

SENATE BILL NO. 558

INTRODUCED BY S. VANCE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A GENERAL STATEWIDE SALES AND USE TAX TO REDUCE SCHOOL PROPERTY TAXES; PROVIDING FOR DISTRIBUTION OF ALL SALES TAX REVENUE TO THE SCHOOL EQUALIZATION AND PROPERTY TAX REDUCTION ACCOUNT; AUTHORIZING THE DEPARTMENT OF REVENUE TO ENTER INTO THE STREAMLINED SALES AND USE TAX AGREEMENT; ALLOWING VARIOUS SALES AND USE TAX EXEMPTIONS; PROVIDING FOR COLLECTION BY OUT-OF-STATE RETAILERS AND MARKETPLACE PROVIDERS; PROVIDING NOTICE REQUIREMENTS FOR NONCOLLECTING RETAILERS; REPEALING STATEWIDE PROPERTY TAX MILL LEVIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-15-4286, 15-1-409, 15-10-420, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-39-110, 17-3-213, 20-3-106, 20-5-324, 20-6-326, 20-6-702, 20-9-141, 20-9-212, 20-9-306, 20-9-308, 20-9-310, 20-9-332, 20-9-336, 20-9-343, 20-9-344, 20-9-346, 20-9-347, 20-9-351, 20-9-406, 20-9-408, 20-9-422, 20-9-439, 20-9-501, 20-9-516, 20-9-525, 90-6-304, 90-6-305, 90-6-309, AND 90-6-403, MCA; REPEALING SECTIONS 20-9-331, 20-9-333, 20-9-336, 20-9-360, 20-9-361, 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-370, AND 20-9-371, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Definitions. For the purposes of [sections 1 through 44] and [sections 45 through 89], unless the context requires otherwise, the following definitions apply:

(1) "800 service" means any telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call.

(2) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. A 900 service does not include the charge for the collection of services provided by the seller of the telecommunications services to the subscriber, service, or product sold by the subscriber to the subscriber's

1 customer.

2 (3) "Agricultural purposes" means the producing, raising, growing, or harvesting of food or fiber on
3 agricultural land, including dairy products, livestock, and crops. The term includes services of custom
4 harvesters, chemical applicators, fertilizer spreaders, hay grinders, and cultivators and the harvesting of timber
5 on land within the state.

6 (4) "Ancillary service" means a service that is associated with or incidental to the provision of
7 telecommunications services, including detailed telecommunications billing, directory assistance, vertical
8 service, and voice mail service.

9 (5) "Bullion" means any bar, ingot, or commemorative medallion of gold, silver, platinum,
10 palladium, or a combination of these metals for which the value of the metal depends on its content and not the
11 form.

12 (6) "Business" means any activity engaged in by any person or caused to be engaged in by a
13 person with the object of gain, benefit, or advantage, either direct or indirect.

14 (7) (a) "Call center" means a physical location where telephone calls are placed or received for the
15 purpose of making sales, marketing, customer service, or technical support.

16 (b) The term does not include:

17 (i) a location where telephone calls are primarily placed to or received from the same taxpayer, or
18 affiliates of the same taxpayer, that owns or operates the location; or

19 (ii) an insurance, real estate, or brokerage company.

20 (8) "Campground" means any property or premise kept, used, maintained, advertised or held out
21 to the public to be a place where sites are available for the placing of tents, campers, trailers, mobile homes or
22 other mobile accommodations to transient guests.

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

25 (b) The term does not include any preparation containing flour or a product requiring refrigeration.

26 (10) "Coin" or "currency" means any coins or currency made of gold, silver, or other metal or paper
27 that is or has been used as legal tender.

28 (11) "Component member" has the meaning provided in 26 U.S.C. 1563(b) of the Internal Revenue

1 Code.

2 (12) (a) "Conference bridging service" means an ancillary service that links two or more participants
3 of an audio or video conference call and may include the provision of a telephone number.

4 (b) The term does not include the telecommunications service used to reach the conference
5 bridge.

6 (13) "Controlled group" means any corporations or other entities eligible to file a consolidated
7 federal income tax return under the Internal Revenue Code or entitled to only a single surtax exemption for
8 federal corporate income tax purposes under the Internal Revenue Code and includes a controlled group of
9 corporations as defined in 26 U.S.C. 1563. A controlled group also consists of any subchapter S. corporation,
10 limited liability company, limited liability partnership, general partnership, or limited partnership with at least
11 80% common ownership as if the entity was converted to or taxed as a subchapter C. corporation under the
12 Internal Revenue Code.

13 (14) "De minimis" means the retailer's purchase price or gross receipts of taxable products is 10%
14 or less of the total purchase price or gross receipts of the bundled products over the full term of a service
15 contract. The determination must be made using either purchase price or gross receipts and not a combination
16 of the two.

17 (15) (a) "Delivery charge" means a charge by the retailer for preparation and delivery to a location
18 designated by the purchaser of tangible personal property, a product transferred electronically, or services,
19 including transportation, shipping, postage, handling, crating, and packing.

20 (b) The term does not include postage for direct mail.

21 (16) "Department" means the department of revenue.

22 (17) "Detailed telecommunications billing service" means an ancillary service of separately stating
23 information pertaining to individual calls on a customer's billing statement.

24 (18) (a) "Direct mail" means any printed material delivered or distributed by United States mail or
25 other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the
26 direction of the purchaser if the cost of the items are not billed directly to the recipients. The term includes
27 tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in
28 the package containing the printed material.

(b) The term does not include multiple items of printed material delivered to a single address.

(19) "Direct mail service" means any business that prepares direct mail.

(20) "Directory assistance" means an ancillary service of providing telephone number information or address information.

(21) "Domesticated fur-bearing animal" means a fur-bearing animal pen bred for more than two generations or a fur-bearing animal purchased from a breeder outside the state and brought into the state. All other fur-bearing animals are wild fur-bearing animals.

(22) "Financial institution" means:

(a) any banking institution, production credit association, or savings and loan association organized under the laws of the United States and located or doing business in this state;

(b) any bank, savings and loan association, mutual saving bank, or trust company, organized under the laws of this state or of any other state, district, territory, or country, doing business within this state;

(c) any person in the business of buying loans, notes, or other evidences of debt, except a person registered as a broker-dealer; and

(d) a person in the business of making installment repayment and open-end loans that may be unsecured or secured by real or personal property, that are in an aggregate amount exceeding \$500, that are repaid in two or more installment payments or one lump sum payment extending over a time exceeding 30 days from the day the loan was made except when the loan is made by the person selling the property, incidental to the sale of the property and when the seller is primarily in the business of selling the real or personal property except when the loan is made to a related corporation and the primary business of the related corporation is the production and sale of tangible personal property or when the loan is made in the form of an advance to secure the production of equipment to be obtained by the lender or to finance a joint venture between the lender and others that has been formed to produce and sell tangible personal property.

(23) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(24) (a) "Food" or "food ingredient" means any substance, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for its taste or nutritional value.

(b) The term does not include alcoholic beverages, candy, soft drinks, tobacco, or prepared food.

(25) "Gross receipts" has the meaning provided in [section 2].

(26) (a) "Interest" means compensation allowed by law for the use, forbearance, or detention of money or its equivalent, including but not limited to points, loan origination fees, credit service or carrying charges, charges for unanticipated late payments, and any other charges, direct or indirect, as an incident to or as a condition of the extension of credit.

(b) The term does not include charges made by a third party.

(27) "International telecommunications service" means a telecommunications service that originates or terminates in the United States or a United States territory or possession and terminates or originates outside of the United States or a United States territory or possession, respectively.

(28) "Interstate telecommunications service" means a telecommunications service that originates in one United States state or a United States territory or possession and terminates in a different United States state or United States territory or possession.

(29) "Intrastate telecommunications service" means a telecommunications service that originates in one United States state or a United States territory or possession and terminates in the same United States state or United States territory or possession.

(30) (a) "Lease" or "rental" means any transfer of possession or control of tangible personal property or any product transferred electronically for a fixed or indeterminate term for consideration. A lease or rental may include a future option to purchase or extend.

(b) 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 on completion of the required payments;

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

(iii) providing tangible personal property along with an operator for a fixed or indeterminate period of time as long as the operator is necessary for the equipment to perform as designed. The operator shall do more than maintain, inspect, or set up the tangible personal property.

(31) "Lodging establishment" means any building, structure, property or premise kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished to transient guests.

(32) "Mobile wireless service" means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, for which either the origination point or termination point, or both, of the transmission, conveyance, or routing are not fixed.

(33) "Motorboat" has the meaning provided in 61-1-101.

(34) "Motor vehicle" has the meaning provided in 61-1-101.

(35) "Paging service" means a telecommunications service that provides transmission of coded radio signals for the purpose of activation of specific pages. The transmission may include either messages or sounds, or both.

(36) "Pawnbroker" means a person who is engaged in the business of lending money and who accepts the possession of tangible personal property or a product transferred electronically as security for the loan.

(37) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability company, limited liability partnership, the state of Montana and its political subdivisions, or any other legal entity.

(38) "Pesticide" means:

(a) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating pests;

(b) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; or

(c) any substance or mixture of substances intended to be used as a spray adjuvant.

(39) "Prepaid calling service" means the right to access exclusively telecommunications services that must be paid for in advance and that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(40) "Prepaid wireless calling service" means a telecommunications service that provides the right

1 to utilize mobile wireless service as well as other nontelecommunications services, including the download of
2 digital products delivered electronically, content, and ancillary services that must be paid for in advance and
3 that are sold in predetermined units or dollars of which the number declines with use in a known amount.

4 (41) (a) "Prepared food" means food sold in a heated state or heated by the seller, two or more food
5 ingredients mixed or combined by the seller for sale as a single item, or food sold with eating utensils provided
6 by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.

7 (b) The term does not include:

8 (i) food that is only cut, repackaged, or pasteurized by the seller; or

9 (ii) eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the
10 consumer to prevent food borne illnesses as recommended by the food and drug administration in chapter 3,
11 part 401.11 of its food code.

12 (42) "Private communication service" means a telecommunications service that entitles the
13 customer to exclusive or priority use of a communications channel or group of channels between or among
14 termination points, regardless of the manner in which the channel or channels are connected, and includes
15 switching capacity, extension lines, stations, and any other associated services that are provided in connection
16 with the use of the channel or channels.

17 (43) (a) "Product transferred electronically" means any product obtained by the purchaser by means
18 other than tangible storage media.

19 (b) A product transferred electronically does not include any intangible products, such as a patent,
20 stock, bond, goodwill, trademark, franchise, or copyright.

21 (44) "Professional employer organization" means a firm that:

22 (a) enters into a contractual agreement with a client company to create a coemployment
23 relationship for the provision of payroll, benefits, and other human resources functions;

24 (b) covers at least 75% of the client company's full-time or full-time equivalent employees
25 domiciled in Montana; and

26 (c) maintains separate books and records of account for each client company.

27 (45) "Raw materials" means containers, labels, cartons, packing cases, wrapping paper, twine, glue,
28 bags, bottles, shipping cases, wrapping film, strapping, rope, tape, cans, lids, boxes, pads, dividers,

stockinettes, casings, and similar articles and receptacles used by manufacturers, processors, or fabricators.

(46) "Related corporation" means a corporation associated with another as its parent or subsidiary, or in a brother-sister relation.

(47) "Relief agency" means the state, a county, a municipality, a consolidated city-county government, or any agency engaged in actual relief work.

(48) "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(49) (a) "Retailer" means any person engaged in the business of selling:

(i) tangible goods, wares, or merchandise at retail;

(ii) gas, electricity, water, and communication service;

(iii) tickets or admissions to places of amusement and athletic events as provided in [sections 1 through 44];

(iv) retail products transferred electronically; or

(v) services not exempt under [section 17].

(b) The term does not include the isolated or occasional sale of tangible personal property or a product transferred electronically at retail by a person who does not hold oneself out to engage in the business of selling tangible personal property or products transferred electronically at retail.

(50) "Sale" means the transfer of tangible personal property or a product transferred electronically for consideration or the performance of a service for consideration.

(51) (a) "Sectional home" means a home prebuilt in whole or in part for the purpose of permanent placement on a foundation.

(b) The term does not include a mobile home or a manufactured home as defined in 15-1-101.

(52) (a) "Service" means an activity engaged in for another person for a fee, retainer, commission, or other monetary charge that involves predominantly the performance of a service as distinguished from selling property. In determining what is a service, the intended use, principal objective, or ultimate objective of the contracting parties are not controlling.

(b) The term does not include services rendered by an employee for the employer.

(53) "Shoppers guide" means an advertising publication with advertisements solicited from the

1 general public and whose publications are for free distribution to the general public and are published regularly
2 at least once a month, consisting of printed sheets containing advertising, bearing a date of issue, and devoted
3 to advertising of general interest.

4 (54) (a) "Soft drink" means any nonalcoholic beverage that contains natural or artificial sweeteners.

5 (b) The term does not include a beverage that contains:

6 (i) milk or milk products;

7 (ii) soy, rice, or similar milk substitutes; or

8 (iii) more than 50% vegetable juice or fruit juice by volume.

9 (55) "Stocks of merchandise" means personal property that is held primarily for sale and not subject
10 to annual depreciation.

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

14 (57) (a) "Telecommunications service" means the electronic transmission, conveyance, or routing of
15 voice, data, audio, video, or any other information or signals to a point, or between or among points. The term
16 includes:

17 (i) transmission, conveyance, or routing in which computer processing applications are used to act
18 on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without
19 regard to whether the service is referred to as voice over internet protocol services or is classified by the federal
20 communications commission as enhanced or value-added;

21 (ii) 800 service;

22 (iii) 900 service;

23 (iv) fixed wireless service;

24 (v) mobile wireless service;

25 (vi) paging service;

26 (vii) prepaid calling service;

27 (viii) prepaid wireless calling service;

28 (ix) private communication service; and

(x) value-added non-voice data service.

(b) The term does not include:

(i) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser for which the purchaser's primary purpose for the underlying transaction is the processed data or information;

(ii) installation or maintenance of wiring or equipment on a customer's premises;

(iii) tangible personal property;

(iv) advertising, including directory advertising;

(v) billing and collection services provided to third parties;

(vi) internet access service;

(vii) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of the services by the programming service provider. Radio and television audio and video programming services include but are not limited to cable service as defined in 47 U.S.C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers as defined in 47 CFR 20.3;

(viii) ancillary services; or

(ix) digital products delivered electronically, including but not limited to software, music, video, reading materials, or ring tones.

(58) "Transient guest" means a person who resides in a lodging establishment or campground less than 30 consecutive days.

(59) "Value-added non-voice data service" means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(60) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services that offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(61) (a) "Voice mail service" means an ancillary service that enables the customer to store, send, or

1 receive recorded messages.

2 (b) The term does not include any vertical services that the customer may be required to have in
3 order to utilize the voice mail service.

4
5 **NEW SECTION. Section 2. Determining gross receipts -- conditional sales.** (1) Gross receipts
6 are the total amount of consideration, including cash, credit, property, and services, for which tangible personal
7 property, a product transferred electronically, or services are sold, leased, or rented, valued in money or
8 otherwise, without deduction for:

9 (a) the retailer's costs of the property or services sold;

10 (b) the cost of materials used, labor or service cost, interest, losses, costs of transportation to the
11 retailer, taxes imposed on the retailer, and other expenses of the retailer; or

12 (c) charges by the retailer for any services necessary to complete the sale, whether or not
13 separately stated, including delivery charges.

14 (2) (a) Gross receipts include consideration received by the retailer from a third party if:

15 (i) the retailer actually receives consideration from a party other than the purchaser and the
16 consideration is directly related to a price reduction or discount on the sale;

17 (ii) the retailer has an obligation to pass the price reduction or discount through to the purchaser;

18 (iii) the amount of the consideration attributable to the sale is fixed and determined by the retailer
19 at the time of the sale of the item to the purchaser; and

20 (iv) one of the following criteria is met:

21 (A) the purchaser presents a coupon, certificate, or other documentation to the retailer to claim a
22 price reduction or discount for which the coupon, certificate, or documentation is authorized, distributed, or
23 granted by a third party with the understanding that the third party will reimburse any retailer to whom the
24 coupon, certificate, or documentation is presented;

25 (B) the purchaser is a member of a group or organization entitled to a price reduction or discount.
26 A preferred customer card that is available to any patron does not constitute membership in a group such as
27 this.

28 (C) the price reduction or discount is identified as a third-party price reduction or discount on the

1 invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the
2 purchaser.

3 (b) For the purposes of this section, the purchaser is the end consumer.

4 (3) Gross receipts do not include:

5 (a) fees or other interest imposed by a retailer for late charges on overdue accounts, no account,
6 or nonsufficient funds checks;

7 (b) the sales price of property returned by customers if the full sale price is refunded in cash or
8 credit;

9 (c) tangible personal property or a product transferred electronically if taken in trade as a credit or
10 partial payment for a retail sale taxable under [sections 1 through 44], and the tangible personal property or
11 product transferred electronically taken in trade is subject to the sales tax imposed by [sections 1 through 44]
12 when sold;

13 (d) gross receipts received by a retailer from a manufacturer, wholesaler, or distributor pursuant to
14 a written contract between the retailer and the manufacturer, wholesaler, or distributor that requires the retailer
15 to display the manufacturer, wholesaler, or distributor's product or signage in a specified manner or location;

16 (e) a discount or deferred payment received by a retailer from a distributor, wholesaler, or
17 manufacturer for purchasing a product for sale at retail;

18 (f) discounts, including cash, term, or coupons that are not reimbursed by a third party that are
19 allowed by a retailer and taken by a purchaser on a sale;

20 (g) the charge of interest, except for interest charged by a pawnbroker;

21 (h) any fee or commission received by a retailer for arranging or assisting in the arrangement of a
22 loan for a customer to pay for tangible personal property or a product transferred electronically sold by the
23 retailer;

24 (i) interest, financing, and carrying charges from credit extended on the sale of tangible personal
25 property, a product transferred electronically, or services, if the amount is separately stated on the invoice, bill
26 of sale, or similar document given to the purchaser; or

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

(4) For the purposes of the tax imposed by [sections 1 through 44], on any sale made under a conditional sales contract, or under other forms of sale for which the payment of the principal sum is extended over a period longer than 60 days from the date of sale, only the portion of the sale amount that has actually been received in cash by the retailer during each reporting period is subject to the tax.

NEW SECTION. Section 3. Tax on sale of tangible personal property. For the privilege of engaging in business as a retailer, there is a tax of 4% on the gross receipts of all sales of tangible personal property consisting of goods, wares, or merchandise sold at retail in the state to consumers or users unless specifically exempt under [sections 1 through 44].

NEW SECTION. Section 4. Tax on products transferred electronically. (1) There is a tax imposed on the gross receipts of all sales, leases, or rentals of a product transferred electronically. The rate of the tax is the same as the rate imposed on sales of tangible personal property provided for in [section 3].

(2) The tax is imposed if:

(a) the sale is to an end user;

(b) the sale is to a person who is not an end user, unless otherwise exempted by [sections 1 through 44];

(c) the seller grants the right of permanent or less than permanent use of the products transferred electronically; or

(d) the sale is conditioned or not conditioned on continued payment.

(3) For the purposes of this section, the term "end user" does not include any person who received by contract any product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person.

(4) For the purposes of this section, the term "permanent use" means perpetual or for an indefinite or unspecified length of time.

(5) The sale of a digital code that may be utilized to obtain a product transferred electronically is taxed in the same manner as the product transferred electronically. A digital code is a code that permits a

1 purchaser to obtain at a later date a product transferred electronically.

2
3 **NEW SECTION. Section 5. Tax on receipts from business services.** (1) There is a tax imposed on
4 the gross receipts of any business in which a service is rendered. The rate of the tax is the same as the rate
5 imposed on sales of tangible personal property provided for in [section 3].

6 (2) All services defined in [section 1] are taxable, unless the service is specifically exempt from the
7 provisions of [sections 1 through 44].

8 (3) Taxable services include but are not limited to the following services and services provided by:

- 9 (a) abstracters;
10 (b) accountants;
11 (c) amusement and recreation services, including airplane, helicopter, balloon, dirigible, and blimp
12 rides for amusement or sightseeing;
13 (d) ancillary services;
14 (e) animal grooming services;
15 (f) architects, engineers, or surveyors, except that services purchased by an architect, engineer,
16 or surveyor on behalf of a client in the performance of a contractor for the client are considered purchases for
17 resale purposes;
18 (g) automotive repair and services, garage and service stations, tire recapping, and parking;
19 (h) barbers and beauty shops;
20 (i) blacksmith shops;
21 (j) cable television;
22 (k) car washing;
23 (l) coating, engraving, and allied services;
24 (m) communication services;
25 (n) construction, electrical, and industrial services;
26 (o) consumer credit reporting agencies, mercantile reporting agencies, and adjustment and
27 collection agencies;
28 (p) dry cleaning, garment alteration, cleaning and pressing, and laundry, linen and towel supply;

- 1 (q) dyeing;
- 2 (r) exterminators;
- 3 (s) floor laying and other floor work;
- 4 (t) funeral service and cremation service, except that purchases of goods or services with money
- 5 advanced as an accommodation and fees paid or donated for religious ceremonies are not includable in gross
- 6 receipts for funeral services;
- 7 (u) heavy equipment and transport operations, train crew operations, crane operations, drillers,
- 8 and blasters;
- 9 (v) hotels, motels, tourist courts, rooming and boarding houses, and campgrounds and
- 10 recreational vehicle parks subject to [section 11];
- 11 (w) janitorial services and supplies;
- 12 (x) lawn and garden, landscape, and horticultural services, except that chemicals purchased and
- 13 used for these services are considered purchases for resale;
- 14 (y) legal services;
- 15 (z) livestock slaughtering services;
- 16 (aa) loan brokers;
- 17 (bb) membership or entrance fees for the use of a facility or for the right to purchase tangible
- 18 personal property, any product transferred electronically, or services;
- 19 (cc) mining, including coal mining, metal mining services, and nonmetallic minerals services;
- 20 (dd) oil and gas field services;
- 21 (ee) photography and photo developing and enlarging;
- 22 (ff) printing trade services and printing press operators;
- 23 (gg) real estate agents and managers, appraiser services, and title services;
- 24 (hh) rentals of tangible personal property, except leases of tangible personal property between one
- 25 telephone company and another telephone company, motor vehicles as defined in 61-1-101 leased under a
- 26 single contract for more than 30 days, and mobile homes;
- 27 (ii) research, management, and related services, except noncommercial research organizations;
- 28 (jj) solid waste collection and disposal;

(kk) specialty cleaners;

(ll) utility services, such as gas, electricity, or water services, including those provided by a local government;

(mm) welding, locksmith, and repair services, except repair services for farm machinery, attachment units, and irrigation equipment used exclusively for agricultural purposes; and

(nn) professional employer organization services. A professional employer organization may deduct from its taxable gross receipts its actual disbursements, including appropriate reserves, for the wages, salaries, payroll taxes, payroll deductions, workers' compensation costs, insurance premiums, welfare benefits, retirement benefits, and other employee benefits of its coemployees. The exemption does not apply to temporary help services or to any work arrangement in which a firm temporarily assigns employees of the firm to support or supplement a client company's regular work force in special situations, such as employee absences, temporary skill shortages, seasonal workloads, and special assignments or projects.

NEW SECTION. Section 6. Retailer engaged in business of selling tangible personal property, services, and products transferred electronically for use in state. (1) A retailer is engaged in the business of selling tangible personal property, services, or products transferred electronically for use in this state if:

(a) (i) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a retailer maintaining a place of business within this state; and

(ii) the retailer sells the same or a substantially similar line of products as the related retailer in this state and does so under the same or a substantially similar business name, or the in-state facility or in-state employee of the related retailer is used to advertise, promote, or facilitate sales by the retailer to a consumer; or

(b) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a business that maintains a distribution house, sales house, warehouse, or similar place of business in this state that delivers property sold by the retailer to consumers.

(2) The processing of orders electronically, including by facsimile, telephone, the internet, or other electronic ordering process, does not relieve the retailer of responsibility for collection of the tax from the purchaser if the retailer is doing business in this state.

(3) A retailer that is part of a controlled group with a component member that is a retailer engaged

1 in business in this state as described in this section is presumed to be a retailer engaged in business in this
2 state. This presumption may be rebutted by evidence that during the calendar year at issue the component
3 member that is a retailer engaged in business in this state did not engage in any of the activities described in
4 this section on behalf of the retailer.

5 (4) A retailer making sales of tangible personal property to purchasers in this state by mail,
6 telephone, the internet, or other media that has a contractual relationship with an entity to provide and perform
7 installation, maintenance, or repair services for the retailer's purchasers within this state is considered to be a
8 retailer under the provisions of this section.

9 (5) For the purposes of this section:

10 (a) "Ownership" means both direct ownership and indirect ownership through a parent, subsidiary,
11 or affiliate.

12 (b) "Substantial ownership interest" means an interest in an entity that is not less than the degree
13 of ownership of equity interest in an entity that is specified by 15 U.S.C. 78p with respect to a person other than
14 a director or officer.

15
16 **NEW SECTION. Section 7. Retail sales include auctions and consignments -- deduction**
17 **allowed.** (1) All auction sales and consignment sales of tangible personal property, any product transferred
18 electronically, and services are sales at retail. The auction clerk shall file the return and remit the tax imposed
19 by [sections 1 through 44] on the gross receipts from each auction after applying the deduction provided for in
20 subsection (3).

21 (2) The auctioneer is responsible for the payment of the tax imposed by [sections 1 through 44] if
22 the auction clerk is an employee of the auctioneer or if the auction clerk does not have a permit as required by
23 [sections 1 through 44]. In addition to any other information required to be kept by [sections 1 through 44], each
24 auction clerk shall keep records that identify the owner of the property sold at auction and the auctioneer who
25 conducts the sale of the property.

26 (3) In determining the amount of tax due under [sections 1 through 44], auctioneers may deduct
27 from gross receipts amounts that represent direct expense charges for clients for tangible personal property,
28 any product transferred electronically, or services purchased by the auctioneer on behalf of a client. The sale of

1 the property or service to the auctioneer is not a sale for resale if this deduction is taken. This deduction may
2 only be taken if the amount to be deducted represents an expense specifically incurred for a particular client
3 and the amount is itemized and paid from the client's auction proceeds by the auctioneer or closing agent. The
4 deduction is disallowed if the auctioneer receives any profit or remuneration directly or indirectly from the
5 client's expense.

6
7 **NEW SECTION. Section 8. Sales of sectional homes subject to tax.** (1) Sales of sectional homes
8 are subject to the tax provided for in [section 3].

9 (2) The tax is based on the fair market value of the raw materials used to construct the home.

10
11 **NEW SECTION. Section 9. Tax on intrastate, interstate, or international telecommunications**
12 **services -- exemptions -- bundled transactions.** (1) Except as provided in [section 10] and subsection (2) of
13 this section, there is imposed a tax on the gross receipts from providing any intrastate, interstate, or
14 international telecommunications service that originates or terminates in this state and that is billed or charged
15 to a service address in this state, or that both originates and terminates in this state. The rate of the tax is the
16 same as the rate imposed on sales of tangible personal property provided for in [section 3].

17 (2) The tax imposed by this section does not apply to:

18 (a) an 800 or 800-type service unless the service both originates and terminates in this state;

19 (b) the sale of a telecommunication service to a provider of telecommunication services, including
20 access service, for use in providing a telecommunication service; or

21 (c) the sale of interstate telecommunication service provided to a call center that has been certified
22 by the department to meet the definition of call center in [section 1] if the call center has provided to the
23 telecommunications service provider an exemption certificate issued by the department indicating that it meets
24 the definition. If a call center uses an exemption certificate to purchase services not meeting the definition of
25 [section 1], the call center is liable for the applicable tax, penalty, and interest.

26 (3) If a bundled transaction includes telecommunications services, ancillary services, internet
27 access, or audio or video programming services and the charges are attributable to retail sales that are taxable
28 and retail sales that are nontaxable, the portion of the price attributable to the nontaxable retail sales is subject

1 to tax unless the provider can identify the nontaxable portion by reasonable and verifiable standards from its
2 books and records kept in the regular course of business.

3 (4) For the purposes of this section:

4 (a) (i) "Bundled transaction" means the retail sale of two or more distinct and identifiable products
5 sold for one nonitemized price.

6 (ii) The term does not include:

7 (A) a transaction that includes the retail sale of real property or services to real property;

8 (B) a transaction that includes the retail sale of any products in which the gross receipts vary or are
9 negotiable, based on the selection by the purchaser of the products included in the transaction;

10 (C) a transaction that includes the retail sale of tangible personal property and a service for which
11 the tangible personal property is essential to the use of the service, and is provided exclusively in connection
12 with the service, and the true object of the transaction is the service;

13 (D) a transaction that includes the retail sale of any product transferred electronically and a service
14 for which the product transferred electronically is essential to the use of the service, and is provided exclusively
15 in connection with the service, and the true object of the transaction is the service;

16 (E) a transaction that includes the retail sale of services for which one service is provided that is
17 essential to the use or receipt of a second service and the first service is provided exclusively in connection with
18 the second service and the true object of the transaction is the second service;

19 (F) a transaction that includes the retail sale of taxable products and nontaxable products and the
20 purchase price or gross receipts of the taxable products is de minimis; or

21 (G) a transaction that includes the retail sale of exempt tangible personal property and taxable
22 tangible personal property for which:

23 (I) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility
24 enhancing equipment, or prosthetic devices, or over-the-counter drugs or medical supplies; and

25 (II) the retailer's purchase price or gross receipts of the taxable tangible personal property is 50%
26 or less of the total purchase price or gross receipts of the bundled tangible personal property. A retailer may not
27 use a combination of the purchase price and gross receipts of the tangible personal property when making the
28 50% determination for a transaction.

(b) "Distinct and identifiable products" do not include:

(i) packaging, including containers, boxes, sacks, bags, bottles, wrapping, labels, tags, and instruction guides that accompany the retail sale of the product and are incidental or immaterial to the retail sale;

(ii) a product provided free of charge with the required purchase of another product if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge; or

(iii) items included in gross receipts.

(c) "One nonitemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form, including an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

NEW SECTION. Section 10. Tax on certain mobile telecommunications services. (1) There is a tax imposed on the gross receipts of mobile telecommunications services, as defined in 4 U.S.C. 124, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state or are considered to have originated or been received in this state and to be billed or charged to a service address in this state if the customer's place of primary use is located in this state regardless of where the service actually originates or terminates. The rate of the tax is the same as the rate imposed on sales of tangible personal property provided for in [section 3].

(2) Notwithstanding any other provision of [sections 1 through 44] and for the purposes of the tax imposed by this section, the tax imposed on mobile telecommunication services must be administered in accordance with 4 U.S.C. 116 through 4 U.S.C. 126.

NEW SECTION. Section 11. Tax on room or parking site rentals to transient guests -- exemption. (1) There is a tax imposed on the gross receipts from rentals of rooms or parking sites by lodging establishments or campgrounds received from transient guests. The rate of the tax is the same as the rate imposed on sales of tangible personal property provided for in [section 3].

(2) The provisions of this section do not apply to the casual or occasional rental of a sleeping accommodation or camping site. For the purposes of this section, "casual or occasional" means the rental of a sleeping accommodation or camping site by any establishment or campground for 10 or fewer days in a calendar year. Any establishment or campground that has a permit or license issued under [sections 1 through 44] is not offering the rental of sleeping accommodations or camping sites on a casual or occasional basis.

(3) Gross receipts from membership fees paid to any lodging house and hotel membership organization operated for the benefit of its members are exempt from the taxes provided for in [sections 1 through 44]. The exemption does not apply to a membership fee that represents payment for tangible personal property, a product transferred electronically, or services provided by the membership organization.

NEW SECTION. Section 12. Tax on admission to amusements and athletic contests or events.

Except as otherwise provided in [sections 1 through 44], there is imposed a tax on the gross receipts from all sales of tickets or admissions to places of amusement, athletic contests or events, and rodeos and rodeo-related activities and events. The rate of the tax is the same as the rate imposed on sales of tangible personal property provided for in [section 3].

NEW SECTION. Section 13. Tax on passenger transportation. (1) Except as provided in

subsection (2), there is imposed a tax on the gross receipts from any transportation of passengers if the passenger boards and exits the mode of transportation within this state. The rate of the tax is the same as the rate imposed on sales of tangible personal property provided for in [section 3].

(2) The tax does not apply to any transportation service that the state is prohibited from taxing by federal law or the United States constitution.

NEW SECTION. Section 14. Exemption of sales to United States, states, local governments, charities, and Indian tribes. There are exempted from the provisions of [sections 1 through 44] and from the computation of the amount of tax imposed by it the gross receipts from sales of tangible personal property, any product transferred electronically, and services to:

(1) the United States;

(2) the state of Montana or to any other state of the United States or the District of Columbia if the other state provides a reciprocal exemption for Montana;

(3) an incorporated city or town, a county, or a consolidated city-county government of the state of Montana or of any other state of the United States or the District of Columbia if the other state provides a reciprocal exemption to Montana incorporated cities or towns, counties, or consolidated city-county governments;

(4) a nonprofit corporation created for the purpose of fire protection that is controlled by any political subdivision of this state;

(5) a nonprofit charitable organization maintaining a physical location within this state that devotes its resources exclusively to the relief of the poor, distressed, or underprivileged and has been recognized as an exempt organization under 26 U.S.C. 501(c)(3); or

(6) any tribal government.

NEW SECTION. Section 15. Exemption of sales to educational institutions and hospital. (1)

There are exempted from the provisions of [sections 1 through 44] and from the computation of the amount of tax imposed by it the gross receipts from sales of tangible personal property, any product transferred electronically, and services to and for use by a qualified education provider or nonprofit, charitable hospital when purchases are made by authorized officials, payment is made from the institution funds, and title to the property is retained in the name of the institution.

(2) This exemption does not extend to sales or purchases of tangible personal property or any product transferred electronically for the personal use of officials, members, or employees of the institutions or to sales or purchases of tangible personal property or any product transferred electronically used in the operation of a taxable retail business.

(3) Each institution claiming the exemption shall maintain a list of all purchases on which the exemption was claimed, fully itemized, showing the name and address of vendors, description of property purchased, date or dates of purchase, purchase price, and a brief explanation of the use or intended use.

(4) For the purposes of this section, "qualified education provider" has the same meaning as provided in 15-30-3102.

1
2 **NEW SECTION. Section 16. Exempt tangible personal property and products transferred**
3 **electronically.** Gross receipts from the sale of the following are exempt from the tax provided for in [sections 1
4 through 44]:

5 (1) the sale, resale, or leasing of farm machinery, attachment units, and irrigation equipment used
6 exclusively for agricultural purposes. Farm machinery includes all-terrain vehicles of three or more wheels used
7 exclusively by the purchaser for agricultural purposes on agricultural land. The purchaser shall sign and deliver
8 to the seller a statement that the all-terrain vehicle will be used exclusively for agricultural purposes.

9 (2) seed legumes, seed grasses, and seed grains, when 25 pounds or more are sold in a single
10 sale to be used exclusively for agricultural purposes;

11 (3) commercial fertilizers, either liquid or solid, when 500 pounds or more are sold in a single sale
12 to be used exclusively for agricultural purposes:

13 (4) pesticides to be used exclusively by the purchaser for agricultural purposes. Any product or
14 substance to be used in conjunction with the application or use of pesticides for agricultural purposes is also
15 exempt. The products or substances include adjuvants, surfactants, ammonium sulfate, inoculants, drift
16 retardants, water conditioners, seed treatments, foam markers, and foam dyes. Equipment for the application of
17 pesticides and related products and substances is not exempt except for farm machinery, attachment units, and
18 irrigation equipment used exclusively for agricultural purposes.

19 (5) livestock or live poultry, ostriches, emus, or rheas, if the sales are a part of a series of
20 transactions incident to producing a finished product intended to be offered for an ultimate retail sale, except
21 that an ultimate retail sale interrupting the series of transactions with an intended final use or consumption is
22 taxable;

23 (6) live gamebirds sold by the producer to nonprofit organizations that release the birds or to
24 commercial hunting operators who charge fees to hunt the birds;

25 (7) live cattle, buffalo, sheep, goats, swine, poultry, ostriches, emus, rheas, and domesticated fur-
26 bearing animals, used or to be used as breeding or production stock, and horses and other animals within the
27 family Equidae. Poultry does not include any fowl other than domestic fowl kept and raised for the market or the
28 production of eggs for human consumption.

(8) feed and bedding for cattle, buffalo, sheep, goats, swine, pheasants, partridges, quail, poultry, ostriches, emus, rheas, and domesticated fur-bearing animals, and horses and other animals within the family Equidae, if the feed or bedding is used by farmers or ranchers who are regularly engaged in the business of raising and feeding the animals or producing milk for sale for human consumption. Bedding includes only straw, corn stover, and bean straw.

(9) live nondomestic animals and feed for the animals if the animal is to be used by a farmer or rancher who is regularly engaged in the breeding and raising of the animals;

(10) swine semen and cattle semen to be used for agricultural purposes;

(11) parts and repair services on farm machinery, attachment units, and irrigation equipment used exclusively for agricultural purposes that are exempt from the tax imposed by [sections 1 through 44] if the part replaces a farm machinery, attachment unit, or irrigation equipment part assigned a specific or generic part number by the manufacturer of the farm machinery, attachment unit, or irrigation equipment;

(12) maintenance items and maintenance services used on farm machinery, attachment units, and irrigation equipment used exclusively for agricultural purposes that are exempt from the tax imposed by [sections 1 through 44];

(13) agricultural and industrial production equipment in international commerce if, under the terms of the sales agreement, physical delivery of the goods takes place in the state. The exemption applies only if written evidence of the contract of sale is retained, and the contract indicates that the goods are to be shipped in international commerce to a point outside the United States not to be returned to a point within the United States.

(14) motor vehicles and motorboats subject to registration fees under Title 61, chapter 3, part 3;

(15) gasoline, motor fuel, and special fuel subject to tax under Title 15, chapter 70;

(16) tangible personal property or products transferred electronically that this state is prohibited from taxing under the constitution or laws of the United States or the constitution or laws of the state of Montana;

(17) tangible personal property or products transferred electronically to a person who leases the property to a person in this state;

(18) freeport merchandise and stocks of merchandise brought as foreign or domestic merchandise into a foreign trade zone. The exemption applies only if written evidence of the contract of sale is retained, and

1 the contract indicates that the merchandise is to be shipped in international commerce to a point outside the
2 United States not to be returned to a point within the United States.

3 (19) the handling fee paid by a religious organization recognized as an exempt organization under
4 section 501(c)(3) of the Internal Revenue Code to an approved relief agency recognized as an exempt
5 organization pursuant to [section 14] for the distribution of food that is used for the assistance or relief to the
6 poor, distressed, or underprivileged through a food giveaway program;

7 (20) furnishing goods or services to the purchaser or the purchaser's successor in interest of
8 tangible personal property or product transferred electronically to fulfill a warranty obligation of the manufacturer
9 to the extent that the goods or services are not charged to the purchaser or the purchaser's successor in
10 interest;

11 (21) lottery tickets for a lottery operated by the state;

12 (22) library copying charges;

13 (23) ink and newsprint when used in the production of shoppers' guides;

14 (24) raw materials and newspaper print that become a part of other tangible personal property by
15 means of fabrication, compounding, or manufacture for retail sale within or without the state of;

16 (25) paper and plastic bags, wrapping paper, twine, tape, and similar articles sold to retailers
17 licensed under [sections 1 through 44] if the retailer uses the articles as wrappers or containers to hold other
18 tangible personal property sold by the retailer and subject to sales or use tax and the articles are supplied free
19 by the retailer as a convenience to the customer;

20 (26) meals provided to inpatients of hospitals if the meals are paid for, by law or by contract, by the
21 United States, this state, or a political subdivision, including but not limited to, meals provided to medicare,
22 medicaid, or Indian health service patients;

23 (27) purchases made with benefits provided by the supplemental nutrition assistance program
24 provided for in 7 U.S.C. 51 and the special nutrition program for women, infants, and children provided for in 42
25 U.S.C. 1786;

26 (28) electricity used to power irrigation pumps whenever the purchaser has made the purchase
27 exclusively for agricultural purposes;

28 (29) bulk water delivered for domestic use;

(30) replacement parts that are sold to retailers and that will be installed in tangible personal property that will ultimately be for resale;

(31) carpet, floor covering, tacks, glue, and other materials purchased for use by those providing floor laying and other floor work services;

(32) locks, lock parts, and other materials purchased for use by locksmiths;

(33) coins, currency, or bullion;

(34) any food or food product that is available for purchase under the federal supplemental nutrition assistance program provided for in 7 U.S.C. 2012, regardless of whether the purchaser qualifies for the program; and

(35) diapers intended for use by humans.

NEW SECTION. Section 17. Exempt services. (1) The following services are exempt from the provisions of [sections 1 through 44]:

(a) advertising services;

(b) agricultural services except veterinarian services and animal specialty services;

(c) air transportation, including certified carriers and noncertified carriers, except chartered flights and airplane, helicopter, balloon, dirigible, and blimp rides for amusement or sightseeing;

(d) architectural, engineering, and surveying services rendered for a project entirely outside this state;

(e) credit counseling services provided by individual and family social services;

(f) credit services by credit bureaus to financial institutions;

(g) commissions earned or service fees paid by an insurance company to an agent or representative for the sale of a policy;

(h) commissions or fees received for rendering a service that provides for the sale of tangible personal property, a product transferred electronically, or services, unless otherwise specifically subject to tax;

(i) commodity contracts brokers and dealers;

(j) construction services except floor laying and other floor work and locksmiths and locksmith shops;

- 1 (k) consumer credit reporting agencies, mercantile reporting agencies, and adjustment and
2 collection agencies, if the debt was incurred out-of-state and the client does not reside within the state;
- 3 (l) credit card processing services to retailers;
- 4 (m) direct mail service for the cost of United States postage paid by the direct mail service if the
5 cost of postage, including any markup that is reasonable and customary in the seller's industry, is listed by the
6 direct mail service as a separate line item on the customer's bill;
- 7 (n) educational services, except schools and educational services not elsewhere classified, and
8 continuing education programs and tutoring;
- 9 (o) farm product warehousing and storage;
- 10 (p) financial services of financial institutions as defined in 32-6-103, including loan origination fees,
11 late payment charges, nonsufficient fund check charges, stop payment charges, safe deposit box rent,
12 exchange charges, commission on traveler's checks, charges for administration of trusts, interest charges, and
13 points charged on loans;
- 14 (q) forestry services;
- 15 (r) health services;
- 16 (s) local and suburban passenger transportation except limousine services;
- 17 (t) motion picture rentals to a commercially operated theater primarily engaged in the exhibition of
18 motion pictures;
- 19 (u) motor vehicle rentals leased under a single contract for more than 30 days. Motor vehicle has
20 the same meaning as provided in 15-68-101.
- 21 (v) natural gas transportation services by a pipeline;
- 22 (w) officiating of amateur sporting events, except officiating a sporting event sponsored and
23 operated by an elementary, secondary, or postsecondary school;
- 24 (x) passenger transportation arrangement;
- 25 (y) pipelines, except natural gas pipelines;
- 26 (z) radio and television broadcasting;
- 27 (aa) railroad transportation and rental of railroad cars;
- 28 (bb) rental of devices for fertilizer and pesticide application;

- 1 (cc) rental of devices used primarily for agricultural purposes if the devices are owned by a
2 conservation district provided for in Title 76, chapter 15;
- 3 (dd) school buses;
- 4 (ee) security brokers, dealers, and flotation companies;
- 5 (ff) services performed for rodeos by promoters, stock contractors, stock handlers, announcers,
6 judges, and clowns;
- 7 (gg) services provided by any corporation to another corporation that is centrally assessed having
8 identical ownership and services provided by any corporation to a wholly owned subsidiary that is centrally
9 assessed;
- 10 (hh) sewerage systems;
- 11 (ii) social services, including individual and family services, job training and vocational
12 rehabilitation services, child day-care services, and residential care services;
- 13 (jj) stock and commodity brokers and agents;
- 14 (kk) trading stamps sales;
- 15 (ll) transportation of freight and cargo arrangement;
- 16 (mm) transportation on rivers and canals;
- 17 (nn) trucking and courier services, except air and collection and disposal of solid waste;
- 18 (oo) water supply; and
- 19 (pp) water system services, including management, billing, bookkeeping, administrative, and related
20 services provided to a rural water system by any cooperative or nonprofit corporation that is wholly owned by
21 the water systems receiving the services.

22 (2) The exemptions from sales tax provided for in [section 16] also apply to services.
23

24 **NEW SECTION. Section 18. Exemption of receipts used for civic and nonprofit associations**
25 **and purposes.** Gross receipts from the following are exempt from the tax provided in [sections 1 through 44]:

- 26 (1) sales of tickets or admissions to the grounds and grandstand attractions of state, county,
27 district, regional, and local fairs;
- 28 (2) admissions to nonprofit historic sites and repertory theater performances operated by nonprofit

1 organizations;

2 (3) admissions to community operated celebrations and shows sponsored by a chamber of
3 commerce or other similar nonprofit organization if the county or municipality in which the activity takes place
4 officially sponsors the activity and no charge is made to the operators of the celebration or show for the use of
5 county, city or town facilities or services;

6 (4) admissions to events or receipts from activities sponsored and operated by colleges or
7 vocational schools or elementary or high schools or related clubs or supporting organizations approved or
8 supervised by a school or college when the entire net proceeds are spent for educational purposes and any
9 associations of them and receipts from tangible personal property or any product transferred electronically sold
10 at the events. Receipts from tangible personal property or any product transferred electronically sold at the
11 events or activities are included in the measure of sales tax at the time of purchase by the college or school or
12 related club or supporting organization.

13 (5) religious, benevolent, fraternal, youth association, or charitable activities, including any bingo or
14 lottery exempt under 23-5-406, for which the entire amount of the receipts after deducting all costs directly
15 related to the conduct of the activities is expended for religious, benevolent, fraternal, youth association, or
16 charitable purposes, and, except for any bingo or lottery, the receipts are not the result of engaging in business
17 for more than 3 consecutive days. For the purposes of determining whether the business has been engaged in
18 for more than 3 days, days necessary to set up, organize, prepare for, take down, or disassemble the business
19 or activity are not days engaged in business. Receipts from tangible personal property, any product transferred
20 electronically, or services purchased for use in the activity are included in the measure of sales tax.

21 (6) sales of tangible personal property or any product transferred electronically when the net
22 receipts are used primarily for the restoration or maintenance of the governor's mansion and capitol grounds;

23 (7) a charge or entry fee for engaging in participatory events limited to tournaments, contests, and
24 league activities. Receipts from tangible personal property, any product transferred electronically, or services
25 purchased for use in tournaments, contests, and league activities must be included in the measure of the tax
26 imposed by [sections 1 through 44].

27 (8) admissions to events or receipts from activities sponsored and operated by county or municipal
28 historical societies or centennial committees when the entire net proceeds are spent for centennial celebration

1 purposes. Receipts from tangible personal property, any product transferred electronically, or services
2 purchased for use in the activity are included in the measure of sales tax.

3 (9) religious, benevolent, fraternal, youth association, or charitable activities conducted at county
4 fairs, if the entire amount of the receipts after deducting all costs directly related to the conduct of the activities
5 is expended for religious, benevolent, fraternal, youth association, or charitable purposes, and the receipts are
6 not the result of engaging in business for more than 5 consecutive days. Receipts from tangible personal
7 property, any product transferred electronically, or services purchased for use in the activity are included in the
8 measure of sales tax.

9 (10) admissions to circus performances sponsored or operated by religious, benevolent, fraternal or
10 youth associations, if the entire amount of the receipts after deducting all costs directly related to the conduct of
11 the circus performances is expended for religious, benevolent, fraternal, youth association, or charitable
12 purposes; and

13 (11) admissions to events or receipts from activities sponsored and operated by religious,
14 benevolent, or charitable organizations for a period not to exceed 30 days in any calendar year, if the entire
15 amount of the receipts after deducting all costs directly related to the conduct of the event or activity is
16 expended for the benefit of homeless persons.

17
18 **NEW SECTION. Section 19. Exemption of membership organizations.** (1) Membership
19 organizations are exempt from the tax imposed by [sections 1 through 44] on receipts from membership fees
20 and from sales of services by the organization. The exemption does not apply to the tax imposed on the gross
21 receipts of sales of tangible personal property or a product transferred electronically by the organization.

22 (2) This section does not exempt the gross receipts of a retailer for sales to a membership
23 organization or exempt the organization from payment of use tax on goods and services used in the conduct of
24 their activities.

25 (3) For the purposes of this section, membership organizations include business associations,
26 professional membership organizations, labor unions and similar labor organizations, political organizations,
27 religious organizations, and civic, social, and fraternal associations.

1 **NEW SECTION. Section 20. Exemption of certain drugs, medical equipment, and medical**

2 **devices.** (1) There are exempted from the provisions of [sections 1 through 44] and from the computation of the
3 amount of tax imposed by it, gross receipts from the sale of:

4 (a) any medical device, as that term is defined in this section, used by humans, if the medical
5 device is prescribed by prescription by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist;

6 (b) drugs used by humans if the drugs are prescribed by prescription, dispensed, or administered
7 by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist;

8 (c) durable medical equipment, mobility enhancing equipment, and prosthetic devices used by
9 humans, if the durable medical equipment, mobility enhancing equipment, and prosthetic devices are
10 prescribed by prescription by a physician, chiropractor, optometrist, dentist, podiatrist, or audiologist; and

11 (d) insulin used by humans that is not sold by prescription.

12 (2) (a) The term "medical device" means any instrument, apparatus, implement, contrivance, or
13 other similar or related article, including a component, part, or accessory, that is prescribed for use on a single
14 patient and that is:

15 (i) recognized in the official national formulary, or the United States pharmacopoeia, or any
16 supplement to them;

17 (ii) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation,
18 treatment, detection, or prevention of disease, of the human body; or

19 (iii) intended to affect the structure or any function of the human body and that does not achieve
20 any of its primary intended purposes through chemical action within or on the human body and that is not
21 dependent on being metabolized for the achievement of any of its primary intended purposes.

22 (b) A medical device does not include durable medical equipment, mobility enhancing equipment,
23 or a prosthetic device.

24
25 **NEW SECTION. Section 21. Exemption of gaming proceeds.** There are exempted from the

26 provisions of [sections 1 through 44] and from the computation of the tax imposed by it gross proceeds of the
27 state lottery and sports wagering provided for in Title 23, chapter 7.

1 **NEW SECTION. Section 22. Exemption for fuel used for agricultural or railroad purposes.** (1)

2 Motor fuel, including kerosene, tractor fuel, liquefied petroleum gas, natural and artificial gas, diesel fuels, and
3 distillate, when used for agricultural or railroad purposes, is exempt from the tax imposed by [sections 1 through
4 44].

5 (2) For the purpose of this section, agricultural purposes does not include the lighting or heating of
6 a farm residence.

7 (3) For the purpose of this section, railroad purposes includes only locomotives or track motor cars
8 being operated on railroad tracks in road service in this state.

9
10 **NEW SECTION. Section 23. Exemption of fair market value of personal property or service**
11 **given without charge to exempt organization.** There are specifically exempted from the provisions of
12 [sections 1 through 44] and the computation of the tax imposed by it, the fair market value of any tangible
13 personal property, product transferred electronically, or service given without charge to an institution,
14 organization, or group exempt from the tax imposed by [sections 1 through 44].

15
16 **NEW SECTION. Section 24. Exemption of payments between members of a controlled group.**

17 (1) Payments made by one member of a controlled group to another member of a controlled group that
18 represent an allocation, reimbursement, or charge for services provided by or rendered by the members of the
19 controlled group are specifically exempt from the provisions of [sections 1 through 44] and the computation of
20 the taxes imposed by it. The exemption provided in this section does not apply to the lease of tangible personal
21 property or any product transferred electronically unless the sales or use tax has been paid on the property by
22 the lessor.

23 (2) Payments made by one member of a controlled group to another member of a controlled group
24 that represent an allocation, reimbursement, or charge for third-party services rendered to the controlled group
25 and on which a sales or use tax has been paid may not be considered as gross receipts under [sections 1
26 through 44].

27 (3) There are specifically exempted from the provisions of [sections 1 through 44] and the
28 computation of the tax imposed by it, gross receipts from the sale of services rendered by a related corporation

1 for use by a financial institution or on any service rendered by a financial institution for use by a related
2 corporation. For the purposes of this subsection, related corporation includes a corporation that together with
3 the financial institution is part of a controlled group of corporations as defined in 26 U.S.C. 1563, except that the
4 80% ownership requirements set forth in 26 U.S.C. 1563(a)(2)(A) for a brother-sister controlled group are
5 reduced to 51%. The exemption provided in this section does not apply to the lease of tangible personal
6 property or any product transferred electronically unless the sales or use tax has been paid on the property by
7 the lessor.

8
9 **NEW SECTION. Section 25. Exemption for small sales by minors.** [Sections 1 through 44] do not
10 apply to any person under 18 years old with gross receipts totaling less than \$1,000 in any calendar year from
11 any sale of tangible personal property, any service delivered, or any product or service transferred electronically
12 for use in the state.

13
14 **NEW SECTION. Section 26. Tax additional to other occupation and privilege taxes.** The taxes
15 imposed under [sections 1 through 44] are in addition to all other occupation or privilege taxes imposed by the
16 state, or by any incorporated city or town, county, consolidated city-county government, tribal government, or
17 political subdivision unless otherwise specifically exempted by [sections 1 through 44].

18
19 **NEW SECTION. Section 27. Addition of tax to price of product or service.** (1) A retailer may add
20 the tax imposed by [sections 1 through 44] to the price of the product or service as provided by law. If no
21 provision is made, the average equivalent of the tax may be added.

22 (2) Any person or retailer subject to taxation under [sections 1 through 44] may add the tax under
23 [sections 1 through 44], or the average equivalent of the tax, to the price or charge.

24
25 **NEW SECTION. Section 28. Application for retailer permit.** (1) A retailer or person engaging in a
26 business in this state whose receipts are subject to the tax imposed by [sections 1 through 44] shall file with the
27 department an application for a permit. The application must be made on a form prescribed by the department
28 and must require the name under which the applicant transacts or intends to transact business, the location of

each business, and other information the department may require.

(2) The applicant must have a permit for each place of business, unless the department grants a request for a statewide permit. The department may grant a statewide permit if the applicant demonstrates the ability to comply with the filing, auditing, and record-keeping requirements specified in rules adopted pursuant to [section 43] for each location specified in the application.

(3) A seller registering under the agreement as defined in [section 91] must be registered in this state, provided the state has entered into the agreement as provided in [section 95]. Any seller who is registered under the agreement may cancel its registration at any time but is liable for remitting any sales tax previously collected.

NEW SECTION. Section 29. Issuance of retailer permit. Except as provided in [section 30], the department shall grant and issue to each applicant a permit for each place of business within the state unless a statewide permit is granted. If a statewide permit is granted, the department shall issue a copy of the statewide permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated. The permit must be conspicuously displayed at the place of business at all times. The permit is valid and effective without further payment of fees until canceled or revoked.

NEW SECTION. Section 30. Refusal of permit to delinquent taxpayer. The department may refuse to issue a permit to any person who is delinquent in payment of taxes levied by the state. The department may require an applicant to furnish a bond to the state, or other adequate security, as security for payment of any sales tax that may become due or require a bond or security as a condition precedent to remaining in business as a retailer.

NEW SECTION. Section 31. Filing return and remitting payment -- penalty. (1) A person who holds a license issued pursuant to [sections 1 through 44] or who is a person whose receipts are subject to the tax imposed by [sections 1 through 44] shall, except as otherwise provided in this section, file a return and pay any tax due to the department on or before the 20th day of the month following each monthly period. The return

1 must be filed on forms prescribed and furnished by the department.

2 (2) If the person remits the tax by electronic transfer to the state, the person shall file the return by
3 electronic means on or before the 20th day of the month following each period and remit the tax on or before
4 the 25th day of the month following each period.

5 (3) The department may require or allow a person to file a return and pay any tax due on a basis
6 other than monthly. The return and remittance are due the 20th day of the month following the reporting period
7 or at a time otherwise determined by the department.

8 (4) If a person fails to file a return on or before the due date or fails to pay a tax on or before a due
9 date, the person is subject to the penalty and interest provisions of 15-1-216.

10

11 **NEW SECTION. Section 32. Collection allowance credit for collecting tax.** (1) (a) A person
12 required to file a return and remit the tax imposed by [sections 1 through 44], who holds a license issued
13 pursuant to [sections 1 through 44], who timely files the return due, and who timely remits the tax due is
14 allowed, as compensation for the expense of collecting and paying the tax, a credit equal to 1.5% of the gross
15 amount of the tax due. The credit may not exceed \$70 for each return period.

16 (b) If a person is required to file a return and to remit tax more than once within a 30-day period,
17 the collection allowance credit may not exceed \$70 for all returns filed and all remittances made within the 30-
18 day period.

19 (2) The collection allowance credit authorized by this section only applies to taxes reported on the
20 sales and use tax return, including the taxes imposed by [sections 1 through 44, 45 through 89, and 117
21 through 124].

22 (3) The collection allowance credit authorized by this section may only be granted to a person who
23 timely files the return due by electronic means and who timely remits the tax due by electronic means.

24 (4) For any tax collected by the department on behalf of another entity on which the collection
25 allowance credit is calculated, the entities shall negotiate in good faith to share in the payment of the collection
26 allowance credit. The department may implement an allocation of collection allowance credit directly or through
27 the adjustment of any administrative fee charged to the entity.

28 (5) A person who has selected a certified service provider as defined in [section 91] is entitled to

1 the collection allowance credit authorized by this section if the certified service provider receives a monetary
2 allowance as provided by the streamlined sales and use tax agreement authorized by [sections 90 through 102]
3 for performing the retailer's sales and use tax functions in this state.

4 (6) A collection allowance credit may not be granted to any person who has outstanding tax
5 returns due to the department or who has outstanding tax remittances due to the department.
6

7 **NEW SECTION. Section 33. Deduction for bad debts.** (1) A bad debt may be deducted on the
8 return for the period during which the bad debt is written off as uncollectible in the retailer's books and records
9 and is eligible to be deducted for federal income tax purposes. For the purposes of this section, a retailer who is
10 not required to file a federal income tax return may deduct a bad debt on a return filed for the period in which
11 the bad debt is written off as uncollectible in the retailer's books and records and would be eligible for a bad
12 debt deduction for federal income tax purposes if the retailer was required to file a federal income tax return. If
13 a deduction is taken for a bad debt and the retailer subsequently collects the debt in whole or in part, the tax on
14 the amount collected must be paid and reported on the next return due after the collection. A retailer may
15 allocate its bad debts among states if the books and records of the retailer claiming the bad debt can support
16 the allocation.

17 (2) (a) For the purposes of this section, bad debt has the meaning provided in 26 U.S.C. 166 and
18 is any portion of the purchase price of a transaction that a retailer has reported as taxable and for which the
19 retailer or any party related to the retailer within the meaning of section 267 or 707 of the Internal Revenue
20 Code or any disregarded entity for federal income tax purposes that is owned by the retailer or a related party
21 has written off as uncollectible for federal income tax purposes.

22 (b) In computing the amount of tax due, a seller may deduct bad debts from the total amount on
23 which the tax is calculated for any return. Any deduction taken or refund paid that is attributed to bad debts may
24 not include interest. Bad debts include worthless checks, worthless credit card payments, and uncollectible
25 credit accounts. Bad debts do not include financing charges or interest, sales or use taxes charged on the
26 purchase price, uncollectible amounts on property that remains in the possession of the retailer until the full
27 purchase price is paid, expenses incurred in attempting to collect any debt, debts sold or assigned to unrelated
28 third parties for collection, and repossessed property. A bad debt deduction may not be claimed by any person

1 that has purchased accounts receivable for collection unless the person is a successor that has acquired the
2 entire business of the retailer that incurred the bad debt, the person is a related party, or the person is a
3 disregarded entity for federal income tax purposes that is owned by the seller or a related party.

4 (3) If a retailer's amount of bad debt exceeds the amount of taxable sales for the period during
5 which the bad debt is written off, the seller may obtain a credit or refund of tax on any amount of bad debt. A
6 credit or refund under this paragraph may not include interest.

7 (4) If a retailer's filing responsibilities have been assumed by a certified service provider as defined
8 in [section 91], the service provider may claim, on behalf of the retailer, any bad debt allowance provided by this
9 section. The service provider shall credit or refund the full amount of any bad debt allowance or refund received
10 to the retailer.

11
12 **NEW SECTION. Section 34. Cash basis reporting and payment.** (1) Notwithstanding other
13 provisions of [sections 1 through 44], the department shall allow retailers to report and pay sales tax measured
14 by gross receipts on a cash basis if:

- 15 (a) the retailer has not changed its basis in the previous calendar year;
16 (b) the retailer's records are kept in a manner that may be audited to determine whether sales tax
17 is paid on all taxable sales;
18 (c) the retailer has made a written request to the department for authority to pay tax on the cash
19 basis; and
20 (d) authority to pay tax on the cash basis applies only to sales made after the authority is granted.

21 (2) If the department has granted a retailer the authority to report and pay sales tax on the cash
22 basis and a retailer requests in writing the authority to report and pay sales tax on the accrual basis, the
23 department may grant the authority if assessment and collection of taxes are not jeopardized.

24
25 **NEW SECTION. Section 35. Jeopardy assessment of sales tax.** If the department believes that the
26 assessment or collection of taxes will be jeopardized by delay, the department may immediately make an
27 assessment of the estimated tax and penalty and demand payment from the taxpayer. If the payment is not
28 made, the department may file a lien and issue a distress warrant. The department may accept a bond from the

1 taxpayer to satisfy collection until the amount of tax legally due is determined and paid.

2
3 **NEW SECTION. Section 36. Records of persons subject to tax -- inspection by department.** A
4 person subject to tax under [sections 1 through 44] shall keep records and books of all receipts and sales,
5 together with invoices, bills of lading, copies of bills of sale, and other pertinent papers and documents. The
6 books and records and other papers and documents are, at all times during business hours of the day, subject
7 to inspection by the department to determine the amount of tax due. The books and records must be preserved
8 for a period of 3 years unless the department, in writing, authorizes their destruction or disposal at an earlier
9 date.

10
11 **NEW SECTION. Section 37. Temporary vendors -- violation.** (1) A temporary vendor shall
12 maintain, for a minimum of 3 years, inventory records, including a beginning inventory of merchandise. The
13 vendor shall provide records for immediate inspection and review to any agent or representative of the
14 department on request.

15 (2) A temporary vendor shall maintain daily sales receipts, such as cash register tapes,
16 handwritten receipts, credit card receipts, or other receipts, for a minimum of 3 years. The vendor shall provide
17 the receipts for immediate inspection and review to any agent or representative of the department ON request.

18 (3) A temporary vendor shall maintain for a minimum of 3 years a complete list of suppliers,
19 including names and addresses. The vendor shall provide the list for immediate inspection and review to any
20 agent or representative of the department ON request.

21 (4) A temporary vendor operating in this state may be subjected to reviews and audits without
22 notice.

23 (5) The department shall revoke the temporary license of any person that fails to comply with the
24 provisions of this section.

25 (6) Failure to comply with this section is a misdemeanor.

26
27 **NEW SECTION. Section 38. Personal liability of officers, managers, or partners of entity failing**
28 **to file returns or pay tax.** (1) If a corporation, limited liability company, limited partnership, limited liability

1 partnership, or limited liability limited partnership subject to tax under [sections 1 through 44] fails for any
2 reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or
3 managers of limited liability companies or partners of partnerships that control, supervise, or are charged with
4 the responsibility of filing the returns or remitting tax payments are personally liable for the failure.

5 (2) The dissolution of a corporation, limited liability company, limited partnership, limited liability
6 partnership, or limited liability limited partnership does not discharge an officer, member-manager, manager, or
7 partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability
8 partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for a liability
9 may be assessed and collected as provided by law.

10 (3) If the corporate officers, limited liability company member-managers or managers, or partners
11 elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation,
12 limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership
13 shall provide the department with a surety bond or certificate of deposit as security for payment of any tax that
14 may become due. The bond or certificate of deposit provided for in this section must be in an amount equal to
15 the estimated annual gross receipts multiplied by the applicable sales or excise tax rate.

16
17 **NEW SECTION. Section 39. Exemption certificate -- responsibility of purchaser -- violation.** (1)

18 A retailer that possesses an exemption certificate from a purchaser of tangible personal property, any product
19 transferred electronically, or services that indicates the items or services being purchased are exempt may rely
20 on the exemption certificate and not charge sales tax to the provider of the exemption certificate until the
21 provider of the exemption certificate gives notice that the items or services being purchased are no longer
22 exempt by filing a new exemption certificate with the retailer.

23 (2) The exemption certificate must be signed by the purchaser. The exemption certificate must
24 provide the purchaser's name, address, and valid state tax license number, if applicable. A person filing an
25 electronic exemption certificate is not required to sign the exemption certificate.

26 (3) The purchaser claiming the protection of an exemption certificate is responsible for assuring
27 that the goods and services delivered are of a type covered by the exemption certificate. A retailer of tangible
28 personal property, any product transferred electronically, or services THAT are generally described under the

1 exemption certificate is not responsible for the collection of the tax unless otherwise directed by the purchaser.

2 (4) If the purchaser later determines there is tax due, the purchaser shall remit the tax owed by the
3 purchaser to the state. If the purchaser makes an exempt purchase and later determines that the goods or
4 services purchased are not exempt, the purchaser shall report the transaction and pay the use tax on the next
5 filing of the purchaser's return.

6 (5) A purchaser who knowingly files an exemption certificate with a retailer in order to purchase
7 tangible personal property, any product transferred electronically, or services with the intent to evade payment
8 of the tax and fails to timely report the same with the department is guilty of a misdemeanor. The department
9 may assess a penalty of up to 50% of the tax owed, in addition to the tax owed. No interest may be charged on
10 the penalty.

11 (6) The seller shall retain the exemption certificate for a period of 3 years from the date it is filed by
12 the purchaser and provide the exemption certificate to the department ON request.

13
14 **NEW SECTION. Section 40. Sourcing of sales and services -- rulemaking.** (1) For the purposes
15 of the tax imposed by [sections 1 through 44], a retailer shall source sales of tangible personal property, any
16 product transferred electronically, and services to the location where the tangible personal property, the product
17 transferred electronically, or the service is received.

18 (2) The department shall adopt rules defining the location of receipt. The rules adopted pursuant to
19 this section may provide an alternative method of sourcing telecommunication services.

20
21 **NEW SECTION. Section 41. Registration and tax collection does not create nexus for other**
22 **taxes.** Registration under the agreement and collection of tax imposed under [sections 1 through 44] or
23 [sections 45 through 89] does not in and of itself create nexus for other taxes or fees imposed by this state.

24
25 **NEW SECTION. Section 42. Relief from liability for failing to collect tax at new rate.** (1) A retailer
26 is relieved of any liability for failing to collect a tax pursuant to [sections 1 through 44] at a new effective rate if
27 the state fails to provide a period of at least 30 days between enactment of the statute providing for a rate
28 change and the effective date of the rate change if:

1 (a) the retailer collected the tax at the immediately preceding effective rate; and

2 (b) the retailer's failure to collect at the newly effective rate does not extend beyond 30 days after
3 the date of enactment of the new rate.

4 (2) This section does not apply if the retailer fraudulently failed to collect the tax at the new rate or
5 solicited purchasers based on the immediately preceding effective rate.

6
7 **NEW SECTION. Section 43. Rulemaking authority.** The department may adopt rules pursuant to
8 [sections 1 through 44] concerning:

9 (1) licensing, including bonding and filing license applications;

10 (2) the filing of returns and payment of the tax;

11 (3) determining the application of the tax and exemptions;

12 (4) forms for exemption certificates;

13 (5) taxpayer recordkeeping requirements; and

14 (6) determining audit methods.

15
16 **NEW SECTION. Section 44. Sales tax proceeds.** All money collected under [sections 1 through 44]
17 must, in accordance with the provisions of 17-2-124, be deposited by the department in the school equalization
18 and property tax reduction account provided for in 20-9-336.

19
20 **NEW SECTION. Section 45. Definitions.** For the purposes of [sections 45 through 89], unless the
21 context requires otherwise, the following definitions apply:

22 (1) (a) "Contractor" means a person entering into a realty improvement contract or a contract for
23 construction services as enumerated in division c of the standard industrial classification manual, as prepared
24 by the statistical policy division of the United States office of management and budget, with the United States
25 and its instrumentalities, the state of Montana and its subdivisions, or any other state or public corporation or
26 person. If a contractor engages in services not specifically listed in division c of the standard industrial
27 classification manual, then the services must entail the construction, building, installation, or repair of a fixture
28 to realty before the gross receipts are subject to the tax imposed by [sections 45 through 89]. Operative

builders, industry number 1531, as enumerated in the standard industrial classification manual, as prepared by the statistical policy division of the United States office of management and budget, are contractors regardless of whether they perform construction work themselves or contract with other contractors.

(b) A person who is not primarily in the business of making realty improvements and regularly employs persons for the purpose of repairing, maintaining, or making realty improvements for the person's own use and who repairs, maintains, or makes a realty improvement for the person's own use with the person's regular employees is not a contractor.

(2) (a) "Fair market value" means the price at which a willing seller and willing buyer will trade as determined at the time of purchase.

(b) If a public corporation is supplying tangible personal property or any product transferred electronically that will be used in the performance of a contract, fair market value is the amount stated in the contractor specifications or notice to bidders.

(3) "Included in the measure of the tax" means the tangible personal property, any product transferred electronically, or the service that was purchased from a retailer licensed under [sections 1 through 44] and that retailer has included the tax in the amount received from the sale.

(4) "In this state" or "in the state" means within the exterior limits of the state of Montana and includes all territory within the limits owned by or ceded to the United States of America.

(5) "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration. A transaction in which the possession of property is transferred but the seller retains the title as security for the payment of the price is a purchase.

(6) "Purchase price" means gross receipts as determined in [section 2(1)].

(7) "Retailer maintaining a place of business in the state" means any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agents operating within the state under the authority of the retailer or its subsidiary, irrespective of whether the place of business or agent is located here permanently or temporarily or whether the retailer or subsidiary is admitted to do business within this state pursuant to the laws of the state of Montana granting the rights of foreign corporations to do business in this state.

(8) "Storage" means any keeping or retention in this state for use or other consumption in the state

of Montana for any purpose except sale in the regular course of business.

(9) "Subcontractor" means a person contracting with a contractor to perform all or part of a realty improvement the contractor has contracted to perform. For highway construction projects, a subcontractor includes any person contracting with a contractor to perform any of the following services as part of the project: traffic control, striping, flagging, operation of pilot cars, signing, landscaping, seeding, sodding, mulching, and erosion control.

(10) "Use" means the exercise of right or power over tangible personal property or any product transferred electronically incidental to the ownership of that property, except that it does not include the sale of that property in the regular course of business. Use also includes the use of the types of services, the gross receipts from the sale of which are to be included in the measure of the tax imposed by [sections 45 through 89], and the delivery or causing delivery into this state of tangible personal property or any product transferred electronically intended to advertise any product or service or promote or facilitate any sale to Montana residents.

NEW SECTION. Section 46. Tax on tangible personal property purchased for use in state. An excise tax is imposed on the privilege of the use, storage, and consumption in this state of tangible personal property purchased for use in this state at the same rate imposed on sales of tangible personal property provided for in [section 3].

NEW SECTION. Section 47. Tax on use of product transferred electronically. (1) There is an excise tax imposed on the use, storage, or consumption in this state of any product transferred electronically purchased for use in this state. The rate of the tax is the same as the rate imposed on sales of tangible personal property provided for in [section 3].

(2) The tax is imposed if:

(a) the sale is to an end user;

(b) the sale is to a person who is not an end user, unless otherwise exempted by [sections 45 through 89];

(c) the seller grants the right of permanent or less than permanent use of the product transferred

electronically; or

(d) the sale is conditioned or not conditioned on continued payment.

(3) For the purposes of this section:

(a) the term "end user" does not include any person who received by contract any product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person; and

(b) the term "permanent use" means perpetual or for an indefinite or unspecified length of time.

(4) The sale of a digital code that may be utilized to obtain a product transferred electronically is taxed in the same manner as the product transferred electronically. A digital code is a code that permits a purchaser to obtain at a later date a product transferred electronically.

NEW SECTION. Section 48. Tax on use of rented property and products transferred

electronically -- exemption. An excise tax is imposed on the privilege of the use of rented tangible personal property and any product transferred electronically in this state at the rate imposed on sales of tangible personal property provided for in [section 3].

NEW SECTION. Section 49. Tax imposed on use of services -- exemptions. For the privilege of using services in the state, except those services exempt under [section 17], there is imposed on the person using the service an excise tax on the value of the service at the time the service is rendered. The tax rate is equal to the rate of the tax on sales of tangible personal property provided for in [section 3].

NEW SECTION. Section 50. Tax on tangible personal property and electronically transferred products not originally purchased for use in state -- exemption -- rulemaking. (1) An excise tax is imposed on the privilege of the use, storage, or consumption in this state of tangible personal property or any product transferred electronically not originally purchased for use in this state, but subsequently used, stored, or consumed in this state, at the rate imposed on sales of tangible personal property provided for in [section 3].

(2) The use, storage, or consumption of tangible personal property or any product transferred electronically that is more than 7 years old at the time it is brought into the state by the person who purchased

1 the property for use in another state is exempt from the tax. The department may adopt rules relating to the
2 determination of the age and value of the tangible personal property or the product transferred electronically
3 brought into this state.

4
5 **NEW SECTION. Section 51. Tax on passenger transportation.** (1) Except as provided in
6 subsection (2), there is imposed a tax on the privilege of the use of any transportation of passengers if the
7 passenger boards and exits the mode of transportation within this state. The rate of the tax is the same as the
8 rate imposed on sales of tangible personal property provided for in [section 3].

9 (2) The tax does not apply to any transportation service that the state is prohibited from taxing by
10 federal law or the United States constitution.

11
12 **NEW SECTION. Section 52. Tax on use of certain mobile telecommunications services.** (1)
13 There is imposed a tax on the privilege of the use of mobile telecommunications services, as defined in 4
14 U.S.C. 124(7), that originate and terminate in the same state and are billed to a customer with a place of
15 primary use in this state. The rate of the tax is the same as the rate imposed on sales of tangible personal
16 property provided for in [section 3].

17 (2) Notwithstanding any other provision of [sections 45 through 89] and for purposes of the tax
18 imposed by this section, the tax imposed on mobile telecommunication services must be administered in
19 accordance with 4 U.S.C. 116-126.

20
21 **NEW SECTION. Section 53. Tax on intrastate, interstate, or international telecommunications**
22 **service -- exemptions.** (1) Except as provided in [section 52] and subsection (2), there is imposed a tax on the
23 privilege of the use of any intrastate, interstate, or international telecommunications service that originates or
24 terminates in this state and that is billed or charged to a service address in this state, or that both originates and
25 terminates in this state. The rate of the tax is the same as the rate imposed on sales of tangible personal
26 property provided for in [section 3].

27 (2) The tax imposed by this section does not apply to:

28 (a) any 800 or 800-type service unless the service both originates and terminates in this state;

(b) any sale of a telecommunication service to a provider of telecommunication services, including access service, for use in providing any telecommunication service; or

(c) any sale of interstate telecommunication service provided to a call center that has been certified by the department to meet the definition in [section 1] and the call center has provided to the telecommunications service provider an exemption certificate issued by the department indicating that it meets the definition. If a call center uses an exemption certificate to purchase services not meeting the definition of a call center, the call center is liable for the applicable tax, penalty, and interest.

NEW SECTION. Section 54. Tax on ancillary services. There is a tax on the privilege of use of ancillary services at the rate imposed on sales of tangible personal property provided for in [section 3].

NEW SECTION. Section 55. Tax imposed on person using property. The use tax provided for in [sections 45 through 89] is imposed on each person using, storing, or otherwise consuming taxable property within this state until the tax has been paid directly to a retailer or to the department.

NEW SECTION. Section 56. Contractor and subcontractor taxed on property used in performance of contract. (1) Except as provided in subsection (2), if a contractor or subcontractor uses tangible personal property or any product transferred electronically in the performance of a contract or to fulfill contract or subcontract obligations, the contractor or subcontractor shall pay a tax at the rate prescribed by [section 3] unless the property has been previously subjected to a sales or use tax in this state and the tax due has been paid. This section applies whether the title to the property is in the name of the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of the property would be subject to pay the sales or use tax. The amount of tax due is measured by the purchase price or fair market value of the property, whichever is greater.

(2) If the contractor or subcontractor fabricates tangible personal property for use in the performance of a contract, fair market value excludes the value of the contractor's or subcontractor's fabrication costs. The value of molds and dies produced in connection with the fabrication or manufacture of other tangible personal property is limited to the cost of materials incorporated in the molds or dies to the extent the cost of

1 the materials have not previously been subjected to sales or use tax.

2 (3) A tax increase may not be levied on materials incorporated in construction work pursuant to
3 construction contracts bid or entered into on or before the effective date of a tax increase.

4
5 **NEW SECTION. Section 57. Sectional homes subject to use tax.** A contractor who erects a
6 sectional home shall hold a sales tax or use tax license and pay use tax based on the fair market value of the
7 raw materials used to construct and erect a sectional home.

8
9 **NEW SECTION. Section 58. Retail sales include auctions and consignments -- deduction**
10 **allowed.** (1) All auction sales and consignment sales of tangible personal property, any product transferred
11 electronically, and services are sales at retail. The auction clerk shall file the return and remit the tax imposed
12 by [sections 45 through 89] on the gross receipts from each auction after applying the deduction provided for in
13 subsection (3).

14 (2) The auctioneer is responsible for the payment of the tax imposed by [sections 45 through 89] if
15 the auction clerk is an employee of the auctioneer or if the auction clerk does not have a permit as required by
16 [sections 45 through 89]. In addition to any other information required to be kept by [sections 45 through 89],
17 each auction clerk shall keep records that identify the owner of the property sold at auction and the auctioneer
18 who conducts the sale of the property.

19 (3) In determining the amount of tax due, auctioneers may deduct from gross receipts amounts
20 that represent direct expense charges for clients for tangible personal property any product transferred
21 electronically or services purchased by the auctioneer on behalf of a client. The sale of the property or service
22 to the auctioneer is not a sale for resale if this deduction is taken. This deduction may only be taken if the
23 amount to be deducted represents an expense specifically incurred for a particular client and the amount is
24 itemized and paid from the client's auction proceeds by the auctioneer or closing agent. The deduction is
25 disallowed if the auctioneer receives any profit or remuneration directly or indirectly from the client's expense.

26
27 **NEW SECTION. Section 59. Exemption of property and services subject to sales tax.** The use in
28 this state of tangible personal property, any product transferred electronically, or services, the gross receipts

1 from the sale of which are to be included in the measure of the tax imposed by [sections 1 through 44], are
2 exempt from the tax imposed by [sections 45 through 89].

3
4 **NEW SECTION. Section 60. Credit for sales or use tax paid to another state -- reciprocity**
5 **required.** (1) Except as provided in subsection (2), the amount of any use tax imposed with respect to tangible
6 personal property, any product transferred electronically, or services must be reduced by the amount of any
7 sales or use tax previously paid by the taxpayer with respect to the property on account of liability to another
8 state or its political subdivisions.

9 (2) The amount of use tax imposed with respect to tangible personal property and any product
10 transferred electronically in the form of equipment brought into this state on a permanent basis for direct use in
11 a manufacturing, fabricating, or processing business must be reduced by the amount of any sales or use tax
12 previously paid by the taxpayer with respect to the property on account of liability to another state or its political
13 subdivisions to the extent that the tax equals or exceeds the rate of the tax in this state. If the sales or use tax
14 of the other state is less than the tax of this state, the taxpayer is subject to the payment of the balance to this
15 state.

16 (3) A credit may not be given under this section for taxes paid on tangible personal property, any
17 product transferred electronically, or services in another state or its political subdivisions if that state does not
18 reciprocally grant a credit for taxes paid on similar tangible personal property or any product transferred
19 electronically.

20
21 **NEW SECTION. Section 61. Exemption for uses exempt from sales tax.** The use in this state of
22 tangible personal property, any product transferred electronically, or services, the gross receipts from the sale
23 of which are exempt from the sales tax provided for in [sections 1 through 44], are exempt from the tax imposed
24 by [sections 45 through 89].

25
26 **NEW SECTION. Section 62. Exemption of use of property leased.** The use, storage, or
27 consumption of tangible personal property and any product transferred electronically actually leased to persons
28 in this state is exempted from the provisions of [sections 45 through 89] and the tax imposed by them.

1

2 NEW SECTION. Section 63. Constitutional exemptions from tax. Tangible personal property and
3 any product transferred electronically, the storage, use, or other consumption of which this state is prohibited
4 from taxing under the constitution or laws of the United States or under the constitution of this state, is exempt
5 from the tax imposed by [sections 45 through 89].

6

7 NEW SECTION. Section 64. Exemption of property brought in for personal use of nonresident.

8 The use in this state of all articles of tangible personal property and any product transferred electronically
9 brought into the state by a nonresident individual for personal use or enjoyment while in the state, is exempt
10 from the tax imposed by [sections 45 through 89].

11

12 NEW SECTION. Section 65. Exemption of materials becoming part of out-of-state signage or
13 **advertising.** The use in this state of tangible personal property and any product transferred electronically that
14 becomes an integral and component part of a final product manufactured by a business classified in signs and
15 advertising specialties that is installed by the manufacturer outside of this state is exempt from the tax imposed
16 by [sections 45 through 89].

17

18 NEW SECTION. Section 66. Prima facie evidence of taxability. For the purpose of the proper
19 administration of [sections 45 through 89] and to prevent the evasion of the tax:

20 (1) evidence that tangible personal property or any product transferred electronically was sold by
21 any person for delivery in this state is prima facie evidence that the tangible personal property or the product
22 transferred electronically was sold for use in this state; and

23 (2) evidence that a service is used in this state is prima facie evidence that the service is subject to
24 tax.

25

26 NEW SECTION. Section 67. Money paid as evidence of value of service. (1) Except as provided
27 in subsection (2), in determining the amount of tax due on the use of a service, it is presumed, in the absence
28 of preponderant evidence of another value, that the value means the total amount of money or the reasonable

1 value of other consideration paid for the service exclusive of any type of time-price differential.

2 (2) In an exchange in which the amount paid does not represent the value of the service
3 purchased, the tax must be imposed on the reasonable value of the service purchased.

4
5 **NEW SECTION. Section 68. List of sales of property or sales to residents.** If property is delivered
6 to this state or the beneficial use of the service occurs in this state, the person selling the property or services to
7 residents of this state shall provide a list of the sales to the department. The list must include the names and
8 addresses of the purchasers and the amount of the sale. The department shall pay to any person furnishing a
9 list under this section an amount equal to the reasonable cost of reproducing the list.

10
11 **NEW SECTION. Section 69. Collection of tax by retailer maintaining place of business in state.**

12 (1) Any retailer maintaining a place of business in this state and making sales of tangible personal property or
13 any product transferred electronically or services for storage, use, or other consumption in this state not
14 exempted under the provisions of [sections 45 through 89] shall, at the time of making a sale, whether within or
15 without the state, collect the tax imposed by [sections 45 through 89] from the purchaser and give to the
16 purchaser a receipt in the manner and form prescribed by the department.

17 (2) The retailer shall list with the department the name and address of all the retailer's agents
18 operating in this state and the location of any of the retailer's distribution or sales houses or offices or other
19 places of business in this state.

20
21 **NEW SECTION. Section 70. Semiannual report of sales by retailer maintaining place of**
22 **business in state.** (1) Each retailer maintaining a place of business in this state and making sales of tangible
23 personal property or any product transferred electronically for storage, use, or other consumption in this state
24 shall, twice annually, furnish the department with a report covering the 6-month period just preceding the
25 submission of the report.

26 (2) The report must contain:

27 (a) the names and addresses of all persons within the state who have made purchases of tangible
28 personal property or any product transferred electronically from the retailer for use, storage, or consumption;

1 and

2 (b) the total amount of the purchase price of all personal property purchased during the period.

3 (3) The report is not required to include any information on the sale of tangible personal property
4 or any product transferred electronically if exempt under [sections 45 through 89].

5

6 **NEW SECTION. Section 71. Permit for collection of tax by retailer not maintaining place of**
7 **business in state -- security for collection.** (1) The department may, on application, authorize the collection
8 of the tax imposed by [sections 45 through 89] by any retailer not maintaining a place of business within this
9 state who, to the satisfaction of the department, furnishes adequate security to ensure collection and payment
10 of the tax.

11 (2) The retailer must be issued, without charge, a permit to collect the tax subject to requirements
12 the department may prescribe by rule.

13 (3) If authorized, the retailer shall collect the tax on any tangible personal property or any product
14 transferred electronically sold to the retailer's knowledge for use, storage, or other consumption within this state
15 in the same manner and subject to the same requirements as a retailer maintaining a place of business within
16 this state.

17 (4) The authority and permit may be canceled if, at any time, the department considers the security
18 inadequate or that the tax can more effectively be collected from the person using the property in this state.

19

20 **NEW SECTION. Section 72. Collection and remittance of tax by retailer.** The tax on the use,
21 storage, or other consumption of all tangible personal property or any product transferred electronically that is
22 sold by a retailer maintaining a place of business in this state or by a retailer authorized by the department
23 pursuant to [section 71] must be collected by the retailer and remitted to the department as provided in
24 [sections 73 through 78].

25

26 **NEW SECTION. Section 73. Surety bond filed by retailer.** In order to ensure the collection of the
27 tax levied under [sections 45 through 89], the department may authorize a person subject to the tax and a
28 retailer required or authorized to collect the tax to file with the department a bond issued by a surety company

1 to secure the payment of any tax or penalties due or that may become due. The surety company must be
2 authorized to transact business in this state and approved by the department. The bond must be in the amount
3 required by the department.

4
5 **NEW SECTION. Section 74. Securities deposited by retailer in lieu of bond.** The department may
6 approve securities in lieu of a bond. Securities deposited with the department must be kept in the custody of the
7 department and may be sold at public or private sale, without notice to the depositor, if it becomes necessary to
8 do so to recover a tax or penalties due. If a security is sold for more than the amount due, the surplus must be
9 returned to the person who deposited the securities.

10
11 **NEW SECTION. Section 75. Tax collected as debt of retailer.** The tax required to be collected by
12 any retailer pursuant to [sections 69 through 71] constitutes a debt owed by the retailer to this state.

13
14 **NEW SECTION. Section 76. Time for filing of return and payment of tax -- extension.** (1) A
15 person required to pay or a retailer required or authorized to collect the tax imposed by [sections 45 through 89]
16 shall, except as otherwise provided in this section, file a return and pay any tax due to the department on or
17 before the 20th day of the month following each monthly period. The return must be filed on forms prescribed
18 and furnished by the department.

19 (2) If the person or retailer remits the tax by electronic transfer to the state, the person or retailer
20 shall file the return by electronic means on or before the 20th day of the month following each period and remit
21 the tax on or before the 25th day of the month following each period.

22 (3) The department may require or allow a person or retailer to file a return and pay any tax due on
23 a basis other than monthly. The return and remittance are due the 20th day of the month following the reporting
24 period or at a time otherwise determined by the department.

25 (4) The department may grant an extension of not more than 5 days for filing a return and
26 remittance.

27 (5) Unless an extension is granted, a person or retailer is subject to the penalty and interest
28 provisions of 15-1-216 if a return or remittance is not made on time.

1
2 **NEW SECTION. Section 77. Contents of return -- remittance.** (1) At the time specified in [section
3 76], the person or retailer shall file with the department a return for the preceding reporting period in a form
4 prescribed by the department showing the sales price of any tangible personal property, any product
5 transferred electronically, or services sold by the retailer during the preceding reporting period, the use,
6 storage, or consumption of which is subject to the tax imposed by [sections 45 through 89], and other
7 information required by the department. Each return must be accompanied by a remittance of the amount of tax
8 due for the period covered by the return.

9 (2) Returns must be signed by the retailer or the retailer's authorized agent and must be certified
10 by the retailer to be correct.
11

12 **NEW SECTION. Section 78. Amounts of tax paid on conditional sales or installment contract**
13 **receipts.** If tangible personal property or any product transferred electronically is sold under a conditional sales
14 contract or under any other form of sale for which the payment of the principal sum, or a part of the principal
15 sum, is extended over a period longer than 60 days from the date of the sale, the retailer may collect and remit
16 for each month that portion of the tax equal to the rate of tax as provided for in [sections 45 through 89] of that
17 portion of the purchase price actually received during the month.
18

19 **NEW SECTION. Section 79. Direct payment of tax by user.** (1) The tax on the use, storage, or
20 consumption of any tangible personal property or any product transferred electronically not paid pursuant to
21 [section 72] must be paid to the department directly by any person using the property within this state.

22 (2) Any person who uses, stores, or otherwise consumes any property or services subject to tax by
23 [sections 45 through 89] on which the tax has not been paid, either to a retailer or directly to the department, is
24 liable for the tax and shall, on or before the time specified in [section 76], pay the tax on all the property used by
25 the person during the preceding month as required by [section 76]. The provisions of [sections 76 through 79],
26 with reference to returns and payments, are applicable to the returns and payments required by this section.
27

28 **NEW SECTION. Section 80. Administration and enforcement -- sales tax collection provisions**

1 **applicable.** The department shall enforce and administer [sections 45 through 89] in the same manner and
2 subject to all of the provisions contained in [sections 1 through 44].

3
4 NEW SECTION. **Section 81. Determination of tax by department in absence of correct return.** If
5 any return required by [sections 45 through 89] is not filed, or if any return when filed is incorrect or insufficient,
6 and the maker or person from whom it is due fails to file a corrected or sufficient return within 10 days after the
7 time required by notice from the department, the department shall determine the amount due.

8
9 NEW SECTION. **Section 82. Department's certificate as prima facie evidence of failure to file**
10 **return or pay tax.** The certificate of the department to the effect that a tax or amount required to be paid by
11 [sections 45 through 89] has not been paid, that a return has not been filed, or that information has not been
12 supplied pursuant to the provisions of [sections 45 through 89] is prima facie evidence that the tax or amount
13 has not been paid.

14
15 NEW SECTION. **Section 83. Records maintained by retailers and users.** (1) Each retailer required
16 or authorized to collect taxes imposed by [sections 45 through 89] and each person using, storing, or otherwise
17 consuming in this state tangible personal property or any product transferred electronically shall keep records,
18 receipts, invoices, and other pertinent papers as required by the department in the form required by the
19 department.

20 (2) The department and its authorized agents may examine the books, papers, records, and
21 equipment of any person either selling tangible personal property or products transferred electronically or liable
22 for the tax imposed by [sections 45 through 89] and investigate the character of the person's business in order
23 to verify the accuracy of any return made or to determine the amount due under the provisions of [sections 45
24 through 89].

25 (3) Any books, papers, and records must be made available within this state for examination on
26 reasonable notice by the department.

27
28 NEW SECTION. **Section 84. Revocation of retailer's sales tax permit on failure to comply.** (1) If

1 a retailer maintaining a place of business in this state, who is authorized to collect the tax imposed pursuant to
2 [section 71], fails to comply with the provisions of [sections 45 through 89] or orders or rules of the department,
3 the department may, on notice and hearing, revoke the permit by order.

4 (2) The department may not authorize a revocation order until the retailer is given an opportunity to
5 be heard and show cause why the order should not be made and must be given 10 days' notice of the time,
6 place, and purpose of the hearing. The notice must be served in the manner provided for service of summons
7 in civil actions.

8 (3) The department may restore a revoked permit at its discretion.

9
10 **NEW SECTION. Section 85. Personal liability of officers, managers, or partners of entity failing**
11 **to file returns or pay tax.** (1) If a corporation, limited liability company, limited partnership, limited liability
12 partnership, or limited liability limited partnership subject to tax under [sections 45 through 89] fails for any
13 reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or
14 managers of limited liability companies or partners of partnerships that control, supervise, or are charged with
15 the responsibility of filing the returns or remitting tax payments are personally liable for the failure.

16 (2) The dissolution of a corporation, limited liability company, limited partnership, limited liability
17 partnership, or limited liability limited partnership does not discharge an officer, member-manager, manager, or
18 partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability
19 partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for a liability
20 may be assessed and collected as provided by law.

21 (3) If the corporate officers, limited liability company member-managers or managers, or partners
22 elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation,
23 limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership
24 shall provide the department with a surety bond or certificate of deposit as security for payment of any tax that
25 may become due. The bond or certificate of deposit provided for in this section must be in an amount equal to
26 the estimated annual gross receipts multiplied by the applicable sales or excise tax rate.

27
28 **NEW SECTION. Section 86. Department authorized to issue direct payment permits to certain**

retailers -- rulemaking. (1) The department may authorize a retailer to use a direct payment permit if the retailer purchases goods or services subject to the tax imposed by [sections 1 through 44]. Applicants for a direct payment permit must apply in writing to the department.

(2) A retailer may appeal the denial of a direct payment permit or contest a revocation of a direct payment permit.

(3) A retailer that makes a sale to a direct payment permit holder has no liability for sales tax on the sale if the retailer has written evidence of the sale. The written evidence must clearly indicate the name of the buyer, the product or service purchased, and the amount of the purchase.

(4) The department may adopt rules concerning the administration and use of a direct payment permit.

(5) For the purposes of this section, "direct payment permit" means a permit issued by the department that allows a holder of the permit to accrue and pay the taxes imposed by [sections 1 through 44] directly to the department.

NEW SECTION. Section 87. Relief from liability for failing to report tax at new rate --

conditions. (1) A retailer is relieved of any liability for failing to report a tax pursuant to [sections 45 through 89] at the new effective rate if the state fails to provide a period of at least 30 days between enactment of the statute providing for a rate change and the effective date of the rate change if:

- (a) the retailer reported the tax at the immediately preceding effective rate; and
- (b) the retailer's failure to report at the newly effective rate does not extend beyond 30 days after the date of enactment of the new rate.

(2) This section does not apply if the retailer fraudulently failed to report the tax at the new rate.

NEW SECTION. Section 88. Rulemaking authority. The department may adopt rules pursuant to [sections 45 through 89] concerning:

- (1) licensing, including bonding and filing license applications;
- (2) the filing of returns and payment of the tax;
- (3) determining the application of the tax and exemptions;

- (4) forms for exemption certificates;
- (5) taxpayer recordkeeping requirements; and
- (6) determining audit methods.

NEW SECTION. Section 89. Use tax proceeds. All money collected under [sections 45 through 89] must, in accordance with the provisions of 17-2-124, be deposited by the department in the school equalization and property tax reduction account provided for in 20-9-336.

NEW SECTION. Section 90. Short title. [Sections 90 through 102] must be known as and referred to as the Uniform Sales and Use Tax Administration Act.

NEW SECTION. Section 91. Definitions. For the purposes of [sections 90 through 102], 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, determine the amount of tax to remit to the appropriate state, and 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 [sections 1 through 44].
- (6) "Seller" means any person making sales, leases, or rentals of personal property or services.
- (7) "State" means any state of the United States and the District of Columbia.
- (8) "Use tax" means the tax levied under [sections 45 through 89].

NEW SECTION. Section 92. Legislative findings. The legislature finds that this state should enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order

1 to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

2
3 **NEW SECTION. Section 93. Authority to enter agreement.** (1) The department is authorized and
4 directed to enter into the streamlined sales and use tax agreement with one or more states to simplify and
5 modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all
6 sellers and for all types of commerce. In furtherance of the agreement, the department is authorized to act
7 jointly with other states that are members of the agreement to establish standards for certification of a certified
8 service provider and certified automated system and establish performance standards for multistate sellers.

9 (2) The department is authorized to take other actions reasonably required to implement the
10 provisions of [sections 90 through 102]. Other actions authorized by [sections 90 through 102] include but are
11 not limited to the adoption of rules consistent with the department's rulemaking authority in [sections 43 and 88]
12 and the joint procurement, with other member states, of goods and services in furtherance of the cooperative
13 agreement.

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

16
17 **NEW SECTION. Section 94. Relationship to state law.** No provision of the agreement authorized
18 by [sections 90 through 102] in whole or in part invalidates or amends any provision of the laws of this state.
19 Adoption of the agreement by this state does not amend or modify any law of this state. Implementation of any
20 condition of the agreement in this state, whether adopted before, at, or after membership of this state in the
21 agreement, must be by the action of this state.

22
23 **NEW SECTION. Section 95. Agreement requirements.** (1) The department may not enter into the
24 streamlined sales and use tax agreement unless the agreement requires each state to abide by the
25 requirements of this section.

26 (2) The agreement must set restrictions to achieve over time more uniform state rates through the
27 following:

28 (a) limiting the number of state rates;

- 1 (b) limiting the application of maximums on the amount of state tax that is due on a transaction;
2 and
- 3 (c) limiting the application of thresholds on the application of state tax.
- 4 (3) The agreement must establish uniform standards for the following:
- 5 (a) the sourcing of transactions to taxing jurisdictions;
6 (b) the administration of exempt sales;
7 (c) the allowances a seller may take for bad debts; and
8 (d) sales and use tax returns and remittances.
- 9 (4) The agreement must require states to develop and adopt uniform definitions of sales and use
10 tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with
11 the uniform definitions.
- 12 (5) The agreement must provide a central, electronic registration system that allows a seller to
13 register to collect and remit sales and use taxes for all signatory states.
- 14 (6) The agreement must provide that registration with the central registration system and the
15 collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the
16 seller has nexus with a state for any tax
- 17 (7) The agreement must provide for reduction of the burdens of complying with local sales and use
18 taxes through the following:
- 19 (a) restricting variances between the state and local tax bases;
20 (b) requiring states to administer any sales and use taxes levied by local jurisdictions within the
21 state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds
22 to, or be subject to independent audits from local taxing jurisdictions;
- 23 (c) restricting the frequency of changes in the local sales and use tax rates and setting effective
24 dates for the application of local jurisdictional boundary changes to local sales and use taxes; and
25 (d) providing notice of changes in local sales and use tax rates and of changes in the boundaries
26 of local taxing jurisdictions.
- 27 (8) The agreement must outline any monetary allowances that are to be provided by the states to
28 sellers or certified service providers.

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

(10) 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.

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

NEW SECTION. Section 96. Cooperating sovereigns. The agreement authorized by [sections 90 through 102] is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

NEW SECTION. Section 97. Seller and third-party liability. (1) 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 and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section.

(2) A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items 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. A seller is subject to audit for transactions not processed by the certified service provider. The member 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.

(3) A person that provides a certified automated system is responsible for the proper functioning of

1 that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the
2 certified automated system. A seller that uses a certified automated system remains responsible and is liable to
3 the state for reporting and remitting tax.

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

7
8 **NEW SECTION. Section 98. Seller registering to collect sales and use tax not liable for**
9 **uncollected tax -- exception.** A seller who registers to pay or to collect and remit applicable Montana sales or
10 use tax in accordance with the terms of the streamlined sales and use tax agreement is not liable for any
11 uncollected or unpaid sales or use tax, penalty, or interest, unless the seller was registered in this state during
12 the 12-month period preceding the date the state is found in compliance with the streamlined sales and use tax
13 agreement. For any seller who is not obligated to collect and remit the tax imposed under [sections 1 through
14 44, 45 through 89, and 117 through 124], the amnesty period provided by this section ends 12 months after the
15 date the streamlined sales tax governing board has determined that adequate certified service providers and
16 certified automated systems are available.

17
18 **NEW SECTION. Section 99. Assessment for uncollected tax prohibited for period seller not**
19 **registered if registration occurs as required.** The provisions of [section 98] preclude assessment for any
20 uncollected or unpaid sales or use tax, penalty, or interest for sales made during the period the seller was not
21 registered in the state if registration occurs within 12 months of the date the state is found in compliance with
22 the streamlined sales and use tax agreement.

23
24 **NEW SECTION. Section 100. Provisions not applicable to matters relating to unresolved audits**
25 **or paid taxes.** The provisions of [section 98] do not apply to any seller with respect to any matter or matters for
26 which the seller received notice of the commencement of an audit and the audit is not yet finally resolved,
27 including any related administrative and judicial processes. The provisions of [section 98] do not apply to any
28 sales or use taxes already paid or remitted to the state or to taxes collected by the seller.

1
2 **NEW SECTION. Section 101. Effectiveness of unresolved audit provisions -- requirements --**
3 **statute of limitations.** Absent the seller's fraud or intentional misrepresentation of a material fact, the
4 provisions of [section 98] are fully effective if the seller remains registered and continues payment or collection
5 and remittance of applicable sales or use taxes for a period of at least 36 months from the date of the seller's
6 original registration. The state's statute of limitations applicable to asserting a tax liability is tolled during this 36-
7 month period.

8
9 **NEW SECTION. Section 102. Provisions applicable to taxes due from seller in capacity as**
10 **seller.** The provisions of [section 98] are applicable only to sales or use taxes due from a seller in its capacity
11 as a seller and not to sales or use taxes due from a seller in its capacity as a buyer.

12
13 **NEW SECTION. Section 103. Certain sellers located outside of state required to collect and**
14 **remit sales taxes.** Notwithstanding any other provision of law, any seller selling tangible personal property,
15 products transferred electronically, or services for delivery into the state, who does not have a physical
16 presence in the state, is subject to [sections 1 through 44, 45 through 89, and 117 through 124], shall remit the
17 sales tax, and shall follow all applicable procedures and requirements of law as if the seller had a physical
18 presence in the state, provided the seller meets either of the following criteria in the previous calendar year or
19 the current calendar year:

20 (1) the seller's gross revenue from the sale of tangible personal property, any product transferred
21 electronically, or services delivered into the state exceeds \$100,000; or

22 (2) the seller sold tangible personal property, any product transferred electronically, or services for
23 delivery into the state in 200 or more separate transactions.

24
25 **NEW SECTION. Section 104. Definitions.** For the purposes of [sections 104 through 107], the
26 following definitions apply:

27 (1) "Marketplace" means any means by which any marketplace seller sells or offers for sale
28 tangible personal property, products transferred electronically, or services for delivery into this state, regardless

1 of whether the marketplace seller has a physical presence in this state.

2 (2) "Marketplace provider" means any person that facilitates a sale for a marketplace seller
3 through a marketplace by:

4 (a) offering for sale by the marketplace seller, by any means, tangible personal property, products
5 transferred electronically, or services for delivery into this state; and

6 (b) directly, or indirectly through any agreement or arrangement with third parties, collecting
7 payment from a purchaser and transmitting the payment to the marketplace seller, regardless of whether the
8 person receives compensation or other consideration in exchange for facilitating the sale or providing any other
9 service.

10 (3) "Marketplace seller" means a retailer that sells or offers for sale tangible personal property,
11 products transferred electronically, or services for delivery into this state through a marketplace that is owned,
12 operated, or controlled by a marketplace provider.

13 (4) "Person" has the meaning provided in [section 1].

14 (5) "Retailer" has the meaning provided in [section 1].
15

16 **NEW SECTION. Section 105. Certain marketplace providers required to collect and remit sales**
17 **tax.** Notwithstanding any other provision of law, a marketplace provider is subject to [sections 1 through 44, 45
18 through 89, and 117 through 124], and shall collect and remit sales tax on all sales of tangible personal
19 property, products transferred electronically, or services for delivery into this state that the marketplace provider
20 makes or facilitates for a marketplace seller if the marketplace provider:

21 (1) is a seller subject to [section 103];

22 (2) facilitates the sales of at least one marketplace seller that is subject to [section 103]; or

23 (3) facilitates the sales of two or more marketplace sellers that, when the sales are combined, are
24 subject to [section 103], even if the marketplace sellers are not separately or individually subject to [section
25 103].
26

27 **NEW SECTION. Section 106. Sale for resale.** A marketplace seller making a sale through a
28 marketplace provider that is subject to the provisions of [sections 104 through 107] shall consider the sale as a

1 sale for resale.

2

3 **NEW SECTION. Section 107. Failure to collect or remit sales tax -- relief from liability.** (1)

4 Except as provided in subsection (2), a marketplace provider that fails to collect or remit sales tax as provided
5 in [section 105] may be relieved of liability if the failure was due to incorrect or insufficient information provided
6 to the marketplace provider by a marketplace seller. The relief provided by this section may not exceed 5% of
7 the total sales tax due on all sales into this state that are facilitated by a marketplace provider for marketplace
8 sellers in a calendar year.

9 (2) The provisions of this section do not apply to any sales for which the marketplace provider is
10 affiliated with the marketplace seller. A marketplace provider and a marketplace seller are affiliated if:

11 (a) either owns more than 5% of the other; or

12 (b) both are subject to the control of a common entity that owns more than 5% of each.

13

14 **NEW SECTION. Section 108. Definition of terms related to sales of property, services, and**
15 **products transferred electronically.** For the purposes of [sections 108 through 116], the following definitions
16 apply:

17 (1) "De minimis online auction website" means any online auction website that facilitates total
18 gross sales in Montana in the prior calendar year of less than \$100,000 and reasonably expects Montana sales
19 in the current calendar year will be less than \$100,000.

20 (2) "De minimis retailer" means any noncollecting retailer that made total gross sales in Montana in
21 the prior calendar year of less than \$100,000 and reasonably expects Montana sales in the current calendar
22 year will be less than \$100,000.

23 (3) "Montana purchaser" means any purchaser that purchases tangible personal property,
24 services, or products transferred electronically to be shipped or transferred to Montana.

25 (4) "Noncollecting retailer" means any retailer, not currently registered to collect and remit Montana
26 sales and use tax, who makes sales of tangible personal property, services, and products transferred
27 electronically from a place of business outside of Montana to be shipped to Montana for use, storage, or
28 consumption and who is not required to collect Montana sales or use taxes.

(5) "Online auction website" means a collection of web pages on the internet that allows any person to display tangible personal property, services, or products transferred electronically for sale that is purchased through a competitive process for which a participant places a bid with the highest bidder purchasing the property, service, or product when the bidding period ends.

NEW SECTION. Section 109. Notice of use tax due on purchases of tangible personal property, services, or products transferred electronically. Pursuant to [sections 108 through 116], each noncollecting retailer shall give notice that Montana use tax is due on nonexempt purchases of tangible personal property, services, or products transferred electronically and must be paid by the Montana purchaser. The notice must be readily visible and contain the information as follows:

- (1) the noncollecting retailer is not required to, and does not collect, Montana sales or use tax;
- (2) the purchase is subject to state use tax unless it is specifically exempt from taxation;
- (3) the purchase is not exempt merely because the purchase is made over the internet, by catalog, or by other remote means;
- (4) the state requires each Montana purchaser to report any purchase that was not taxed and pay tax on the purchase. The tax may be reported and paid on the Montana use tax form.
- (5) the use tax form and corresponding instructions are available on the Montana department of revenue website.

NEW SECTION. Section 110. Notice on website or in catalog. (1) The notice required by [section 109] on a website must be on a page necessary to facilitate the applicable transaction. The notice is sufficient if the noncollecting retailer provides a prominent linking notice that reads as follows: "See important Montana sales and use tax information regarding the tax you may owe directly to the State of Montana." The prominent linking notice must direct the purchaser to the principal notice information required by [section 109].

(2) The notice required by [section 109] in a catalog must be part of the order form. The notice is sufficient if the noncollecting retailer provides a prominent reference to a supplemental page that reads as follows: "See important Montana sales and use tax information regarding the tax you may owe directly to the State of Montana on page ____." The notice on the order form must direct the purchaser to the page that

1 includes the principal notice required by [section 109].

2
3 **NEW SECTION. Section 111. Invoice notice for internet or catalog purchase.** (1) For any internet
4 purchase made pursuant to [sections 108 through 116], the invoice notice must be on the electronic order
5 confirmation. The notice is sufficient if the noncollecting retailer provides a prominent linking notice that reads
6 as follows: "See important Montana sales and use tax information regarding the tax you may owe directly to the
7 State of Montana." The invoice notice link must direct the purchaser to the principal notice required by [section
8 109]. If the noncollecting retailer does not issue an electronic order confirmation, the complete notice must be
9 placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

10 (2) For any catalog or phone purchase made pursuant to [sections 108 through 116], the complete
11 notice must be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

12
13 **NEW SECTION. Section 112. Notice on checkout page for internet purchase fulfills**
14 **requirements.** (1) For any internet purchase made pursuant to [sections 108 through 116], notice on the
15 checkout page fulfills both the website and invoice notice requirements simultaneously. The notice is sufficient if
16 the noncollecting retailer provides a prominent linking notice that reads as follows: "See important Montana
17 sales and use tax information regarding the tax you may owe directly to the State of Montana." The checkout
18 page notice link must direct the purchaser to the principal notice required by [section 109].

19 (2) If a retailer is required to provide a similar notice for another state in addition to Montana, the
20 retailer may provide a consolidated notice so long as the notice includes the information contained in [section
21 109], specifically references Montana, and meets the placement requirements of this section.

22
23 **NEW SECTION. Section 113. Displays to be accompanied by notice of tax due.** (1) A
24 noncollecting retailer may not state or display or imply that no tax is due on any Montana purchase unless the
25 display is accompanied by the notice required by [section 109] each time the display appears. If a summary of
26 the transaction includes a line designated "sales tax" and shows the amount of sales tax as zero, this
27 constitutes a display implying that no tax is due on the purchase. This display must be accompanied by the
28 notice required by [section 109] each time it appears.

(2) Notwithstanding the limitation in this section, if a noncollecting retailer knows that a purchase is exempt from Montana tax pursuant to Montana law, the noncollecting retailer may display or indicate that no sales or use tax is due even if the display is not accompanied by the notice required by [section 109].

NEW SECTION. **Section 114. Online auction websites.** With the exception of notification on an invoice, the provisions of [sections 108 through 116] apply to online auction websites.

NEW SECTION. **Section 115. De minimis retailers and de minimis online auction websites.** A de minimis retailer and a de minimis online auction website are exempt from the notice requirements provided by [sections 108 through 116].

NEW SECTION. **Section 116. Criminal penalty or civil liability not applicable.** No criminal penalty or civil liability may be applied or assessed for failure to comply with the provisions of [sections 108 through 116].

Section 117. Section 7-15-4286, MCA, is amended to read:

"7-15-4286. Procedure to determine and disburse tax increment -- remittance of excess portion of tax increment for targeted economic development district. (1) (a) Except as provided in subsection (1)(b), mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area or targeted economic development district and the base taxable value of all taxable property located within the area or district. The mill rate determined must be levied against the sum of the actual taxable value of all taxable property located within as well as outside the area or district.

(b) If a mill levy is excluded from the tax increment calculation pursuant to subsections (2)(b) through (2)(d), the calculation pursuant to subsection (1)(a) must use the total taxable value of all property located within the area or district.

(2) (a) Except as provided in subsections (2)(b) through (2)(d) and (3), the tax increment, if any,

received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the area or district must be paid into a special fund held by the treasurer of the local government and used as provided in 7-15-4282 through 7-15-4294.

(b) For targeted economic development districts and urban renewal areas created before April 6, 2017, the combined mill rates used to calculate the tax increment may not include the mill rates for the university system mills levied pursuant to 15-10-109 and 20-25-439.

(c) For targeted economic development districts created on or after April 6, 2017, and before July 1, 2022, and urban renewal areas created on or after April 6, 2017, the combined mill rates used to calculate the tax increment may not include mill rates for:

(i) the university system mills levied pursuant to 15-10-109 and 20-25-439; and

(ii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment provision.

(d) For targeted economic development districts created after June 30, 2022, the combined mill rates used to calculate the tax increment may not include mill rates for:

(i) the university system mills levied pursuant to 15-10-109 and 20-25-439;

~~(ii) one-half of the elementary, high school, and state equalization mills levied pursuant to 20-9-331, 20-9-333, and 20-9-360;~~

~~(iii)~~ (ii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment provision; and

~~(iv)~~ (iii) any portion of an existing mill levy designated by the local government as excluded from the tax increment.

(3) (a) Subject to 7-15-4287 and subsection (3)(b) of this section, a targeted economic development district with a tax increment provision adopted after October 1, 2019, may expend or accumulate tax increment for:

(i) the payment of the costs listed in 7-15-4288;

(ii) the cost of issuing bonds; or

(iii) any pledge to the payment of the principal of any premium, if any, and interest on the bonds issued pursuant to 7-15-4289 and sufficient to fund any reserve fund in respect of the bonds in an amount not

1 to exceed 125% of the maximum principal and interest on the bonds in any year during the term of the bonds.

2 (b) Any excess tax increment remaining after the use or accumulation of funds as set forth in
3 subsection (3)(a) must be:

4 (i) remitted to each taxing jurisdiction for which the mill rates are included in the calculation of the
5 tax increment as provided in subsections (1) and (2); and

6 (ii) proportional to the taxing jurisdiction's share of the total mills levied.

7 (c) A targeted economic development district is not subject to the provisions of this subsection (3)
8 if bonds have not been issued to finance the project.

9 (4) Any portion of the excess tax increment remitted to a school district pursuant to subsection (3)
10 is subject to the provisions of 7-15-4291(2) through (5).

11 (5) The balance of the taxes collected in each year must be paid to each of the taxing bodies as
12 otherwise provided by law."

13
14 **Section 118.** Section 15-1-409, MCA, is amended to read:

15 **"15-1-409. Exclusion of certain property subject to property tax protest -- guaranteed tax base -**
16 **- tax refund.** (1) A school district that has centrally assessed property subject to pending property tax protests
17 shall, prior to February 1 of each year, elect whether to waive the school district's right to receive its portion of
18 protested taxes under 15-1-402(5)(b) for the previous year.

19 (2) ~~If the school district elects to waive its right to its portion of the protested taxes under~~
20 ~~subsection (1), the district's guaranteed tax base aid calculated under 20-9-366 must be determined based on~~
21 ~~the total taxable value of property in the school district less the taxable value of the centrally assessed property~~
22 ~~for which a school district waived its right to receive its portion of protested taxes. Upon On settlement or other~~
23 ~~resolution of the protest, the department is responsible for refunding protested taxes or paying any other costs~~
24 ~~due the protesting taxpayer and retaining any portion of protested taxes that would have been distributed to the~~
25 ~~school district for each year the school district has elected to waive receiving its portion of the protested taxes.~~

26 (3) For the purpose of this section, "centrally assessed property" means property that is centrally
27 assessed pursuant to 15-23-101 and industrial property that is assessed annually by the department."
28

1 **Section 119.** Section 15-10-420, MCA, is amended to read:

2 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
3 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
4 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
5 years. The maximum number of mills that a governmental entity may impose is established by calculating the
6 number of mills required to generate the amount of property tax actually assessed in the governmental unit in
7 the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half
8 of the average rate of inflation for the prior 3 years.

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

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

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

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

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

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

28 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the

1 release of taxable value from the incremental taxable value of a tax increment financing district because of:

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for the
26 purposes of 15-10-109, ~~20-9-331~~, ~~20-9-333~~, ~~20-9-360~~, and 20-25-439. However, the number of mills calculated
27 by the department may not exceed the mill levy limits established in those sections. The mill calculation must
28 be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the

calculation must be rounded up to the nearest tenth of a mill.

(9) (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;

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

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

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

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

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

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(3)(b); or

(ix) a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past. The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

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

(10) 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.

(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 value in a governmental unit."

Section 120. 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 commencement of construction, qualifying improvements or modernized processes that represent new industry

1 or expansion of an existing industry, as designated in the approving resolution, must be taxed at 25% or 50% of
2 their taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal
3 percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be
4 taxed at 100% of its taxable value.

5 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer
6 may submit an application for a project with a project plan and receive approval for an abatement prior to
7 commencement of construction. A taxpayer that does not seek approval prior to commencing construction must
8 have applied by March 1 of the year during which the benefit is first applicable. The governing body of the
9 affected county or the incorporated city or town must have approved by separate resolution for each project,
10 following due notice as provided in 7-1-2121 if a county or 7-1-4127 if an incorporated city or town and a public
11 hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body
12 may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under
13 protest do not preclude approval. If a taxpayer receives approval of a tax abatement prior to commencement of
14 construction, the abatement does not extend to property that is outside the scope of the project plan that was
15 submitted to the governing body with the application.

16 (b) The governing body shall:

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

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

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

24 (d) Subject to 15-10-420 and subsection (2)(f) of this section, a tax benefit may not be denied once
25 approved.

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

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

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

(6) The taxpayer may terminate an abatement provided pursuant to this section on a form promulgated by the department."

Section 121. Section 15-24-1703, MCA, is amended to read:

1 **"15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of
2 delinquent property taxes pursuant to this part:

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

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

7
8 **Section 122.** Section 15-24-1802, MCA, is amended to read:

9 **"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or
10 leased and operated by a local economic development organization is eligible for an exemption from property
11 taxes as provided in this section.

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

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

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

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

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

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

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

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

(4) 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.

(5) 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 or otherwise required under state law.

(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 15-24-1801, 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 123. 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 for a taxpayer to qualify for the tax exemption described in this section, the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. 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 provided in 7-1-2121 if a county, consolidated government, or school district or 7-1-4127 if an incorporated city or town, 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) (a) The governing body shall:

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

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

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

(4) 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.

(5) 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~~ or otherwise required under state law.

(6) 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.

(7) 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 124. 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 for a taxpayer to qualify for the tax exemption described in this section, the taxpayer

1 must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the
2 affected county, consolidated government, incorporated city or town, or school district in which the building and
3 land are located shall approve the tax exemption by resolution, after due notice, as provided in 7-1-2121 if a
4 county, consolidated government, or school district or 7-1-4127 if an incorporated city or town, and hearing. The
5 governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing
6 body shall approve a tax exemption by a separate resolution. The governing body may not grant approval for
7 the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not
8 preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic
9 development organization:

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

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

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

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

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

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

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

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

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

1 other levies required under state law.

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

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

17

18 **Section 125.** Section 15-39-110, MCA, is amended to read:

19 **"15-39-110. Distribution of taxes.** (1) (a) For each semiannual period, the department shall
20 determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines
21 that produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through
22 (9).

23 (b) For each semiannual period, the department shall determine the amount of tax, late payment
24 interest, and penalties collected under this part from bentonite mines that first began producing bentonite after
25 December 31, 2004. The tax is distributed as provided in subsection (10).

26 (2) The percentage of the tax determined under subsection (1)(a) and specified in subsections (3)
27 through (9) is allocated according to the following schedule:

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

1 for the purposes of the state tax levy as provided in 15-10-109;

2 (b) 18.14% to the ~~state general fund to be appropriated for the purposes of the tax levies as~~
3 ~~provided in 20-9-331, 20-9-333, and 20-9-360~~ school equalization and property tax reduction account provided
4 for in 20-9-336;

5 (c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the
6 taxing jurisdictions in which production occurs, except a distribution may not be made for ~~county and state~~
7 levies under 15-10-109, ~~20-9-331, 20-9-333, and 20-9-360~~; and

8 (d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the
9 taxing jurisdictions in which production occurs, except a distribution may not be made for ~~county and state~~
10 levies under 15-10-109, ~~20-9-331, 20-9-333, and 20-9-360~~.

11 (3) For the production of bentonite occurring after December 31, 2008, and before January 1,
12 2010, 60% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and
13 40% must be distributed as provided in subsection (10).

14 (4) For the production of bentonite occurring after December 31, 2009, and before January 1,
15 2011, 50% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and
16 50% must be distributed as provided in subsection (10).

17 (5) For the production of bentonite occurring after December 31, 2010, and before January 1,
18 2012, 40% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and
19 60% must be distributed as provided in subsection (10).

20 (6) For the production of bentonite occurring after December 31, 2011, and before January 1,
21 2013, 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and
22 70% must be distributed as provided in subsection (10).

23 (7) For the production of bentonite occurring after December 31, 2012, and before January 1,
24 2014, 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and
25 80% must be distributed as provided in subsection (10).

26 (8) For the production of bentonite occurring after December 31, 2013, and before January 1,
27 2015, 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and
28 90% must be distributed as provided in subsection (10).

(9) 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 (10).

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

(a) 1.30% 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 15-10-109;

(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~~ school equalization and property tax reduction account provided for in 20-9-336;

(c) 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 15-10-109, ~~20-9-331, 20-9-333, and 20-9-360~~.

(11) Except as provided by subsection (14), 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.

(12) (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 determining school district debt limits under 20-9-406.

(b) The percentage amount of the gross yield of value determined under subsection (12)(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.

(13) The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the

department for distribution as provided in this section.

(14) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction."

Section 126. 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 (6), as provided in Public Law 106-393, Public Law 110-343, and any similar subsequent act to determine how the forest reserve funds, Public Law 106-393, funds, Public Law 110-343 funds, and funds received pursuant to a similar subsequent act 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 or any similar subsequent act, 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 or any similar subsequent act, 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 or any similar subsequent act.

(4) If a county's full payment under Public Law 106-393 or any similar subsequent act 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, 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)~~ (i) the county transportation fund provided for in 20-10-146; and

~~(iv)~~ (ii) 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) 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)(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.

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

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

(b) returned to the United States.

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

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

1 **Section 127.** Section 20-3-106, MCA, is amended to read:

2 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction
3 has the general supervision of the public schools and districts of the state and shall perform the following duties
4 or acts in implementing and enforcing the provisions of this title:

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

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

8 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
9 20-5-314;

10 (4) approve or disapprove the opening or reopening of a school in accordance with the provisions
11 of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

12 (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

13 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the
14 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103
15 and 20-9-506;

16 (7) establish a system of communication for calculating joint district revenue in accordance with the
17 provisions of 20-9-151;

18 (8) approve or disapprove the adoption of a district's budget amendment resolution under the
19 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget
20 amendment in accordance with the approval and disbursement provisions of 20-9-166;

21 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

22 (10) prescribe and furnish the annual report forms to enable the districts to report to the county
23 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the
24 county superintendents to report to the superintendent of public instruction in accordance with the provisions of
25 20-3-209;

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

28 (12) distribute BASE aid and special education allowable cost payments in support of the BASE

1 funding program in accordance with the provisions of ~~20-9-331, 20-9-333, 20-9-342, 20-9-346, and 20-9-347,~~
2 ~~and 20-9-366 through 20-9-369;~~

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

5 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-
6 603;

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

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

11 (17) recommend standards of accreditation for all schools to the board of public education in
12 accordance with the provisions of 20-7-101;

13 (18) evaluate compliance with the accreditation standards and recommend accreditation status of
14 every school to the board of public education in accordance with the provisions of 20-7-102;

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

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

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

21 (22) as the governing agent and executive officer of the state of Montana for K-12 career and
22 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of 20-7-
23 301;

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

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

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

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

(27) 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;

(28) 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; and

~~(29) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369; and~~

~~(30)~~ (29) 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 128. Section 20-5-324, MCA, is amended to read:

"20-5-324. Tuition payment provisions -- state obligations -- district obligations -- financing -- reporting. (1) In order to be eligible to receive state reimbursement or payment under subsection (2)(a), the trustees of a district shall report to the superintendent of public instruction by June 30 the following information for the concluding school fiscal year:

(a) the name and district of residence of each child who attended a school of the district under a mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e);

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);

(d) the names, districts of attendance, and amount of tuition paid by the district for resident students attending public schools out of state; and

(e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students attending day-treatment programs under approved individualized education programs at private, nonsectarian schools.

(2) (a) Subject to the limitations of 20-5-323, the superintendent of public instruction shall:

(i) except as provided in subsection (2)(b) of this section, pay the district of attendance the amount of the tuition obligation reported under subsection (1)(c) of this section, prorated for the actual days of enrollment;

(ii) determine the total per-ANB entitlement for which the district of residence would have been eligible if the students reported in subsections (1)(d) and (1)(e) of this section had been enrolled in the resident district in the prior year; and

(iii) reimburse the district of residence for the state portion of the per-ANB entitlement for each student reported in subsections (1)(d) and (1)(e) of this section, not to exceed the district's actual payment of tuition or fees for service for the student in the previous year.

(b) The district of residence for each child reported under the provisions of subsection (1)(a) of this section shall pay the district of attendance the tuition rate under 20-5-323(1) prorated for the actual days of enrollment. The superintendent of public instruction is only responsible for any additional tuition amount pursuant to 20-5-323(2) and (3).

(3) Whenever a child enrolls in and attends a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, by July 15 following the year of attendance, the district of attendance shall notify the district of residence of an obligation under 20-5-323.

(4) (a) (i) When a child attends a school outside the child's district of residence at the resident district's expense under the provisions of 20-5-320 or 20-5-321 or when a child has approval to attend a day-treatment program under an approved individualized education program at a private, nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance any tuition amount required under 20-5-323 from the levy authorized to support the district tuition fund or from the district's general fund or any other legally available fund in the discretion of the trustees and any transportation amount from the levy authorized to support the transportation fund or from the district's general fund or any other legally available fund in the discretion of the trustees.

(ii) By December 31 of the school fiscal year following the year of attendance, the district of residence shall pay at least one-half of any tuition and transportation obligation established under subsection (4)(a)(i). The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year

1 following the year of attendance.

2 (iii) In addition to use of a tuition levy to pay tuition for out-of-district attendance of a resident pupil,
3 a school district may also include in its tuition levy an amount necessary to pay for the full costs of providing a
4 free appropriate public education, as defined in 20-7-401, in the district to any child with a disability who lives in
5 the district. The amount of the levy imposed for the costs associated with educating each child with a disability
6 under this subsection (4)(a)(iii) is limited to the actual cost of service under the child's individualized education
7 program minus:

8 (A) the student's state special education payment;
9 (B) the student's federal special education payment;
10 (C) the student's per-ANB amount;
11 (D) the prorated portion of the district's basic entitlement for each qualifying student; and
12 (E) the prorated portion of the district's general fund payments in 20-9-327 through 20-9-330 for
13 each qualifying student.

14 (b) When a child has approval to attend a school outside the child's district of residence because
15 of a parent's or guardian's request under the provisions of 20-5-320 or 20-5-321(1)(c), the parent or guardian of
16 the child is responsible for transportation unless otherwise agreed to in the out-of-district attendance
17 agreement.

18 (5) (a) Except as provided in subsection (5)(b), the district of attendance shall anticipate and credit
19 tuition receipts to the district general fund, to reduce the general fund net levy requirement first to the BASE
20 budget and any remaining to the over-BASE budget pursuant to 20-9-141, and transportation receipts to the
21 transportation fund. ~~In order to provide local property tax reduction for the tuition amount received under 20-5-~~
22 ~~323(1), the amount of the reduction in the BASE budget mills levied as a result of anticipated tuition payments~~
23 ~~must be calculated as a final step in computing the district's general fund net BASE levy requirement pursuant~~
24 ~~to the procedure set forth in 20-9-141(2) and the district's guaranteed tax base aid must be calculated prior to~~
25 ~~the reduction in BASE mills.~~

26 (b) Any tuition receipts received for a pupil who is a child with a disability under 20-5-323(2) or for
27 a student without disabilities who requires a program with costs that exceed the average district costs under 20-
28 5-323(3) that exceed the tuition amount received for a pupil without disabilities must be deposited in the district

1 miscellaneous programs fund and must be used in the manner provided for in 20-9-507 to support the costs of
2 the program for which the tuition was received.

3 (6) The reimbursements paid under subsection (2)(a)(iii) must be deposited into the district tuition
4 fund and must be used by the district to pay obligations for resident students attending public schools out of
5 state or for resident students attending day-treatment programs under approved individualized education
6 programs at private, nonsectarian schools at district expense.

7 (7) The provisions of this section do not apply to out-of-state placements made by a state agency
8 pursuant to 20-7-422.

9 (8) In accordance with 5-11-210, the superintendent of public instruction shall report annually to
10 the education interim committee on out-of-district attendance under 20-5-320 through 20-5-324 in the prior
11 school fiscal year. The report must include the following for each school district:

12 (a) the total enrollment of the district;

13 (b) the number of nonresident students served by the district under out-of-district attendance
14 agreements; and

15 (c) the number of resident students served by other school districts under out-of-district attendance
16 agreements."

17
18 **Section 129.** Section 20-6-326, MCA, is amended to read:

19 **"20-6-326. Procedure for expansion of elementary school district into K-12 school district --**

20 **trustee resolution.** (1) An existing elementary district that is not part of a unified school system or governed by
21 a joint board with a high school district may expand into a K-12 district under the procedures outlined in this
22 section only if the elementary district's ANB, as calculated under the provisions of 20-9-311, is at least 1,000.

23 (2) The expansion to a K-12 district may be requested by the trustees of an existing elementary
24 district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the
25 county superintendent to order an election to allow the electors of the elementary district to consider the
26 proposition of expanding the elementary school district into a K-12 district. The trustees of an existing
27 elementary district with an ANB of at least 1,000 may not pass a resolution for expansion more than one time
28 within a 5-year period.

(3) (a) If the proposition for the expansion is approved by the electors of the elementary district and the trustees issue a certificate of election as provided in 20-20-416, for a period of 2 years from the date of the certification of the election the elementary trustees have the authority to propose to the electors of the elementary district:

(i) a transition costs levy pursuant to 20-9-502; and

(ii) a general obligation bond pursuant to Title 20, chapter 9, part 4, for the purpose of building, altering, repairing, buying, furnishing, equipping, purchasing lands for, or obtaining a water supply for a school to accommodate high school students.

(b) The bond limitations pursuant to 20-9-406 imposed on a district proposing a bond under subsection (3)(a) must be calculated on the limits for a K-12 district with the high school ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.

(c) A bond approved under subsection (3)(a) becomes a bond of, and may not be issued until the creation of, the K-12 district formed pursuant to subsection (4).

~~(d) — A district that issues a bond under this subsection (3) is eligible for facility reimbursements and advances pursuant to 20-9-366 through 20-9-371 that, until the new high school has enrolled students in all grades and has established an actual ANB for budgeting purposes, must be based on an estimated high school ANB calculated by dividing the ANB of the elementary district by 9 and multiplying the result by 4.~~

~~(e)~~ (d) Until the county superintendent orders the creation of a new high school district and attachment of the expanding elementary district to form a new K-12 district pursuant to subsection (4), the existing high school district remains intact for all purposes.

(4) If elementary electors approve a bond pursuant to subsection (3), on July 1 following the approval of the bond the county superintendent shall order the creation of a new high school district with identical boundaries to the expanding elementary district and the immediate attachment of the expanding elementary district to form a K-12 district. The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts affected by the creation of the district. The trustees of the expanding elementary district must be designated as the trustees of the new K-12 district.

(5) Prior to the first school fiscal year in which the K-12 district will enroll students in a particular high school grade, the K-12 trustees shall prepare operating budgets for the new high school according to the

1 school budgeting provisions of this title, except that:

2 (a) the ANB for any inaugural grades for the high school program of the K-12 district must be
3 estimated by the trustees and may not exceed the number resulting from dividing the highest budgeted ANB of
4 the elementary program in the preceding 3 fiscal years by 9 and multiplying the result by the number of grades
5 in which the high school will enroll students for the first time in the ensuing school year;

6 (b) the number of quality educators for the high school program must be estimated by the trustees
7 and may not exceed the number resulting from dividing the ANB estimated under subsection (5)(a) by 10;

8 (c) the taxable value for budgeting purposes of both the elementary and high school programs of
9 the K-12 district must be based on the taxable value as most recently determined by the department of
10 revenue;

11 (d) the general fund budget adopted by the trustees must be based on only the basic entitlement,
12 the quality educator payment, and the budget components derived from ANB counts; and

13 (e) the district's BASE aid for the upcoming year must be based on the general fund budget
14 adopted by the trustees for the upcoming school year.

15 (6) Until the first school year in which the K-12 school district enrolls high school students in all
16 grades and for a period of time not to exceed 6 years following the creation of the K-12 district:

17 (a) the high school district shall provide high school instruction to high school students of the K-12
18 district in any grades in which the K-12 district is not enrolling students;

19 (b) the K-12 district shall be responsible for providing transportation for its students enrolled in the
20 high school district pursuant to subsection (6)(a), may establish a transportation budget for this purpose, and
21 may receive state and county reimbursements under Title 20, chapter 10; and

22 (c) the K-12 district shall pay the high school district 20% of the per-ANB maximum rate
23 established in 20-9-306 for each of its students enrolled in the high school district with one-half of the amount
24 due by December 31 of the year following the year of attendance and the remainder due no later than June 15
25 of the year following the year of attendance. The K-12 trustees shall establish a tuition fund and levy to fund
26 these payments.

27 (7) (a) Bonded indebtedness of the high school district that is outstanding as of the date of creation
28 of the K-12 district must remain secured by and be the indebtedness of the original territory against which the

1 bonds of the high school district were issued and must be paid by tax levies against the original territory.

2 (b) Bonded indebtedness of the high school district that is issued by the high school district
3 following the creation of the K-12 district is secured by the territory of the high school district as of the date of
4 issuance of the high school district bonds and must be paid by tax levies against the territory of the high school
5 district. However, if bonds of the high school district were approved at a bond election conducted before the
6 creation of the K-12 district, all bonds of the high school district issued by the high school district under the
7 bond election authority must remain secured by and be the indebtedness of the territory of the high school
8 district as of the date the bond authority was approved by voters and must be paid by tax levies against that
9 territory.

10 (c) Bonded indebtedness of the K-12 district is secured by the territory of the K-12 district as of the
11 date of issuance of the K-12 district bonds and must be paid by tax levies against the territory of the K-12
12 district.

13 (d) Bonded indebtedness of the elementary district that is outstanding as of the date of creation of
14 the K-12 district must become upon the date of creation of the K-12 district the bonded indebtedness of the K-
15 12 district and must be secured by the territory of the K-12 district and paid by tax levies against the territory of
16 the K-12 district. The debt service on the bonds must be allocated to the elementary program of the K-12
17 district.

18 (e) Bonded indebtedness of the high school district or the K-12 district that is subsequently
19 affected by a later reorganization of the high school district or the K-12 district is governed by the provisions of
20 Title 20, chapter 6, part 4.

21 (8) When a K-8 district expands to a K-12 district as provided for in this section, a principal,
22 teacher, or other certified employee of the original high school district who has a right of tenure under Montana
23 law must be given preference in hiring for a vacant position in the new K-12 district for which the employee is
24 qualified with the required certification endorsements."

25
26 **Section 130.** Section 20-6-702, MCA, is amended to read:

27 **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2)
28 through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for

1 high school districts.

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

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

6 (a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in
7 accordance with the provisions of 20-9-311;

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

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

17 ~~(d) (c) the levy authority limits under 20-9-502(3) and the corresponding state school major~~
18 ~~maintenance aid under 20-9-525(3) for a K-12 school district must be calculated separately for the K-12 school~~
19 ~~district's elementary and high school programs in the same manner as those limits and aid would be calculated~~
20 ~~if the K-12 school district consisted of a separate elementary and high school district.~~

21 (4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school
22 district must be calculated and funded as a high school district retirement obligation under the provisions of 20-
23 9-501.

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

27 (6) Tuition for attendance in the K-12 school district must be determined separately for high school
28 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 131. 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.

(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;

(v) if applicable, a coal-fired generating unit closure mitigation block grant as provided in 20-9-638; and

(vi) any portion of the increment remitted to a school district under 7-15-4286(3) or 7-15-4291 used

1 to reduce the BASE levy budget.

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

6 (d) Determine the sum of:

7 (i) any amount remaining after the determination in subsection (1)(c);

8 (ii) any portion of the increment remitted to a school district under 7-15-4286(3) or 7-15-4291 used
9 to reduce the over-BASE budget levy; and

10 (iii) after first applying anticipated tuition revenue to the BASE budget under subsection (2)(b), any
11 remaining tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-
12 5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount
13 received for a pupil without disabilities, as calculated under 20-5-323(2).

14 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to
15 be met by an over-BASE budget amount and a district levy as provided in 20-9-303 to determine any additional
16 general fund levy requirements.

17 (2) The county superintendent shall calculate the number of mills to be levied on the taxable
18 property in the district to finance the general fund levy requirement for any amount that does not exceed the
19 BASE budget amount for the district by:

20 (a) dividing the amount determined in subsection (1)(c) by the sum of:

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

23 (ii) ~~the current total taxable valuation of the district, as certified by the department of revenue~~
24 ~~under 15-10-202, divided by 1,000; and~~

25 (b) if applicable, subtracting the result of dividing any tuition payments for out-of-district pupils to
26 be received under the provisions of 20-5-320 through 20-5-324, except the amount of tuition received for a pupil
27 who is a child with a disability in excess of the amount received for a pupil without disabilities, as calculated
28 under 20-5-323(2), that are available for reduction of the district's BASE budget levy by 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 by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values 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 132. 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;~~

(e) (a) the county tax in support of the transportation schedules;

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

(e) (c) 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

1 fund;

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

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

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

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

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

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

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

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

23 (12) shall invest the money received from ~~the basic county taxes for elementary and high school~~
24 ~~equalization~~, the county levy in support of the elementary and high school district retirement obligations, and
25 the county levy in support of the transportation schedules within 3 working days of receipt. The money must be
26 invested until the working day before it is required to be distributed to school districts within the county or
27 remitted to the state. Clerks of a school district shall provide a minimum of 30 hours' notice in advance of cash
28 demands to meet payrolls, claims, and electronic transfers that are in excess of \$50,000, pursuant to 20-3-325.

1 If a clerk of a district fails to provide the required 30-hour notice, the county treasurer shall assess a fee equal
 2 to any charges demanded by the state investment pool or other permissible investment manager for improperly
 3 noticed withdrawal of funds. Permissible investments are specified in 20-9-213(4). All investment income must
 4 be deposited, and credited proportionately, in the funds established to account for the taxes received for the
 5 purposes specified in subsections (1)(a) through ~~(1)(d)~~ (1)(c).

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

11 **Section 133.** Section 20-9-306, MCA, is amended to read:

12 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
 13 following definitions apply:

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

15 (2) "BASE aid" means:

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

18 ~~(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic~~
 19 ~~entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and~~
 20 ~~40% of the special education allowable cost payment;~~

21 ~~(c) the total quality educator payment;~~

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

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

24 ~~(f) the total American Indian achievement gap payment;~~

25 ~~(g) the total data-for-achievement payment; and~~

26 ~~(h) the special education allowable cost payment.~~

27 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of
 28 the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100%

1 of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total
2 American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the
3 special education allowable cost payment.

4 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, ~~which~~
5 ~~may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366~~
6 ~~through 20-9-369.~~

7 (5) "BASE funding program" means the state program for the equitable distribution of the state's
8 share of the cost of Montana's basic system of public elementary schools and high schools, through ~~county~~
9 ~~equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in~~
10 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-
11 321.

12 (6) "Basic entitlement" means:

13 (a) for each high school district:

14 (i) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts
15 with an ANB of 800 or fewer; and

16 (ii) \$343,483 for fiscal year 2024 and \$353,787 for each succeeding fiscal year for school districts
17 with an ANB of more than 800, plus \$17,175 for fiscal year 2024 and \$17,690 for each succeeding fiscal year
18 for each additional 80 ANB over 800;

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

21 (i) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or
22 K-12 district elementary programs with an ANB of 250 or fewer; and

23 (ii) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or
24 K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949
25 for each succeeding fiscal year for each additional 25 ANB over 250;

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

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

(A) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$57,246 for fiscal year 2024 and \$58,963 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,863 for fiscal year 2024 and \$2,949 for each succeeding fiscal year for each additional 25 ANB over 250; and

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

(A) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) \$114,493 for fiscal year 2024 and \$117,928 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,724 for fiscal year 2024 and \$5,896 for each succeeding fiscal year for each additional 45 ANB over 450.

(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% of the basic entitlement and 44.7% 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, the total data-for-achievement payment, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; 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 within the general fund budget limits established in 20-9-308 and calculated as provided in 20-9-141.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$235 for fiscal year 2024 and \$242 for each succeeding fiscal year 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 data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying \$22.89 for fiscal year 2024 and \$23.58 for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.

(14) "Total Indian education for all payment" means the payment resulting from multiplying \$23.91 for fiscal year 2024 and \$24.63 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(15) "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 \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB, 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, 7th and 8th grade program, or middle school, a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB, 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, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of \$6,123 for fiscal year 2024 and \$6,307 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, 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 \$7,840 for fiscal year 2024 and \$8,075 for each succeeding fiscal year for the first ANB for grades 7 and 8, 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.

(16) "Total quality educator payment" means the payment resulting from multiplying \$3,566 for fiscal year 2024 and \$3,673 for each succeeding fiscal year by the sum of:

(a) the number of full-time equivalent educators as provided in 20-9-327; and

(b) as provided in 20-9-324, for a school district meeting the legislative goal for competitive base pay of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher's teaching career in the previous year.

(17) "Total special education allocation" means the state payment distributed pursuant to 20-9-321 that is the greater of the amount resulting from multiplying \$293.74 for fiscal year 2024 and \$302.55 for each succeeding fiscal year by the statewide current year ANB or the amount of the previous year's total special education allocation."

Section 134. Section 20-9-308, MCA, is amended to read:

"20-9-308. BASE budgets and general fund budget limits. (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. The trustees of a district may adopt a general fund budget up to the greater of:

(a) the current year maximum general fund budget; or

(b) the previous year's general fund budget plus any increase in direct state aid for the basic and per-ANB entitlements and any increases in state funding of the data-for-achievement payment under 20-9-325 and in the general fund payments in 20-9-327 through 20-9-330.

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

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

(3) 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;~~

~~(c)~~ (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 within the district.

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

Section 135. Section 20-9-310, MCA, is amended to read:

"20-9-310. Oil and natural gas production taxes for school districts -- allocation and limits. (1)

Except as provided in subsection (5), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) Except as provided by 15-36-332(9), the department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the guarantee account provided for in 20-9-622.

(4) (a) Subject to the limitation in subsection (1) ~~and the conditions in subsection (4)(b)~~, the trustees shall budget and allocate the oil and natural gas production taxes anticipated by the district in any budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.

~~(b) Except as provided in subsection (4)(c), if the trustees apply an amount less than 12.5% of the total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general fund BASE budget for the upcoming school fiscal year, then:~~

~~(i) the trustees shall levy the number of mills required to raise an amount equal to the difference between 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for the upcoming school fiscal year;~~

~~(ii) the mills levied under subsection (4)(b)(i) are not eligible for the guaranteed tax base subsidy under the provisions of 20-9-366 through 20-9-369; and~~

~~(iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year and the number of mills calculated in subsection (4)(b)(i) must be added to the number of mills calculated in 20-9-141 (2).~~

(c) The provisions of subsection (4)(b) do not apply to the following:

(i) a district that has a maximum general fund budget of less than \$1 million;

(ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;

(iii) a district that has a maximum general fund budget of \$1 million or more and was eligible for a significant enrollment increase payment pursuant to 20-9-166 in the fiscal year immediately preceding the fiscal

1 year to which the provisions of this subsection (4) would otherwise apply; or

2 (iv) ~~—— a district that has issued outstanding oil and natural gas revenue bonds. Funds received~~
3 ~~pursuant to this section must first be applied by the district to payment of debt service obligations for oil and~~
4 ~~natural gas revenue bonds for the next 12-month period.~~

5 (5) (a) The limit on oil and natural gas production taxes that a school district may retain under
6 subsection (1) must be increased for any school district that was eligible for a significant enrollment increase
7 payment pursuant to 20-9-166. The increase in the limit on oil and natural gas production taxes that a school
8 district may retain under subsection (1) applies in the fiscal year immediately following the fiscal year in which
9 the district was eligible and must be calculated by multiplying \$45,000 times each additional ANB used to
10 calculate the significant enrollment increase payment pursuant to 20-9-166, including the absorption factor
11 reduction.

12 (b) For a district in nonoperating status under 20-9-505, the maximum amount of oil and natural
13 gas production taxes that a school district may retain is 130% of the school district's maximum budget in the
14 district's most recent operating year, determined in accordance with 20-9-308.

15 (6) In any year in which the actual oil and natural gas production taxes received by a school district
16 are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the
17 district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount
18 of the shortfall."

19
20 **Section 136.** Section 20-9-332, MCA, is amended to read:

21 **"20-9-332. Fines and penalties proceeds for elementary county equalization.** All fines and
22 penalties collected under the provisions of this title, except those collected by a justice's court, must be paid into
23 ~~the elementary county equalization fund as provided by 20-9-331 (2)(c) school equalization and property tax~~
24 ~~reduction account provided for in 20-9-336.~~ In order to implement this section and any other provision of law
25 requiring the deposit of fines in the elementary county equalization fund, a report must be made to the county
26 superintendent of the county, at the close of each term, by the clerk of each district court, reporting all fines
27 imposed and collected during the term and indicating the type of violation and the date of collection."
28

1 **Section 137.** Section 20-9-336, MCA, is amended to read:

2 **"20-9-336. School equalization and property tax reduction account -- uses.** (1) There is a school
3 equalization and property tax reduction account in the state special revenue fund. Contingent on appropriation
4 by the legislature, money in the account is for distribution to school districts as the second source of funding for
5 state equalization aid as provided in 20-9-343. At fiscal yearend, any fund balance in the account exceeding
6 what was appropriated must be transferred to the guarantee account established in 20-9-622 after the property
7 tax reductions under subsection (2) of this section.

8 (2) The account receives revenue as described in ~~20-9-331, 20-9-333, and 20-9-360~~ [sections 44
9 and 89]. Prior to levying school district property taxes or countywide school property taxes authorized under this
10 Title 20, the county commissioners shall request funding from the school equalization and property tax
11 reduction account to eliminate or reduce the need for property tax levies. The state treasurer shall approve
12 these requests and distribute money to the counties for the following levies in priority order:

13 (a) school district BASE levies;

14 (b) countywide school retirement levies;

15 (c) countywide levies for school transportation;

16 (d) school district levies for over-schedule transportation costs;

17 (e) school district levies in support of the bus depreciation fund;

18 (f) school district levies in support of the tuition fund;

19 (g) school district levies in support of the building reserve fund;

20 (h) school district levies in support of the general fund over-BASE budget;

21 (i) school district levies in support of the adult education fund; and

22 (j) school district levies in support of the technology acquisition and depreciation fund.

23 ~~(3) Beginning in fiscal year 2025, each December the superintendent of public instruction shall~~
24 ~~forecast the amount of revenue the account will receive in that fiscal year by dividing the sum of the taxable~~
25 ~~value of all property in the state reported by the department of revenue pursuant to 20-9-369 by 1,000 to~~
26 ~~determine a statewide value mill and then multiplying that amount by 95 mills, or the number of mills calculated~~
27 ~~by the department of revenue under 15-10-420 (8) for the applicable fiscal year. If the forecasted amount differs~~
28 ~~from the amount determined through the same calculation in the prior fiscal year by \$2 million or more and is:~~

(a) — less, then the superintendent shall:

(i) — decrease the multiplier used to calculate the statewide elementary and high school guaranteed tax base ratios used for funding BASE budgets under 20-9-366 to the nearest whole number determined by the superintendent to result in a decrease in the amount of guaranteed tax base aid distributed to eligible school districts equal to 85% of the decrease in the calculated amount between the 2 years; and

(ii) — decrease the multiplier used to calculate the statewide elementary and high school mill value per ANB for school retirement guaranteed tax base purposes under 20-9-366 to the nearest whole number determined by the superintendent to result in a decrease in the amount of retirement guaranteed tax base aid distributed to eligible school districts equal to 15% of the decrease in the calculated amount between the 2 years;

(b) — more, then the superintendent shall increase the multipliers used in the guaranteed tax base formulas under 20-9-366 and in the formula for school major maintenance aid under 20-9-525 to the nearest whole number by an amount calculated by the superintendent to result in an increase in the amount of guaranteed tax base aid and school major maintenance aid distributed to eligible counties and school districts equal to 55% of the increase in the calculated amount between the 2 years in the following order, with any amount exceeding the caps under subsections (3)(b)(i) through (3)(b)(iii) flowing to the next mechanism:

(i) — first, the multiplier used in calculating the statewide mill value per elementary and high school ANB for retirement purposes, not to exceed 305%;

(ii) — second, the multiplier used in calculating the amount of state school major maintenance aid support for each dollar of local effort, not to exceed 365%; and

(iii) — third, the multiplier used in calculating the facility guaranteed mill value per ANB for school facility entitlement guaranteed tax base purposes, not to exceed 300%.

(4) — (a) The adjustments to the multipliers under subsection (3) are applicable to state equalization aid distributions in the fiscal year following the adjustment.

(b) — Adjustments to the multipliers made under subsection (3) remain in effect in subsequent years unless further changed under 20-9-366 or subsection (3) of this section or as otherwise provided by law."

Section 138. Section 20-9-343, MCA, is amended to read:

1 **"20-9-343. Definition of and revenue for state equalization aid.** (1) As used in this title, the term
2 "state equalization aid" means revenue as required in this section for distribution to the public schools for
3 ~~guaranteed tax base aid, BASE aid, and state debt service assistance.~~

4 (2) The superintendent of public instruction may spend throughout the biennium funds
5 appropriated for the purposes of ~~guaranteed tax base aid, BASE aid for the BASE funding program, and state~~
6 ~~debt service assistance.~~

7 (3) The following money must be paid into the guarantee account provided for in 20-9-622 for the
8 public schools of the state as indicated:

9 (a) subject to 20-9-516(2)(a), interest and income money described in 20-9-341 and 20-9-342; and

10 (b) investment income earned by investing interest and income money described in 20-9-341 and
11 20-9-342."

12
13 **Section 139.** Section 20-9-344, MCA, is amended to read:

14 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of
15 public education shall administer and distribute the BASE aid and state advances for county equalization in the
16 manner and with the powers and duties provided by law. The board of public education:

17 (a) shall adopt policies for regulating the distribution of BASE aid and state advances for county
18 equalization in accordance with the provisions of law;

19 (b) may require reports from the county superintendents, county treasurers, and trustees that it
20 considers necessary; and

21 (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of
22 each district's annual entitlement to the aid as established by the superintendent of public instruction. In
23 ordering the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid
24 distribution to any district on account of any difference that may occur during the school fiscal year between
25 budgeted and actual receipts from any other source of school revenue.

26 (2) The board of public education may order the superintendent of public instruction to withhold
27 distribution of BASE aid from a district when the district fails to:

28 (a) submit reports or budgets as required by law or rules adopted by the board of public education;

1 or

2 (b) maintain accredited status because of failure to meet the board of public education's assurance
3 and performance standards.

4 (3) Prior to any proposed order by the board of public education to withhold distribution of BASE
5 aid or county equalization money, the district is entitled to a contested case hearing before the board of public
6 education, as provided under the Montana Administrative Procedure Act.

7 (4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall
8 return the overpayment to the state upon the request of the superintendent of public instruction in the manner
9 prescribed by the superintendent of public instruction.

10 (5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the
11 following schedule:

12 (a) from August to November of the school fiscal year, to each district 10% of:

13 (i) direct state aid;

14 (ii) the total quality educator payment;

15 (iii) the total at-risk student payment;

16 (iv) the total Indian education for all payment;

17 (v) the total American Indian achievement gap payment; and

18 (vi) the total data-for-achievement payment;

19 (b) from January to April of the school fiscal year, to each district 10% of:

20 (i) direct state aid;

21 (ii) the total quality educator payment;

22 (iii) the total at-risk student payment;

23 (iv) the total Indian education for all payment;

24 (v) the total American Indian achievement gap payment; and

25 (vi) the total data-for-achievement payment;

26 ~~(c) in December of the school fiscal year, one-half of the guaranteed tax base aid payment to each~~
27 ~~district or county that has submitted a final budget to the superintendent of public instruction in accordance with~~
28 ~~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, the total American Indian achievement gap payment, and the total data-for-achievement payment.

(6) The distribution provided for in subsection (5) must occur by the last working day of each month."

Section 140. Section 20-9-346, MCA, is amended to read:

"20-9-346. Duties of superintendent of public instruction for state and county equalization aid distribution. The superintendent of public instruction shall administer the distribution of the state and county equalization aid by:

(1) establishing the annual entitlement of each district and county to state and county equalization aid, 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 20-9-371 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 ;

(b) — based on the limitation of state equalization aid 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;

(3) (2) 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 for county equalization, and the entitlements for BASE aid of the districts of the state;

(5) (4) reporting to the board of public education the estimated amount that will be available for state equalization aid; and

(6) (5) 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 141. 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; 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

1 under the provisions of 20-9-212(8).

2 (b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the
3 superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed
4 in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's
5 warrants. The county treasurer shall confirm the anticipated deficit. This section may not be construed to
6 authorize the superintendent of public instruction to exceed a district's annual payment for BASE aid.

7 (3) The superintendent of public instruction shall:

8 (a) distribute special education allowable cost payments to districts; and

9 (b) supply the county treasurer and the county superintendent of schools with a report of payments
10 for special education allowable costs to districts of the county."
11

12 **Section 142.** Section 20-9-351, MCA, is amended to read:

13 **"20-9-351. Funding of deficiency in BASE aid.** If the money available for BASE aid is not the result
14 of a reduction in spending under 17-7-140 and is not sufficient to provide the ~~guaranteed tax base aid required~~
15 ~~under 20-9-366 through 20-9-369~~ and BASE aid support determined under 20-9-347, the superintendent of
16 public instruction shall request the budget director to submit a request for a supplemental appropriation in the
17 second year of the biennium that is sufficient to complete the funding of BASE aid for the elementary and high
18 school districts for the current biennium."
19

20 **Section 143.** Section 20-9-406, MCA, is amended to read:

21 **"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**
22 **payment -- oil and natural gas payment.** (1) (a) Except as provided in subsection (1)(c), the maximum
23 amount for which an elementary district or a high school district may become indebted by the issuance of
24 general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of
25 previous issues, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue
26 bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general
27 obligations of the district, is 100% of the taxable value of the property subject to taxation, as ascertained by the
28 last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

(b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants, outstanding obligations under 20-9-471, oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district, regardless of whether the general obligation bonds finance elementary program improvements or high school program improvements, is the sum of 100% of the taxable value of the property in its elementary program subject to taxation and 100% of the taxable value of the property in its high school program subject to taxation, as ascertained by the last assessment for state, county, and school taxes previous to the incurring of the indebtedness.

~~(c) (i) Unless the maximum amount calculated under subsection (1)(a) yields a greater amount, 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, oil and natural gas revenue bonds to which a deficiency tax levy is pledged, and any other loans or notes payable that are held as general obligations of the district, is the corresponding facility guaranteed mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, unless the maximum amount calculated under subsection (1)(b) yields a greater amount, the maximum amount for which the district may become indebted is 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. For the purpose of calculating ANB under this subsection, a district may use the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.~~

~~(ii)——If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection (1)(c), 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~~

1 maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant
2 to the mutual agreement. For the purpose of calculating ANB under this subsection, a district may use the
3 greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

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

8 (3) The maximum amount of impact aid revenue bonds that an elementary district, high school
9 district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times the
10 average of the school district's annual federal impact aid basic support payments for the 5 years immediately
11 preceding the issuance of the bonds. However, at the time of issuance of the bonds, the average annual
12 payment of principal of and interest on the impact aid bonds each year may not exceed 35% of the total federal
13 impact aid basic support payments of the school district for the current year.

14 (4) The maximum amount of oil and natural gas revenue bonds that an elementary district, high
15 school district, or K-12 school district may issue may not exceed a total aggregate amount equal to three times
16 the average of the school district's annual oil and natural gas production taxes received pursuant to 15-36-331,
17 15-36-332, and 20-9-310 for the 2 fiscal years immediately preceding the issuance of the bonds. At the time of
18 the issuance of the bonds, the average annual payment of principal of and interest on the oil and natural gas
19 revenue bonds each year may not exceed 35% of the total oil and natural gas production taxes received by the
20 school district under the limitations in 20-9-310 for the immediately preceding fiscal year. If the oil and natural
21 gas revenue bonds are also secured by a deficiency tax levy as provided in 20-9-437, the debt limitation
22 provided in subsection (1) of this section applies to the bonds.

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

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

(7) 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 144. Section 20-9-408, MCA, is amended to read:

"20-9-408. Definition of forms of bonds. As used in this part, the following definitions apply:

(1) "Amortization bond" means that form of bond on which a part of the principal is required to be paid each time that interest becomes due and payable. The part payment of principal increases with each following installment in the same amount that the interest payment decreases, so that the combined amount payable on principal and interest is the same on each payment date. However, the payment on the initial interest payment date may be less or greater than the amount of other payments on the bond, reflecting the payment of interest only or the payment of interest for a period different from that between other interest payment dates. The final payment may vary from prior payments in amount as a result of rounding prior payments.

(2) "General obligation bonds" means bonds that pledge the full faith and credit and the taxing power of a school district.

(3) "Impact aid revenue bonds" means bonds that pledge and are payable solely from federal impact aid basic support payments received and deposited to the credit of the fund established in 20-9-514.

(4) "Oil and natural gas revenue bonds" means bonds that pledge and are payable from a first lien on oil and natural gas production taxes received by a school district pursuant to 20-9-310. Oil and natural gas revenue bonds to which a tax deficiency is pledged ~~are not considered general obligation bonds that are eligible to receive guaranteed tax base aid pursuant to 20-9-367~~ but are to be considered in determining the debt limit of a school district for the purposes of 20-9-406.

(5) "Serial bonds" means a bond issue payable in annual installments of principal commencing not more than 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount of bonds maturing or subject to mandatory sinking fund redemption in each installment, commencing with the installment payable in the fourth year after the date of issue, not exceeding three times the principal amount of the bonds payable in the immediately preceding installment."

1

2 **Section 145.** Section 20-9-422, MCA, is amended to read:

3 **"20-9-422. Additional requirements for trustees' resolution calling bond election.** (1) In addition
4 to the requirements for calling an election that are prescribed in 20-20-201 and 20-20-203, the trustees'
5 resolution calling a school district bond election must:

6 (a) specify whether the bonds will be general obligation bonds, oil and natural gas revenue bonds,
7 or impact aid revenue bonds and, if oil and natural gas revenue bonds, whether a tax deficiency is pledged to
8 the repayment of the bonds;

9 (b) fix the exact amount of the bonds proposed to be issued, which may be more or less than the
10 amounts estimated in a petition;

11 (c) fix the maximum number of years in which the proposed bonds would be paid;

12 (d) in the case of initiation by a petition, state the essential facts about the petition and its
13 presentation; and

14 (e) state the amount of the state advance for school facilities estimated, pursuant to subsection (2),
15 to be received by the district in the first school fiscal year in which a debt service payment would be due on the
16 proposed bonds.

17 (2) Prior to the adoption of the resolution calling for a school bond election for a general obligation
18 bond, the trustees of a district may request from the superintendent of public instruction a statement of the
19 estimated amount of state advance for school facilities that the district will receive for debt service payments on
20 the proposed general obligation bonds in the first school fiscal year in which a debt service payment is due. The
21 district shall provide the superintendent with an estimate of the debt service payment due in the first school
22 fiscal year. The superintendent shall estimate the state advance for the general obligation bond issue pursuant
23 ~~to 20-9-371 (2).~~"

24

25 **Section 146.** Section 20-9-439, MCA, is amended to read:

26 **"20-9-439. Computation of net levy requirement for general obligation bonds -- procedure**
27 **when levy inadequate.** Subject to 20-6-326, the following provisions apply:

28 (1) The county superintendent shall compute the levy requirement for each school district's general

1 obligation debt service fund on the basis of the following procedure:

2 (a) Determine the total money available in the debt service fund for the reduction of the property
3 tax on the district by totaling:

4 (i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as
5 provided in 20-9-438;

6 (ii) anticipated interest to be earned by the investment of debt service cash in accordance with the
7 provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

8 ~~(iii) any state advance for school facilities distributed to a qualified district under the provisions of~~
9 ~~20-9-346, 20-9-370, and 20-9-371 ;~~

10 ~~(iv) (iii)~~ funds transferred from the impact aid fund established pursuant to 20-9-514 that are authorized
11 by 20-9-437(2) to be used to repay the district's bonds; and

12 ~~(v) (iv)~~ any other money, including money from federal sources, anticipated by the trustees to be
13 available in the debt service fund during the ensuing school fiscal year from sources such as legally authorized
14 money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.

15 (b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a),
16 from the final budget for the debt service fund as established in 20-9-438.

17 (2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to
18 the county commissioners by the later of the first Tuesday in September or within 30 calendar days after
19 receiving certified taxable values by the county superintendent as the net debt service fund levy requirement for
20 the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

21 (3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue
22 or series of bonds of a school district sufficient to raise the money necessary for payment of interest and
23 principal becoming due during the next ensuing school fiscal year, in any amounts established under the
24 provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply
25 to the district court of the county in which the school district is located for a writ of mandate to compel the board
26 of county commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of
27 the application, it appears to the satisfaction of the court that the board of county commissioners of the county
28 has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as

1 established in the manner provided in this section, the court shall determine the amount of the deficiency and
2 shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting
3 for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the
4 school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required
5 to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the
6 petitioner in the proceeding must be paid by the members of the board of county commissioners and may not
7 be a charge against the school district or the county."

8
9 **Section 147.** Section 20-9-501, MCA, is amended to read:

10 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management
11 board of a cooperative employing personnel who are members of the teachers' retirement system or the public
12 employees' retirement system, who are covered by unemployment insurance, or who are covered by any
13 federal social security system requiring employer contributions shall establish a retirement fund for the
14 purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a).
15 The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement
16 system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's
17 contribution for each employee who is a member of the public employees' retirement system must be calculated
18 in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any
19 federal social security system must be paid in accordance with federal law and regulation. The district's or the
20 cooperative's contribution for each employee who is covered by unemployment insurance must be paid in
21 accordance with Title 39, chapter 51, part 11.

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

- 24 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
25 provided to the employee, are paid from state or local funding sources;
- 26 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits
27 are provided to the employee, are paid from the cooperative's interlocal cooperative fund if the fund is
28 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 has been adopted, the county superintendent shall establish the 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) 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 20% 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.

(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing

1 school fiscal year, ~~excluding any guaranteed tax base aid;~~

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

5 (5) The county superintendent shall:

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

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

12 (6) The county commissioners shall fix and set the county levy or district levy in accordance with
13 20-9-142.

14 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school
15 district must be prorated to each county in which a part of the district is located in the same proportion as the
16 district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of
17 the counties affected shall jointly determine the net retirement fund levy requirement for each county as
18 provided in 20-9-151.

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

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

28 (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 on or before September 15. The report must be completed on forms supplied by the superintendent of public instruction."

Section 148. Section 20-9-516, MCA, is amended to read:

"20-9-516. School facility and technology account. (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide, contingent on appropriation from the legislature, funding for ~~the following in priority order:~~

(a) — school technology purposes as provided in 20-9-534; and

(b) — ~~state debt service assistance as provided in 20-9-371.~~

(2) There must be deposited in the account:

(a) an amount of money equal to the income 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; and

(b) the income received from certain lands and riverbeds as provided in 17-3-1003(5).

(3) ~~If in any fiscal year the amount of revenue in the school facility and technology account is sufficient to fund debt service assistance without a proration reduction pursuant to 20-9-346 (2)(b) and if in that same fiscal year the amount of revenue available in the school major maintenance aid account established in 20-9-525 will result in a proration reduction in school major maintenance aid pursuant to 20-9-525(5) for that fiscal year, the state treasurer shall transfer any excess funds in the school facility and technology account to the school major maintenance aid account not to exceed the amount required to avoid a proration reduction."~~

Section 149. Section 20-9-525, MCA, is amended to read:

"20-9-525. School major maintenance aid account -- formula. (1) There is a school major

1 maintenance aid account in the state special revenue fund provided for in 17-2-102.

2 (2) The purpose of the account is to provide, contingent on appropriation from the legislature,
3 funding for school major maintenance aid as provided in subsection (3) for school facility projects, including the
4 payment of principal and interest on obligations issued pursuant to 20-9-471 for school facility projects, that
5 support a basic system of free quality public elementary and secondary schools under 20-9-309, including but
6 not limited to:

7 (a) improvements to school and student safety and security as described in 20-9-236(1); and

8 (b) projects designed to produce operational efficiencies such as utility savings, reduced future
9 maintenance costs, improved utilization of staff, and enhanced learning environments for students, including
10 but not limited to projects addressing:

11 (i) roofing systems;

12 (ii) heating, air-conditioning, and ventilation systems;

13 (iii) energy-efficient window and door systems and insulation;

14 (iv) plumbing systems;

15 (v) electrical systems and lighting systems;

16 (vi) information technology infrastructure, including internet connectivity both within and to the
17 school facility; and

18 (vii) other critical repairs to an existing school facility or facilities.

19 (3) (a) In any year in which the legislature has appropriated funds for distribution from the school
20 major maintenance aid account, the superintendent of public instruction shall administer the distribution of
21 school major maintenance aid from the school major maintenance aid account for deposit in the subfund of the
22 building reserve fund provided for in 20-9-502(3)(e). Subject to proration under subsection (5) of this section,
23 aid must be annually distributed no later than the last working day of May to a school district imposing a levy
24 pursuant to 20-9-502(3) in the current school fiscal year, with the amount of state support per dollar of local
25 effort of the applicable elementary and high school program of each district determined as follows:

26 (i) using the taxable valuation most recently determined by the department of revenue ~~under 20-9-~~
27 ~~369~~:

28 (A) divide the total statewide taxable valuation by the statewide total of school major maintenance

amounts and, subject to adjustment under 20-9-336, multiply the result by 187%;

(B) multiply the result determined under subsection (3)(a)(i)(A) by the district's school major maintenance amount;

(C) subtract the district's taxable valuation from the amount determined under subsection (3)(a)(i)(B); and

(D) divide the amount determined under subsection (3)(a)(i)(C) by 1,000;

(ii) determine the greater of the amount determined in subsection (3)(a)(i) or 18% of the district's mill value;

(iii) multiply the result determined under subsection (3)(a)(ii) by the district's school major maintenance amount, then divide the product by the sum of the result determined under subsection (3)(a)(ii) and the district's mill value; and

(iv) divide the result determined under subsection (3)(a)(iii) by the difference resulting from subtracting the result determined under subsection (3)(a)(iii) from the district's school major maintenance amount.

(b) For a district with an adopted general fund budget in the prior year greater than or equal to 97% of the district's general fund maximum budget in the prior year, the amount determined in subsection (3)(a)(iv) rounded to the nearest cent is the amount of school major maintenance aid per dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(c) For a district with an adopted general fund budget in the prior year less than 97% of the district's maximum budget in the prior year, multiply the amount determined in subsection (3)(a)(iv) by the ratio of the district's adopted general fund budget in the prior year to the district's maximum general fund budget in the prior year. The result, rounded to the nearest cent, is the amount of state school major maintenance aid per dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(4) Using the taxable valuation most recently determined by the department of revenue under 20-9-369, the superintendent shall provide school districts with a preliminary estimated amount of state school major maintenance aid per dollar of local effort for the ensuing school year no later than March 1 and a final

1 amount for the current school year no later than July 31.

2 (5) If the appropriation from or the available funds in the school major maintenance aid account in
3 any school fiscal year are less than the amount for which school districts would otherwise qualify, the
4 superintendent of public instruction shall proportionally prorate the aid distributed to ensure that the distributions
5 do not exceed the appropriated or available funds.

6 ~~(6) If in any fiscal year the amount of revenue in the school major maintenance aid account is~~
7 ~~sufficient to fund school major maintenance aid without a proration reduction pursuant to subsection (5) and if in~~
8 ~~that same fiscal year the amount of revenue available in the school facility and technology account established~~
9 ~~in 20-9-516 will result in a proration reduction in debt service assistance pursuant to 20-9-346 (2)(b) for that~~
10 ~~fiscal year, the state treasurer shall transfer any excess funds in the school major maintenance aid account to~~
11 ~~the school facility and technology account, not to exceed the amount required to avoid a proration reduction.~~

12 ~~(7)~~ (6) For the purposes of this section, the following definitions apply:

13 (a) "Local effort" means an amount of money raised by levying no more than 10 mills pursuant to
14 20-9-502(3) and, provided that 10 mills have been levied, any additional amount of money deposited or
15 transferred by trustees to the subfund pursuant to 20-9-502(3).

16 (b) "School major maintenance amount" means the sum of \$15,000 and the product of \$110
17 multiplied by the district's budgeted ANB for the prior fiscal year."

18
19 **Section 150.** Section 90-6-304, MCA, is amended to read:

20 **"90-6-304. (Temporary) Accounts established.** (1) There is within the state custodial fund type a
21 hard-rock mining impact account. Money is payable into this account from payments made by a mining
22 developer in compliance with the written guarantee from the developer to meet the increased costs of public
23 services and facilities as specified in the impact plan provided for in 90-6-307. The state treasurer shall draw
24 warrants from this account upon order of the board.

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

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

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

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

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

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

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

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

(3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117. After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then establishing and maintaining the reserve amount of \$100,000, as provided in subsection (2) of this section, the remaining money must be segregated within the account by county of origin. (Terminates June 30, 2027-- sec. 1, Ch. 213, L. 2017.)

90-6-304. (Effective July 1, 2027) Accounts established. (1) There is within the state custodial fund type a hard-rock mining impact account. Money is payable into this account from payments made by a mining developer in compliance with the written guarantee from the developer to meet the increased costs of public services and facilities as specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from this account upon order of the board.

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

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

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

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

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

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

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

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

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

Section 151. Section 90-6-305, MCA, is amended to read:

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

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

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

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

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

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

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

Section 152. 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 must exclude the 6-mill university levy established under 15-10-109 and may exclude the mandatory county levies for the school BASE funding program established in 20-9-331 and 20-9-333.

(2) The person who is to prepay under this section is not obligated to prepay the entire amount

1 established in subsection (1) at one time. Upon request of the governing body of an affected local government
2 unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

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

6 (4) When the mineral development facilities are completed and assessed by the department of
7 revenue, they are subject during the first 3 years and thereafter to taxation as all other property similarly
8 situated, except that in each year after the start of production, the local government unit that received a
9 property tax prepayment shall provide for repayment of prepaid property taxes in accordance with subsection
10 (5).

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

15
16 **Section 153.** Section 90-6-403, MCA, is amended to read:

17 **"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain**
18 **taxable valuation.** (1) When an impact plan for a large-scale mineral development approved pursuant to 90-6-
19 307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected local
20 government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this
21 section, the increase in taxable valuation of the mineral development that occurs after the issuance and
22 validation of a permit under 82-4-335 is not subject to the usual application of county and school district
23 property tax mill levies. This increase in taxable valuation must be allocated to local government units as
24 provided in 90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-
25 420 and the application of property tax mill levies in the local government unit to which it is allocated. The
26 increase in taxable valuation allocated to the local government unit is considered newly taxable property in the
27 recipient local government unit as provided in 15-10-420.

28 (2) ~~Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains~~

1 subject to the statewide mill levies and basic county levies for elementary and high school BASE funding
2 programs as provided in 20-9-331 and 20-9-333.

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

6
7 **NEW SECTION. Section 154. Repealer.** The following sections of the Montana Code Annotated are
8 repealed:

9 20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of
10 elementary BASE funding program.

11 20-9-333. Basic county tax for high school equalization and other revenue for county equalization of high
12 school BASE funding program.

13 20-9-336. School equalization and property tax reduction account -- uses.

14 20-9-360. State equalization aid levy.

15 20-9-361. County equalization revenue.

16 20-9-366. Definitions.

17 20-9-367. Eligibility to receive guaranteed tax base aid or state debt service assistance for school
18 facilities.

19 20-9-368. Amount of guaranteed tax base aid.

20 20-9-369. Duties of superintendent of public instruction and department of revenue.

21 20-9-370. Definitions.

22 20-9-371. Calculation and uses of school facility entitlement amount.

23
24 **NEW SECTION. Section 155. Codification instruction.** [Sections 1 through 116] are intended to be
25 codified as a new chapter in Title 15, and the provisions of Title 15 apply to [sections 1 through 116].

26
27 **NEW SECTION. Section 156. Saving clause.** [This act] does not affect rights and duties that
28 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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NEW SECTION. **Section 157. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 158. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective January 1, 2026.

(2) [Sections 117 through 154] are effective July 1, 2026.

NEW SECTION. **Section 159. Applicability.** [Sections 1 through 116] apply to tax years beginning after December 31, 2025.

- END -