

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ENACTING A GENERAL STATEWIDE SALES TAX AND USE TAX;
5 PROVIDING FOR THE DISTRIBUTION OF SALES TAX AND USE TAX REVENUE TO REDUCE CERTAIN
6 PROPERTY TAXES; AUTHORIZING THE DEPARTMENT OF REVENUE TO ENTER INTO THE STREAMLINED
7 SALES TAX AND USE TAX AGREEMENT; IMPLEMENTING APPROPRIATE PROVISIONS OF THE
8 STREAMLINED SALES TAX AND USE TAX AGREEMENT; ALLOWING VARIOUS SALES TAX AND USE TAX
9 EXEMPTIONS; PROVIDING A GENERAL SALES TAX AND USE TAX EXEMPTION DURING A CERTAIN
10 STATUTORY TIME PERIOD; ELIMINATING THE RESALE EXEMPTION FOR CERTAIN PROPERTY AND
11 SERVICES; INCREASING THE PROPERTY TAX RATES ON CLASS NINE AND THIRTEEN PROPERTY;
12 ELIMINATING THE 95 MILLS LEVIED STATEWIDE FOR PUBLIC EDUCATION; ELIMINATING THE 6 MILLS
13 LEVIED STATEWIDE FOR UNIVERSITY FUNDING; PROVIDING RULEMAKING AUTHORITY; AMENDING
14 SECTIONS 15-1-123, 15-1-402, 15-6-141, 15-6-156, 15-10-420, 15-24-1402, 15-24-1703, 15-24-1802,
15 15-24-1902, 15-24-2002, 15-24-2102, 15-36-331, 15-39-110, 15-68-101, 15-68-102, 15-68-110, 15-68-201,
16 15-68-202, 15-68-206, 15-68-207, 15-68-208, 15-68-209, 15-68-401, 15-68-402, 15-68-405, 15-68-501,
17 15-68-502, 15-68-505, 15-68-510, 15-68-801, 15-68-820, 17-3-213, 20-7-102, 20-9-141, 20-9-212, 20-9-306,
18 20-9-308, 20-9-331, 20-9-333, 20-9-501, 20-10-146, 90-6-304, 90-6-305, 90-6-309, AND 90-6-403, MCA;
19 REPEALING SECTIONS 15-10-108, 15-30-2336, AND 20-9-360, MCA; AND PROVIDING A DELAYED
20 EFFECTIVE DATE AND AN APPLICABILITY DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23
24 NEW SECTION. **Section 1. Sales tax and use tax local property tax relief payment.** (1) The state
25 shall provide a sales tax and use tax local property tax relief payment to public school districts as defined in
26 20-6-101 and 20-6-701. The payment is the district's ANB, calculated in accordance with 20-9-311, multiplied by
27 the per-ANB sales tax and use tax payment provided in subsection (2).

28 (2) The per-ANB sales tax and use tax payment is a variable amount above the direct state aid for the
29 general fund budget of a district. The payment is calculated by dividing the fiscal year appropriation of sales tax
30 and use tax revenue allocated by the legislature under 15-68-820(2)(c) by the total statewide ANB.



1 (3) The superintendent of public instruction shall incorporate a sales tax and use tax local property tax
2 relief payment calculated in compliance with this section in preparing and submitting an agency budget pursuant
3 to 17-7-111 and 17-7-112.

4
5 **NEW SECTION. Section 2. Short title.** [Sections 2 through 9] may be cited as the "Uniform Sales Tax
6 and Use Tax Administration Act".

7
8 **NEW SECTION. Section 3. Definitions.** As used in [sections 2 through 9], the following definitions
9 apply:

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

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

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

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

18 (5) "Sales tax" means the tax levied under 15-68-102.

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

20 (7) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto
21 Rico, or any territory or possession of the United States.

22 (8) "Use tax" means the tax levied under 15-68-102.

23
24 **NEW SECTION. Section 4. Authority to enter agreement.** (1) The department is authorized and
25 directed to enter into the agreement with one or more states to simplify and modernize sales tax and use tax
26 administration to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.
27 In furthering the agreement, the department is authorized to act jointly with other states that are signatories to
28 the agreement to establish standards for certification of certified service providers and a certified automated
29 system and to establish performance standards for multistate sellers through a multistate central registration
30 system.

1 (2) The department is further authorized to take other actions reasonably required to implement the
2 provisions of [sections 2 through 9]. Other actions authorized by this section include but are not limited to the
3 adoption of rules and the joint procurement, with other signatory states, of goods and services in furthering the
4 agreement.

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

7
8 **NEW SECTION. Section 5. Relationship to state law.** A provision of the agreement, in whole or in
9 part, does not invalidate or amend any provision of the law of this state. Adoption of the agreement by this state
10 does not amend or modify any law of this state. Implementation of any condition of the agreement within this
11 state, whether adopted before, at the time, or after this state becomes a signatory to the agreement, must be by
12 the action of this state.

13
14 **NEW SECTION. Section 6. Agreement requirements.** The department may not enter into the
15 agreement unless the agreement requires each signatory state to abide by the following requirements:

16 (1) The agreement must set restrictions to achieve, over time, more uniform rates in Montana through
17 the following methods:

- 18 (a) limiting the number of state rates;
19 (b) limiting the application of maximums on the amount of state tax that is due on a transaction; and
20 (c) limiting the application of thresholds on the application of state tax.

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

- 22 (a) the sourcing of transactions to taxing jurisdictions;
23 (b) the administration of exempt sales;
24 (c) the allowances that a seller may take for bad debts; and
25 (d) sales tax and use tax returns and remittances.

26 (3) The agreement must require states to develop and adopt uniform definitions of sales tax and use tax
27 terms. The definitions must enable a state to preserve its ability to make policy choices consistent with the uniform
28 definitions.

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

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

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

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

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

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

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

14 (7) The agreement must outline any monetary allowances that are to be provided by the states to sellers
15 or certified service providers.

16 (8) The agreement must require a state to certify compliance with the terms of the agreement prior to
17 becoming a signatory and to maintain compliance, under the laws of the state, with all provisions of the
18 agreement while a signatory.

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

21 (10) The agreement must provide for the appointment of an advisory council of private sector
22 representatives and an advisory council of representatives of states that are not signatory states to consult in
23 administering the agreement.

24
25 **NEW SECTION. Section 7. Cooperating sovereigns.** The agreement is an accord among individual
26 cooperating sovereigns in furthering their governmental functions. The agreement provides a mechanism among
27 the signatory states to establish and maintain a cooperative, simplified system for applying and administering
28 sales taxes and use taxes under the adopted law of each signatory state.

29
30 **NEW SECTION. Section 8. Limited binding and beneficial effect.** (1) The agreement binds and

1 inures only to the benefit of this state and the other signatory states. No person other than a signatory state is
2 an intended beneficiary of the agreement. Any benefit to a person other than a signatory state is established by
3 the law of this state and the other signatory states and not by the terms of the agreement.

4 (2) Consistent with subsection (1), no person has any cause of action or defense under the agreement
5 or by virtue of this state's approval of the agreement. A person may not challenge, in any action brought under
6 any provision of law, an action or inaction by a department, agency, or other instrumentality of this state or a
7 political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.

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

10

11 **NEW SECTION. Section 9. Seller and third-party liability.** (1) (a) A certified service provider is the
12 agent of a seller with whom the certified service provider has contracted for the collection and remittance of sales
13 taxes and use taxes. As the seller's agent, the certified service provider is liable for sales tax and use tax due
14 each signatory state on all sales transactions that it processes for the seller, except as set out in this section.

15 (b) A seller that contracts with a certified service provider is not liable to the state for sales tax or use tax
16 due on transactions processed by the certified service provider unless the seller misrepresented the type of items
17 that it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud
18 or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the
19 certified service provider.

20 (c) A seller is subject to audit for transactions not processed by the certified service provider. The
21 signatory states, acting jointly, may perform a system check of the seller and review the seller's procedures to
22 determine whether the certified service provider's system is functioning properly and the extent to which the
23 seller's transactions are being processed by the certified service provider.

24 (2) A person who provides a certified automated system is responsible for the proper functioning of the
25 system and is liable to the state for underpayments of tax attributable to errors in the functioning of the system.
26 A seller that uses a certified automated system remains responsible and is liable to the state for reporting and
27 remitting tax.

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

1

2 **Section 10.** Section 15-1-123, MCA, is amended to read:

3 **"15-1-123. Reimbursement for class eight rate reduction and exemption -- distribution --**
4 **appropriations.** (1) For the tax rate reductions in 15-6-138(3), the increased exemption amount in 15-6-138(4),
5 the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the
6 amendments of 15-6-138 in section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013,
7 and the effective tax rate reductions on property under 15-6-145 because of the increased exemption amount
8 required by the amendment of 15-6-138 in section 2, Chapter 396, Laws of 2013, the department shall for the
9 fiscal years ending June 30, 2014, and June 30, 2015, estimate for each local government, as defined in
10 15-1-121(5), each school district, the county retirement fund under 20-9-501, the countywide school transportation
11 reimbursement under 20-10-146, and each tax increment financing district, ~~and the 6-mill university levy for the~~
12 ~~purposes of 15-10-108~~ the difference between property tax collections under 15-6-138 as amended by section
13 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and under 15-6-145 and the property
14 tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138 had not been amended by
15 section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013. The difference is the annual
16 reimbursable amount for each local government, each school district, and each tax increment financing district;
17 ~~and the 6-mill levy for the support of the Montana university system under 15-10-108.~~

18 (2) (a) The department shall distribute the reimbursements calculated in subsection (1) to local
19 governments with the entitlement share payments under 15-1-121(7) for the fiscal year ending June 30, 2015.
20 Local government reimbursements for subsequent years are made pursuant to the entitlement share
21 recomputation as provided in 15-1-121(6).

22 (b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated
23 under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property
24 for each local government. By June 15, 2014, the department shall distribute the amount determined under this
25 subsection (2)(b) for local governments as provided in 15-1-121(6)(a).

26 (3) (a) The office of public instruction shall distribute the reimbursements calculated in subsection (1)
27 to school districts with the block grants pursuant to 20-9-630 for the fiscal year ending June 30, 2015. School
28 district reimbursements for subsequent fiscal years are made pursuant to 20-9-630.

29 (b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated
30 under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property

1 for each school district. By November 30, 2014, the office of public instruction shall distribute the amount
2 determined under this subsection (3)(b) in the same manner as the block grant is distributed by fund under
3 20-9-630.

4 (4) (a) For the fiscal year ending June 30, 2015, the amount determined under subsection (1) for each
5 tax increment financing district must be added to the reimbursement amount for the tax increment financing
6 district as provided in 15-1-121(8)(b) if the tax increment financing district is still in existence. If a tax increment
7 financing district that is entitled to a reimbursement under this section is not listed under 15-1-121(8)(b), the
8 reimbursement must be made to that tax increment financing district at the same time as other districts.

9 (b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated
10 under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property
11 for each tax increment financing district. By June 15, 2014, the department shall distribute the amount determined
12 under this subsection (4)(b) to each tax increment financing district as provided in 15-1-121(8) and to any other
13 tax increment financing district that is entitled to a reimbursement under this section.

14 ~~———— (5) (a) For the fiscal year ending June 30, 2015, the amount determined under subsection (1) for the~~
15 ~~6-mill university levy must be added to current collections and reimbursements for the support of the Montana~~
16 ~~university system as provided in 15-10-108.~~

17 ~~———— (b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated~~
18 ~~under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property~~
19 ~~for the 6-mill university levy. By June 15, 2014, the department of administration shall transfer the amount~~
20 ~~determined under this subsection (5)(b) from the general fund to the state special revenue fund for the support~~
21 ~~of the Montana university system as provided in 15-10-108.~~

22 ~~———— (c) Beginning in fiscal year 2013, the department of administration shall transfer the amounts determined~~
23 ~~under this subsection (5) from the general fund to the state special revenue fund for the support of the Montana~~
24 ~~university system as provided in 15-10-108.~~

25 ~~(6)(5)~~ (a) The office of public instruction shall distribute the reimbursements calculated in subsection (1)
26 to the countywide retirement fund under 20-9-501 for the fiscal year ending June 30, 2015. One-half of the
27 amount must be distributed in November and the remainder in May.

28 (b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated
29 under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property
30 in the county. By November 30, 2014, the office of public instruction shall distribute the amount determined under

1 this subsection ~~(6)(b)~~ (5)(b) to the countywide retirement fund.

2 ~~(7)(6)~~ (a) The office of public instruction shall distribute the reimbursements calculated in subsection (1)
3 to the county transportation reimbursement under 20-10-146 for the fiscal year ending June 30, 2015. The
4 reimbursement must be made at the same time as countywide school transportation block grants are distributed
5 under 20-9-632.

6 (b) For the fiscal year ending June 30, 2014, the department shall determine from the amount calculated
7 under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property
8 in the county. By November 30, 2014, the office of public instruction shall distribute the amount determined under
9 this subsection ~~(7)(b)~~ (6)(b) to the county transportation reimbursement."
10

11 **Section 11.** Section 15-1-402, MCA, is amended to read:

12 **"15-1-402. Payment of property taxes or fees under protest.** (1) (a) The person upon whom a
13 property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay
14 under written protest that portion of the property tax or fee protested.

15 (b) The protested payment must:

16 (i) be made to the officer designated and authorized to collect it;

17 (ii) specify the grounds of protest; and

18 (iii) not exceed the difference between the payment for the immediately preceding tax year and the
19 amount owing in the tax year protested unless a different amount results from the specified grounds of protest,
20 which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

21 (c) If the protested property tax or fee is on property that is subject to central assessment pursuant to
22 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested
23 payment for each county in which a protested payment was made.

24 (2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person
25 appealing a property tax or fee on property that is annually assessed by the department or subject to central
26 assessment pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive
27 a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or
28 fee may not be refunded as a result of the appeal or mediation.

29 (3) If a protested property tax or fee is payable in installments, a subsequent installment portion
30 considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced

1 to recover the subsequent installment. The determination of the action or suit commenced to recover the first
 2 installment portion paid under protest determines the right of the party paying the subsequent installment to have
 3 it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not
 4 paid by the taxpayer plus interest from the date the subsequent installment was due.

5 (4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county
 6 or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to
 7 be designated as a protest fund and must be retained in the protest fund until the final determination of any action
 8 or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other
 9 local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money
 10 of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision
 11 creating the special protest fund does not apply to any payments made under protest directly to the state.

12 (b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to
 13 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school
 14 district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be
 15 remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through
 16 ~~(4)(b)(iv)~~ (4)(b)(iii).

17 (ii) ~~The department shall deposit 50% of that portion of the funds levied for the university system pursuant~~
 18 ~~to 15-10-108 in the state special revenue fund to the credit of the university system, and the other 50% of the~~
 19 ~~funds levied pursuant to 15-10-108 must be deposited in a centrally assessed property tax state special revenue~~
 20 ~~fund.~~

21 ~~———(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited~~
 22 ~~in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special~~
 23 ~~revenue fund.~~

24 ~~(iv)~~(iii) Fifty percent of the funds from a school district that has waived its right to protested taxes must
 25 be deposited in the state general fund, and the other 50% must be deposited in a school district property tax
 26 protest state special revenue fund.

27 (5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction
 28 affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains
 29 unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all
 30 or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year

1 of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund
2 does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except
3 the first-year protest amount.

4 (b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property
5 that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the
6 department in the first and subsequent years that a tax protest remains unresolved may demand that the
7 treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest
8 payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes
9 of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any
10 or all of the payments to which it is entitled.

11 (c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right
12 to its portion of protested taxes on centrally assessed property and on industrial property that is assessed
13 annually by the department for that specific year as provided in 15-1-409.

14 (6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not
15 commenced within the time specified or if the action is commenced and finally determined in favor of the
16 department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the
17 protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed
18 property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax
19 belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses
20 charged to the local government units.

21 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the
22 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the
23 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to
24 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or
25 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment
26 under protest. The department shall refund from the school district property tax protest state special revenue fund
27 the protested portions of property taxes and interest to a taxpayer in a school district in which the school district
28 has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the
29 amount available for the refund in the school district property tax protest state special revenue fund is insufficient
30 to refund the property tax payments, the department shall pay the remainder of the refund from the state general

1 fund.

2 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund
3 provided for in 17-6-203 for the applicable period.

4 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer
5 shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

6 (d) (i) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the
7 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which
8 local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the
9 treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction
10 is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state
11 treasurer as provided in subsection (6)(b).

12 (ii) For an adverse protest action against the state for centrally assessed property, the department shall
13 refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and
14 from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an
15 adverse protested action from the centrally assessed property tax state special revenue fund may not exceed
16 the amount of protested taxes or fees required to be deposited for that action pursuant to ~~subsections~~ subsection
17 (4)(b)(ii) and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money
18 transferred to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse
19 protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax
20 payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the
21 remainder of the refund ~~proportionally~~ from the state general fund ~~and from money deposited in the state special~~
22 ~~revenue fund levied pursuant to 15-10-108.~~

23 (e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is
24 allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The
25 taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of
26 payment under protest until the date of final resolution of the protest and at the combined rate of the federal
27 reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution,
28 plus 4 percentage points, from the date of final resolution of the protest until refund is made.

29 (7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds
30 from one or more of the following sources:

- 1 (a) imposition of a property tax to be collected by a special tax protest refund levy;
 2 (b) the general fund or any other funds legally available to the governing body; and
 3 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving
 4 revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or
 5 school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be
 6 issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

7 (8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is
 8 not owed."

9

10 **Section 12.** Section 15-6-141, MCA, is amended to read:

11 **"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

12 (a) centrally assessed allocations of an electric power company or centrally assessed allocations of an
 13 electric power company that owns or operates transmission or distribution facilities or both;

14 (b) if congress passes legislation that allows the state to tax property owned by an agency created by
 15 congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by
 16 a public agency created by congress to transmit or distribute electrical energy produced at privately owned
 17 generating facilities, not including rural electric cooperatives;

18 (c) rural electric cooperatives' property, except wind generation facilities, biomass generation facilities,
 19 and energy storage facilities classified under 15-6-157 and property used for headquarters, office, shop, or other
 20 similar facilities, used for the sole purpose of serving customers representing less than 95% of the electric
 21 consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally
 22 assessed electric power company also owns property or serving an incorporated municipality with a population
 23 that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service
 24 from the facilities of an electric cooperative;

25 (d) allocations for centrally assessed natural gas distribution utilities, rate-regulated natural gas
 26 transmission or oil transmission pipelines regulated by either the public service commission or the federal energy
 27 regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49
 28 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(5); and

29 (e) centrally assessed companies' allocations except:

30 (i) electrical generation facilities classified under 15-6-156;

- 1 (ii) all property classified under 15-6-157;
- 2 (iii) all property classified under 15-6-158 and 15-6-159;
- 3 (iv) property owned by cooperative rural electric and cooperative rural telephone associations and
4 classified under 15-6-135;
- 5 (v) property owned by organizations providing telephone communications to rural areas and classified
6 under 15-6-135;
- 7 (vi) railroad transportation property included in 15-6-145;
- 8 (vii) airline transportation property included in 15-6-145; and
- 9 (viii) telecommunications property included in 15-6-156.
- 10 (2) Class nine property is taxed at ~~42%~~ 14.6% of market value."

11

12 **Section 13.** Section 15-6-156, MCA, is amended to read:

13 **"15-6-156. Class thirteen property -- description -- taxable percentage.** (1) Except as provided in
14 subsections (2)(a) through (2)(g), class thirteen property includes:

15 (a) electrical generation facilities, except wind generation facilities, biomass generation facilities, and
16 energy storage facilities classified under 15-6-157, of a centrally assessed electric power company;

17 (b) electrical generation facilities, except wind generation facilities, biomass generation facilities, and
18 energy storage facilities classified under 15-6-157, owned or operated by an exempt wholesale generator or an
19 entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

20 (c) noncentrally assessed electrical generation facilities, except wind generation facilities, biomass
21 generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by any electrical
22 energy producer; and

23 (d) allocations of centrally assessed telecommunications services companies.

24 (2) Class thirteen property does not include:

25 (a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

26 (b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or
27 15-6-157;

28 (c) allocations of electric power company property under 15-6-141;

29 (d) electrical generation facilities included in another class of property;

30 (e) property owned by cooperative rural telephone associations and classified under 15-6-135;

1 (f) property owned by organizations providing telecommunications services and classified under
2 15-6-135; and

3 (g) generation facilities that are exempt under 15-6-225.

4 (3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a
5 physically connected generator or generators, associated prime movers, and other associated property, including
6 appurtenant land and improvements and personal property, that are normally operated together to produce
7 electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired
8 steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

9 (b) The term does not include electrical generation facilities used for noncommercial purposes or
10 exclusively for agricultural purposes.

11 (c) The term also does not include a qualifying small power production facility, as that term is defined
12 in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of
13 electricity other than electric power from a small power production facility and classified under 15-6-134 and
14 15-6-138.

15 (4) Class thirteen property is taxed at ~~6%~~ 7.3% of its market value."
16

17 **Section 14.** Section 15-10-420, MCA, is amended to read:

18 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
19 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
20 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
21 years. The maximum number of mills that a governmental entity may impose is established by calculating the
22 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
23 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
24 one-half of the average rate of inflation for the prior 3 years.

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

29 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
30 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using

1 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

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

5 (3) (a) For the purposes of this section, newly taxable property includes:

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

7 (ii) construction, expansion, or remodeling of improvements;

8 (iii) transfer of property into a taxing unit;

9 (iv) subdivision of real property; and

10 (v) transfer of property from tax-exempt to taxable status.

11 (b) Newly taxable property does not include an increase in value that arises because of an increase in
12 the incremental value within a tax increment financing district.

13 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
14 release of taxable value from the incremental taxable value of a tax increment financing district because of:

15 (i) a change in the boundary of a tax increment financing district;

16 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

17 (iii) the termination of a tax increment financing district.

18 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
19 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
20 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
21 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

22 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
23 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
24 year market value of that property less the previous year market value of that property.

25 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
26 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
27 agricultural land as described in 15-6-133(1)(c).

28 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

29 (a) school district levies established in Title 20; or

30 (b) a mill levy imposed for a newly created regional resource authority.

1 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
2 under 15-6-131 and 15-6-132.

3 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

4 (a) may increase the number of mills to account for a decrease in reimbursements; and

5 (b) may not increase the number of mills to account for a loss of tax base because of legislative action
6 that is reimbursed under the provisions of 15-1-121(7).

7 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for the
8 purposes of ~~15-10-108, 20-9-331, 20-9-333, 20-9-360, and~~ 20-25-439. However, the number of mills calculated
9 by the department may not exceed the mill levy ~~limits~~ limit established in ~~those sections~~ that section. The mill
10 calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of
11 a mill, then the calculation must be rounded up to the nearest tenth of a mill.

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

13 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

14 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

15 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

16 (iv) a levy for the support of a study commission under 7-3-184;

17 (v) a levy for the support of a newly established regional resource authority;

18 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
19 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

20 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining
21 county under 7-2-2807 upon relocation of a county boundary.

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

24 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
25 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
26 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
27 funds by a county or municipality during that time.

28 (11) The department may adopt rules to implement this section. The rules may include a method for
29 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
30 improvements, or newly taxable property in a governmental unit."

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

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

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as provided in 7-1-2121 if a county or 7-1-4127 if an incorporated city or town and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (2)(b)(i).

(c) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, city, or town is located a writ of mandamus to compel the governing body to make a determination.

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

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

(f) Property taxes abated from the reduction in taxable value allowed by this section are subject to

1 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
 2 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(e) of this section. The recapture
 3 is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided
 4 in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The
 5 amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts
 6 subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this
 7 section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary
 8 conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body
 9 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control
 10 of the taxpayer.

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

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

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

23
 24 **Section 16.** Section 15-24-1703, MCA, is amended to read:

25 **"15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of delinquent
 26 property taxes pursuant to this part:

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

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

1

2 **Section 17.** Section 15-24-1802, MCA, is amended to read:

3 **"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or
4 leased and operated by a local economic development organization is eligible for an exemption from property
5 taxes as provided in this section.

6 (2) In order for a taxpayer to qualify for the tax exemption described in this section, the taxpayer must
7 have applied by March 1 of the year during which the benefit is first applicable. The governing body of the county,
8 consolidated government, incorporated city or town, or school district in which the property is located shall
9 approve the tax exemption by resolution, after due notice, as provided in 7-1-2121 if a county, consolidated
10 government, or school district or 7-1-4127 if an incorporated city or town, and hearing. The governing body may
11 approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the
12 governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The
13 governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid
14 in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property
15 have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the
16 governing body shall determine that the local economic development organization:

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

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

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

21 (3) (a) The governing body shall:

22 (i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment
23 provided for in this section; and

24 (ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and
25 deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

26 (b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of
27 receiving the application, the applicant may seek from the district court in the jurisdiction in which the county,
28 consolidated government, city, town, or school district is located a writ of mandamus to compel the governing
29 body to make a determination.

30 (4) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall

1 make the assessment change for the tax exemption provided for in this section.

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

7 (6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
 8 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
 9 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
 10 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
 11 during any period in which an abatement under the provisions of this section was in effect. The amount
 12 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
 13 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
 14 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
 15 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
 16 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."
 17

18 **Section 18.** Section 15-24-1902, MCA, is amended to read:

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

22 (2) In order for a taxpayer to qualify for the tax exemption described in this section, the taxpayer must
 23 have applied by March 1 of the year during which the benefit is first applicable. The governing body of the county,
 24 consolidated government, incorporated city or town, or school district in which the property is located shall
 25 approve the tax exemption by resolution, after due notice, as provided in 7-1-2121 if a county, consolidated
 26 government, or school district or 7-1-4127 if an incorporated city or town, and hearing. The governing body may
 27 approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the
 28 governing body shall do so by a separate resolution for each industrial park in its respective jurisdiction. The
 29 governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in
 30 full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall

1 determine that:

2 (a) the local economic development organization:

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

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

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

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

8 (3) (a) The governing body shall:

9 (i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment
10 provided for in this section; and

11 (ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and
12 deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

13 (b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of
14 receiving the application, the applicant may seek from the district court in the jurisdiction in which the county,
15 consolidated government, city, town, or school district is located a writ of mandamus to compel the governing
16 body to make a determination.

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

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

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

29 (7) Property taxes abated from the reduction in property taxes allowed by this section are subject to
30 recapture by the local governing body if the ownership or use of the property does not meet the requirements of

1 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
2 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
3 during any period in which an abatement under the provisions of this section was in effect. The amount
4 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
5 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
6 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
7 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
8 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."

9

10 **Section 19.** Section 15-24-2002, MCA, is amended to read:

11 **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
12 owned by a local economic development organization that the local economic development organization intends
13 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property
14 taxes as provided in this section.

15 (2) In order for a taxpayer to qualify for the tax exemption described in this section, the taxpayer must
16 have applied by March 1 of the year during which the benefit is first applicable. The governing body of the affected
17 county, consolidated government, incorporated city or town, or school district in which the building and land are
18 located shall approve the tax exemption by resolution, after due notice, as provided in 7-1-2121 if a county,
19 consolidated government, or school district or 7-1-4127 if an incorporated city or town, and hearing. The
20 governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing body
21 shall approve a tax exemption by a separate resolution. The governing body may not grant approval for the
22 building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude
23 approval. Prior to holding the hearing, the governing body shall determine that the local economic development
24 organization:

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

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

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

29 (3) (a) The governing body shall:

30 (i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment

1 provided for in this section; and

2 (ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and
3 deny or approve it within 120 days of receiving the application as provided in subsection (3)(a)(i).

4 (b) If the governing body fails to hold a hearing or deny or approve the application within 120 days of
5 receiving the application, the applicant may seek from the district court in the jurisdiction in which the county,
6 consolidated government, city, town, or school district is located a writ of mandamus to compel the governing
7 body to make a determination.

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

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

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

20 (7) Property taxes abated from the reduction in property taxes allowed by this section are subject to
21 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
22 this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided,
23 plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which
24 an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and
25 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio
26 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property
27 ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may
28 be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the
29 requirements is a result of circumstances beyond the control of the taxpayer."

30

1 **Section 20.** Section 15-24-2102, MCA, is amended to read:

2 **"15-24-2102. Reduction in assessment of taxable value of commercial and industrial property --**
3 **application -- approval.** (1) (a) For property tax years 2009, 2010, and 2011, the governing bodies of a county
4 or consolidated local government unit, incorporated city or town, if the property is located in the city or town, and
5 school district may jointly reduce by 95% the taxable value of commercial real property improvements, personal
6 property, or any combination of that property, other than land, that is subject to taxation. The reduction in taxable
7 value under this section applies only to commercial or industrial property taxed under 15-6-134 or 15-6-138. A
8 taxpayer that has not been operating the property for at least 6 months immediately preceding the request for
9 reduction in taxable value and that does not intend to use the property for at least 6 months following the
10 reduction in taxable value qualifies under this section.

11 (b) (i) Except as provided in subsection (1)(b)(ii), an application for the reduction in taxable value allowed
12 under this section must be made to the affected local governing bodies by April 15 of the property tax year.

13 (ii) An application for the reduction in taxable value allowed under this section for property tax year 2009
14 must be made to the affected local governing bodies by May 15, 2009.

15 (c) For the purposes of 15-24-2103 and this section, a local governing body includes the board of
16 trustees of a school district.

17 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing
18 bodies of the affected county or consolidated local government unit, incorporated city or town, if the property is
19 located in the city or town, and school district must have approved by a separate, joint resolution for each
20 commercial or industrial property, following due notice as defined in 76-15-103 and a public hearing, the taxable
21 value reduction provided for in subsection (1) for the respective jurisdictions. The presiding officer of the
22 governing body of the affected county or consolidated local government unit is the presiding officer of the joint
23 meeting of the affected taxing jurisdictions. If the property is located in more than one county, the presiding officer
24 of the governing body of the county in which most of the property is located is the presiding officer of the joint
25 meeting.

26 (b) For the purpose of this subsection (2), each affected governing body shall provide due notice of the
27 joint meeting.

28 (c) Subject to 15-10-420, the governing bodies may end the tax benefits by majority vote at any time,
29 but the tax benefits may not be denied to a commercial or industrial business that previously qualified for the
30 benefits in the tax year.

1 (d) The joint resolution provided for in subsection (2)(a) must include a description of the improvements
2 and personal property that qualify for the tax treatment that is to be allowed in the taxing jurisdictions. The joint
3 resolution may provide that commercial real property improvements, personal property, or any combination of
4 that property, other than land, is eligible for the tax benefits described in subsection (1).

5 (3) The joint resolution must state that the reduction in taxable value is in the best interest of the
6 governing body based on full disclosure of all pertinent financial information by the owner of the real and personal
7 property as required by the local governing body. The joint resolution must be approved by a majority vote of the
8 governing body of each affected taxing jurisdiction referred to in subsection (2)(a).

9 (4) The governing bodies may refuse to reduce the taxable value of the property if they determine that
10 the business is restructuring the ownership of the property for the primary purpose of escaping payment of
11 property taxes or if the governing bodies determine that the reduction in taxable value is not in the best interest
12 of the local governments.

13 (5) The reduction in taxable value granted by the joint resolution may be only for the current tax year.
14 The governing bodies may grant a reduction in taxable value for the same owner of the property in the
15 subsequent tax year under the provisions of this section, but they may not grant a reduction in taxable value for
16 more than 3 tax years as provided in this section. The tax benefit granted under this section applies for the entire
17 tax year.

18 (6) The tax benefits may not be granted under this section if the business owes delinquent property taxes
19 for prior tax years.

20 (7) ~~(a)~~ If the reduction in taxable value is granted by a majority vote of the governing body of each
21 affected taxing jurisdiction, the reduction applies only to mills levied in the affected county or consolidated local
22 government unit, the affected incorporated city or town, and the affected school district.

23 ~~————(b) The benefit described in subsection (4) does not apply to levies or assessments required under Title~~
24 ~~15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.~~

25 (8) Within 15 days of approving the joint resolution to grant a reduction of taxable value but not later than
26 July 15 of the tax year for which the reduction is granted, the governing body of the affected county or
27 consolidated local government unit shall notify the department of the approval by each of the affected governing
28 bodies. Upon receipt of the notification of approval by the governing body of the affected county or consolidated
29 local government unit, the department shall make the assessment change pursuant to this section for each
30 affected taxing jurisdiction."

1
2 **Section 21.** Section 15-36-331, MCA, is amended to read:

3 **"15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine
4 the amount of tax, late payment interest, and penalties collected under this part.

5 (b) For the purposes of distribution of oil and natural gas production taxes to county and school district
6 taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas
7 production taxes paid on production in the taxing unit.

8 (2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax
9 pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the state special
10 revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

11 (b) The amount of the tax allocated in 15-36-304(7)(b) for the oil and gas natural resource distribution
12 account established in 90-6-1001(1) must be deposited in the account.

13 (3) (a) For each tax year, the amount of oil and natural gas production taxes determined under
14 subsection (1)(b) is allocated to each county according to the following schedule:

15	Big Horn	45.05%
16	Blaine	58.39%
17	Carbon	48.27%
18	Chouteau	58.14%
19	Custer	69.53%
20	Daniels	50.81%
21	Dawson	47.79%
22	Fallon	41.78%
23	Fergus	69.18%
24	Garfield	45.96%
25	Glacier	58.83%
26	Golden Valley	58.37%
27	Hill	64.51%
28	Liberty	57.94%
29	McCone	49.92%
30	Musselshell	48.64%

1	Petroleum	48.04%
2	Phillips	54.02%
3	Pondera	54.26%
4	Powder River	60.9%
5	Prairie	40.38%
6	Richland	47.47%
7	Roosevelt	45.71%
8	Rosebud	39.33%
9	Sheridan	47.99%
10	Stillwater	53.51%
11	Sweet Grass	61.24%
12	Teton	46.1%
13	Toole	57.61%
14	Valley	51.43%
15	Wibaux	49.16%
16	Yellowstone	46.74%
17	All other counties	50.15%

18 (b) The oil and natural gas production taxes allocated to each county must be deposited in the state
19 special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

20 (4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of
21 oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as
22 follows:

23 ~~(a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:~~

24 ~~—— (i) 1.23% to the coal bed methane protection account established in 76-15-904;~~

25 ~~—— (ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;~~

26 ~~—— (iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;~~

27 ~~—— (iv) 2.99% to the orphan share account established in 75-10-743;~~

28 ~~—— (v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the~~
29 ~~purposes of the state tax levy as provided in 15-10-108; and~~

30 ~~—— (vi) all remaining proceeds to the state general fund;~~

- 1 ~~_____ (b) for fiscal years beginning after June 30, 2011, to be distributed as follows:~~
- 2 ~~(i)(a) 2.16% to the natural resources projects state special revenue account established in 15-38-302;~~
- 3 ~~(ii)(b) 2.02% to the natural resources operations state special revenue account established in 15-38-301;~~
- 4 ~~(iii)(c) 2.95% to the orphan share account established in 75-10-743; and~~
- 5 ~~(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the~~
- 6 ~~purposes of the state tax levy as provided in 15-10-108; and~~
- 7 ~~(v)(d) all remaining proceeds to the state general fund."~~

8

9 **Section 22.** Section 15-39-110, MCA, is amended to read:

10 **"15-39-110. Distribution of taxes.** (1) (a) For each semiannual period, the department shall determine

11 the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that

12 produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through (9).

13 (b) For each semiannual period, the department shall determine the amount of tax, late payment interest,

14 and penalties collected under this part from bentonite mines that first began producing bentonite after December

15 31, 2004. The tax is distributed as provided in subsection (10).

16 (2) The percentage of the tax determined under subsection (1)(a) and specified in subsections (3)

17 through (9) is allocated according to the following schedule:

18 (a) 2.33% to the state special revenue fund to be appropriated to the Montana university system ~~for the~~

19 ~~purposes of the state tax levy as provided in 15-10-108;~~

20 (b) 18.14% to the state general fund ~~to be appropriated for the purposes of the tax levies as provided~~

21 ~~in 20-9-331, 20-9-333, and 20-9-360;~~

22 (c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing

23 jurisdictions in which production occurs, ~~except a distribution may not be made for county and state levies under~~

24 ~~15-10-108, 20-9-331, 20-9-333, and 20-9-360; and~~

25 (d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing

26 jurisdictions in which production occurs, ~~except a distribution may not be made for county and state levies under~~

27 ~~15-10-108, 20-9-331, 20-9-333, and 20-9-360.~~

28 (3) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60%

29 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40% must

30 be distributed as provided in subsection (10).

1 (4) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011, 50%
2 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must
3 be distributed as provided in subsection (10).

4 (5) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40%
5 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must
6 be distributed as provided in subsection (10).

7 (6) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30%
8 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must
9 be distributed as provided in subsection (10).

10 (7) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20%
11 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must
12 be distributed as provided in subsection (10).

13 (8) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10%
14 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must
15 be distributed as provided in subsection (10).

16 (9) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of
17 the tax determined under subsection (1)(a) must be distributed as provided in subsection (10).

18 (10) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the
19 distribution percentages determined under subsections (3) through (9) are allocated according to the following
20 schedule:

21 (a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the
22 purposes of the state tax levy as provided in 15-10-108;

23 (b) 20.75% to the state general fund to be appropriated for the purposes of the tax levies as provided
24 in 20-9-331, 20-9-333, and 20-9-360; and

25 (c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year
26 mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county
27 and state levies under 15-10-108, 20-9-331, 20-9-333, and 20-9-360.

28 (11) The department shall remit the amounts to be distributed in this section to the county treasurer by
29 the following dates:

30 (a) On or before October 1 of each year, the department shall remit the county's share of bentonite

1 production tax payments received for the semiannual period ending June 30 of the current year to the county
2 treasurer.

3 (b) On or before April 1 of each year, the department shall remit the county's share of bentonite
4 production tax payments received to the county treasurer for the semiannual period ending December 31 of the
5 previous year.

6 (12) (a) The department shall also provide to each county the amount of gross yield of value from
7 bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield
8 of value must be treated as taxable value for determining school district debt limits under 20-9-406.

9 (b) The percentage amount of the gross yield of value determined under subsection (12)(a) must be
10 treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding
11 provisions as provided by law.

12 (13) The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the department
13 for distribution as provided in this section."
14

15 **Section 23.** Section 15-68-101, MCA, is amended to read:

16 **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the
17 following definitions apply:

18 (1) (a) "Accommodations" means a building or structure containing individual sleeping rooms or suites
19 that provides overnight lodging facilities for periods of less than 30 days to the general public for compensation.

20 (b) ~~Accommodations~~ The term includes a facility represented to the public as a hotel, motel,
21 campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed
22 and breakfast facility.

23 (c) The term does not include a health care facility, as defined in 50-5-101, any facility owned by a
24 corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under 18 years of age for
25 camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average
26 daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under
27 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented
28 solely on a monthly basis or for a period of 30 days or more.

29 (2) (a) "Admission" means payment made for the privilege of being admitted to a facility, place, or event.

30 (b) The term does not include payment for admittance to a movie theater or to a sporting event

1 sanctioned by a school district, college, or university.

2 (3) "Agreement" means the Streamlined Sales Tax and Use Tax Agreement provided for in [sections 2
3 through 9].

4 (4) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 1/2 of
5 1% or more of alcohol by volume.

6 ~~(5)~~(5) (a) "Base rental charge" means the following:

7 (i) charges for time of use of the rental vehicle and mileage, if applicable;

8 (ii) charges accepted by the renter for personal accident insurance;

9 (iii) charges for additional drivers or underage drivers; and

10 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the
11 rental vehicle.

12 (b) The term does not include:

13 (i) rental vehicle price discounts allowed and taken;

14 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the
15 privilege of operating as a concessionaire at an airport terminal building;

16 (iii) motor fuel;

17 (iv) intercity rental vehicle drop charges; or

18 (v) taxes imposed by the federal government or by state or local governments.

19 (6) "Camp" means a facility, place, or location in which persons are provided, for payment, instruction
20 or recreation in conjunction with room and board for a limited period of time, typically measured in days or weeks.

21 ~~(7)~~(7) (a) "Campground" means a place used for public camping where persons may camp, secure tents,
22 or park individual recreational vehicles for camping and sleeping purposes.

23 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
24 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
25 more.

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

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

29 (9) "Certified automated system" has the meaning provided in [section 3].

30 (10) "Certified service provider" has the meaning provided in [section 3].

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

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

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

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

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

10 (i) a vitamin;

11 (ii) a mineral;

12 (iii) an herb or other botanical;

13 (iv) an amino acid;

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

15 or

16 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in
17 subsections (14)(a)(i) through (14)(a)(v);

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

21 (c) is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on
22 the label and as required pursuant to 21 CFR 101.36.

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

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

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

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

29 (16) (a) "Durable medical equipment" means equipment, including repair and replacement parts for
30 equipment, that:

- 1 (i) can withstand repeated use;
2 (ii) is primarily and customarily used to serve a medical purpose;
3 (iii) generally is not useful to a person in the absence of illness or injury; and
4 (iv) is not worn in or on the body.
5 (b) The term does not include mobility-enhancing equipment.
6 (17) "Electronic" means technology that relates to having electrical, digital, magnetic, wireless, optical,
7 electromagnetic, or similar capabilities.
8 ~~(5)~~(18) "Engaging in business" means carrying on or causing to be carried on any activity with the
9 purpose of receiving direct or indirect benefit.
10 (19) (a) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen,
11 dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste
12 or nutritional value.
13 (b) The term does not include alcoholic beverages, candy, dietary supplements, soft drinks, or tobacco.
14 (20) "Food sold through vending machines" means food dispensed from a machine or other mechanical
15 device that accepts payment.
16 (21) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste,
17 mouthwash, antiperspirants, and suntan lotions and sunscreens, regardless of whether the items meet the
18 definition of over-the-counter drugs.
19 (22) "Guided recreation and sightseeing" means recreational activities or sightseeing in which a service
20 provider, for payment, accompanies or provides direction or instruction to the purchaser.
21 ~~(6)~~(23) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal
22 property for a fixed or indeterminate term for consideration. A lease or rental may include future options to
23 purchase or extend.
24 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of
25 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the
26 property, as defined in 26 U.S.C. 7701(h)(1).
27 (c) The term does not include:
28 (i) a transfer of possession or control of property under a security agreement or deferred payment plan
29 that requires the transfer of title upon completion of the required payments;
30 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title

1 upon completion of required payments and payment of an option price that does not exceed the greater of \$100
2 or 1% of the total required payments; or

3 (iii) providing tangible personal property with an operator if an operator is necessary for the equipment
4 to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

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

8 (e) This definition must be applied only prospectively from the date of adoption and has no retroactive
9 impact on existing leases or rentals.

10 (24) "Maintaining an office or other place of business" means:

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

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

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

19 (b) The term does not include construction.

20 (26) (a) "Mobility-enhancing equipment" means equipment, including repair and replacement parts, that:

21 (i) is primarily and customarily used to provide or increase the ability to move from one place to another
22 and that is appropriate for use either in a home or in a motor vehicle;

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

24 (iii) does not include a motor vehicle or equipment on a motor vehicle normally provided by a motor
25 vehicle manufacturer.

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

27 ~~(7)~~(27) (a) "Motor vehicle" means a light vehicle as defined in 61-1-101, a motorcycle as defined in
28 61-1-101, a motor-driven cycle as defined in 61-1-101, a quadricycle as defined in 61-1-101, a motorboat or a
29 sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

30 (i) is rented for a period of not more than 30 days;

- 1 (ii) is rented without a driver, pilot, or operator; and
2 (iii) is designed to transport 15 or fewer passengers.
- 3 (b) ~~Motor vehicle~~ The term includes:
4 (i) a rental vehicle rented pursuant to a contract for insurance; and
5 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented
6 without a driver, and that is used in the transportation of personal property.
- 7 (c) The term does not include farm vehicles, machinery, or equipment.
- 8 (28) (a) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug,
9 as required by 21 CFR 201.66.
- 10 (b) An over-the-counter drug label includes:
11 (i) a drug facts panel; or
12 (ii) a statement of the active ingredients with a list of those ingredients contained in the compound,
13 substance, or preparation.
- 14 (c) The term does not include grooming and hygiene products.
- 15 ~~(8) "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.~~
- 16 ~~(9)~~(29) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
17 company, limited liability partnership, or any other legal entity.
- 18 (30) (a) "Prepared food" means:
19 (i) food sold in a heated state or heated by the seller;
20 (ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
21 (iii) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses,
22 cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.
- 23 (b) The term does not include food that is only cut, repackaged, or pasteurized by the seller and eggs,
24 fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer, as
25 recommended by the United States food and drug administration in chapter 3, part 401.11, of its Food Code, so
26 as to prevent food-borne illnesses.
- 27 (31) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or
28 other means of transmission by a licensed practitioner as authorized by the laws of Montana.
- 29 (32) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and
30 replacement parts, worn on or in the body to:

1 (a) artificially replace a missing portion of the body;

2 (b) prevent or correct a physical deformity or malfunction; or

3 (c) support a weak or deformed portion of the body.

4 ~~(10)~~(33) "Purchaser" means a person to whom a sale of personal property is made or to whom a service
5 is furnished.

6 (34) (a) "Recreation fees" means money paid for participating in or observing sporting, athletic,
7 sightseeing, or recreational activities.

8 (b) The term does not include money paid to observe a sporting event sanctioned by a school district,
9 college, or university.

10 ~~(11)~~(35) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of
11 the motor vehicle through an arrangement and for consideration.

12 ~~(12)~~(36) "Retail sale" means any sale, lease, or rental for any purpose other than for ~~resale~~; sublease;
13 or subrent.

14 ~~(13)~~(37) "Sale" or "selling" means the transfer of property for consideration or the performance of a
15 service for consideration.

16 ~~(14)~~(38) (a) "Sales price" applies to the measure subject to sales tax and means the total amount or
17 consideration, including cash, credit, property, and services, for which personal property or services are sold,
18 leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the
19 following:

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

21 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the
22 seller, all taxes imposed on the seller, and any other expense of the seller;

23 (iii) charges by the seller for any services necessary to complete the sale, other than delivery and
24 installation charges;

25 (iv) delivery charges;

26 (v) installation charges;

27 (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal
28 property have been bundled together and sold by the seller as a single product or piece of merchandise; and

29 (vii) credit for any trade-in.

30 (b) The amount received for charges listed in subsections ~~(14)(a)(iii)~~ (38)(a)(iii) through ~~(14)(a)(vii)~~

1 ~~(38)(a)(vii)~~ are is excluded from the sales price if ~~they are~~ the amount is separately stated on the invoice, billing,
2 or similar document given to the purchaser.

3 (c) The term does not include:

4 (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed
5 by a seller and taken by a purchaser on a sale;

6 (ii) interest, financing, and carrying charges from credit extended on the sale of personal property or
7 services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

8 or

9 (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of
10 sale, or similar document given to the purchaser.

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

13 (e) When the sale of property or services is made under any type of charge or conditional or time-sales
14 contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price,
15 excluding any type of time-price differential, under the contract as the sales price at the time of the sale.

16 ~~(15)(39)~~ "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

17 ~~(16)(40)~~ "Seller" means a person that makes sales, leases, or rentals of personal property or services.

18 ~~(17)(41)~~ (a) "Service" means an activity that is engaged in for another person for consideration and that
19 is distinguished from the sale or lease of property. Service includes activities performed by a person for its
20 members or shareholders.

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

23 (42) "Sightseeing" means engaging in a tour or trip for pleasure or culture.

24 (43) (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 (44) "Sporting, athletic, or recreational activities" means activities commonly performed for pleasure,
28 competition, or fitness purposes. The following list contains examples and is not an all-inclusive list:

29 (a) horseback riding;

30 (b) climbing, trekking, and mountaineering;

- 1 (c) biking;
 2 (d) golfing;
 3 (e) baseball, football, hockey, volleyball, tennis, basketball, and soccer;
 4 (f) hunting and fishing;
 5 (g) boating, canoeing, jet skiing, rafting, kayaking, and parasailing;
 6 (h) camping and backpacking;
 7 (i) swimming and diving;
 8 (j) bowling and ice skating;
 9 (k) skiing, snowmobiling, snow boarding, and snowshoeing;
 10 (l) hang gliding and ballooning; and
 11 (m) motorcycling, four-wheeling, and riding all-terrain vehicles.
 12 (45) "Sporting goods" means items designed for human use and worn or used in conjunction with
 13 sporting, athletic, or recreational activities.
 14 (46) "Tangible personal property" means personal property that can be seen, weighed, measured, felt,
 15 or touched or that is in any other manner perceptible to the senses. The term includes computer software,
 16 electricity, gas, steam, and water.
 17 (47) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains
 18 tobacco.
 19 ~~(48)~~ (48) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use
 20 solely outside this state, in the ordinary course of business."
 21

22 **Section 24.** Section 15-68-102, MCA, is amended to read:

23 **"15-68-102. Imposition and rate of sales tax and use tax -- exceptions.** (1) ~~A~~ Except as provided in
 24 subsection (6), a sales tax of the following percentages is imposed on sales of the following property or services:

- 25 (a) 3% on accommodations and campgrounds;
 26 (b) ~~4%~~ 3% on the base rental charge for rental vehicles;
 27 (c) 3% on tangible personal property;
 28 (d) 3% on rental or lease of sporting goods;
 29 (e) 3% on guided recreation and sightseeing;
 30 (f) 3% on admission;

1 (g) 3% on camp tuition; and

2 (h) 3% on recreation fees.

3 (2) (a) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the
4 department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be
5 applied to the sales price.

6 (b) A sale of property or services is taxable, even if the sale is made to a purchaser that does not use
7 the property or service in any manner other than holding it for sale or lease or selling or leasing it in the ordinary
8 course of business.

9 (3) (a) For the privilege of using property or services within this state, there is imposed on the person
10 using the following property or services a use tax equal to the following percentages of the value of the property
11 or services:

12 (i) 3% on accommodations and campgrounds;

13 (ii) ~~4%~~ 3% on the base rental charge for rental vehicles;

14 (iii) 3% on tangible personal property;

15 (iv) 3% on rental or lease of sporting goods;

16 (v) 3% on guided recreation and sightseeing;

17 (vi) 3% on admission;

18 (vii) 3% on camp tuition; and

19 (viii) 3% on recreation fees.

20 (b) The use tax is imposed on property or services that were:

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

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

26 (iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by
27 subsection (1) or the use tax imposed by subsection (3)(a) but ~~which transaction;~~ that because of the buyer's
28 subsequent use of the property; is subject to the sales tax or use tax; or

29 (iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that
30 because of the buyer's subsequent use of the services is subject to the sales tax or 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 or use of property or services exempt or nontaxable under this chapter is exempt from the
4 tax imposed in subsections (1) and (3).

5 ~~(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and~~
6 ~~(3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed~~
7 ~~charge for accommodations or campgrounds. A sales tax or use tax is not imposed under subsections (1) and~~
8 ~~(3) for sales and services that occur from October 15 through November 15.~~

9 (7) If permitted by the agreement, the department may adopt rules that allow a seller to incorporate the
10 rate of tax imposed under subsection (1) in the final sales price."

11

12 **Section 25.** Section 15-68-110, MCA, is amended to read:

13 **"15-68-110. Collection of sales tax and use tax -- listing of business locations and agents --**
14 **severability.** (1) ~~A~~ Except when the purchaser has a direct payment permit as provided in [section 26], a person
15 engaging in the business of selling property or services subject to taxation under this chapter shall collect the
16 sales tax from the purchaser and pay the sales tax collected to the department.

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

20 (b) For the purposes of this section, "activity" includes but is not limited to engaging in any of the following
21 within this state:

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

24 (ii) canvassing;

25 (iii) demonstrating;

26 (iv) collecting money;

27 (v) warehousing or storing merchandise;

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

30 (vii) to the extent permitted by federal law, soliciting orders for property by means of telecommunications

1 or a television shopping system or by providing telecommunications services that use toll or toll-free numbers and
 2 that are intended to be broadcast by cable television or other means to consumers within this state;

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

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

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

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

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

15 ~~(2)~~(4) A person engaging in business within this state shall, before making any sales subject to this
 16 chapter, ~~obtain a seller's permit~~ register as a seller, as provided in 15-68-401, and at the time of making a sale,
 17 whether within or outside the state, collect the sales tax imposed by 15-68-102 from the purchaser and give to
 18 the purchaser a receipt, in the manner and form prescribed by rule, for the sales tax paid.

19 ~~(3)~~(5) The department may authorize the collection of the sales tax imposed by 15-68-102 by any retailer
 20 who does not maintain a place of business within this state but who, to the satisfaction of the department, is in
 21 compliance with the law. When authorized, the person shall collect the use tax upon all property and services
 22 that, to the person's knowledge, are for use within this state and subject to taxation under this chapter.

23 ~~(4)~~(6) All sales tax and use tax required to be collected and all sales tax and use tax collected by any
 24 person under this chapter constitute a debt owed to this state by the person required to collect the sales tax and
 25 use tax.

26 ~~(5)~~(7) A person engaging in business within this state that is subject to this chapter shall provide to the
 27 department:

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

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

1 ~~(6)~~(8) If any application of this section is held invalid, the application to other situations or persons is not
2 affected."

3
4 NEW SECTION. Section 26. Direct payment of sales tax -- direct payment permits. (1) The
5 department may issue direct payment permits to any person liable for the payment of more than \$500 a year in
6 sales tax. A person shall apply to the department for a permit, on forms approved by the department. By applying
7 for a direct payment permit, the applicant acknowledges that the applicant assumes all obligations to pay any
8 sales tax due under this chapter from the applicant as a direct payment permitholder. A direct payment permit
9 may be revoked by the department at any time upon 90 days' written notice to the permitholder. A permitholder
10 may be audited by the department.

11 (2) A direct payment permitholder shall pay any sales tax authorized under this chapter directly to the
12 department. The permitholder must receive a nontaxable transaction certificate, as provided in 15-68-202, using
13 the direct payment permit as a basis for the exemption.

14
15 NEW SECTION. Section 27. 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 that was bought outside this state
17 but that will be used or consumed within this state and the tax was paid by the current user, the amount of tax
18 paid may be credited against any use tax due this state on the same property. The credit may not exceed the
19 sales tax or use tax due this state.

20
21 NEW SECTION. Section 28. Exemption -- food products. (1) Except as provided in subsection (2),
22 the sale or use of food and food ingredients is exempt from the sales tax and use tax.

23 (2) The sale of prepared food and food sold through vending machines is taxable, but prepared food
24 offered or delivered as part of a residential living arrangement and consumed by an individual who is party to the
25 arrangement or by patients of a health care facility is exempt from the sales tax and use tax.

26
27 NEW SECTION. Section 29. Exemption -- medicine, drugs, and certain devices. The following are
28 exempt from the sales tax and use tax:

29 (1) prescription drugs, over-the-counter drugs, durable medical equipment, and mobility-enhancing
30 equipment; and

1 (2) insulin, oxygen, and therapeutic and prosthetic devices.

2

3 **NEW SECTION. Section 30. Exemption -- utility services.** The sale of natural gas, water, electricity,
4 telecommunications services, refuse collection, or other utility services, whether or not provided by a government
5 agency, are not subject to the sales tax and use tax.

6

7 **NEW SECTION. Section 31. Exemption -- insurance premiums.** The premiums of an insurance
8 company, a health service corporation, a health maintenance organization, or a fraternal benefit society or of a
9 producer of the company, corporation, organization, or society are exempt from the sales tax.

10

11 **NEW SECTION. Section 32. Exemption -- dividends and interest.** The following are exempt from the
12 sales tax:

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

16

17 **NEW SECTION. Section 33. Exemption -- personal effects.** The use by an individual of personal or
18 household effects brought into the state for the establishment by the individual of an initial residence within this
19 state and the use of property brought into the state by a nonresident for the nonresident's own nonbusiness use
20 while temporarily within this state are exempt from the use tax.

21

22 **NEW SECTION. Section 34. Exemption -- feed -- fertilizers.** The sale or use of the following when
23 used in the course of an agricultural business is exempt from the sales tax and use tax:

- 24 (1) feed for livestock;
- 25 (2) semen, ova, and embryos used in animal husbandry;
- 26 (3) seeds, roots, and bulbs;
- 27 (4) soil conditioners and fertilizers;
- 28 (5) insecticides, insects used to control weeds or the population of other insects, fungicides, weedicides,
29 and herbicides; and
- 30 (6) water for commercial irrigation.

1
2 **NEW SECTION. Section 35. Exemption -- agricultural products -- livestock feeding.** (1) (a) The
3 sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer, trapper,
4 or nonprofit marketing association is exempt from the sales tax.

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

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

10
11 **NEW SECTION. Section 36. Exemption -- minerals -- exceptions.** (1) The sale or lease of interests
12 in minerals, as defined in 15-38-103, is exempt from the sales tax and use tax.

13 (2) Except as provided in subsections (5) and (6), the sale or use of a mineral, as defined in 15-38-103,
14 is exempt from the sales tax and use tax.

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

18 (4) The sale or use of platinum and palladium, whenever refined and preserved in coins, ingots, bars,
19 or other similar forms, is exempt from the sales tax and use tax.

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

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

25
26 **NEW SECTION. Section 37. Exemption -- certain chemicals, reagents, and substances.** (1) The
27 sale or use by a person of any chemical, reagent, or other substance that is normally used or consumed in the
28 processing of ores or petroleum, in a mill, smelter, refinery, or reduction facility, or in acidizing oil wells is exempt
29 from the sales tax and use tax.

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

1 tax.

2

3 **NEW SECTION. Section 38. Nontaxability -- sale to miner or manufacturer.** (1) The sale of property

4 to a purchaser engaged in the business of mining or manufacturing is nontaxable if:

5 (a) the purchaser has an nontaxable transaction certificate; and

6 (b) (i) the purchaser incorporates the property as an ingredient or component part of the product in the
7 business of mining or manufacturing; or

8 (ii) the purchaser uses the property to extract a mineral and the property is required to be abandoned in
9 place, in accordance with state regulations, when production of the mineral from a mine or wellhead permanently
10 ceases.

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

13

14 **NEW SECTION. Section 39. Nontaxability -- transactions in interstate commerce -- certain**
15 **property used in interstate commerce.** The following are nontaxable:

16 (1) a transaction in interstate commerce to the extent that the imposition of the sales tax or use tax would
17 be unlawful under the United States constitution;

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

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

23

24 **NEW SECTION. Section 40. Nontaxability -- sale or lease of real property or improvements and**
25 **lease of mobile homes.** (1) (a) The sale or lease of real property or improvements is nontaxable.

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

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

29

30 **Section 41.** Section 15-68-201, MCA, is amended to read:

1 **"15-68-201. Nontaxable transaction certificate -- requirements.** (1) A nontaxable transaction
 2 certificate executed by a buyer or lessee must be in the possession of the seller or lessor at the time that a
 3 nontaxable transaction occurs.

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

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

8 (4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and believes
 9 in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the
 10 properly executed nontaxable transaction certificate is considered conclusive evidence that the sale is
 11 nontaxable. If an incorrect claim was made with the intent to evade the payment of the sales tax, the purchaser
 12 is subject to the penalty provided in 15-68-410. If an incorrect claim was made in error, the purchaser is subject
 13 to payment of the sales tax or use tax."

14

15 **Section 42.** Section 15-68-202, MCA, is amended to read:

16 **"15-68-202. Nontaxable transaction certificate -- form.** (1) The department shall provide for a uniform
 17 nontaxable transaction certificate. An electronic or digitally usable version of a nontaxable transaction certificate
 18 may also be provided. A purchaser shall use the certificate ~~when purchasing goods or services for resale or for~~
 19 ~~other~~ nontaxable transactions.

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

21 (a) ~~the~~ a unique identification number of the seller's permit issued to the purchaser as provided in
 22 ~~15-68-404;~~

23 (b) ~~the general character of property or service sold by the purchaser in the regular course of business;~~
 24 nature of the exemption, such as the fact that:

25 ~~(c) the property or service purchased for resale;~~

26 (i) the property or service is purchased for an exempt manufacturing activity;

27 (ii) the purchaser is authorized to make direct payments; or

28 (iii) the purchaser is an entity exempt from payment of sales tax;

29 ~~(d)~~(c) the name and address of the purchaser; and

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

1 (3) The department shall adopt rules to provide procedures for application for and provision of a
 2 certificate to a person engaging in business within this state ~~for renting accommodations and campgrounds prior~~
 3 ~~to June 1, 2003, [the applicability date of this section] and renting vehicles prior to July 1, 2003.~~ The rules adopted
 4 by the department must ensure that each person that is engaging in business within this state ~~for renting~~
 5 ~~accommodations and campgrounds prior to June 1, 2003, [the applicability date of this section] and renting~~
 6 ~~vehicles prior to July 1, 2003,~~ that has applied in a timely fashion is issued a certificate ~~for renting~~
 7 ~~accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003 [the~~
 8 ~~applicability date of this section]."~~

9

10 **Section 43.** Section 15-68-206, MCA, is amended to read:

11 "**15-68-206. Exemption -- government agencies.** All sales by or uses by the United States or an
 12 agency or instrumentality of the United States or of this state, a political subdivision of this state, an Indian tribe,
 13 or a foreign government are exempt from the sales tax and use tax."

14

15 **Section 44.** Section 15-68-207, MCA, is amended to read:

16 "**15-68-207. Exemption -- isolated or occasional sale or lease of property.** The isolated or occasional
 17 sale or lease of property by a person that is not regularly engaged in or that does not claim to be engaged in the
 18 business of selling or leasing the same or a similar property is exempt from the sales tax and use tax. Occasional
 19 sales include sales that are occasional but not continuous and that are made for the purpose of fundraising by
 20 nonprofit organizations, including but not limited to youth clubs, service clubs, and fraternal organizations."

21

22 **Section 45.** Section 15-68-208, MCA, is amended to read:

23 "**15-68-208. Nontaxability -- sale of property for resale -- nontaxable transaction certificate.** The
 24 sale of property is nontaxable if:
 25 ———(1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller;
 26 ———(2) ~~the buyer resells the property either by itself or in combination with other property; and~~
 27 ———(3) ~~the subsequent sale is in the ordinary course of business and the property will be subject to the sales~~
 28 ~~tax."~~

29

30 **Section 46.** Section 15-68-209, MCA, is amended to read:

1 **"15-68-209. Nontaxability -- sale of service for resale -- nontaxable transaction certificate.** The sale
 2 of a service ~~for resale~~ is nontaxable if:
 3 ~~(1) the sale is made to a person who delivers a nontaxable transaction certificate;~~
 4 ~~(2) the buyer resells the service and separately states the value of the service purchased in the charge~~
 5 ~~for the service in the subsequent sale; and~~
 6 ~~(3) the subsequent sale is in the ordinary course of business and subject to the sales tax."~~

7
 8 **Section 47.** Section 15-68-401, MCA, is amended to read:

9 **"15-68-401. Seller's permit registration.** (1) A person that wishes to engage in business within this
 10 state that is subject to this chapter shall ~~obtain~~ file with the department an application for a seller's permit
 11 registration before engaging in business within this state.

12 (2) A person may apply for registration directly with the department or through the multistate central
 13 registration system as provided in the agreement. Sellers registered through the multistate central registration
 14 system agree to collect and remit sales taxes and use taxes for taxable Montana sales and to comply with audit
 15 and compliance provisions established through the agreement.

16 ~~(2)(3)~~ (3) Upon an applicant's compliance with this chapter, the department shall issue to the applicant a
 17 separate, numbered seller's permit registration for each location in which the applicant maintains an office or other
 18 place of business within Montana. A permit registration is valid until revoked or suspended but is not assignable.
 19 A permit registration is valid only for the person in whose name it is issued and for the transaction of business
 20 at the place designated. The permit registration must be conspicuously displayed at all times at the place for
 21 which it is issued.

22 ~~(3)(4)~~ (4) The department shall adopt rules to provide procedures for application applying for a seller's
 23 registration and provision of a seller's permit to a person for registering sellers engaging in business within this
 24 state that is subject to this chapter ~~for renting accommodations and campgrounds prior to June 1, 2003, and~~
 25 ~~renting vehicles prior to July 1, 2003~~ [the applicability date of this section]. The rules adopted by the department
 26 must ensure that each person engaging in business within this state ~~for renting accommodations and~~
 27 ~~campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003;~~ [the applicability date of this
 28 section] has the opportunity to be registered ~~is issued a seller's permit for renting accommodations and~~
 29 ~~campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003~~ [the applicability date of this
 30 section]. The department may adopt rules providing for seasonal permits registration."

1

2 **Section 48.** Section 15-68-402, MCA, is amended to read:

3 **"15-68-402. ~~Permit application~~ Application for seller's registration -- requirements -- place of**
 4 **business -- form.** (1) (a) A person that wishes to engage in the business of making retail sales or providing
 5 services in Montana that are subject to this chapter shall file with the department an application for a ~~permit~~
 6 seller's registration. If the person has more than one location in which the person maintains an office or other
 7 place of business, an application may include multiple locations.

8 (b) An applicant who does not maintain an office or other place of business and who moves from place
 9 to place is considered to have only one place of business and shall attach the ~~permit~~ seller's registration to the
 10 applicant's cart, stand, truck, or other merchandising device.

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

13 (2) Each person or class of persons required to file a return under this chapter, other than persons with
 14 direct payment permits and certified service providers, is required to file an application for a ~~permit~~ seller's
 15 registration.

16 (3) ~~Each~~ An application for a ~~permit~~ seller's registration ~~must~~ may be ~~on a~~ in either electronic or paper
 17 form and must be prescribed by the department, ~~and~~ The application must meet the requirements of the multistate
 18 central registration system under the agreement even if the applicant intends to make local retail sales only in
 19 Montana. The form must set forth the name under which the applicant intends to transact business, the location
 20 of the applicant's place or places of business, and other information that the department may require. The
 21 application must be filed by the owner if the owner is a natural person or by a person authorized to sign the
 22 application if the owner is a corporation, partnership, limited liability company, or ~~some~~ other business entity."
 23

24

24 **Section 49.** Section 15-68-405, MCA, is amended to read:

25 **"15-68-405. Revocation or suspension of permit seller's registration -- appeal.** (1) Subject to the
 26 provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any ~~permit~~
 27 registration held by a person that fails to comply with the provisions of this chapter.

28 (2) The department shall provide dispute resolution on a proposed revocation or suspension pursuant
 29 to 15-1-211.

30 (3) If a ~~permit~~ seller's registration is revoked, the department may not issue a new ~~permit~~ registration

1 except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the
 2 provisions of this chapter. The department may require security in addition to that authorized by 15-68-512 in an
 3 amount reasonably necessary to ensure compliance with this chapter as a condition for the issuance of a new
 4 ~~permit registration~~ to the applicant.

5 (4) A person aggrieved by the department's final decision to revoke a ~~permit seller's registration~~, as
 6 provided in subsection (1), may appeal the decision to the state tax appeal board within 30 days after the date
 7 on which the department issued its final decision."
 8

9 **Section 50.** Section 15-68-501, MCA, is amended to read:

10 **"15-68-501. Liability for payment of tax -- security for retailer without place of business -- penalty.**

11 (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been paid to the
 12 department.

13 (2) A retailer that does not maintain an office or other place of business within this state is liable for the
 14 sales tax or use tax in accordance with this chapter and may be required to furnish adequate security, as provided
 15 in 15-68-512, to ensure collection and payment of the taxes. When authorized and except as otherwise provided
 16 in this chapter, the retailer is liable for the taxes upon all property sold and services provided in this state in the
 17 same manner as a retailer who maintains an office or other place of business within this state. The seller's ~~permit~~
 18 registration provided for in 15-68-401 may be canceled at any time if the department considers the security
 19 inadequate or believes that the taxes can be collected more effectively in another manner.

20 (3) An agent, canvasser, or employee of a retailer doing business within this state may not sell, solicit
 21 orders for, or deliver any property or services within Montana unless the principal, employer, or retailer possesses
 22 a seller's ~~permit registration~~ issued by the department. If an agent, canvasser, or employee violates the provisions
 23 of this chapter, the person is subject to a fine of not more than \$100 for each separate transaction or event."
 24

25 **Section 51.** Section 15-68-502, MCA, is amended to read:

26 **"15-68-502. Returns -- payment -- authority of department.** (1) ~~Except as provided in subsection (2),~~
 27 ~~on or before the last day of the month following the calendar quarter in which the transaction subject to the tax~~
 28 ~~imposed by this chapter occurred, a return, on a form provided by the department, and payment of the tax for the~~
 29 ~~preceding quarter must be filed with the department.~~ Each person engaged in business within this state or using
 30 property or services within this state that are subject to tax under this chapter shall file a return. ~~A person making~~

1 ~~retail sales at two or more places of business shall file a separate return for each separate place of business.~~
 2 Sellers that are registered under the agreement and that use either a certified automated system or a certified
 3 service provider, as defined in the agreement, are subject to the reporting and payment provisions of subsection
 4 (2). A person that has been issued a seasonal seller's registration shall file a return and pay the tax on the date
 5 or dates set by the department. All other sellers are subject to the reporting and payment provisions provided in
 6 subsection (3).

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

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

12 ~~(2) A person who has been issued a seasonal seller's permit shall file a return and pay the tax on the~~
 13 ~~date or dates set by the department.~~

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

15 (i) a retailer or manufacturer required to collect the tax; ~~and~~

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

17 ~~(ii)(iii)~~ (iii) a person that:

18 (A) purchases any items the for which the items' storage, use, nonexempt sales to purchasers in the
 19 ordinary course of business, or other consumption of which is subject to the sales tax or use tax; and

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

21 (b) A return must be filed with and payment must be received by the department on or before the 20th
 22 day of each month for taxes owed for sales occurring during the preceding month. A seller that has a tax liability
 23 that averages less than \$100 a month may report and pay the tax quarterly and shall file the return with payment
 24 received by the department before the 20th day of the month after the end of each quarter.

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

27 (4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall
 28 keep records, render statements, make returns, and comply with the provisions of this chapter and the rules
 29 prescribed by the department. Each return or statement must include the information required by the rules of the
 30 department. The department shall comply with the provisions of the agreement in determining reports and records

1 management requirements in reference to sellers that are registered under the agreement.

2 (b) For the purpose of determining compliance with the provisions of this chapter, the department is
3 authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making
4 a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property
5 of or in the possession of the person filing the return or another person. In determining compliance, the
6 department may use statistical sampling and other sampling techniques consistent with generally accepted
7 auditing standards. The department may also:

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

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

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

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

13 (v) administer oaths or affirmations.

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

16

17 **Section 52.** Section 15-68-505, MCA, is amended to read:

18 **"15-68-505. Credit for taxes paid on worthless accounts -- taxes paid if account collected. (1)**

19 Sales ~~taxes~~ tax paid by a person filing a return under 15-68-502 on sales found to be worthless and actually
20 deducted by the person as a bad debt for federal income tax purposes may be credited on a subsequent payment
21 of the tax.

22 (2) Bad debts may be deducted within 12 months after the month in which the bad debt has been
23 charged off for federal income tax purposes. "Charged off for federal income tax purposes" includes the charging
24 off of unpaid balances due on accounts as uncollectible or declaring as uncollectible such unpaid balance due
25 on accounts in the case of a seller who is not required to file federal income tax returns.

26 (3) If an account is subsequently collected, the sales tax must be paid on the amount collected.

27 (4) A seller may obtain a refund of tax on any amount of bad debt that exceeds the amount of taxable
28 sales within a 12-month period defined by that bad debt.

29 (5) For purposes of computing a bad debt deduction or reporting a payment received on a previously
30 claimed bad debt, any payments made on a debt or account are applied first to interest, service charges, and any

1 other charges and second to the price of the property or service and sales tax on the property or service,
2 proportionally.

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

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

7

8 **Section 53.** Section 15-68-510, MCA, is amended to read:

9 **"15-68-510. Vendor allowance.** (1) (a) A person filing a timely return under 15-68-502 may claim a
10 ~~quarterly~~ vendor allowance for each permitted location in the amount of 5% of the tax determined to be payable
11 to the state, not to exceed ~~\$1,000 a quarter~~ \$350 a month for a person filing on a monthly basis.

12 ~~(2)(b)~~ The allowance may be deducted on the return.

13 ~~(3)(c)~~ A person that files a return or payment after the due date for the return or payment may not claim
14 a vendor allowance.

15 (2) In lieu of the vendor allowance provided in subsection (1), certified service providers must receive a
16 monetary allowance determined as provided in the agreement and the sellers using the certified service providers
17 may not receive a vendor allowance. The vendor allowance must be funded entirely from sales tax proceeds
18 collected by the sellers using the certified service providers.

19 (3) In addition to the vendor allowance provided in subsection (1), a registered seller using a certified
20 automated system must receive a percentage of the tax determined to be payable to the state. The percentage
21 must be determined as provided in the agreement."

22

23 **Section 54.** Section 15-68-801, MCA, is amended to read:

24 **"15-68-801. Administration -- rules.** The department shall:

25 (1) (a) administer and enforce the provisions of this chapter;

26 ~~(2)(b)~~ cause to be prepared and distributed forms and information that may be necessary to administer
27 the provisions of this chapter; and

28 ~~(3)(c)~~ adopt rules that may be necessary or appropriate to administer and enforce the provisions of this
29 chapter.

30 (2) In administering the provisions of this chapter, the department shall, when applicable and not in

1 conflict with Montana law, follow the provisions of the agreement adopted pursuant to [sections 2 through 9]. The
 2 department shall report to the revenue and transportation interim committee provided for in 5-5-227 on:
 3 (a) the operation of the agreement and the benefits and costs to the state of the state's participation; and
 4 (b) any changes to the agreement that require changes in Montana law for compliance with the
 5 agreement."

6
 7 **Section 55.** Section 15-68-820, MCA, is amended to read:
 8 **"15-68-820. Sales tax and use tax proceeds.** (1) All money collected under this chapter must, in
 9 accordance with the provisions of 17-2-124, be deposited by the department into
 10 the general fund in a state special revenue account.

11 (2) Money in the special revenue account must be appropriated in the amount necessary for:
 12 (a) the elementary BASE funding program as provided in 20-9-331;
 13 (b) the high school BASE funding program as provided in 20-9-333; and
 14 (c) sales tax and use tax local property tax relief payments as provided in [section 1].
 15 (3) Any interest earned in the account must be deposited in the account to be used as provided in this
 16 section."

17
 18 **Section 56.** Section 17-3-213, MCA, is amended to read:
 19 **"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in federal**
 20 **law.** (1) The board of county commissioners in each county shall decide among payment options provided in
 21 subsections (2) through (6), as provided in Public Law 106-393 and Public Law 110-343, to determine how the
 22 forest reserve funds, Public Law 106-393 funds, and Public Law 110-343 funds apportioned to each county must
 23 be distributed by the county treasurer pursuant to this section.

24 (2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived
 25 from national forest system lands, as provided in 16 U.S.C. 500, all funds received must be distributed as
 26 provided in subsection (5).

27 (3) (a) Except as provided in subsection (4), if a county elects to receive the county's full payment under
 28 Public Law 106-393, a minimum of 80% up to a maximum of 85% of the county's full payment must be designated
 29 by the county for distribution as provided in subsection (5).

30 (b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in

1 accordance with Public Law 106-393.

2 (4) If a county's full payment under Public Law 106-393 is less than \$100,000, the county may elect to
3 distribute up to 100% of the payment as provided in subsection (5).

4 (5) The total amount designated by a county in accordance with subsection (3)(a) or (4) must be
5 distributed as follows:

6 (a) to the general road fund, 66 2/3% of the amount designated; and

7 (b) to the following countywide school levies, 33 1/3% of the amount designated:

8 (i) ~~county equalization for elementary schools provided for in 20-9-334;~~

9 ~~—— (ii) county equalization for high schools provided for in 20-9-333;~~

10 ~~—— (iii) the county transportation fund provided for in 20-10-146; and~~

11 ~~(iv)~~(ii) the elementary and high school district retirement fund obligations provided for in 20-9-501.

12 (6) The apportionment of money to the funds provided for under subsection (5)(b) must be made by the
13 county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills
14 for all the funds. Whenever the total amount of money available for apportionment under subsection (5)(b) is
15 greater than the total requirements of a levy, the excess money and any interest income must be retained in a
16 separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection
17 (5)(b).

18 (7) In counties in which special road districts have been created according to law, the board of county
19 commissioners shall distribute a proportionate share of the 66 2/3% distributed under subsection (5)(a) for the
20 general road fund to the special road districts within the county based upon the percentage that the total area of
21 the road district bears to the total area of the entire county.

22 (8) Except as provided in subsection (9), if a county elects to receive the county's full payment under
23 Public Law 110-343, not less than 80% but not more than 85% of the funds must be expended in the same
24 manner as provided in subsection (5). A county may reserve not more than 7% of the county's full payment for
25 projects in accordance with Title III of section 601 of Public Law 110-343. The balance of the funds may be:

26 (a) reserved for projects in accordance with Title II of section 601 of Public Law 110-343; or

27 (b) returned to the United States.

28 (9) (a) If a county's full payment is more than \$100,000 but less than or equal to \$350,000, the county
29 may use all of the funds as provided in Title II or Title III of section 601 of Public Law 110-343 or return the funds
30 to the United States.

1 (b) If a county's full payment is less than or equal to \$100,000, the county may elect to distribute up to
2 100% of the payment as provided in subsection (5)."

3

4 **Section 57.** Section 20-7-102, MCA, is amended to read:

5 **"20-7-102. Accreditation of schools.** (1) The conditions under which each elementary school, each
6 middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school
7 operates must be reviewed by the superintendent of public instruction to determine compliance with the standards
8 of accreditation. The accreditation status of each school must then be established by the board of public
9 education upon the recommendation of the superintendent of public instruction. Notification of the accreditation
10 status for the applicable school year or years must be given to each district by the superintendent of public
11 instruction.

12 (2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that
13 multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

14 (3) A nonpublic school may, through its governing body, request that the board of public education
15 accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

16 (4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school
17 district or K-12 district elementary program whose 7th and 8th grades are funded as provided in
18 ~~20-9-306(15)(c)(ii)~~(16)(c)(ii)."

19

20 **Section 58.** Section 20-9-141, MCA, is amended to read:

21 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The
22 county superintendent shall compute the levy requirement for each district's general fund on the basis of the
23 following procedure:

24 (a) Determine the funding required for the district's final general fund budget less the sum of direct state
25 aid, the natural resource development K-12 funding payment, the sales tax and use tax local property tax relief
26 payment, and the special education allowable cost payment for the district by totaling:

27 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in
28 20-9-303; and

29 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of
30 20-9-308 and 20-9-353.

- 1 (b) Determine the money available for the reduction of the property tax on the district for the general fund
2 by totaling:
- 3 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;
4 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the
5 following:
- 6 (A) interest earned by the investment of general fund cash in accordance with the provisions of
7 20-9-213(4); and
8 (B) any other revenue received during the school fiscal year that may be used to finance the general
9 fund, excluding any guaranteed tax base aid;
- 10 (iii) anticipated oil and natural gas production taxes;
11 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and
12 (v) school district block grants distributed under 20-9-630.
- 13 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property
14 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund
15 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general
16 fund BASE budget levy requirement.
- 17 (d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any
18 tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except
19 the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a
20 pupil without disabilities, as calculated under 20-5-323(2).
- 21 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be
22 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as
23 provided in 20-9-353 to determine any additional general fund levy requirements.
- 24 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property
25 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget
26 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:
- 27 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified
28 by the superintendent of public instruction; and
29 (b) the current total taxable valuation of the district, as certified by the department of revenue under
30 15-10-202, divided by 1,000.

1 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported
2 to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after
3 receiving certified taxable values by the county superintendent as the general fund net levy requirement for the
4 district, and a levy must be set by the county commissioners in accordance with 20-9-142.

5 (4) For each school district, the department of revenue shall calculate and report to the county
6 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
7 proceeds under 15-23-703."

8

9 **Section 59.** Section 20-9-212, MCA, is amended to read:

10 **"20-9-212. Duties of county treasurer.** The county treasurer of each county:

11 (1) must receive and shall hold all school money subject to apportionment and keep a separate
12 accounting of its apportionment to the several districts that are entitled to a portion of the money according to the
13 apportionments ordered by the county superintendent or by the superintendent of public instruction. A separate
14 accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized
15 purpose, including:

16 (a) the basic county tax for elementary equalization;

17 (b) the basic county tax for high school equalization;

18 (c) the county tax in support of the transportation schedules;

19 (d) the county tax in support of the elementary and high school district retirement obligations; and

20 (e) any other county tax for schools, including the community colleges, that may be authorized by law
21 and levied by the county commissioners.

22 (2) whenever requested, shall notify the county superintendent and the superintendent of public
23 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1)
24 and the amount of any other school money subject to apportionment and apportion the county and other school
25 money to the districts in accordance with the apportionment ordered by the county superintendent or the
26 superintendent of public instruction;

27 (3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

28 (4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district
29 school money;

30 (5) must receive all revenue collected by and for each district and shall deposit these receipts in the fund

1 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent school
2 taxes must be credited to the same fund and district for which the original taxes were levied.

3 (6) shall send all revenue received for a joint district, part of which is situated in the county, to the county
4 treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3
5 months after that date until the end of the school fiscal year;

6 (7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and
7 revenue anticipation notes as provided in Title 7, chapter 6, part 11;

8 (8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
9 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of registered
10 warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

11 (9) when directed by the trustees of a district, shall invest the money of the district within 3 working days
12 of the direction;

13 (10) each month, shall give to the trustees of each district an itemized report for each fund maintained
14 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue
15 received, and the cash balance;

16 (11) shall remit promptly to the department of revenue receipts for the county tax for a
17 vocational-technical program within a unit of the university system when levied by the board of county
18 commissioners under the provisions of 20-25-439; and

19 (12) shall invest the money received from the basic county taxes for elementary and high school
20 equalization, the county levy in support of the elementary and high school district retirement obligations, and the
21 county levy in support of the transportation schedules within 3 working days of receipt. The money must be
22 invested until the working day before it is required to be distributed to school districts within the county or remitted
23 to the state. Clerks of a school district shall provide a minimum of 30 hours' notice in advance of cash demands
24 to meet payrolls, claims, and electronic transfers that are in excess of \$50,000, pursuant to 20-3-325. If a clerk
25 of a district fails to provide the required 30-hour notice, the county treasurer shall assess a fee equal to any
26 charges demanded by the state investment pool or other permissible investment manager for improperly noticed
27 withdrawal of funds. Permissible investments are specified in 20-9-213(4). All investment income must be
28 deposited, and credited proportionately, in the funds established to account for the taxes received for the
29 purposes specified in subsections (1)(a) through (1)(d).

30 ~~(13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county~~

1 ~~equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned, in~~
2 ~~repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state~~
3 ~~advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."~~

4

5 **Section 60.** Section 20-9-306, MCA, is amended to read:

6 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
7 definitions apply:

8 (1) "BASE" means base amount for school equity.

9 (2) "BASE aid" means:

10 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the
11 general fund budget of a district;

12 (b) starting in fiscal year 2015, the natural resource development K-12 funding payment for a variable
13 percentage of the basic and per-ANB entitlements above the direct state aid for the general fund budget of a
14 district, as referenced in subsection (10);

15 (c) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,
16 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the
17 special education allowable cost payment;

18 (d) the total quality educator payment;

19 (e) the total at-risk student payment;

20 (f) the total Indian education for all payment;

21 (g) the total American Indian achievement gap payment; ~~and~~

22 (h) the total data-for-achievement payment; and

23 (i) the total sales tax and use tax local property tax relief payment.

24 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic
25 entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total
26 at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian
27 achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education
28 allowable cost payment.

29 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
30 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through

1 20-9-369.

2 (5) "BASE funding program" means the state program for the equitable distribution of the state's share
3 of the cost of Montana's basic system of public elementary schools and high schools, through county equalization
4 aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the
5 BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

6 (6) "Basic entitlement" means:

7 (a) for each high school district:

8 (i) \$290,000 for fiscal years 2014 and 2015 and \$300,000 for each succeeding fiscal year for school
9 districts with an ANB of 800 or fewer; and

10 (ii) \$290,000 for fiscal years 2014 and 2015 and \$300,000 for each succeeding fiscal year for school
11 districts with an ANB of more than 800, plus \$12,000 for fiscal years 2014 and 2015 and \$15,000 for each
12 succeeding fiscal year for each additional 80 ANB over 800;

13 (b) for each elementary school district or K-12 district elementary program without an approved and
14 accredited junior high school, 7th and 8th grade program, or middle school:

15 (i) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school
16 districts or K-12 district elementary programs with an ANB of 250 or fewer; and

17 (ii) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school
18 districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,000 for fiscal years 2014
19 and 2015 and \$2,500 for each succeeding fiscal year for each additional 25 ANB over 250; and

20 (c) for each elementary school district or K-12 district elementary program with an approved and
21 accredited junior high school, 7th and 8th grade program, or middle school:

22 (i) for the district's kindergarten through grade 6 elementary program:

23 (A) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school
24 districts or K-12 district elementary programs with an ANB of 250 or fewer; and

25 (B) \$40,000 for fiscal years 2014 and 2015 and \$50,000 for each succeeding fiscal year for school
26 districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,000 for fiscal years 2014
27 and 2015 and \$2,500 for each succeeding fiscal year for each additional 25 ANB over 250; and

28 (ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle
29 school:

30 (A) \$80,000 for fiscal years 2014 and 2015 and \$100,000 for each succeeding fiscal year for school

1 districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and
2 (B) \$80,000 for fiscal years 2014 and 2015 and \$100,000 for each succeeding fiscal year for school
3 districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus
4 \$4,000 for fiscal years 2014 and 2015 and \$5,000 for each succeeding fiscal year for each additional 45 ANB
5 over 450.

6 (7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to
7 20-9-311.

8 (8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement
9 for the general fund budget of a district and funded with state and county equalization aid.

10 (9) "Maximum general fund budget" means a district's general fund budget amount calculated from the
11 basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment,
12 the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement
13 gap payment, the total data-for-achievement payment, the total sales tax and use tax local property tax relief
14 payment, and the greater of:

15 (a) 175% of special education allowable cost payments; or

16 (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures
17 to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a
18 maximum allowable ratio of 200%.

19 (10) "Natural resource development K-12 funding payment" means the payment, starting in fiscal year
20 2015, of a variable percentage of the basic and per-ANB entitlements above the direct state aid for the general
21 fund budget of a district. The total payment to school districts may not exceed the greater of 50% of the fiscal year
22 2012 oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) or 50% of the
23 oil and natural gas production taxes deposited into the general fund pursuant to 15-36-331(4) for the fiscal year
24 occurring 2 fiscal years prior to the school fiscal year in which the payment is provided, plus any excess interest
25 and income revenue appropriated by the legislature pursuant to 20-9-622(2)(a). The amount of the natural
26 resource development K-12 funding payment must be determined as follows:

27 (a) for fiscal year 2015, \$3 million; and

28 (b) for fiscal year 2016 and each subsequent year, the payment must be, subject to the limitations of this
29 subsection (10), an amount sufficient to offset any estimated increase in statewide revenue from the general fund
30 BASE budget levy provided for in 20-9-141 that is anticipated to result from increases in the basic or per-ANB

1 entitlements plus any excess interest and income revenue appropriated by the legislature pursuant to
2 20-9-622(2)(a). The superintendent of public instruction shall incorporate a natural resource development K-12
3 funding payment calculated in compliance with this subsection (10)(b) in preparing and submitting an agency
4 budget pursuant to 17-7-111 and 17-7-112.

5 (11) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted
6 that is above the BASE budget and below the maximum general fund budget for a district.

7 (12) "Sales tax and use tax local property tax relief payment" means the payment calculated as provided
8 in [section 1].

9 ~~(12)~~(13) "Total American Indian achievement gap payment" means the payment resulting from multiplying
10 \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

11 ~~(13)~~(14) "Total at-risk student payment" means the payment resulting from the distribution of any funds
12 appropriated for the purposes of 20-9-328.

13 ~~(14)~~(15) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40
14 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

15 ~~(15)~~(16) "Total per-ANB entitlement" means the district entitlement resulting from the following
16 calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

17 (a) for a high school district or a K-12 district high school program, a maximum rate of \$6,555 for fiscal
18 year 2014 and \$6,691 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB
19 for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same
20 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, 7th and 8th grade program, or middle school, a maximum rate of \$5,120 for fiscal
23 year 2014 and \$5,226 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB
24 for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the
25 same amount of entitlement as the 1,000th ANB; and

26 (c) for an elementary school district or a K-12 district elementary program with an approved and
27 accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

28 (i) a maximum rate of \$5,120 for fiscal year 2014 and \$5,226 for each succeeding fiscal year for the first
29 ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up
30 through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th

1 ANB; and

2 (ii) a maximum rate of \$6,555 for fiscal year 2014 and \$6,691 for each succeeding fiscal year for the first
3 ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8
4 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th
5 ANB.

6 ~~(16)~~(17) "Total data-for-achievement payment" means the payment calculated as provided in 20-9-325.

7 ~~(17)~~(18) "Total quality educator payment" means the payment resulting from multiplying \$3,042 by the
8 number of full-time equivalent educators as provided in 20-9-327."

9

10 **Section 61.** Section 20-9-308, MCA, is amended to read:

11 **"20-9-308. BASE budgets and maximum general fund budgets.** (1) (a) The trustees of a district shall
12 adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees
13 of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's
14 general fund budget, whichever is greater.

15 (b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in direct
16 state aid for the basic and per-ANB entitlements and any increases in state funding of the data-for-achievement
17 payment under 20-9-325 and in the general fund payments in 20-9-327 through 20-9-330 to the district's previous
18 year's general fund budget.

19 (2) (a) Except as provided in subsection (2)(b), whenever the trustees of a district propose to adopt a
20 general fund budget that exceeds the BASE budget for the district and propose to increase the over-BASE budget
21 levy over the highest revenue previously authorized by the electors of the district or imposed by the district in any
22 of the previous 5 years to support the general fund budget, the trustees shall submit a proposition to the electors
23 of the district, as provided in 20-9-353.

24 (b) The intent of this section is to increase the flexibility and efficiency of elected school boards without
25 increasing school district property taxes. In furtherance of this intent and provided that budget limitations
26 otherwise specified in law are not exceeded, the trustees of a district may increase the district's over-BASE
27 budget levy without a vote if the board of trustees reduces nonvoted property tax levies authorized by law to be
28 imposed by action of the trustees of the district by at least as much as the amount by which the over-BASE
29 budget levy is increased. The ongoing authority for any nonvoted increase in the over-BASE budget levy imposed
30 under this subsection (2)(b) must be decreased in future years to the extent that the trustees of the district impose

1 any increase in other nonvoted property tax levies.

2 (3) The BASE budget for the district must be financed by the following sources of revenue:

3 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the
4 district may be eligible, as provided in 20-9-366 through 20-9-369;

5 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;

6 (c) a district levy for support of a school not approved as an isolated school under the provisions of
7 20-9-302;

8 (d) payments in support of special education programs under the provisions of 20-9-321;

9 (e) nonlevy revenue, as provided in 20-9-141; and

10 (f) a BASE budget levy on the taxable value of all property within the district; and

11 (g) the sales tax and use tax local property tax relief payment.

12 (4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
13 property within the district or other revenue available to the district, as provided in 20-9-141."

14

15 **Section 62.** Section 20-9-331, MCA, is amended to read:

16 ~~"20-9-331. Basic county tax for elementary equalization and other revenue~~ Revenue for county
17 equalization of elementary BASE funding program. (1) (a) Subject to 15-10-420, the county commissioners
18 ~~of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable~~
19 ~~property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529,~~
20 ~~61-3-537, 61-3-562, 61-3-570, and 67-3-204, for~~ For the purposes of elementary equalization and state BASE
21 funding program support. ~~The, the~~ revenue collected from this levy under this section must be apportioned to the
22 support of the elementary BASE funding programs of the school districts in the county ~~and to the state general~~
23 ~~fund in the following manner:~~

24 ~~———(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum~~
25 ~~of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding~~
26 ~~programs of all elementary districts of the county:~~

27 ~~———(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required~~
28 ~~to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the~~
29 ~~department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon~~
30 ~~occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June~~

1 ~~20 of the fiscal year for which the levy has been set.~~

2 (b) If revenue prescribed by this section produces more revenue than is required to repay a state
 3 advance, if any, for county equalization, the county treasurer shall remit the surplus funds to the department of
 4 revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus
 5 balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for
 6 which the state advance was received.

7 (2) The revenue ~~realized from the county's portion of the levy prescribed by this section and the revenue~~
 8 from the following sources must be used for the equalization of the elementary 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 treasurer
 10 in accordance with 20-9-212(1):

11 (a) the portion of the federal Taylor Grazing Act funds designated for the elementary county equalization
 12 fund under the provisions of 17-3-222;

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

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

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

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

21 ~~— (f) gross proceeds taxes from coal under 15-23-703; and~~

22 ~~— (g) oil and natural gas production taxes~~ any money appropriated by the legislature that is designated as
 23 county high school equalization aid."

24

25 **Section 63.** Section 20-9-333, MCA, is amended to read:

26 **"20-9-333. Basic county tax for high school equalization and other revenue** Revenue for county
 27 **equalization of high school BASE funding program.** (1) (a) ~~Subject to 15-10-420, the county commissioners~~
 28 ~~of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable~~
 29 ~~property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529,~~
 30 ~~61-3-537, 61-3-562, 61-3-570, and 67-3-204, for~~ For the purposes of high school equalization and state BASE

1 funding program support. ~~The, the revenue collected from this levy under this section~~ must be apportioned to the
 2 support of the BASE funding programs of high school districts in the county ~~and to the state general fund in the~~
 3 ~~following manner:~~

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

7 ~~———(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required~~
 8 ~~to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the~~
 9 ~~department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon~~
 10 ~~occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June~~
 11 ~~20 of the fiscal year for which the levy has been set.~~

12 (b) If revenue prescribed by this section produces more revenue than is required to repay a state
 13 advance, if any, for county equalization, the county treasurer shall remit the surplus funds to the department of
 14 revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus
 15 balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for
 16 which the state advance was made.

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

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

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

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

26 ~~———(d) oil and natural gas production taxes~~ any money appropriated by the legislature that is designated as
 27 county high school equalization aid."

28

29 **Section 64.** Section 20-9-501, MCA, is amended to read:

30 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management

1 board of a cooperative employing personnel who are members of the teachers' retirement system or the public
2 employees' retirement system, who are covered by unemployment insurance, or who are covered by any federal
3 social security system requiring employer contributions shall establish a retirement fund for the purposes of
4 budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's
5 or the cooperative's contribution for each employee who is a member of the teachers' retirement system must
6 be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for
7 each employee who is a member of the public employees' retirement system must be calculated in accordance
8 with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social
9 security system must be paid in accordance with federal law and regulation. The district's or the cooperative's
10 contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title
11 39, chapter 51, part 11.

12 (2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal
13 social security, and unemployment insurance systems from the retirement fund for the following:

14 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
15 provided to the employee, are paid from state or local funding sources;

16 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
17 provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is supported
18 solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321,
19 or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the
20 medicaid program, pursuant to 53-6-101;

21 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are
22 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

23 (iv) a district employee whose salary and health-related benefits, if any health-related benefits are
24 provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514.

25 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative
26 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance
27 systems from the funding source that pays the employee's salary.

28 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall
29 include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the
30 final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems

1 in accordance with the financial administration provisions of this title.

2 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
3 the levy requirement by:

4 (a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

5 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
6 year;

7 (ii) oil and natural gas production taxes;

8 (iii) coal gross proceeds taxes under 15-23-703;

9 (iv) any fund balance available for reappropriation as determined by subtracting the amount of the
10 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
11 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
12 reserve may not be more than 20% of the final retirement fund budget for the ensuing school fiscal year and must
13 be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund
14 budget.

15 (v) property tax reimbursements made pursuant to 15-1-123~~(6)~~(5); and

16 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
17 fiscal year, excluding any guaranteed tax base aid; and

18 (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the
19 levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final
20 retirement fund budget.

21 (5) The county superintendent shall:

22 (a) total the net retirement fund levy requirements separately for all elementary school districts, all high
23 school districts, and all community college districts of the county, including any prorated joint district or special
24 education cooperative agreement levy requirements; and

25 (b) report each levy requirement to the county commissioners by the later of the first Tuesday in
26 September or within 30 calendar days after receiving certified taxable values as the respective county levy
27 requirements for elementary district, high school district, and community college district retirement funds.

28 (6) The county commissioners shall fix and set the county levy or district levy in accordance with
29 20-9-142.

30 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district

1 must be prorated to each county in which a part of the district is located in the same proportion as the district ANB
 2 of the joint district is distributed by pupil residence in each county. The county superintendents of the counties
 3 affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

4 (8) The net retirement fund levy requirement for districts that are members of special education
 5 cooperative agreements must be prorated to each county in which the district is located in the same proportion
 6 as the special education cooperative budget is prorated to the member school districts. The county
 7 superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each
 8 county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net
 9 retirement fund levy for each county in the same manner as provided in 20-9-152.

10 (9) The county superintendent shall calculate the number of mills to be levied on the taxable property
 11 in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection
 12 (5)(a) by the sum of:

13 (a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified
 14 by the superintendent of public instruction; and

15 (b) the taxable valuation of the district divided by 1,000.

16 (10) The levy for a community college district may be applied only to property within the district.

17 (11) The county superintendent of each county shall submit a report of the revenue amounts used to
 18 establish the levy requirements for county school funds supporting elementary and high school district retirement
 19 obligations to the superintendent of public instruction on or before September 15. The report must be completed
 20 on forms supplied by the superintendent of public instruction."

21

22 **Section 65.** Section 20-10-146, MCA, is amended to read:

23 **"20-10-146. County transportation reimbursement.** (1) The apportionment of the county transportation
 24 reimbursement by the county superintendent for school bus transportation or individual transportation that is
 25 actually rendered by a district in accordance with this title, board of public education transportation policy, and
 26 the transportation rules of the superintendent of public instruction must be the same as the state transportation
 27 reimbursement payment, except that:

28 (a) if any cash was used to reduce the budgeted county transportation reimbursement under the
 29 provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

30 (b) when the county transportation reimbursement for a school bus has been prorated between two or

1 more counties because the school bus is conveying pupils of more than one district located in the counties, the
2 apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under
3 the proration; and

4 (c) when county transportation reimbursement is required under the mandatory attendance agreement
5 provisions of 20-5-321.

6 (2) The county transportation net levy requirement for the financing of the county transportation fund
7 reimbursements to districts is computed by:

8 (a) totaling the net requirement for all districts of the county, including reimbursements to a special
9 education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory
10 attendance agreement provisions of 20-5-321;

11 (b) determining the sum of the money available to reduce the county transportation net levy requirement
12 by adding:

13 (i) anticipated money that may be realized in the county transportation fund during the ensuing school
14 fiscal year;

15 (ii) oil and natural gas production taxes;

16 (iii) coal gross proceeds taxes under 15-23-703;

17 (iv) countywide school transportation block grants distributed under 20-9-632;

18 (v) any fund balance available for reappropriation from the end-of-the-year fund balance in the county
19 transportation fund;

20 (vi) federal forest reserve funds allocated under the provisions of 17-3-213;

21 (vii) property tax reimbursements made pursuant to 15-1-123~~(7)~~(6); and

22 (viii) other revenue anticipated that may be realized in the county transportation fund during the ensuing
23 school fiscal year; and

24 (c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement
25 from the county transportation net levy requirement.

26 (3) The net levy requirement determined in subsection (2)(c) must be reported to the county
27 commissioners on or before the later of the first Tuesday in September or within 30 calendar days after receiving
28 certified taxable values by the county superintendent, and a levy must be set by the county commissioners in
29 accordance with 20-9-142.

30 (4) The county superintendent of each county shall submit a report of the revenue amounts used to

1 establish the levy requirements to the superintendent of public instruction on or before September 15. The report
2 must be completed on forms supplied by the superintendent of public instruction.

3 (5) The county superintendent shall apportion the county transportation reimbursement from the
4 proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make
5 the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation
6 reimbursement payments."

7

8 **Section 66.** Section 90-6-304, MCA, is amended to read:

9 **"90-6-304. (Temporary) Accounts established.** (1) There is within the state agency fund type a
10 hard-rock mining impact account. Money is payable into this account from payments made by a mining developer
11 in compliance with the written guarantee from the developer to meet the increased costs of public services and
12 facilities as specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from
13 this account upon order of the board.

14 (2) (a) There is within the state special revenue fund a hard-rock mining impact trust account. Within this
15 trust account, there is established a reserve amount not to exceed \$100,000.

16 ~~(a)~~(b) Money within the hard-rock mining impact trust account may be used:

17 (i) for the administrative and operating expenses of the board, as provided by 90-6-303(4);

18 (ii) to establish and maintain the reserve amount; and

19 (iii) for distribution to the counties of origin, as provided by 90-6-331 and this section.

20 ~~(b)~~(c) Money within the hard-rock mining impact trust account may be used for the administrative and
21 operating expenses of the board if:

22 (i) the revenue provided under 15-37-117(1)(b) is less than the amount appropriated for the
23 administrative and operating expenses of the board; or

24 (ii) the use of the reserve amount of revenue is necessary to allow the board to meet its quasi-judicial
25 responsibilities under 90-6-307, 90-6-311, or 90-6-403~~(3)~~(2).

26 (3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117.
27 After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then
28 establishing and maintaining the reserve amount of \$100,000, as provided in subsection (2) of this section, the
29 remaining money must be segregated within the account by county of origin. (Terminates June 30, 2019--sec.
30 5, Ch. 442, L. 2009.)

1 **90-6-304. (Effective July 1, 2019) Accounts established.** (1) There is within the state agency fund type
 2 a hard-rock mining impact account. Money is payable into this account from payments made by a mining
 3 developer in compliance with the written guarantee from the developer to meet the increased costs of public
 4 services and facilities as specified in the impact plan provided for in 90-6-307. The state treasurer shall draw
 5 warrants from this account upon order of the board.

6 (2) (a) There is within the state special revenue fund a hard-rock mining impact trust account. Within this
 7 trust account, there is established a reserve amount not to exceed \$100,000.

8 ~~(a)~~(b) Money within the hard-rock mining impact trust account may be used:

9 (i) for the administrative and operating expenses of the board, as provided by 90-6-303(4);

10 (ii) to establish and maintain the reserve amount; and

11 (iii) for distribution to the counties of origin, as provided by 90-6-331 and this section.

12 ~~(b)~~(c) Money within the hard-rock mining impact trust account may be used for the administrative and
 13 operating expenses of the board if:

14 (i) the revenue provided under 15-37-117(1)(b) is less than the amount appropriated for the
 15 administrative and operating expenses of the board; or

16 (ii) the use of the reserve amount of revenue is necessary to allow the board to meet its quasi-judicial
 17 responsibilities under 90-6-307, 90-6-311, or 90-6-403~~(3)~~(2).

18 (3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117.
 19 After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then
 20 establishing and maintaining the reserve amount of \$100,000, as provided in subsection (2) of this section, the
 21 remaining money must be segregated within the account by county of origin. The state treasurer shall draw
 22 warrants from this account upon order of the board."
 23

24 **Section 67.** Section 90-6-305, MCA, is amended to read:

25 **"90-6-305. Hard-rock mining impact board -- general powers.** (1) The board may:

26 (a) retain professional staff, including its administrative staff, and retain consultants and advisers,
 27 notwithstanding the provisions of 2-15-121;

28 (b) adopt rules governing its proceedings, determinations, and administration of this part;

29 (c) make payments to local government units from money paid to the hard-rock mining impact account
 30 as provided in 90-6-307;

1 (d) make determinations as provided in 90-6-307, 90-6-311, and 90-6-403~~(3)~~(2); and

2 (e) accept grants and other funds to be used in carrying out this part.

3 (2) The provisions of the Montana Administrative Procedure Act apply to the proceedings and
4 determinations of the board."

5

6 **Section 68.** Section 90-6-309, MCA, is amended to read:

7 **"90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence
8 operation is granted by the appropriate governmental agency and upon request of the governing body of a county
9 in which a facility is to be located, a person intending to construct or locate a large-scale mineral development
10 in this state shall prepay property taxes as specified in the impact plan. ~~This prepayment must exclude the 6-mill~~
11 ~~university levy established under 15-10-108 and may exclude the mandatory county levies for the school BASE~~
12 ~~funding program established in 20-9-331 and 20-9-333.~~

13 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
14 established in subsection (1) at one time. Upon request of the governing body of an affected local government
15 unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

16 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
17 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as
18 needed for expenditures created by the impacts of the large-scale mineral development.

19 (4) When the mineral development facilities are completed and assessed by the department of revenue,
20 they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except
21 that in each year after the start of production, the local government unit that received a property tax prepayment
22 shall provide for repayment of prepaid property taxes in accordance with subsection (5).

23 (5) A local government unit that received all or a portion of the property tax prepayment under this
24 section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not,
25 however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited
26 to the productive life of the mining operation."

27

28 **Section 69.** Section 90-6-403, MCA, is amended to read:

29 **"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain**
30 **taxable valuation.** (1) When an impact plan for a large-scale mineral development approved pursuant to

1 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected
 2 local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this
 3 section, the increase in taxable valuation of the mineral development that occurs after the issuance and validation
 4 of a permit under 82-4-335 is not subject to the usual application of county and school district property tax mill
 5 levies. This increase in taxable valuation must be allocated to local government units as provided in 90-6-404.
 6 The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the application
 7 of property tax mill levies in the local government unit to which it is allocated. The increase in taxable valuation
 8 allocated to the local government unit is considered newly taxable property in the recipient local government unit
 9 as provided in 15-10-420.

10 ~~(2) Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains~~
 11 ~~subject to the statewide mill levies and basic county levies for elementary and high school BASE funding~~
 12 ~~programs as provided in 20-9-331 and 20-9-333.~~

13 ~~(3)(2)~~ The provisions of subsection (1) remain in effect until the large-scale mineral development ceases
 14 operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."
 15

16 **NEW SECTION. Section 70. Repealer.** The following sections of the Montana Code Annotated are
 17 repealed:

- 18 15-10-108. Tax levy for university system.
 19 15-30-2336. Refundable income tax credit -- statewide equalization property tax levies on principal
 20 residence -- rules.
 21 20-9-360. State equalization aid levy.

22
 23 **NEW SECTION. Section 71. Codification instruction.** (1) [Section 1] is intended to be codified as an
 24 integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 1].

25 (2) [Sections 2 through 9] are intended to be codified as an integral part of Title 15, and the provisions
 26 of Title 15 apply to [sections 2 through 9].

27 (3) [Sections 26 through 40] are intended to be codified as an integral part of Title 15, chapter 68, and
 28 the provisions of Title 15, chapter 68, apply to [sections 26 through 40].
 29

30 **NEW SECTION. Section 72. Severability.** If a part of [this act] is invalid, all valid parts that are

1 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
2 the part remains in effect in all valid applications that are severable from the invalid applications.

3

4 NEW SECTION. **Section 73. Effective date.** [This act] is effective January 1, 2016.

5

6 NEW SECTION. **Section 74. Applicability.** [This act] applies to tax years beginning after December
7 31, 2015.

8

- END -