than or less than the amount received by schools from the sources~~

1 enumerated in subsection (1), the office of public instruction shall prorate the amount appropriated based upon
2 the fiscal year 2001 revenue.

3 (4) The average amount of the block grants in fiscal years 2002 and 2003 must be increased by 0.76%
4 in fiscal year 2004 and in each succeeding fiscal year."

5
6 **SECTION 105. SECTION 27, CHAPTER 285, LAWS OF 1999, IS AMENDED TO READ:**

7 "Section 27. Repealer. (1) Sections 15-6-136, 15-24-901, 15-24-920, 15-24-926, 15-24-927, and
8 15-24-931, MCA, are repealed.

9 (2) ~~Section 15-6-138, MCA, is repealed.~~"

10
11 **SECTION 106. SECTION 31, CHAPTER 285, LAWS OF 1999, IS AMENDED TO READ:**

12 "Section 31. Effective dates. (1) [Sections 1, 11, 12, 15, 22, 26, 28 through 30, and 32 and this section]
13 are effective on passage and approval.

14 (2) [Sections 3 through 9 and 23] are effective July 1, 2000.

15 (3) [Sections 2, 10, 13, 14, 16 through 21, 24, 25, and 27(1)] are effective January 1, 2003.

16 (4) ~~[Sections 13(1)(aa) through (1)(ll) and 27(2)] are effective if the tax rate in [section 12], amending~~
17 ~~15-6-138, reaches zero."~~

18
19 **NEW SECTION. SECTION 107. REPEALER. (1) SECTION 244, CHAPTER 574, LAWS OF 2001, IS REPEALED.**

20 **(2) SECTION 25, CHAPTER 13, SPECIAL LAWS OF AUGUST 2002, IS REPEALED.**

21
22 ~~**NEW SECTION. SECTION 107. CONTINGENT VOIDNESS -- ELECTION REQUIRED BY 2007. [THIS ACT] IS VOID**~~

23 ~~**ON JANUARY 1, 2007, UNLESS, BY JANUARY 1, 2007, [THIS SECTION] IS REPEALED BY A BALLOT ISSUE AT A STATEWIDE**~~

24 ~~**GENERAL ELECTION.**~~

25
26 **NEW SECTION. Section 108. Codification instruction.** (1) [Sections 1 through 60 61] are intended
27 to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 60 61].

28 (2) ~~[Section 61] is [SECTIONS 61 AND 62] ARE [SECTION 62] IS~~ intended to be codified as an integral part
29 of Title 17, and the provisions of Title 17 apply to ~~[section 61] [SECTIONS 61 AND [SECTION 62].~~

30 (3) ~~[Section 62] is [SECTIONS 63 THROUGH 66] ARE~~ intended to be codified as an integral part of Title 15,

1 chapter 30, and the provisions of Title 15, chapter 30, apply to ~~[section 62]~~ [SECTIONS 63 THROUGH 66].

2 (4) [SECTIONS 67 AND 68] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, CHAPTER 31, AND
3 THE PROVISIONS OF TITLE 15, CHAPTER 31, APPLY TO [SECTIONS 67 AND 68].

4
5 NEW SECTION. SECTION 109. COORDINATION INSTRUCTION. IF SENATE BILL NO. 423 IS PASSED AND
6 APPROVED AND THIS ACT IS APPROVED BY THE ELECTORATE, THEN [SECTION 69] OF THIS ACT, AMENDING 13-37-218, IS
7 VOID.

8
9 NEW SECTION. SECTION 110. Notification to tribal governments. The secretary of state shall send
10 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
11 band of Chippewa.

12
13 NEW SECTION. SECTION 111. Effective date. ~~[This act]~~ THIS ACT is effective ~~on passage and approval~~
14 JULY 1, 2004 UPON APPROVAL BY THE ELECTORATE.

15
16 ~~NEW SECTION. SECTION 110. Applicability. (1) Except as provided in subsection~~ SUBSECTIONS (2)
17 AND (3), [this act] applies on [the effective date of this act].

18 ~~(2) (a) [Sections 8, 9, 32, 33, 38, 48, and 53 through 60] apply to fiscal years beginning on or after July~~
19 1, 2003 [SECTIONS 63, 64, 69, AND 74 THROUGH 79] APPLY TO TAX YEARS BEGINNING AFTER DECEMBER 31, 2004.

20 ~~(3) [SECTIONS 65 THROUGH 68] APPLY TO PROPERTY TAXES IMPOSED AFTER OCTOBER 1, 2003.~~

21 ~~(b) [Sections 1 through 7, 10 through 31, 34 through 37, 39 through 47, 49 through 52, and 61 through~~
22 104] apply beginning January 1, 2004, to tax years and fiscal years beginning after December 31, 2003.

23
24 NEW SECTION. SECTION 112. APPLICABILITY. EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT] APPLIES
25 JANUARY 1, 2005, TO TAX YEARS AND STATE, LOCAL, GOVERNMENT, AND SCHOOL FISCAL YEARS BEGINNING AFTER
26 DECEMBER 31, 2004.

27 (2) [SECTIONS 8 THROUGH 10, 33, 34, 39, 43, 49, AND 54 THROUGH 61] APPLY JANUARY 1, 2004.

28
29 NEW SECTION. SECTION 113. SUBMISSION TO ELECTORATE. THIS ACT SHALL BE SUBMITTED TO THE
30 QUALIFIED ELECTORS OF MONTANA AT A SPECIAL ELECTION TO BE HELD ON ~~OCTOBER 7,~~ NOVEMBER 4, 2003, BY

