

SENATE BILL NO. 554
INTRODUCED BY J. ESSMANN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAXATION AND SCHOOL FUNDING BY SUBMITTING TO THE QUALIFIED ELECTORS A 4 PERCENT SALES TAX AND USE TAX THAT EXEMPTS CERTAIN GOODS; PROVIDING FOR THE DISTRIBUTION OF THE SALES AND USE TAXES FOR SCHOOL FUNDING AND TO LOCAL GOVERNMENTS; PROVIDING A REFUNDABLE INCOME TAX CREDIT TO TAXPAYERS; PROVIDING FOR A STATE EARNED INCOME TAX CREDIT; EXEMPTING THE FIRST \$150,000 OF MARKET VALUE OF CLASS EIGHT PROPERTY; ELIMINATING THE STATEWIDE 95-MILL LEVY FOR SCHOOL FUNDING AND THE 6-MILL LEVY FOR THE UNIVERSITY SYSTEM; AMENDING SECTIONS 7-1-2111, 15-1-111, 15-1-402, 15-6-138, 15-8-301, 15-10-420, 15-23-703, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-36-331, 15-36-332, 15-39-110, 15-68-101, 15-68-102, 15-68-110, 15-68-201, 15-68-202, 15-68-206, 15-68-207, 15-68-401, 15-68-402, 15-68-405, 15-68-501, 15-68-502, 15-68-505, 15-68-510, 15-68-801, 15-68-820, 17-3-213, 20-3-106, 20-3-205, 20-3-209, 20-6-702, 20-9-141, 20-9-212, 20-9-306, 20-9-308, 20-9-332, 20-9-343, 20-9-344, 20-9-346, 20-9-347, 20-9-351, 20-9-370, 20-9-371, 20-9-406, 20-9-439, 20-9-501, 20-9-620, 20-10-104, 20-10-141, 20-10-142, 20-10-144, 90-6-309, AND 90-6-403, MCA; REPEALING SECTIONS 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-9-361, 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-630, 20-9-631, 20-9-632, 20-10-146, AND 20-25-439, MCA; AND PROVIDING EFFECTIVE AND APPLICABILITY DATES."

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

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

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the counties of this state must be classified according to the taxable valuation of the property in the counties upon which the tax levy is made as follows:

- (a) first class--all counties having a taxable valuation of \$50 million or more;
- (b) second class--all counties having a taxable valuation of \$30 million or more and less than \$50 million;
- (c) third class--all counties having a taxable valuation of \$20 million or more and less than \$30 million;
- (d) fourth class--all counties having a taxable valuation of \$15 million or more and less than \$20 million;

- (e) fifth class--all counties having a taxable valuation of \$10 million or more and less than \$15 million;
- (f) sixth class--all counties having a taxable valuation of \$5 million or more and less than \$10 million;
- (g) seventh class--all counties having a taxable valuation of less than \$5 million.

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

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

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

(c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

(d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole trailers, and semitrailers with a declared weight of less than 26,000 pounds;

(e) the value provided by the department of revenue under ~~15-36-332(7)~~ 15-36-332(4);

(f) 50% of the taxable value of the county on December 31, 1999, attributable to telecommunications property under 15-6-141;

(g) 50% of the taxable value in the county on December 31, 1999, attributable to electrical generation property under 15-6-141;

(h) the value provided by the department of revenue under 15-24-3001;

(i) 6% of the taxable value of the county on January 1 of each tax year; and

(j) 45% of the contract sales price of the gross proceeds of coal in the county as provided in 15-23-703 and as reported under 15-23-702."

Section 2. Section 15-1-111, MCA, is amended to read:

"15-1-111. (Temporary) Reimbursement to local governments and schools -- duties of department and county treasurer -- statutory appropriation. (1) Prior to September 1, 1990, the department's agent in the county shall supply the following information to the department for each taxing jurisdiction within the county:

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

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

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

(d) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all personal property secured by real property.

(2) After receipt of the information from its agent, the department shall calculate the amount of revenue lost to each taxing jurisdiction, using current year mill levies, due to the annual reduction in personal property tax rates set forth in 15-6-138, prior to 1994, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145, prior to 1994. The department shall total the amounts for all taxing jurisdictions within the county.

(3) (a) The department shall remit to the county treasurer 50% of the amount of revenue reimbursable, determined pursuant to subsection (1), on or before November 30 and the remaining 50% on or before May 31.

(b) For tax year 1993 through tax year 1998, the department shall remit to the county treasurer of each county the same amount remitted to the county treasurer for the fiscal year 1991, as adjusted by the result of dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must be remitted on or before November 30 and the remaining 50% on or before May 31.

(c) (i) For tax year 1999 through tax year 2008, the department shall remit to the county treasurer of each county the same amount remitted to the county treasurer for the fiscal year 1991, progressively reduced by 10% of the 1991 amount each year, in accordance with the following schedule:

Tax Year	Percentage of 1991 Remittance Amount
1999	90
2000	80
2001	70
2002	60
2003	50
2004	40
2005	30
2006	20
2007	10
2008 and following years	0

(ii) The amount remitted must be adjusted by the result of dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must be remitted on or before November 30 and the remaining 50% on or before May 31.

(4) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction as calculated by the department.

(5) ~~(a)~~ For the purposes of this section and subject to subsection (7), "taxing jurisdiction" means a jurisdiction levying mills against personal property and includes but is not limited to a county, city, school district, tax increment financing district, and miscellaneous taxing district.

~~(b) The term does not include county or state school equalization levies provided for in 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439.~~

(6) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the general fund to reimburse eligible taxing jurisdictions for reductions in tax rates on personal property.

(7) The following apply to taxing jurisdictions that were altered after tax year 1989:

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

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

(c) A taxing jurisdiction that did not exist in tax year 1989 is not entitled to reimbursement under this section unless the jurisdiction was created as described in subsection (7)(b). (Repealed effective July 1, 2008--secs. 66(2), 68(2), Ch. 422, L. 1997.)"

Section 3. Section 15-1-402, MCA, is amended to read:

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

(b) The protested payment must:

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

(ii) specify the grounds of protest; and

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

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made. By November 1 of each year, the department shall mail a notice stating the requirements of this subsection (1)(c) to owners of property subject to central assessment under 15-23-101(1) and (2) who have filed a timely appeal under 15-1-211.

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

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

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

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 must be remitted by the county treasurer to the department.

~~(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant to 15-10-107 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to 15-10-107 must be deposited in a centrally assessed property tax state special revenue fund.~~

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

(5) (a) Except as provided in subsection (5)(b), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

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

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

(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest.

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

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

(d) (i) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the

protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(ii) For an adverse protest action against the state for centrally assessed property, the department shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to ~~subsections~~ subsection (4)(b)(ii) and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund ~~proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to 15-10-107.~~

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

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

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

(8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is

not owed."

Section 4. Section 15-6-138, MCA, is amended to read:

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

- (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;
- (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five;
- (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-219, and supplies except those included in class five;
- (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-220, and supplies except those included in class five;
- (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;
- (f) special mobile equipment as defined in 61-1-101;
- (g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;
- (h) x-ray and medical and dental equipment;
- (i) citizens' band radios and mobile telephones;
- (j) radio and television broadcasting and transmitting equipment;
- (k) cable television systems;
- (l) coal and ore haulers;
- (m) theater projectors and sound equipment; and
- (n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

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

mining or quarrying environment.

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

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

(5) The first \$150,000 of class eight property of a person or business entity ~~that owns an aggregate of \$20,000 or less in market value of class eight property~~ is exempt from taxation."

Section 5. Section 15-8-301, MCA, is amended to read:

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

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

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

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

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

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

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

(2) The department shall notify the taxpayer in the statement for reporting personal property owned by a business or used in a business that the statement is for reporting business equipment and other business personal property described in Title 15, chapter 6, part 1. A taxpayer owning exempt business equipment is subject to limited reporting requirements; however, all new businesses shall report their class eight property so that the department can determine the market value of the property. The department shall by rule develop reporting requirements for business equipment to limit the annual reporting of exempt business equipment to the extent feasible.

(3) In the reporting of exempt business equipment under 15-6-138(5), the department shall, by rule,

establish reporting requirements that would prevent the use of multiple business identities to obtain multiple exemptions for what are functionally single businesses. The rules may require individual and taxpayer identification numbers for pass-through entities, as defined in 15-30-101, and their owners, partners, and officers to allow the department to track exemptions through the entities.

~~(3)~~(4) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement but the statement must show the name of the person or officer who made the statement in which the property is included.

~~(4)~~(5) The fact that a statement is not required or that a person has not made a statement, under oath or otherwise, does not relieve the person's property from taxation."

Section 6. Section 15-10-420, MCA, is amended to read:

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

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

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

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

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

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

- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

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

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

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

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

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

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

- (a) school district levies established in Title 20; or
- (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.

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

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

~~(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.~~

~~(9)(8)~~ (a) The provisions of subsection (1) do not prevent or restrict:

- (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
- (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or
- (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

(b) A levy authorized under subsection ~~(9)(a)~~ (8)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

~~(10)(9)~~ A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(10) The number of mills authorized under subsection (1) that either were actually assessed in a prior year or were authorized to be carried forward, but not imposed, do not apply for mills imposed for tax year 2009. For tax year 2009, a governmental entity may levy only the number of mills sufficient to fund, together with nonlevy revenue, all funds, functions, and programs receiving property tax revenue in the fiscal year ending June 30, 2009. The limitations of subsection (1) apply to property tax years beginning after December 31, 2009, applicable for tax year 2010 to tax year 2009 as the prior tax year.

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

Section 7. Section 15-23-703, MCA, is amended to read:

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

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

(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state; and county, ~~and eligible school districts in the county~~ the amount of the coal gross proceeds tax, determined by

multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.

(4) Except as provided in subsections (5), ~~(6), and (8) through (7)~~, the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:

(a) to the state for deposit in the statewide school adequacy and equalization fund, as provided in [section 63], and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

(b) to the statewide school adequacy and equalization fund, as provided in [section 63], in an amount equal to the amount that the school districts in the county ~~that~~ either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu of levying mills against production; ~~in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.~~

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

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

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

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

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

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

~~—— (a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in~~

~~the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.~~

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

~~(8)(7)~~ The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

Section 8. 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 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 defined in 76-15-103 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) 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.

(c) 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 is eligible for the tax benefits described in subsection (1).

(d) Property taxes abated from the reduction in taxable value allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(c) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts

subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.

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

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) ~~may not apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise~~ does not apply to levies under [section 61] or to levies required under state law.

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

Section 9. Section 15-24-1703, MCA, is amended to read:

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

(1) applies to all mills levied in the county or otherwise required under state law, including levies or assessments required under ~~Title 15, chapter 10, 20-9-331, 20-9-333, and 20-25-423~~ [section 61];

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

Section 10. Section 15-24-1802, MCA, is amended to read:

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

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

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

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

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

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

(4) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies and assessments required under ~~Title 15, chapter 10, 20-9-331, or 20-9-333~~ [section 61] or otherwise required under state law.

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

Section 11. Section 15-24-1902, MCA, is amended to read:

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

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

(a) the local economic development organization:

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

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

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

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

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

(4) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies or assessments required under ~~Title 15, chapter 10, 20-9-331, or 20-9-333~~ [section 61] or otherwise required under state law.

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

(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to

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

Section 12. Section 15-24-2002, MCA, is amended to read:

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

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

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

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

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

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

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

If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies or assessments required under ~~Title 15, chapter 10, 20-9-331, or 20-9-333~~ [section 61] and other levies required under state law.

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

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

NEW SECTION. Section 13. Tax credit for sales tax and use tax paid. (1) An individual is allowed a refundable tax credit against the taxes imposed by 15-30-103 for sales tax and use tax payments made by the individual, the individual's spouse, and any dependents of the individual. The amount of the credit under this section is determined under subsection (2).

(2) A taxpayer may choose to determine the amount of credit allowed under this section under either subsection (2)(a) or (2)(b) as follows:

(a) the actual substantiated amount of sales tax and use tax paid by the taxpayer under Title 15, chapter 68, not to exceed the amount established in subsection (3), plus \$50; or

(b) an amount, which does not need to be substantiated, that is equal to the amount established in subsection (3).

(3) The amount used for determining the credit under subsection (2) is 1.3% of the median amount of adjusted gross income for Montana individual income tax returns for full-time resident taxpayers for the tax year

ending December 31 of the prior calendar year. The department shall determine the amount by November 1 of each year for that tax year.

NEW SECTION. Section 14. Earned income tax credit. (1) There is allowed as a credit against the tax imposed by 15-30-103 a percentage of the credit allowed for the federal earned income credit for which a resident individual taxpayer is eligible for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(2) The amount of the credit allowed under subsection (1) is 15% of the amount of the credit determined for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(3) Except for married taxpayers living apart who are treated as single under section 7703(b) of the Internal Revenue Code, 26 U.S.C. 7703(b), the credit is not allowed to married taxpayers if the husband and wife report their income on separate tax returns.

(4) The credit is not allowed for part-year residents or nonresidents of the state.

(5) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of the credit. The credit may be claimed by filing a Montana income tax return.

Section 15. Section 15-36-331, MCA, is amended to read:

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

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

(2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 15-1-501, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) The amount of the tax for the oil, gas, and coal natural resource account established in 90-6-1001 must be deposited in the account.

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

2005 _____ 2006 and

		succeeding tax years	
Big Horn	45.04%	45.05%	<u>19%</u>
Blaine	58.11%	58.39%	<u>37.6%</u>
Carbon	48.93%	48.27%	<u>18.97%</u>
Chouteau	57.65%	58.14%	<u>35.28%</u>
Custer	80.9%	69.53%	<u>39.81%</u>
Daniels	49.98%	50.81%	<u>20.24%</u>
Dawson	50.64%	47.79%	<u>26.41%</u>
Fallon	41.15%	41.78%	<u>20.28%</u>
Fergus	83.52%	69.18%	<u>22.1%</u>
Garfield	48.81%	45.96%	<u>28.2%</u>
Glacier	64.74%	58.83%	<u>20.48%</u>
Golden Valley	57.41%	58.37%	<u>18.13%</u>
Hill	65.33%	64.51%	<u>24.37%</u>
Liberty	59.73%	57.94%	<u>31.39%</u>
McCone	52.86%	49.92%	<u>23.38%</u>
Musselshell	51.44%	48.64%	<u>26.39%</u>
Petroleum	54.62%	48.04%	<u>13.46%</u>
Phillips	53.78%	54.02%	<u>27.33%</u>
Pondera	70.89%	54.26%	<u>22.18%</u>
Powder River	62.17%	60.9%	<u>40.35%</u>
Prairie	39.73%	40.38%	<u>21.24%</u>
Richland	46.72%	47.47%	<u>21.81%</u>
Roosevelt	46.06%	45.71%	<u>17.84%</u>
Rosebud	38.69%	39.33%	<u>7.81%</u>
Sheridan	47.54%	47.99%	<u>22.44%</u>
Stillwater	54.35%	53.51%	<u>24.34%</u>
Sweet Grass	60.24%	61.24%	<u>29.25%</u>
Teton	48.4%	46.1%	<u>23.83%</u>
Toole	57.14%	57.61%	<u>26.9%</u>
Valley	54.22%	51.43%	<u>27.21%</u>

Wibaux	48.68%	49.16%	<u>16.53%</u>
Yellowstone	48.06%	46.74%	<u>21.27%</u>
All other counties	50.15%	50.15%	<u>22.83%</u>

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

(4) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

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

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

(ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

(iii) 2.95% to the orphan share account established in 75-10-743;

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(v) all remaining proceeds to the ~~state general fund~~ statewide school adequacy and equalization fund as provided in [section 63];

(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

(ii) 2.95% to the orphan share account established in 75-10-743;

(iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(iv) all remaining proceeds to the ~~state general fund~~ statewide school adequacy and equalization fund as provided in [section 63]."

Section 16. Section 15-36-332, MCA, is amended to read:

"15-36-332. Distribution of taxes to taxing units -- appropriation. (1) (a) By the dates referred to in subsection ~~(6)~~ (3), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) By the dates referred to in subsection ~~(6)~~ (3), the department shall distribute the amount deposited in the oil, gas, and coal natural resource account under 15-36-331(2)(b) as provided in subsection ~~(8)~~ (5).

~~(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes~~

designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%

Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

~~_____ (b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.~~

~~_____ (ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.~~

~~(3)(2) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.~~

~~(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d):~~

~~_____ (b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a):~~

~~_____ (c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a):~~

~~_____ (d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.~~

~~_____ (ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each~~

~~elementary school district referred to in subsection (4)(c) and the total mills of the high school district.~~

~~———(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.~~

~~———(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.~~

~~(6)(3)~~ The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

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

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

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

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

~~(7)(4)~~ The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

~~(8)(5)~~ The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

~~(9)(6)~~ The distributions to taxing units and to counties and incorporated cities and towns under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."

Section 17. Section 15-39-110, MCA, is amended to read:

"15-39-110. Distribution of taxes. (1) (a) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through ~~(42)~~

(10).

(b) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that first began producing bentonite after December 31, 2004. The tax is distributed as provided in subsection ~~(13)~~ (11).

(2) ~~For the production of bentonite occurring after December 31, 2004, and before January 1, 2006, the~~ As provided in subsections (3) through (9), the stated percentage of the tax determined under subsection (1)(a) is allocated according to the following schedule:

(a) ~~2.33%~~ 20.47% to the ~~state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423~~ statewide school adequacy and equalization fund provided for in [section 63];

(b) ~~18.14% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;~~

~~(e)(b)~~ 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, ~~except a distribution may not be made for county and state levies under 20-9-331, 20-9-333, 20-9-360, and 20-25-423; and~~

~~(d)(c)~~ 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, ~~except a distribution may not be made for county and state levies under 20-9-331, 20-9-333, 20-9-360, and 20-25-423.~~

~~(3) For the production of bentonite occurring after December 31, 2005, and before January 1, 2007, 90% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 10% must be distributed as provided in subsection (13):~~

~~————(4) For the production of bentonite occurring after December 31, 2006, and before January 1, 2008, 80% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 20% must be distributed as provided in subsection (13):~~

~~(5)(3)~~ For the production of bentonite occurring after December 31, 2007, and before January 1, 2009, 70% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 30% must be distributed as provided in subsection ~~(13)~~ (11).

~~(6)(4)~~ For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40% must be distributed as provided in subsection ~~(13)~~ (11).

~~(7)(5)~~ For the production of bentonite occurring after December 31, 2009, and before January 1, 2011,

50% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must be distributed as provided in subsection ~~(13)~~ (11).

~~(8)~~(6) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must be distributed as provided in subsection ~~(13)~~ (11).

~~(9)~~(7) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must be distributed as provided in subsection ~~(13)~~ (11).

~~(10)~~(8) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must be distributed as provided in subsection ~~(13)~~ (11).

~~(11)~~(9) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must be distributed as provided in subsection ~~(13)~~ (11).

~~(12)~~(10) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of the tax determined under subsection (1)(a) must be distributed as provided in subsection ~~(13)~~ (11).

~~(13)~~(11) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the distribution percentages determined under subsections (3) through ~~(12)~~ (10) are allocated according to the following schedule:

(a) ~~1.30%~~ 22.05% to the ~~state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423 statewide school adequacy and equalization fund provided for in [section 63];~~

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

~~(c)~~(b) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, ~~except a distribution may not be made for county and state levies under 15-10-107, 20-9-331, 20-9-333, 20-9-360, and 20-25-423.~~

~~(14)~~(12) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before October 1 of each year, the department shall remit the county's share of bentonite production tax payments received for the semiannual period ending June 30 of the current year to the county

treasurer.

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

~~(15)(13)~~ (a) The department shall also provide to each county the amount of gross yield of value from bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield of value must be treated as taxable value for county classification purposes under 7-1-2111 and for determining school district debt limits under 20-9-406.

(b) The percentage amount of the gross yield of value determined under subsection ~~(15)(a)~~ (13)(a) must be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding provisions as provided by law."

Section 18. Section 15-68-101, MCA, is amended to read:

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

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

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

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

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

(b) The term does not include payment for admittance to a movie theater or to a sporting event sanctioned by a school district, ~~college, or university.~~

(3) "Agreement" means the Streamlined Sales and Use Tax Agreement provided for under [sections 52 through 59].

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

of 1% or more of alcohol by volume.

~~(3)~~(5) (a) "Base rental charge" means the following:

(i) charges for time of use of the rental vehicle and mileage, if applicable;
 (ii) charges accepted by the renter for personal accident insurance;
 (iii) charges for additional drivers or underage drivers; and
 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the rental vehicle.

(b) The term does not include:

(i) rental vehicle price discounts allowed and taken;
 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the privilege of operating as a concessionaire at an airport terminal building;
 (iii) motor fuel;
 (iv) intercity rental vehicle drop charges; or
 (v) taxes imposed by the federal government or by state or local governments.

~~(4)~~(6) (a) "Campground" means a place used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

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

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

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

(8) "Certified automated system" has the meaning provided in [section 53].

(9) "Certified service provider" has the meaning provided in [section 53].

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

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

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

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

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

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

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

or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in subsections (13)(a)(i) through (13)(a)(v);

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

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

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

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

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

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

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

(i) can withstand repeated use;

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

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

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

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

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

~~(5)~~(17) "Engaging in business" means carrying on or causing to be carried on any activity with the

purpose of receiving direct or indirect benefit.

(18) (a) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste or nutritional value. The term includes alcoholic beverages, candy, dietary supplements, and soft drinks.

(b) The term does not include tobacco.

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

(20) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and sunscreens, regardless of whether the items meet the definition of over-the-counter drugs.

(21) "Guided recreation and sightseeing" means recreational activities or sightseeing in which a service provider, for payment, accompanies or provides direction or instruction to the purchaser.

~~(6)~~(22) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

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

(c) The term does not include:

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

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

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

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

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

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

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

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

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

(b) The term does not include construction.

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

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

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

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

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

~~(7)~~(26) (a) "Motor vehicle" means a light vehicle as defined in 61-1-101, a motorcycle as defined in 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 sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

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

(ii) is rented without a driver, pilot, or operator; and

(iii) is designed to transport 15 or fewer passengers.

(b) Motor vehicle includes:

(i) a rental vehicle rented pursuant to a contract for insurance; and

(ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented without a driver, and that is used in the transportation of personal property.

(c) The term does not include farm vehicles, machinery, or equipment.

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

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

(i) a drug facts panel; or

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

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

~~(8)~~ "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.

~~(9)~~(28) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability company, limited liability partnership, or any other legal entity.

(29) (a) "Prepared food" means:

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

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

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

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

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

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

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

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

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

~~(40)~~(32) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

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

(b) The term does not include money paid to observe a sporting event sanctioned by a public or private school or by a nonprofit organization or association.

(34) "Registration" or "seller's registration" means a seller's registration as described in 15-68-401.

~~(44)~~(35) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of

the motor vehicle through an arrangement and for consideration.

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

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

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

- (i) the seller's cost of the property sold;
 - (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
 - (iii) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
 - (iv) delivery charges;
 - (v) installation charges;
 - (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise; and
 - (vii) credit for any trade-in.
- (b) The amount received for charges listed in subsections ~~(14)(a)(iii)~~ (38)(a)(iii) through ~~(14)(a)(vii)~~ (38)(a)(vii) are excluded from the sales price if they are separately stated on the invoice, billing, or similar document given to the purchaser.

(c) The term does not include:

- (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
- (ii) interest, financing, and carrying charges from credit extended on the sale of personal property or services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or
- (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(d) In an exchange in which the money or other consideration received does not represent the value of

the property or service exchanged, sales price means the reasonable value of the property or service exchanged.

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

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

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

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

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

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

(43) (a) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners.

(b) The term does not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

(44) "Sporting, athletic, or recreational activities" are activities commonly performed for pleasure, competition, or fitness purposes. The following list is intended to be examples of these activities and not an all-inclusive list:

(a) horseback riding;

(b) climbing, trekking, and mountaineering;

(c) biking;

(d) golfing;

(e) baseball, football, hockey, volleyball, tennis, basketball, and soccer;

(f) hunting and fishing;

(g) boating, canoeing, jet skiing, rafting, kayaking, and parasailing;

(h) camping and backpacking;

(i) swimming and diving;

(j) bowling and ice skating;

(k) skiing, snowmobiling, snowboarding, and snowshoeing;

(l) hang gliding and ballooning;

(m) motorcycling, four-wheeling, and riding all-terrain vehicles;

(n) guided recreation and sightseeing.

(45) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and computer software.

(46) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

~~(46)~~(47) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use solely outside this state, in the ordinary course of business.

(48) "Used clothing" means all human wearing apparel suitable for general use that was previously sold at retail."

Section 19. Section 15-68-102, MCA, is amended to read:

"15-68-102. Imposition and rate of sales tax and use tax -- exceptions. (1) A sales tax of the following percentages 4% is imposed on sales of the following property or services:

(a) all sales of tangible personal property;

(b) fees for sporting, recreation, and sightseeing activities;

(c) admissions and recreation fees;

~~(a)~~(d) 3% on accommodations and campgrounds; and

~~(b)~~(e) 4% on the base rental charge for rental vehicles.

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

(3) (a) For the privilege of using property or services within this state, there is imposed on the person using the following property or services a use tax ~~equal to the following percentages~~ of 4% of the value of the following property or services:

(i) all sales of tangible personal property;

(ii) fees for sporting, recreation, and sightseeing activities;

(iii) admissions and recreation fees;

~~(i)~~(iv) 3% on accommodations and campgrounds; and

~~(ii)~~(v) 4% on the base rental charge for rental vehicles.

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

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

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

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

(iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

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

(5) The sale or use of property or services exempt or nontaxable under this chapter is exempt from the tax imposed in subsections (1) and (3).

~~(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and (3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed charge for accommodations or campgrounds."~~

NEW SECTION. Section 20. Credit -- out-of-state taxes. If a sales tax, use tax, or similar tax has been levied by another state or a political subdivision of another state on property that was bought outside this state but that will be used or consumed within this state and the tax was paid by the current user, the amount of tax paid may be credited against any use tax due this state on the same property. The credit may not exceed the sales tax or use tax due this state.

Section 21. Section 15-68-110, MCA, is amended to read:

"15-68-110. Collection of sales tax and use tax -- listing of business locations and agents -- severability. (1) ~~A~~ Except when the purchaser has a direct payment permit as provided in [section 22], a person engaging in the business of selling property or services subject to taxation under this chapter shall collect the sales tax from the purchaser and pay the sales tax collected to the department.

(2) (a) A person that solicits or exploits the consumer market within this state by regularly and systematically performing an activity within this state and whose sales are not subject to the sales tax shall collect

the use tax from the purchaser and pay the use tax collected to the department.

(b) "Activity", for the purposes of this section and to the extent not preempted by federal law, includes but is not limited to engaging in any of the following within this state:

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

(ii) canvassing;

(iii) demonstrating;

(iv) collecting money;

(v) warehousing or storing merchandise;

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

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

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

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

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

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

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

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

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

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

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

- (a) the names and addresses of all of the person's agents operating within this state; and
- (b) the location of each of the person's distribution houses or offices, sales houses or offices, and other places of business within this state.

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

NEW SECTION. Section 22. Direct payment of sales tax -- direct payment permits. (1) The department may issue direct payment permits to any person liable for the payment of more than \$500 a year in sales tax. A person shall apply to the department for a permit, on forms approved by the department. By applying for a direct payment permit, the applicant acknowledges that the applicant assumes all obligations to pay any sales tax due under this chapter made by the applicant as a direct payment permitholder. A direct payment permit may be revoked by the department at any time upon 90 days' written notice to the permitholder. A permitholder may be audited by the department.

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

Section 23. Section 15-68-201, MCA, is amended to read:

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

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

the department.

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

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

Section 24. Section 15-68-202, MCA, is amended to read:

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

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

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

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

~~(e)(i)~~ the property or service is purchased for resale;

(ii) the property or service is purchased for manufacturing;

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

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

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

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

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

applicability date of this section]; that has applied in a timely fashion is issued a certificate ~~for renting accommodations and campgrounds prior to June 1, 2003, and renting vehicles prior to July 1, 2003~~ prior to [the applicability date of this section]."

Section 25. Section 15-68-206, MCA, is amended to read:

"15-68-206. Exemption -- government agencies -- utility services. (1) All sales by or uses by the United States or an agency or instrumentality of the United States or this state, a political subdivision of this state, an Indian tribal government, or a foreign government are exempt from the sales tax and use tax.

(2) The sale of natural gas, potable or nonpotable water in bulk quantities or by metered devices, electricity, telecommunications services, refuse collection, or other utility services, whether or not provided by a government agency, is not subject to the sales tax and use tax."

NEW SECTION. Section 26. Exemption -- food products. (1) Except as provided in subsection (2), the sale or use of food and food ingredients is exempt from the sales tax and use tax.

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

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

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

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

NEW SECTION. Section 28. Exemption -- motor fuel. (1) The sale and use of gasoline, ethanol blended for fuel, and special fuel, including natural gas or propane, upon which tax has been paid or will be paid under Title 15, chapter 70, are exempt from the sales tax and use tax.

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

NEW SECTION. Section 29. Exemption -- insurance premiums. The premiums of an insurance

company, a health service corporation, a health maintenance organization, or a fraternal benefit society or of a producer of the company, corporation, organization, or society are exempt from the sales tax.

NEW SECTION. Section 30. Exemption -- dividends and interest. The following are exempt from the sales tax:

- (1) interest on money loaned or deposited;
- (2) dividends or interest from stocks, bonds, or securities;
- (3) proceeds from the sale of stocks, bonds, or securities; and
- (4) commissions or fees derived from the business of buying, selling, or promoting any stock, bond, or security.

Section 31. Section 15-68-207, MCA, is amended to read:

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

NEW SECTION. Section 32. Exemption -- personal effects -- used clothing. (1) The use by an individual of personal or household effects brought into the state for the establishment by the individual of an initial residence within this state and the use of property brought into the state by a nonresident for the nonresident's own nonbusiness use while temporarily within this state are exempt from the use tax.

- (2) The sale of used clothing is exempt from the sales tax and use tax.

NEW SECTION. Section 33. Exemption -- feed -- fertilizers. The sale or use of the following when used in the course of an agricultural business is exempt from the sales tax and use tax:

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

and herbicides; and

- (6) water for commercial irrigation.

NEW SECTION. Section 34. Exemption -- agricultural products -- livestock feeding. (1) (a) The sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer, trapper, or nonprofit marketing association is exempt from the sales tax.

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

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

NEW SECTION. Section 35. Exemption -- minerals -- exceptions. (1) The sale or lease of interests in minerals, as defined in 15-38-103, is exempt from the sales tax and use tax.

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

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

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

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

NEW SECTION. Section 36. Exemption -- certain chemicals, reagents, and substances. (1) The sale or use by a person of any chemical, reagent, or other substance that is normally used or consumed in the processing of ores or petroleum, in a mill, smelter, refinery, or reduction facility, or in acidizing oil wells is exempt from the sales tax and use tax.

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

NEW SECTION. Section 37. Nontaxability -- sale to miner or manufacturer. (1) The sale of property to a purchaser engaged in the business of mining or manufacturing is nontaxable if:

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

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

NEW SECTION. Section 38. Nontaxability -- sale or lease of real property or improvements and lease of mobile homes. (1) (a) The sale or lease of real property or improvements is nontaxable.

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

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

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

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

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

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

NEW SECTION. Section 40. Nontaxability -- sale of tangible personal property for leasing. The sale of tangible personal property, other than furniture or appliances, is nontaxable if:

(1) the sale is made to a purchaser that has a nontaxable transaction certificate;

(2) the purchaser is engaged in a business deriving more than 50% of its receipts from selling or leasing

property of the type leased; and

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

Section 41. Section 15-68-401, MCA, is amended to read:

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

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

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

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

Section 42. Section 15-68-402, MCA, is amended to read:

"15-68-402. Permit application Application for seller's registration -- requirements -- place of business -- form. (1) (a) A person that wishes to engage in the business of making retail sales or providing

services in Montana that are subject to this chapter shall file with the department an application for a permit seller's registration. If the person has more than one location in which the person maintains an office or other place of business, an application may include multiple locations.

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

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

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

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

Section 43. Section 15-68-405, MCA, is amended to read:

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

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

(3) If a permit seller's registration is revoked, the department may not issue a new permit registration except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of this chapter. The department may require security in addition to that authorized by 15-68-512 in an amount reasonably necessary to ensure compliance with this chapter as a condition for the issuance of a new permit registration to the applicant.

(4) A person aggrieved by the department's final decision to revoke a permit seller's registration, as

provided in subsection (1), may appeal the decision to the state tax appeal board within 30 days after the date on which the department issued its final decision."

Section 44. Section 15-68-501, MCA, is amended to read:

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

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

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

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

Section 45. Section 15-68-502, MCA, is amended to read:

"15-68-502. Returns -- payment -- authority of department. (1) ~~Except as provided in subsection (2), on or before the last day of the month following the calendar quarter in which the transaction subject to the tax imposed by this chapter occurred, a return, on a form provided by the department, and payment of the tax for the preceding quarter must be filed with the department.~~ Each person engaged in business within this state or using property or services within this state that are subject to tax under this chapter shall file a return. ~~A person making retail sales at two or more places of business shall file a separate return for each separate place of business.~~ Sellers that are registered under the agreement and that use either a certified automated system or a certified service provider, as defined in [section 53], are subject to the reporting and payment provisions of subsection (2) of this section. A person who has been issued a seasonal seller's registration shall file a return and pay the tax on the date or dates set by the department. All other sellers are subject to the reporting and payment provisions of subsection (3).

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

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

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

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

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

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

~~(#)(iii)~~ (iii) a person that:

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

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

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

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

(4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall keep records, render statements, make returns, and comply with the provisions of this chapter and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department. The department shall comply with the provisions of the agreement in determining reports and records management requirements in reference to sellers that are registered under the agreement.

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

- (i) require the attendance of a person having knowledge or information relevant to a return;
 - (ii) compel the production of books, papers, records, or memoranda by the person required to attend;
 - (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;
 - (iv) take testimony on matters material to the determination; and
 - (v) administer oaths or affirmations.
- (5) Pursuant to rules established by the department, returns may be computer-generated and electronically filed."

Section 46. Section 15-68-505, MCA, is amended to read:

"15-68-505. Credit for taxes paid on worthless accounts -- taxes paid if account collected. (1) Sales ~~taxes~~ tax paid by a person filing a return under 15-68-502 on sales found to be worthless and actually deducted by the person as a bad debt for federal income tax purposes may be credited on a subsequent payment of the tax.

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

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

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

(5) For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first to interest, service charges, and any other charges and second to the price of the property or service and sales tax on the property or service, proportionally.

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

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

Section 47. Section 15-68-510, MCA, is amended to read:

"15-68-510. Vendor allowance. (1) (a) A person filing a timely return under 15-68-502 may claim a ~~quarterly~~ vendor allowance for each permitted location in the ~~amount of 5%~~ following percentage of the tax determined to be payable to the state, ~~not to exceed \$1,000 a quarter~~:

(i) for the first \$1 million in sales, 6%;

(ii) for the next \$4 million in sales, 4%;

(iii) for the next \$5 million in sales, 3%;

(iv) over \$10 million in sales, 0%.

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

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

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

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

Section 48. Section 15-68-801, MCA, is amended to read:

"15-68-801. Administration -- rules. (1) The department shall:

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

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

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

(2) In administering the provisions of this chapter, the department shall, when applicable and not in conflict with Montana law, follow the provisions of the Streamlined Sales and Use Tax Agreement adopted pursuant to [sections 52 through 59]. The department shall report to the revenue and transportation interim committee, provided for in 5-5-227, on:

(a) the operation of the Streamlined Sales and Use Tax Agreement and the benefits and costs to the state of its participation; and

(b) changes to the Streamlined Sales and Use Tax Agreement that require changes in Montana law for compliance with the agreement."

Section 49. Section 15-68-820, MCA, is amended to read:

"15-68-820. Sales tax and use tax proceeds. All money collected under this chapter must be deposited by the department ~~into the general fund~~ as follows:

- (1) 87.5% to the statewide school adequacy and equalization fund as provided in [section 63]; and
- (2) 12.5% for distribution to local governments as provided in [section 50]."

NEW SECTION. **Section 50. Sales tax distribution to local governments.** (1) Sales tax proceeds for distribution to local governments, as provided in 15-68-820, must be distributed to municipalities, city-county consolidated governments, and counties as provided in this section.

(2) (a) Fifty percent of the distribution must be distributed to each local government based upon the ratio of the local government's population to the population of the state. The population of a county for the purposes of the distribution of proceeds consists of the county population that does not reside within a municipality. A city-county consolidated government is entitled to both a county share and a municipal share of the proceeds.

(b) Fifty percent of the distribution must be distributed to each municipality, city-county consolidated government, and county based upon the ratio of sales tax receipts under this chapter in the local government and total state sales tax receipts under this chapter. Sales within a county do not include sales within a municipality for the purposes of distributing proceeds.

(3) A distribution may not be made to a resort community or to a county for the population and sales tax receipts attributable to a resort area as defined in Title 7, chapter 6, part 15.

NEW SECTION. **Section 51. Sales tax distribution to local governments -- uses.** (1) Included in each local government's distribution share under [section 50] is an amount for reimbursement to taxing entities and tax increment financing districts in each local government for the decrease in property tax revenue resulting from the reduction in the tax base because of the increase in the exemption amount in 15-6-138. The department shall determine a fixed amount of reimbursement due each taxing entity and tax increment financing district and notify each local government of the reimbursement amounts. The local government shall distribute the reimbursement amount to taxing entities and to tax increment financing districts in its jurisdiction. If a taxing entity or tax increment financing district ceases to exist, the local government shall cease distributing the reimbursement

amount attributable to that taxing entity or tax increment financing district. A taxing entity or tax increment financing district created after [the effective date of this section] is not eligible for reimbursement. The reimbursement amounts are not subject to the provisions of subsection (2).

(2) (a) Twenty-five percent of proceeds distributed to local governments under this section, not including any reimbursements established under subsection (1), must be used by the local governments for property tax relief.

(b) If the anticipated distribution exceeds \$50,000 a year, unless a plan for a different use of the distribution is approved by the electorate of the local government in a general or special mail ballot election, the remainder of the proceeds, not including any reimbursements established under subsection (1), must be used for local government debt reduction, including retirement of general obligation bonds, and any amounts not required for debt reduction may be used only for the construction and maintenance of public infrastructure and to purchase capital equipment.

(c) If the anticipated distribution is \$50,000 or less, the distribution must be used according to a plan adopted by the local government governing body.

NEW SECTION. Section 52. Uniform sales and use tax administration. [Sections 52 through 59] may be cited as the "Uniform Sales and Use Tax Administration Act".

NEW SECTION. Section 53. Definitions. As used in [sections 52 through 59], the following definitions apply:

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

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

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

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

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

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

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

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

NEW SECTION. Section 54. Authority to enter agreement. (1) The department is authorized and directed to enter into the agreement with one or more states to simplify and modernize sales tax and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the department is authorized to act jointly with other states that are signatories to the agreement to establish standards for certification of certified service providers and a certified automated system and to establish performance standards for multistate sellers through a multistate central registration system.

(2) The department is further authorized to take other actions reasonably required to implement the provisions of [sections 52 through 59]. Other actions authorized by this section include but are not limited to the adoption of rules and the joint procurement, with other signatory states, of goods and services in furtherance of the agreement.

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

NEW SECTION. Section 55. Relationship to state law. A provision of the agreement, in whole or in part, does not invalidate or amend any provision of the law of this state. Adoption of the agreement by this state does not amend or modify any law of this state. Implementation of any condition of the agreement within this state, whether adopted before, at, or after this state becomes a signatory to the agreement, must be by the action of this state.

NEW SECTION. Section 56. Agreement requirements. The department may not enter into the agreement unless the agreement requires each state to abide by the following requirements:

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

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

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

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

- (b) the administration of exempt sales;
- (c) the allowances that a seller may take for bad debts; and
- (d) sales tax and use tax returns and remittances.

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

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

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

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

- (a) restricting variances between the state and local tax bases;
- (b) requiring states to administer any sales taxes and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;
- (c) restricting the frequency of changes in the local sales tax and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales taxes and use taxes; and
- (d) providing notice of changes in local sales tax and use tax rates and of changes in the boundaries of local taxing jurisdictions.

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

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

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

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

NEW SECTION. Section 57. Cooperating sovereigns. The agreement is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the signatory states to establish and maintain a cooperative, simplified system for the application and administration of sales taxes and use taxes under the adopted law of each state.

NEW SECTION. Section 58. Limited binding and beneficial effect. (1) The agreement binds and inures only to the benefit of this state and the other signatory states. No person, other than a signatory state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of this state and the other signatory states and not by the terms of the agreement.

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

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

NEW SECTION. Section 59. Seller and third-party liability. (1) (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales taxes and use taxes. As the seller's agent, the certified service provider is liable for sales tax and use tax due each signatory state on all sales transactions that it processes for the seller, except as set out in this section.

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

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

(2) A person that provides a certified automated system is responsible for the proper functioning of that certified automated system and is liable to the state for underpayments of tax attributable to errors in the

functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

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

Section 60. Section 17-3-213, MCA, is amended to read:

"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in federal law. (1) The board of county commissioners in each county shall decide among payment options provided in subsections (2) through (4), as provided in Public Law 106-393, to determine how the forest reserve funds and Public Law 106-393 funds apportioned to each county must be distributed by the county treasurer pursuant to this section.

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

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

(b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in accordance with Public Law 106-393.

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

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

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

(b) to the ~~following countywide school levies~~ statewide school adequacy and equalization fund, 33 1/3% of the amount designated;

~~_____ (i) county equalization for elementary schools provided for in 20-9-331;~~

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

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

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

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

~~(7)(6)~~ In counties in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% distributed under subsection ~~(5)(b)~~ (5)(a) for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county."

NEW SECTION. Section 61. Statewide school equalization district -- levy. (1) For the purposes of equalizing property tax revenue for state school funding purposes and equalizing property tax burdens on certain classes of property, the state composes a statewide school equalization district for property tax and property tax distribution purposes.

(2) There is a levy of 233 mills imposed by the state and collected with all other taxes on property against the following classes of property:

- (a) class one, described in 15-6-131;
- (b) class two, described in 15-6-132;
- (c) class five, described in 15-6-135;
- (d) class seven, described in 15-6-137;
- (e) class eight, described in 15-6-138;
- (f) class nine, described in 15-6-141;
- (g) class twelve, described in 15-6-145;
- (h) class thirteen, described in 15-6-156; and
- (i) class fourteen, described in 15-6-157.

(3) The revenue from the property tax levied under subsection (2) must be deposited in the statewide school adequacy and equalization fund provided for in [section 63].

NEW SECTION. Section 62. Local school levies -- levies limited to specific classes -- reimbursement for loss of revenue -- continued levy for preexisting bonded indebtedness. (1) Because

of the disparity in the location of certain classes of property from one school district to another, levies for public school purposes are levied against only the following classes of property:

- (a) class three, described in 15-6-133;
- (b) class four, described in 15-6-134; and
- (c) class ten, described in 15-6-143.

(2) If a school district experiences a net loss of funds resulting from the transition from levying against all taxable property with a guaranteed tax base and low state BASE participation to the system established in [sections 60 through 89] that provides a reduced number of classes of taxable property with high state BASE participation, the district is entitled to transition payments for 2009 until 2020. The amount of the payment is the net difference in property tax revenue and state revenue in fiscal year 2008 and fiscal year 2009. The reimbursement payment must be made by the office of public instruction. The amount of the payment must be reduced by 10% each year beginning in 2011.

(3) For the purposes of retiring any bonded indebtedness of a district outstanding on January 1, 2009, a district shall report to the county commission to continue levying property taxes against property in the classes enumerated in [section 61], if mills were levied against the property for the bonded indebtedness prior to January 1, 2009, until the outstanding indebtedness is retired.

NEW SECTION. Section 63. Statewide school adequacy and equalization fund. (1) There is a statewide school adequacy and equalization fund account in the state special revenue fund.

(2) The following money must be deposited in the account:

- (a) the state share of the sales tax as provided in 15-68-820(1);
- (b) revenue from the school levy as provided in [section 61];
- (c) an allocation from the state general fund equal to the school block grant allocations made pursuant to 20-9-630 through 20-9-632 as those sections read prior to repeal;
- (d) the school share of coal gross proceeds as provided in 15-23-703;
- (e) the school share of oil and natural gas production tax proceeds as provided in 15-36-331;
- (f) the school share of bentonite production taxes as provided in 15-39-110;
- (g) school interest and income from the state as provided in 20-9-342; and
- (h) the school share of forest reserve funds and other federal funds as provided in 17-3-213.

(3) Money in the account must be appropriated for the support, maintenance, and improvement of public and secondary education as follows:

- (a) funding the state share of BASE aid as provided in 20-9-306;
- (b) funding the state share of teacher retirement as provided in 20-9-501;
- (c) funding the state share of school transportation costs as provided in 20-10-144;
- (d) not less than 7% for state payments for school facility entitlement under 20-9-371;
- (e) not less than 3% for property tax transition as provided in [section 62(2)]; and
- (f) funding for the Montana university system in an amount equal to a statewide property tax levy of 6 mills.

Section 64. Section 20-3-106, MCA, is amended to read:

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

- (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;
- (2) issue, renew, or deny teacher certification and emergency authorizations of employment;
- (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;
- (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;
- (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;
- (6) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;
- (7) establish a system of communication for calculating joint district revenue in accordance with the provisions of 20-9-151;
- (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment in accordance with the approval and disbursement provisions of 20-9-166;
- (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- (10) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county

superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

(11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

(12) distribute BASE aid and special education allowable cost payments in support of the BASE funding program in accordance with the provisions of ~~20-9-331, 20-9-333~~, 20-9-342, 20-9-346, and 20-9-347, ~~and 20-9-366 through 20-9-369~~;

(13) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

(14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;

(15) authorize the use of federal money for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

(16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

(17) recommend standards of accreditation for all schools to the board of public education and evaluate compliance with the standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

(18) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

(19) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of 20-7-201;

(20) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

(21) as the governing agent and executive officer of the state of Montana for K-12 career and vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

(22) supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

(23) administer the traffic education program in accordance with the provisions of 20-7-502;

(24) administer the school food services program in accordance with the provisions of 20-10-201 through 20-10-203;

(25) review school building plans and specifications in accordance with the provisions of 20-6-622;

(26) provide schools with information and technical assistance for compliance with the student assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for the board of public education and the legislature;

(27) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties all school district student assessment data for a test required by the board of public education;

~~(28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369;~~
and

~~(29)~~(28) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

Section 65. Section 20-3-205, MCA, is amended to read:

"20-3-205. Powers and duties. (1) The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

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

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

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

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

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

(f) keep a transcript of the district boundaries of the county;

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

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

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

(j) process and, when required, act on school isolation applications in accordance with the provisions

of 20-9-302;

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

(l) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

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

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

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

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

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

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

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

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

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

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

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

superintendent;

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

- (i) the total of the cash balances of all funds maintained by the district at the beginning of the year;
- (ii) the total receipts that were realized in each fund maintained by the district;
- (iii) the total expenditures that were made from each fund maintained by the district; and
- (iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal

year; and

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

(2) (a) When a district in one county annexes a district in another county, the county superintendent of the county where the annexing district is located shall perform the duties required by this section.

(b) When two or more districts in more than one county consolidate, the duties required by this section must be performed by the county superintendent designated in the same manner as other county officials in 20-9-202."

Section 66. Section 20-3-209, MCA, is amended to read:

"20-3-209. Annual report. The county superintendent of each county shall submit an annual report to the superintendent of public instruction not later than the second Monday in September. The report must be completed on the forms supplied by the superintendent of public instruction and must include:

(1) the final budget information for each district of the county, as prescribed by 20-9-134(1);

~~(2) the revenue amounts used to establish the levy requirements for the county school fund supporting school district transportation schedules, as prescribed by 20-10-146, and for the county school funds supporting elementary and high school district retirement obligations, as prescribed by 20-9-501;~~

~~(3)~~(2) the financial activities of each district of the county for the immediately preceding school fiscal year as provided by the trustees' annual report to the county superintendent under the provisions of 20-9-213(6); and

~~(4)~~(3) any other information that may be requested by the superintendent of public instruction that is within the superintendent's authority prescribed by this title."

Section 67. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1) Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school district must be based on the classification of the attached elementary district under the provisions of 20-3-341 and 20-3-351.

(3) ~~Calculations for the following must be made separately for the elementary school program and the high school program of a K-12 school district:~~

~~——(a) the The calculation of ANB for purposes of determining the total per-ANB entitlements must be in accordance with the provisions of 20-9-311 and must be made separately for the elementary school program and the high school program of a K-12 school district;~~

~~(b) the basic county tax for elementary equalization and revenue for the elementary BASE funding program for the district must be determined in accordance with the provisions of 20-9-331, and the basic county tax for high school equalization and revenue for the high school BASE funding program for the district must be determined in accordance with 20-9-333; and~~

~~(c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program amounts for elementary school programs to the BASE funding program amounts for high school programs.~~

(4) The retirement obligation and eligibility for ~~retirement guaranteed tax base aid~~ state adequacy and equalization fund payments for a K-12 school district must be calculated and funded as a high school district retirement obligation under the provisions of 20-9-501.

(5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs of the district.

(6) Tuition for attendance in the K-12 school district must be determined separately for high school pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual expenditures used for calculations in 20-5-323 must be based on an amount prorated between the elementary and high school programs in the appropriate funds of each district in the year prior to the attachment of the districts."

Section 68. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The

county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the sum of direct state aid and the special education allowable cost payment for the district by totaling:

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

(ii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the maximum general fund budget.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

(ii) amounts received in the last fiscal year for which revenue reporting was required for each of the following:

(A) interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(B) any other revenue received during the school fiscal year that may be used to finance the general fund, ~~excluding any guaranteed tax base aid;~~

~~—— (iii) anticipated oil and natural gas production taxes;~~

~~—— (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and~~

~~—— (v) school district block grants distributed under 20-9-630.~~

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general fund BASE budget levy requirement.

(d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated under 20-5-323(2).

(e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as

provided in 20-9-353 to determine any additional general fund levy requirements.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property described in [section 62] in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

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

~~—— (b) the current total taxable valuation of the district, as certified by the department of revenue under 15-10-202, divided by 1,000.~~

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the general fund net levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142.

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

Section 69. Section 20-9-212, MCA, is amended to read:

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

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

~~—— (a) the basic county tax for elementary equalization;~~

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

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

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

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

(2) whenever requested, shall notify the county superintendent and the superintendent of public

instruction of the amount of county school money on deposit ~~in each of the funds enumerated in subsection (1)~~ and the amount of any other school money subject to apportionment and apportion the county and other school money to the districts in accordance with the apportionment ordered by the county superintendent or the superintendent of public instruction;

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

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

(5) must receive all revenue collected by and for each district and shall deposit these receipts in the fund designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent school taxes must be credited to the same fund and district for which the original taxes were levied.

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

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

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

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

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

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

(12) shall invest the money received ~~from the basic county taxes for elementary and high school equalization, the county levy in support of the elementary and high school district retirement obligations, and the county levy in support of the transportation schedules within 3 working days of receipt~~ from authorized specific countywide levies. The money must be invested until the working day before it is required to be distributed to school districts within the county or remitted to the state. Clerks of a school district shall provide a minimum of

30 hours' notice in advance of cash demands to meet payrolls, claims, and electronic transfers that are in excess of \$50,000, pursuant to 20-3-325. If a clerk of a district fails to provide the required 30-hour notice, the county treasurer shall assess a fee equal to any charges demanded by the state investment pool or other permissible investment manager for improperly noticed withdrawal of funds. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and credited proportionately, in the funds established to account for the taxes received for the purposes specified in subsections (1)(a) through (1)(d).

~~(13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned, in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."~~

Section 70. Section 20-9-306, MCA, is amended to read:

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

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

(2) "BASE aid" means:

(a) direct state aid for ~~44.7%~~ 80% of the basic entitlement and ~~44.7%~~ 80% of the total per-ANB entitlement for the general fund budget of a district;

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

~~(e)(b)~~ the total quality educator payment;

~~(d)(c)~~ the total at-risk student payment;

~~(e)(d)~~ the total Indian education for all payment; and

~~(f)(e)~~ the total American Indian achievement gap payment.

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

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

20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through ~~county equalization~~ state aid as provided in ~~20-9-331 and 20-9-333~~ [section 63] and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) \$230,199 for each high school district;

(b) \$20,718 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(i) \$20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

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

(8) "Direct state aid" means ~~44.7%~~ 80% of the basic entitlement and ~~44.7%~~ 80% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

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

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

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

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

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

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

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

(a) for a high school district or a K-12 district high school program, a maximum rate of \$5,704 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of \$4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

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

(i) a maximum rate of \$4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$5,704 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying \$2,000 times the number of full-time equivalent educators as provided in 20-9-327."

Section 71. Section 20-9-308, MCA, is amended to read:

"20-9-308. (Temporary) BASE budgets and maximum general fund budgets. (1) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district and, except as provided in subsection (3), does not exceed the maximum general fund budget established for the district.

(2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

(3) (a) (i) Except as provided in subsections (3)(a)(ii) and (3)(b), the trustees of a school district whose previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a general fund budget up to the maximum general fund budget amount or the previous year's general fund budget, whichever is greater. Except as provided in subsection (3)(b), a school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget by no later than the end of the 5-year period.

(ii) Except as provided in subsection (3)(b), the trustees of a district whose general fund budget was above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget adopted for the current year may not exceed the lesser of:

(A) the adopted budget for the previous year; or

(B) the district's maximum general fund budget for the current year plus the over maximum budget amount adopted for the previous year.

(b) A school district that adopted a general fund budget over its maximum general fund budget under any provision of subsection (3)(a) at any time between fiscal year 2001 and fiscal year 2005 may, for fiscal year 2006 and fiscal year 2007, adopt the greater of its maximum general fund budget or the highest actual budget adopted between fiscal year 2001 and fiscal year 2005.

(c) Except as provided in 20-9-353(8), the trustees of the district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.

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

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

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

~~(e)(b)~~ a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;

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

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

~~(f)~~(e) a BASE budget levy on the taxable value of all property described in [section 62] within the district.

(5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property described in [section 62] within the district or other revenue available to the district, as provided in 20-9-141. (Terminates June 30, 2007--sec. 3, Ch. 190, L. 2005; sec. 25(2), Ch. 462, L. 2005.)

20-9-308. (Effective July 1, 2007) BASE budgets and maximum general fund budgets. (1) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district and, except as provided in subsection (3), does not exceed the maximum general fund budget established for the district.

(2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

(3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a general fund budget up to the maximum general fund budget amount or the previous year's general fund budget, whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget by no later than the end of the 5-year period. A school district whose adopted general fund budget for the previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:

(A) in the first year, 20% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;

(B) in the second year, 25% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;

(C) in the third year, 33.3% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year;

(D) in the fourth year, 50% of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year; and

(E) in the fifth year, the remainder of the range between the district's adopted general fund budget for the previous school fiscal year and the maximum general fund budget for the current school fiscal year.

(ii) The trustees of a district whose general fund budget was above the maximum general fund budget

established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget adopted for the current year may not exceed the lesser of:

(A) the adopted budget for the previous year; or

(B) the district's maximum general fund budget for the current year plus the over maximum budget amount adopted for the previous year.

(b) The trustees of the district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.

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

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

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

~~(e)(b)~~ a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;

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

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

~~(f)(e)~~ a BASE budget levy on the taxable value of all property described in [section 62] within the district.

(5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property described in [section 62] within the district or other revenue available to the district, as provided in 20-9-141."

Section 72. Section 20-9-332, MCA, is amended to read:

"20-9-332. Fines and penalties proceeds for elementary county equalization. All fines and penalties collected under the provisions of this title, except those collected by a justice's court, must be paid into the elementary county equalization fund as provided by 20-9-331(2)(c) statewide school adequacy and equalization fund as provided in [section 63]. In order to implement this section and any other provision of law requiring the deposit of fines in the elementary county equalization fund, a report must be made to the county superintendent of the county, at the close of each term, by the clerk of each district court, reporting all fines imposed and collected during the term and indicating the type of violation and the date of collection."

Section 73. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means revenue as required in this section for:

(a) distribution to the public schools for ~~guaranteed tax base aid~~, BASE aid, state reimbursement for school facilities, and grants for school technology purchases; and

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for the purposes of ~~guaranteed tax base aid~~, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), and school technology purchases.

~~(3) From July 1, 2001, through June 30, 2003, the following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:~~

~~———(a) interest and income money described in 20-9-341 and 20-9-342; and~~

~~———(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.~~

~~(4)~~(3) ~~Beginning July 1, 2003, the~~ The following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) ~~(i) subject to subsection (4)(a)(ii), interest and income money described in 20-9-341 and 20-9-342;~~
and

~~———(ii) an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;~~

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342."

Section 74. Section 20-9-344, MCA, is amended to read:

"20-9-344. Duties of board of public education for distribution of BASE aid. (1) The board of public education shall administer and distribute the BASE aid and state advances for county equalization in the manner and with the powers and duties provided by law. The board of public education:

(a) shall adopt policies for regulating the distribution of BASE aid and state advances for county equalization in accordance with the provisions of law;

(b) may require reports from the county superintendents, county treasurers, and trustees that it considers necessary; and

(c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(2) The board of public education may order the superintendent of public instruction to withhold distribution of BASE aid from a district when the district fails to:

- (a) submit reports or budgets as required by law or rules adopted by the board of public education; or
- (b) maintain accredited status.

(3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the following schedule:

- (a) from August to October of the school fiscal year, to each district 10% of:
 - (i) direct state aid;
 - (ii) the total quality educator payment;
 - (iii) the total at-risk student payment;
 - (iv) the total Indian education for all payment; and
 - (v) the total American Indian achievement gap payment;
- (b) from December to April of the school fiscal year, to each district 10% of:
 - (i) direct state aid;
 - (ii) the total quality educator payment;
 - (iii) the total at-risk student payment;
 - (iv) the total Indian education for all payment; and
 - (v) the total American Indian achievement gap payment;

~~(e) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county that has submitted a final budget to the superintendent of public instruction in accordance with the provisions of 20-9-134;~~

~~———(d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and~~

~~(e)(c) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, and the total American Indian achievement gap payment.~~

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

Section 75. Section 20-9-346, MCA, is amended to read:

"20-9-346. Duties of superintendent of public instruction for state and county equalization facilities aid distribution. The superintendent of public instruction shall administer the distribution of the state ~~and county equalization aid~~ facilities advances and reimbursements by:

(1) establishing the annual entitlement of each district ~~and county~~ to state ~~and county equalization aid~~ facilities reimbursements, based on the data reported in the ~~retirement~~, general fund; and debt service fund budgets for each district that have been adopted for the current school fiscal year and verified by the superintendent of public instruction;

(2) ~~for the purposes of state advances and reimbursements for school facilities~~; limiting the distribution to no more than the amount appropriated for the school fiscal year to the districts that are eligible under the provisions of 20-9-366 through 20-9-370 and 20-9-371 by:

(a) determining the debt service payment obligation in each district for debt service on bonds that were sold as provided in 20-9-370(3) that qualify for a state advance or reimbursement for school facilities under the provisions of ~~20-9-366 through 20-9-369 and 20-9-370~~ and 20-9-371;

(b) based on the limitation of state ~~equalization aid~~ facilities reimbursements appropriated for debt service purposes, determining the state advance for school facilities and the proportionate share of state reimbursement for school facilities that each eligible district must receive for the school fiscal year; and

(c) distributing that amount by May 31 of each school fiscal year to each eligible district for reducing the property tax for the debt service fund for the ensuing school fiscal year; and

~~(3) distributing by electronic transfer the BASE aid and state advances for county equalization, for each district or county entitled to the aid, to the county treasurer of the respective county for county equalization or to~~

~~the county treasurer of the county where the district is located or to the investment account identified by the applicable district for BASE aid, in accordance with the distribution ordered by the board of public education;~~

~~(4)(3) keeping a record of the full and complete data concerning money available for state equalization aid; state advances and reimbursements for county equalization school facilities; and the entitlements for BASE aid of the districts of the state;~~

~~(5) reporting to the board of public education the estimated amount that will be available for state equalization aid; and~~

~~(6) reporting to the office of budget and program planning, as provided in 17-7-111:~~

~~—— (a) the figures and data available concerning distributions of state and county equalization aid during the preceding 2 school fiscal years;~~

~~—— (b) the amount of state equalization aid then available;~~

~~—— (c) the apportionment made of the available money but not yet distributed;~~

~~—— (d) the latest estimate of accruals of money available for state equalization aid; and~~

~~—— (e) the amount of state advances and repayment for county equalization."~~

Section 76. Section 20-9-347, MCA, is amended to read:

"20-9-347. Distribution of BASE aid and special education allowable cost payments in support of BASE funding program -- exceptions. (1) The superintendent of public instruction shall:

(a) supply the county treasurer and the county superintendent with a monthly report of the payment of BASE aid in support of the BASE funding program of each district of the county;

(b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that is no less than the amount anticipated to be ~~raised for the elementary and high school county equalization funds as provided in 20-9-331 and 20-9-333~~ distributed; and

(c) adopt rules to implement the provisions of subsection (1)(b).

(2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in 20-9-344 for distribution of the BASE aid payments if the distribution will cause a district to register warrants under the provisions of 20-9-212(8).

(b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to

authorize the superintendent of public instruction to exceed a district's annual payment for BASE aid.

(3) The superintendent of public instruction shall:

(a) distribute special education allowable cost payments to districts; and

(b) supply the county treasurer and the county superintendent of schools with a report of payments for special education allowable costs to districts of the county."

Section 77. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in BASE aid. If the money available for BASE aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide ~~the guaranteed tax base aid required under 20-9-366 through 20-9-369~~ and BASE aid support determined under 20-9-347, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of BASE aid for the elementary and high school districts for the current biennium."

Section 78. Section 20-9-370, MCA, is amended to read:

"20-9-370. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "School facility entitlement" means:

(a) \$300 per ANB for an elementary school district;

(b) \$450 per ANB for a high school district; or

(c) \$370 per ANB for an approved and accredited junior high school or middle school.

(2) "State advance for school facilities" is the amount of state ~~equalization aid~~ aid funds distributed under 20-9-371 to an eligible district to pay the debt service obligation for a bond in the first school fiscal year in which a debt service payment is due for the bond.

(3) "State reimbursement for school facilities" means the amount of state equalization aid distributed to a district that:

(a) has a district mill value per ANB that is less than the ~~corresponding facility guaranteed~~ average statewide mill value per ANB; and

(b) has a debt service obligation in the ensuing school year on bonds.

(4) "Total school facility entitlement" means the school facility entitlement times the total ANB for the district."

Section 79. Section 20-9-371, MCA, is amended to read:

"20-9-371. Calculation and uses of school facility entitlement amount. (1) The state reimbursement for school facilities for a district is ~~the percentage determined in 20-9-346(2)(b) times (1-(district mill value per ANB/facility guaranteed mill value per ANB)) times the lesser of the total school facility entitlement calculated under the provisions of 20-9-370 or the district's current year debt service obligations on general obligation bonds that qualify under the provisions of 20-9-370(3) is to be determined by the ratio of a district's mill value per ANB to the statewide mill value per ANB per dollar of debt service obligation.~~

(2) The state advance for school facilities for a district is determined as follows:

(a) Calculate the percentage of the district's debt service payment that will be advanced by the state using the district ANB, the district mill value and the statewide mill value for the current year, and the percentage used to determine the proportionate share of state reimbursement for school facilities in the prior year.

(b) Multiply the percentage determined in subsection (2)(a) by the lesser of the total school facility entitlement calculated under the provisions of 20-9-370 or the district's current year debt service obligation for general obligation bonds to which the state advance applies.

(3) Within the available appropriation, the superintendent of public instruction shall first distribute to eligible districts the state advance for school facilities. From the remaining appropriation, the superintendent shall distribute to eligible districts the state reimbursement for school facilities.

(4) The trustees of a district may apply the state reimbursement for school facilities to reduce the levy requirement in the ensuing school fiscal year for all outstanding bonded indebtedness on general obligation bonds sold in the debt service fund of the district. The trustees may apply the state advance for school facilities to reduce the levy requirement in the current school fiscal year for debt service payments on general obligation bonds to which the state advance for school facilities applies."

Section 80. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support payment. (1) (a) ~~Except as provided in subsection (1)(d), the~~ The maximum amount for which an elementary district or a high school district may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as general obligations of the district, is 45% of the taxable value of the property subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(b) ~~Except as provided in subsection (1)(d), the~~ The maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as general obligations of the district, is up to 90% of the taxable value of the property subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(c) The total indebtedness of the high school district with an attached elementary district is limited to the sum of 45% of the taxable value of the property for elementary school program purposes and 45% of the taxable value of the property for high school program purposes.

~~(d) (i) The maximum amount for which an elementary district or a high school district with a district mill value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as general obligations of the district, is 45% of the corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 45% of the sum of the facility guaranteed mill value per elementary ANB times 1,000 times the elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times the high school ANB of the district.~~

~~———(ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection (1)(d), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement.~~

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

(3) The maximum amount of impact aid revenue bonds that an elementary district, high school district,

or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of the school district's annual federal impact aid basic support payments for the 5 years immediately preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support payments of the school district for the current year.

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

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

(6) As used in this part, "federal impact aid basic support payment" means the annual impact aid revenue received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

Section 81. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement for general obligation bonds -- procedure when levy inadequate. (1) The county superintendent shall compute the levy requirement for each school district's general obligation debt service fund on the basis of the following procedure:

(a) Determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

(iii) any state advance for school facilities distributed to a qualified district under the provisions of 20-9-346, 20-9-370, and 20-9-371;

(iv) funds transferred from the impact aid fund established pursuant to 20-9-514 that are authorized by 20-9-437(2) to be used to repay the district's bonds; and

(v) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from sources such as legally authorized money

transfers into the debt service fund or from rental income, ~~excluding any guaranteed tax base aid.~~

(b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), from the final budget for the debt service fund as established in 20-9-438.

(2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

Section 82. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement costs and retirement fund. (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for

each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

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

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

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

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

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

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

(3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

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

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

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

~~(ii) oil and natural gas production taxes;~~

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

~~(iv) countywide school retirement block grants distributed under 20-9-631;~~

(v)(ii) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

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

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

(5) The county superintendent shall:

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

(b) report each levy requirement to the county commissioners on the fourth Monday of August as the respective ~~county~~ levy requirements for elementary district, high school district, and community college district retirement funds.

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

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

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

levy the net retirement fund levy for each ~~county~~ district in the same manner as provided in 20-9-152.

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

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

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

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

~~(11) The county superintendent of each county shall submit a report of the revenue amounts used to establish the levy requirements for county school funds supporting elementary and high school district retirement obligations to the superintendent of public instruction not later than the second Monday in September. The report must be completed on forms supplied by the superintendent of public instruction."~~

Section 83. Section 20-9-620, MCA, is amended to read:

"20-9-620. Definition. (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue" means, except for that portion of revenue described in 20-9-343~~(4)(a)(ii)(3)(a)~~ and available on or after July 1, 2003, 77-1-607, and 77-1-613, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

Section 84. Section 20-10-104, MCA, is amended to read:

"20-10-104. Penalty for violating law or rules. (1) Every district, its trustees and employees, and every person under a transportation contract with a district is subject to the policies prescribed by the board of public education and the rules prescribed by the superintendent of public instruction. When a district knowingly violates a transportation law or board of public education transportation policy, the district shall forfeit any reimbursement otherwise payable under 20-10-145 ~~and 20-10-146~~ for any bus miles actually traveled during that fiscal year in violation of the law or policies.

(2) A district knowingly violates a transportation law or board of public education policy when it operates a bus route in a manner that does not comply with state law or board policy related to student safety. As provided in 20-10-141(1), a district that operates a bus route not approved by its county transportation committee may not

receive transportation reimbursement on that route, but if the route is operated in compliance with transportation law, the operation of the routes is not a violation that will result in the forfeiture of all transportation aid to the district.

(3) The county superintendent shall suspend all reimbursements payable to the district under 20-10-145 and ~~20-10-146~~ for all miles being traveled, including both miles being traveled in compliance with the transportation laws or policies and miles being traveled in violation of the transportation laws or policies, until the district corrects the violation. When the district corrects the violation, the county superintendent shall pay all reimbursements otherwise payable under 20-10-145 and ~~20-10-146~~, including amounts suspended during the violation, but the amount forfeited under subsection (1) of this section may not be paid to the district.

(4) When a person operating a bus under contract with a district knowingly fails to comply with the transportation law or the board of public education transportation policies, the district may not pay the person for any bus miles traveled during the contract year in violation of law or policies. Upon discovering a violation, the trustees of the district shall give written notice to the person that unless the violation is corrected within 10 days of the giving of notice, the contract will be canceled. The trustees of a district shall order the operation of a bus operated under contract suspended when the bus is being operated in violation of transportation law or policies and the trustees find that the violation jeopardizes the safety of pupils."

Section 85. Section 20-10-141, MCA, is amended to read:

"20-10-141. Schedule of maximum reimbursement by mileage rates. (1) The mileage rates in subsection (2) for school transportation constitute the maximum reimbursement to districts for school transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and ~~20-10-146~~. These rates may not limit the amount that a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school transportation during the ensuing school fiscal year. All bus miles traveled on bus routes approved by the county transportation committee are reimbursable. Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than 10 miles from the school. A district may approve additional bus or nonbus miles within its own district or approved service area but may not claim reimbursement for the mileage. Any vehicle, the operation of which is reimbursed for bus mileage under the rate provisions of this schedule, must be a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county transportation committee and the superintendent of public instruction.

(2) (a) The rate for each bus mile traveled must be determined in accordance with the following

schedule:

- (i) 95 cents for a school bus with a rated capacity of not more than 49 passenger seating positions;
- (ii) \$1.15 for a school bus with a rated capacity of 50 to 59 passenger seating positions;
- (iii) \$1.36 for a school bus with a rated capacity of 60 to 69 passenger seating positions;
- (iv) \$1.57 for a school bus with a rated capacity of 70 to 79 passenger seating positions; and
- (v) \$1.80 for a school bus with 80 or more passenger seating positions.

(b) Nonbus mileage, as provided in subsection (1), must be reimbursed at a rate of 50 cents a mile.

(3) The rated capacity is the number of passenger seating positions of a school bus as determined under the policy adopted by the board of public education. If modification of a school bus to accommodate pupils with disabilities reduces the rated capacity of the bus, the reimbursement to a district for pupil transportation is based on the rated capacity of the bus prior to modification.

(4) The number of pupils riding the school bus may not exceed the passenger seating positions of the bus."

Section 86. Section 20-10-142, MCA, is amended to read:

"20-10-142. Schedule of maximum reimbursement for individual transportation. The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and ~~20-10-146~~. These rates constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section may not be altered by any authority other than the legislature. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian for actual miles transported on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product, and multiplying the difference by 35 cents, provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if the schools are operated by different school districts, the total amount of the reimbursement must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop that are located within 3 miles of one another, the total reimbursement must be determined under the provisions of this subsection (1) and must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section is limited to one round trip a day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than 35 cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement for each day of attendance is determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying the difference by 35 cents, provided that:

(a) if the eligible transportees attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian must be separately reimbursed for transportation to each bus.

(3) When, because of excessive distances, impassable roads, or other special circumstances of isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian may request an increase in the reimbursement rate. A request for increased rates because of isolation must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances that exist to justify the increase. Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the committee and the superintendent of public instruction, the trustees shall pay the increased rate because of isolation. The

increased rate is 1 1/2 times the rate prescribed in subsection (1).

(4) The state ~~and county~~ transportation reimbursement for an individual transportation contract may not exceed \$12.95 for each day of attendance for the first eligible transportee and \$8.40 for each day of attendance for each additional eligible transportee.

(5) When the isolated conditions of the household where an eligible transportee resides require an eligible transportee to live away from the household in order to attend school, the eligible transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement must be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is \$12.95 for one eligible transportee and \$8.40 for each additional eligible transportee of the same household.

(6) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district."

Section 87. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenue and net tax levy requirements for district transportation fund budget. Before the second Monday of August, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in 20-10-141 ~~and 20-10-142~~ must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by the district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the

contingency amount on the budget must be reduced to the limitation amount and used in this determination of the schedule amount; plus

(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence.

(2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state ~~and county~~ revenue to be budgeted ~~on the following basis:~~

~~—— (i) one-half is as the budgeted state transportation reimbursement; and~~

~~—— (ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.~~

(b) When the district has a sufficient amount of fund balance for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and fund balance reappropriated must be used to reduce ~~the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce~~ the state financial obligation in subsection (2)(a)(i).

(c) The ~~county~~ revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each ~~county~~ district incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each ~~county~~ district.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for a child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

~~(e) anticipated revenue from coal gross proceeds under 15-23-703;~~

~~—— (f) anticipated oil and natural gas production taxes;~~

~~—— (g) anticipated local government severance tax payments for calendar year 1995 production;~~

~~(h)~~(e) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through 20-5-324;

~~(i)~~ school district block grants distributed under 20-9-630;

~~(j)~~(f) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

~~(k)~~(g) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

Section 88. Section 90-6-309, MCA, is amended to read:

"90-6-309. Tax prepayment -- large-scale mineral development. (1) After permission to commence operation is granted by the appropriate governmental agency, and upon request of the governing body of a county in which a facility is to be located, a person intending to construct or locate a large-scale mineral development in this state shall prepay property taxes as specified in the impact plan. This prepayment shall exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county levies for the school BASE funding program established in 20-9-331 and 20-9-333 school levy provided for in [section 61].

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

(3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an

appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as needed for expenditures created by the impacts of the large-scale mineral development.

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

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

Section 89. Section 90-6-403, MCA, is amended to read:

"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain taxable valuation. (1) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this section, the increase in taxable valuation of the mineral development that occurs after the issuance and validation of a permit under 82-4-335 is not subject to the usual application of county and school district property tax mill levies. This increase in taxable valuation must be allocated to local government units as provided in 90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the application of property tax mill levies in the local government unit to which it is allocated. The increase in taxable valuation allocated to the local government unit is considered newly taxable property in the recipient local government unit as provided in 15-10-420.

(2) Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains subject to the ~~statewide mill levies and basic county levies for elementary and high school BASE funding programs as provided in 20-9-331 and 20-9-333~~ school levy provided for in [section 61].

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

NEW SECTION. Section 90. Repealer. Sections 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-9-361, 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-630, 20-9-631, 20-9-632, 20-10-146, and 20-25-439, MCA, are

repealed.

NEW SECTION. Section 91. Codification instruction. (1) Sections 13 and 14 are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to sections 13 and 14.

(2) Sections 20, 22, 26 through 30, 32 through 40, 50, and 51 are intended to be codified as an integral part of Title 15, chapter 68, and the provisions of Title 15, chapter 68, apply to sections 20, 22, 26 through 30, 32 through 40, 50, and 51.

(3) Sections 52 through 59 are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to sections 52 through 59.

(4) Sections 61 through 63 are intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to sections 61 through 63.

NEW SECTION. Section 92. Contingent voidness. This act is void if Senate Bill No. 529 is not approved by the electorate in the general election to be held in November 2008.

NEW SECTION. Section 93. Submission to electorate. This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2008 by printing on the ballot the full title of this act and the following:

- FOR adopting a statewide general sales and use tax to replace statewide property taxes for public schools and the university system.
- AGAINST adopting a statewide general sales and use tax to replace statewide property taxes for public schools and the university system

NEW SECTION. Section 94. Effective dates. If approved by the electorate:

- (1) sections 1 through 59, 88 through 93, and 95 and this section are effective January 1, 2009; and
- (2) sections 60 through 87 are effective July 1, 2009.

NEW SECTION. Section 95. Applicability. (1) Sections 18 through 59 apply to goods and services sold or used after March 30, 2009.

- (2) Sections 3 through 17 apply to tax years beginning after December 31, 2008.

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