

HOUSE BILL NO. 959  
INTRODUCED BY HARRINGTON

IN THE HOUSE

FEBRUARY 20, 1991

INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

FIRST READING.

APRIL 29, 1991

ON MOTION, TAKEN FROM COMMITTEE  
AND PLACED ON SECOND READING THIS DAY.

SECOND READING, DO PASS AS AMENDED.

THIRD READING, PASSED.  
AYES, 82; NOES, 15.

TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 29, 1991

ON MOTION, RULES SUSPENDED TO ALLOW  
LATE INTRODUCTION.

INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

FIRST READING.

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN.  
AYES, 32; NOES, 16.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 29, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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*HOUSE* BILL NO. *959*  
INTRODUCED BY *Harvington*

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE INDIVIDUAL INCOME TAX LAWS OF THE STATE; REDUCING INDIVIDUAL INCOME TAX RATES; APPLYING THE RATES AGAINST NET TAXABLE INCOME; PROVIDING FOR AN ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS; PROVIDING FOR PRORATION OF TAXES FOR PART-YEAR RESIDENTS; ELIMINATING THE EXEMPTION FOR RETIREMENT INCOME; AMENDING SECTIONS 7-14-1133, 7-34-2416, 13-37-303, 15-1-101, 15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-141, 15-30-142, 15-30-144, 15-30-146, 15-30-162, 15-30-303, 15-30-321, 15-30-323, 15-31-131, 15-31-202, 15-32-104, 15-32-106, 15-32-203, 15-32-303, 15-32-402, 15-32-405, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-21-212, AND 67-11-303, MCA; AND REPEALING SECTIONS 15-30-110, 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-116, 15-30-117, 15-30-121, 15-30-122, 15-30-123, 15-30-125, 15-30-126, 15-30-156, 15-30-157, 15-30-161, 15-32-109, 15-32-201, 15-32-202, 19-9-1005, 19-13-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."  
  
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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**Section 1.** Section 7-14-1133, MCA, is amended to read:  
  
"7-14-1133. Bonds and obligations. (1) Except for providing financial support to a private development organization, including a corporation organized under Title 32, chapter 4, whose purpose is to advance the economic development of its jurisdiction and of the state and its citizens, an authority may borrow money for any of its corporate purposes and issue bonds therefor, including refunding bonds, in such form and upon such terms as it determines, payable out of any revenues of the authority, including revenues derived from:  
  
(a) any port or transportation and storage facility;  
(b) taxes levied pursuant to 7-14-1131 or 67-10-402;  
(c) grants or contributions from the federal government; or  
(d) other sources.  
  
(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that no bonds may be issued at any time if the total amount of principal and interest to become due in any year on such bonds and on any then outstanding bonds for which revenues from the same source are pledged exceeds the amount of such revenues to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and



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1 possible to impose, maintain, and collect rates, charges,  
2 rentals, and taxes, if any are pledged, sufficient to make  
3 the revenues from the pledged source in such year at least  
4 equal to the amount of principal and interest due in that  
5 year.

6 (3) The bonds may be sold at public or private sale and  
7 may bear interest as provided in 17-5-102. Except as  
8 otherwise provided in this part, any bonds issued pursuant  
9 to this part by an authority may be payable as to principal  
10 and interest solely from revenues of the authority and shall  
11 state on their face the applicable limitations or  
12 restrictions regarding the source from which such principal  
13 and interest are payable.

14 (4) Bonds issued by an authority, county, or  
15 municipality pursuant to the provisions of this part are  
16 declared to be issued for an essential public and  
17 governmental purpose by a political subdivision ~~within--the~~  
18 ~~meaning--of--15-30-111(2)(a)~~ for purposes of tax exemption  
19 determinations under the Internal Revenue Code.

20 (5) For the security of any such bonds, the authority,  
21 county, or municipality may by resolution make and enter  
22 into any covenant, agreement, or indenture and may exercise  
23 any additional powers authorized to be exercised by a  
24 municipality under Title 7, chapter 7, parts 44 and 45. The  
25 sums required from time to time to pay principal and

1 interest and to create and maintain a reserve for the bonds  
2 may be paid from any revenues referred to in this part,  
3 prior to the payment of current costs of operation and  
4 maintenance of the facilities.

5 (6) Nothing in this section or 7-14-1134 may be  
6 construed to limit the use of port authority revenues,  
7 including federal and state money as described in 7-14-1136,  
8 to make grants and loans or to otherwise provide financial  
9 and other support to private development organizations,  
10 including corporations organized under the provisions of the  
11 development corporation act in Title 32, chapter 4. Under no  
12 circumstances may the credit of the state, county, or  
13 municipal governments or their agencies or authorities be  
14 pledged to provide financial support to such development  
15 organizations."

16 **Section 2.** Section 7-34-2416, MCA, is amended to read:

17 "7-34-2416. **Tax-exempt status of bonds.** Bonds issued by  
18 a county pursuant to the provisions of 7-34-2411 through  
19 7-34-2418 are declared to be issued for an essential public  
20 and governmental purpose by a political subdivision ~~within~~  
21 ~~the-meaning-of-15-30-111(2)(a)~~ for purposes of tax exemption  
22 determinations under the Internal Revenue Code."

23 **Section 3.** Section 13-37-303, MCA, is amended to read:

24 "13-37-303. **Donation by taxpayer.** (1) An individual  
25 whose withheld income tax or payment of estimated tax

1 exceeds by more than \$1 his income tax liability for the  
 2 taxable year may donate \$1 to be paid to the fund. In the  
 3 case of a joint return, ~~as provided in~~ filed pursuant to  
 4 15-30-142(2), of a husband and wife having an income tax  
 5 overpayment as defined in 15-30-149 of \$2 or more, each  
 6 spouse may donate \$1 to be paid to the fund.

7 (2) An individual with an unpaid tax liability may at  
 8 the time of payment donate an extra \$1 to be paid to the  
 9 fund.

10 (3) The department shall provide a place on the face of  
 11 the blank form of return, provided for in 15-30-144, where  
 12 an individual may make the donations provided for in  
 13 subsections (1) and (2). The form shall adequately explain  
 14 the individual's option to donate \$1 to the fund."

15 **Section 4.** Section 15-1-101, MCA, is amended to read:

16 "15-1-101. **Definitions.** (1) Except as otherwise  
 17 specifically provided, when terms mentioned in this section  
 18 are used in connection with taxation, they are defined in  
 19 the following manner:

20 (a) The term "agricultural" refers to the raising of  
 21 livestock, poultry, bees, and other species of domestic  
 22 animals and wildlife in domestication or a captive  
 23 environment, and the raising of field crops, fruit, and  
 24 other animal and vegetable matter for food or fiber.

25 (b) The term "assessed value" means the value of

1 property as defined in 15-8-111.

2 (c) The term "average wholesale value" means the value  
 3 to a dealer prior to reconditioning and profit margin shown  
 4 in national appraisal guides and manuals or the valuation  
 5 schedules of the department of revenue.

6 (d) (i) The term "commercial", when used to describe  
 7 property, means any property used or owned by a business, a  
 8 trade, or a nonprofit corporation as defined in 35-2-102 or  
 9 used for the production of income, except that property  
 10 described in subsection (ii).

11 (ii) The following types of property are not commercial:

12 (A) agricultural lands;

13 (B) timberlands;

14 (C) single-family residences and ancillary improvements  
 15 and improvements necessary to the function of a bona fide  
 16 farm, ranch, or stock operation;

17 (D) mobile homes used exclusively as a residence except  
 18 when held by a distributor or dealer of trailers or mobile  
 19 homes as his stock in trade;

20 (E) all property described in 15-6-135; and

21 (F) all property described in 15-6-136.

22 (e) The term "comparable property" means property that  
 23 has similar use, function, and utility; that is influenced  
 24 by the same set of economic trends and physical,  
 25 governmental, and social factors; and that has the potential

1 of a similar highest and best use.

2 (f) The term "credit" means solvent debts, secured or  
3 unsecured, owing to a person.

4 (g) The term "improvements" includes all buildings,  
5 structures, fences, and improvements situated upon, erected  
6 upon, or affixed to land. When the department of revenue or  
7 its agent determines that the permanency of location of a  
8 mobile home or housetrailer has been established, the mobile  
9 home or housetrailer is presumed to be an improvement to  
10 real property. A mobile home or housetrailer may be  
11 determined to be permanently located only when it is  
12 attached to a foundation which cannot feasibly be relocated  
13 and only when the wheels are removed.

14 (h) The term "leasehold improvements" means  
15 improvements to mobile homes and mobile homes located on  
16 land owned by another person. This property is assessed  
17 under the appropriate classification and the taxes are due  
18 and payable in two payments as provided in 15-24-202.  
19 Delinquent taxes on such leasehold improvements are a lien  
20 only on such leasehold improvements.

21 (i) The term "livestock" means cattle, sheep, swine,  
22 goats, horses, mules, and asses.

23 (j) The term "mobile home" means forms of housing known  
24 as "trailers", "housetrailer", or "trailer coaches"  
25 exceeding 8 feet in width or 45 feet in length, designed to

1 be moved from one place to another by an independent power  
2 connected to them, or any "trailer", "housetrailer", or  
3 "trailer coach" up to 8 feet in width or 45 feet in length  
4 used as a principal residence.

5 (k) The term "personal property" includes everything  
6 that is the subject of ownership but that is not included  
7 within the meaning of the terms "real estate" and  
8 "improvements".

9 (l) The term "poultry" includes all chickens, turkeys,  
10 geese, ducks, and other birds raised in domestication to  
11 produce food or feathers.

12 (m) The term "property" includes moneys, credits,  
13 bonds, stocks, franchises, and all other matters and things,  
14 real, personal, and mixed, capable of private ownership.  
15 This definition must not be construed to authorize the  
16 taxation of the stocks of any company or corporation when  
17 the property of such company or corporation represented by  
18 the stocks is within the state and has been taxed.

19 (n) The term "real estate" includes:

20 (i) the possession of, claim to, ownership of, or right  
21 to the possession of land;

22 (ii) all mines, minerals, and quarries in and under the  
23 land subject to the provisions of 15-23-501 and Title 15,  
24 chapter 23, part 8; all timber belonging to individuals or  
25 corporations growing or being on the lands of the United

1 States; and all rights and privileges appertaining thereto.

2 (o) "Research and development firm" means an entity  
3 incorporated under the laws of this state or a foreign  
4 corporation authorized to do business in this state whose  
5 principal purpose is to engage in theoretical analysis,  
6 exploration, and experimentation and the extension of  
7 investigative findings and theories of a scientific and  
8 technical nature into practical application for experimental  
9 and demonstration purposes, including the experimental  
10 production and testing of models, devices, equipment,  
11 materials, and processes.

12 (p) The term "taxable value" means the percentage of  
13 market or assessed value as provided for in Title 15,  
14 chapter 6, part 1.

15 (q) The term "weighted mean assessment ratio" means the  
16 total of the assessed values divided by the total of the  
17 selling prices of all area sales in the stratum.

18 (r) The term "Internal Revenue Code" means the internal  
19 revenue title enacted August 16, 1954, and redesignated as  
20 the "Internal Revenue Code of 1986" by section 2 of Public  
21 Law 99-514, as amended.

22 (2) The phrase "municipal corporation" or  
23 "municipality" or "taxing unit" shall be deemed to include a  
24 county, city, incorporated town, township, school district,  
25 irrigation district, drainage district, or any person,

1 persons, or organized body authorized by law to establish  
2 tax levies for the purpose of raising public revenue.

3 (3) The term "state board" or "board" when used without  
4 other qualification shall mean the state tax appeal board."

5 **Section 5.** Section 15-30-101, MCA, is amended to read:

6 "15-30-101. **Definitions.** For the purpose of this  
7 chapter, unless otherwise required by the context, the  
8 following definitions apply:

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

11 ~~(a) the tax brackets established in 15-30-103, but~~  
12 ~~unadjusted by subsection (2) (3) of 15-30-103, in effect on~~  
13 ~~June 30 of the taxable year;~~

14 ~~(b) the exemptions contained in 15-30-112, but~~  
15 ~~unadjusted by subsections (7) and (8) of 15-30-112, in~~  
16 ~~effect on June 30 of the taxable year;~~

17 ~~(c) the maximum standard deduction provided in~~  
18 ~~15-30-122, but unadjusted by subsection (2) of 15-30-122, in~~  
19 ~~effect on June 30 of the taxable year.~~

20 (2) "Consumer price index" means the consumer price  
21 index, United States city average, for all items, using the  
22 1967 base of 100 as published by the bureau of labor  
23 statistics of the U.S. department of labor.

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

25 (4) "Dividend" means any distribution made by a

1 corporation out of its earnings or profits to its  
2 shareholders or members, whether in cash or in other  
3 property or in stock of the corporation, other than stock  
4 dividends as herein defined. "Stock dividends" means new  
5 stock issued, for surplus or profits capitalized, to  
6 shareholders in proportion to their previous holdings.

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

11 (6) "Foreign country" or "foreign government" means any  
12 jurisdiction other than the one embraced within the United  
13 States, its territories and possessions.

14 (7) "Gross income" means the taxpayer's gross income  
15 for federal income tax purposes as defined in section 61 of  
16 the Internal Revenue Code ~~of 1954 or as that section may be~~  
17 ~~labeled or amended, excluding unemployment compensation~~  
18 ~~included in federal gross income under the provisions of~~  
19 ~~section 85 of the Internal Revenue Code of 1954 as amended.~~

20 (8) "Inflation factor" means a number determined for  
21 each taxable year by dividing the consumer price index for  
22 June of the taxable year by the consumer price index for  
23 June, ~~1980~~ 1991.

24 (9) "Information agents" includes all individuals,  
25 corporations, associations, and partnerships, in whatever

1 capacity acting, including lessees or mortgagors of real or  
2 personal property, fiduciaries, brokers, real estate  
3 brokers, employers, and all officers and employees of the  
4 state or of any municipal corporation or political  
5 subdivision of the state, having the control, receipt,  
6 custody, disposal, or payment of interest, rent, salaries,  
7 wages, premiums, annuities, compensations, remunerations,  
8 emoluments, or other fixed or determinable annual or  
9 periodical gains, profits, and income with respect to which  
10 any person or fiduciary is taxable under this chapter.

11 (10) "Knowingly" is as defined in 45-2-101.

12 (11) "Net income" ~~means the adjusted gross income of a~~  
13 ~~taxpayer less the deductions allowed by this chapter is the~~  
14 federal taxable income of a taxpayer, including interest  
15 received from obligations of another state or political  
16 subdivision of that state, less the adjustments specified in  
17 15-30-111.

18 (12) "Paid", for the purposes of the deductions and  
19 credits under this chapter, means paid or accrued or paid or  
20 incurred, and the terms "paid or incurred" and "paid or  
21 accrued" shall be construed according to the method of  
22 accounting upon the basis of which the taxable income is  
23 computed under this chapter.

24 (13) "Purposely" is as defined in 45-2-101.

25 (14) "Received", for the purpose of computation of



1 taxable income under this chapter, means received or accrued  
2 and the term "received or accrued" shall be construed  
3 according to the method of accounting upon the basis of  
4 which the taxable income is computed under this chapter.

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

13 (16) "Taxable income" means the adjusted gross income of  
14 a taxpayer less the deductions and exemptions provided for  
15 in this chapter.

16 (17) "Taxable year" means the taxpayer's taxable year  
17 for federal income tax purposes.

18 (18) "Taxpayer" includes any person or fiduciary,  
19 resident or nonresident, subject to a tax imposed by this  
20 chapter and does not include corporations.

21 (19) "Nonresident" refers to a person who has not  
22 established a residence in this state during the taxable  
23 year.

24 (20) "Part-year resident" refers to a taxpayer who is a  
25 resident of this state and another state during the

1 taxpayer's taxable year."

2 **Section 6.** Section 15-30-103, MCA, is amended to read:

3 "15-30-103. Rate of tax. (1) There shall be levied,  
4 collected, and paid for each taxable year commencing on or  
5 after December 31, 1968 1990, upon the net taxable income of  
6 every taxpayer subject to this tax, ~~after-making-allowance~~  
7 ~~for-exemptions-and-deductions-as-hereinafter-provided~~ except  
8 those subject to subsection (2), a tax on the following  
9 brackets of taxable income, as adjusted under subsection (2)  
10 (3), at the following rates:

11 (a) ~~on the first \$1,000 of taxable income or any part~~  
12 ~~thereof 2%~~

13 (b) ~~on the next \$1,000 of taxable income or any part~~  
14 ~~thereof 3%~~

15 (c) ~~on the next \$2,000 of taxable income or any part~~  
16 ~~thereof 4%~~

17 (d) ~~on the next \$2,000 of taxable income or any part~~  
18 ~~thereof 5%~~

19 (e) ~~on the next \$2,000 of taxable income or any part~~  
20 ~~thereof 6%~~

21 (f) ~~on the next \$2,000 of taxable income or any part~~  
22 ~~thereof 7%~~

23 (g) ~~on the next \$4,000 of taxable income or any part~~  
24 ~~thereof 8%~~

25 (h) ~~on the next \$6,000 of taxable income or any part~~

1 ~~thereof, 9%;~~

2 ~~(i) -- on the next \$15,000 of taxable income or any part~~  
3 ~~thereof, 10%;~~

4 ~~(j) -- on any taxable income in excess of \$35,000 or any~~  
5 ~~part thereof, 11%;~~

6 (a) \$0 to \$4,500 of net taxable income, 4% of net  
7 taxable income;

8 (b) over \$4,500 to \$12,000 of net taxable income, \$180  
9 plus 6% of net taxable income over \$4,500; and

10 (c) over \$12,000 of net taxable income, \$630 plus 8% of  
11 net taxable income over \$12,000.

12 (2) There is to be levied, collected, and paid for each  
13 taxable year commencing on or after December 31, 1990, upon  
14 the net taxable income of every taxpayer filing a return and  
15 using the married filing separately status a tax on the  
16 following brackets of net taxable income, as adjusted under  
17 subsection (3), at the following rates:

18 (a) \$0 to \$2,250, 4% of net taxable income;

19 (b) over \$6,000 of net taxable income, \$90 plus 5% of  
20 net taxable income over \$2,250; and

21 (c) over \$6,000 of net taxable, \$315 plus 8% of net  
22 taxable income over \$6,000.

23 ~~(2)~~ (3) By November 1 of each year, the department shall  
24 multiply the bracket amount contained in subsection  
25 subsections (1) and (2) by the inflation factor for that

1 taxable year and round the cumulative brackets to the  
2 nearest \$100. The resulting adjusted brackets are effective  
3 for that taxable year and shall be used as the basis for  
4 imposition of the tax in subsection subsections (1) and (2)  
5 of this section."

6 **Section 7.** Section 15-30-105, MCA, is amended to read:

7 **"15-30-105. Tax on nonresident -- alternative tax based**  
8 **on gross sales.** (1) A like tax is imposed upon every person  
9 not resident of this state, which tax shall be levied,  
10 collected, and paid annually at the rates specified in  
11 15-30-103 with respect to his entire net income as herein  
12 defined from all property owned and from every business,  
13 trade, profession, or occupation carried on in this state.

14 (2) Pursuant to the provisions of Article III, section  
15 2, of the Multistate Tax Compact, every nonresident taxpayer  
16 required to file a return and whose only activity in Montana  
17 consists of making sales and who does not own or rent real  
18 estate or tangible personal property within Montana and  
19 whose annual gross volume of sales made in Montana during  
20 the taxable year does not exceed \$100,000 may elect to pay  
21 an income tax of 1/2 of 1% of the dollar volume of gross  
22 sales made in Montana during the taxable year. ~~Such~~ The tax  
23 shall be in lieu of the tax taxes imposed under 15-30-103 or  
24 [section 8]. The gross volume of sales made in Montana  
25 during the taxable year shall be determined according to the

1 provisions of Article IV, sections 16 and 17, of the  
2 Multistate Tax Compact."

3 NEW SECTION. Section 8. Montana alternative minimum  
4 tax. (1) A minimum tax must be levied, collected, and paid  
5 for each taxable year commencing on or after December 31,  
6 1990, upon the income of every taxpayer subject to the  
7 provisions of this chapter.

8 (2) A person who is a resident of Montana shall file a  
9 Montana alternative minimum tax return if he:

10 (a) is required by sections 55 through 59, Internal  
11 Revenue Code, to file a federal alternative minimum tax  
12 return; or

13 (b) has received interest from obligations of another  
14 state or political subdivision thereof that are exempt from  
15 taxation pursuant to section 103(a) of the Internal Revenue  
16 Code and the amount of interest exceeds:

- 17 (i) \$40,000, if married filing jointly;  
18 (ii) \$30,000, if single or head of household; or  
19 (iii) \$20,000, if married filing separately.

20 (3) A person who is a nonresident or who is a part-year  
21 resident of Montana shall file a Montana alternative minimum  
22 tax return if he has one or more tax preference items as  
23 described in section 57 of the Internal Revenue Code that  
24 are attributable to income derived from sources in this  
25 state and that income exceeds:

- 1 (a) \$40,000, if married filing jointly;  
2 (b) \$30,000, if single or head of household;  
3 (c) \$20,000, if married filing separately.

4 (4) For a resident, the taxpayer's federal alternative  
5 minimum taxable income must be increased by the amount of  
6 interest received from obligations of another state or  
7 political subdivision thereof, which sum must be reduced by  
8 the following:

9 (a) all interest received from obligations of the  
10 United States government;

11 (b) all railroad retirement benefits; and

12 (c) all income earned by an enrolled member of a  
13 federally recognized Indian tribe while living and working  
14 on a federally established Indian reservation.

15 (5) (a) For a nonresident or part-year resident, the  
16 taxpayer's federal alternative minimum taxable income must  
17 be prorated to determine his Montana alternative minimum  
18 taxable income. The prorated income is arrived at by  
19 dividing the Montana adjusted gross income determined  
20 pursuant to 15-30-131 or [section 11] by the federal  
21 adjusted gross income and multiplying this percentage by the  
22 taxpayer's federal alternative minimum taxable income.

23 (b) The taxpayer's prorated Montana alternative minimum  
24 taxable income is then adjusted to include the interest  
25 received from obligations of another state or a political

subdivision thereof if the interest is used in a trade, occupation, or business carried on in this state.

(c) The taxpayer's prorated Montana alternative minimum taxable income must then be reduced by:

(i) all interest received from obligations of the United States government;

(ii) all railroad retirement benefits; and

(iii) all income earned by an enrolled member of a federally recognized Indian tribe while living and working on a federally established Indian reservation.

(d) For residents, nonresidents, and part-year residents, the rates provided for in 15-30-103 must be applied to the Montana alternative minimum taxable income. The taxpayer shall pay the greater amount of the Montana alternative minimum tax or the tax provided for in:

(i) 15-30-111, if a resident;

(ii) 15-30-131, if a nonresident; or

(iii) [section 11], if a part-year resident.

(6) Each taxpayer shall furnish with his Montana alternative minimum tax return a copy of his federal alternative minimum tax return.

**Section 9.** Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted-gross Montana net taxable income for residents. (1) Adjusted-gross Montana net taxable income shall be the taxpayer's federal income--tax--adjusted--gross

taxable income as defined in section-62-of the Internal Revenue Code of-1954-or-as-that-section-may-be-labeled-or amended and in addition shall include the following:

(a) all interest received on obligations of another state or territory-or-county,-municipality,-district, or other political subdivision thereof; and

(b) all refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability;

~~(c) that portion of a shareholder's income under subchapter-S-of-Chapter-1-of-the-Internal-Revenue-Code-of-1954-that-has-been-reduced-by-any-federal-taxes-paid-by-the-subchapter-S-corporation-on-the-income,-and~~

~~(d) depreciation-or-amortization-taken-on-a-title-plant as-defined-in-39-25-105(15).~~

(2) Notwithstanding the provisions of the federal Internal Revenue Code of-1954,-as-labeled-or-amended, adjusted-gross, Montana net taxable income does not include the following, which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, ~~the-state-of-Montana,~~ county, municipality,-district,-or-other-political-subdivision thereof;

~~(b) interest-income-earned-by-a-taxpayer-age-65-or~~

1 older-in-a-taxable-year-up--to--and--including--\$800--for--a  
 2 taxpayer--filing-a-separate-return-and-\$1,600-for-each-joint  
 3 return;

4 (c)--all-benefits, not-in-excess-of-\$3,600, received:  
 5 (i)--under-the-Federal-Employees'-Retirement-Act;  
 6 (ii)--under-the-public-employee-retirement-laws--of--a  
 7 state-other-than-Montana; or  
 8 (iii)--as--an--annuity,--pension,--or--endowment-under-any  
 9 private-or-corporate-retirement-plan-or-system;

10 (d)--all-benefits-paid-under--the--teachers'-retirement  
 11 law-which-are-specified-as-exempt-from-taxation-by-19-4-706;  
 12 (e)--all--benefits--paid--under--The--Public--Employees'  
 13 Retirement--System--Act--which--are-specified-as-exempt-from  
 14 taxation-by-19-3-105;

15 (f)--all--benefits--paid--under--the--highway--patrol  
 16 retirement--law--which-are-specified-as-exempt-from-taxation  
 17 by-19-6-785;

18 (g)--all-Montana-income-tax-refunds-or-credits-thereof;

19 (h)--all-benefits-paid-under-19-11-602,--19-11-604,--and  
 20 19-11-605--to--retired--and--disabled--firefighters,--their  
 21 surviving-spouses-and-orphans-or-specified--as--exempt--from  
 22 taxation-by-19-13-1003;

23 (i)--all--benefits--paid--under--the--municipal--police  
 24 officers'-retirement-system-that--are--specified--as--exempt  
 25 from-taxation-by-19-9-1005;

1 (j)--gain--required--to--be--recognized-by-a-liquidating  
 2 corporation-under-15-31-113(i)(a)(ii);

3 (k)--all-tips-covered-by-section-3402(k)-of-the-Internal  
 4 Revenue-Code-of-1954, as-amended-and-applicable--on--January  
 5 1,--1983,--received-by-persons-for-services-rendered-by-them  
 6 to-patrons-of-premises-licensed-to-provide--food,--beverage,  
 7 or-lodging;

8 (l)--all--benefits--received--under--the--workers'-  
 9 compensation-laws;

10 (m)--all-health-insurance-premiums-paid-by--an--employer  
 11 for--an--employee--if--attributed--as-income-to-the-employee  
 12 under-federal-law;

13 (n)--all-benefits--paid--under--an--optional--retirement  
 14 program--that--are--specified--as--exempt--from--taxation-by  
 15 19-21-212; and

16 (o)--all--money--received--because--of--a--settlement  
 17 agreement--or--judgment--in--a--lawsuit--brought--against--a  
 18 manufacturer--or--distributor--of--"agent-orange"--for-damages  
 19 resulting-from-exposure-to--"agent-orange";

20 (3)--in-the-case-of-a-shareholder-of-a-corporation--with  
 21 respect--to--which-the-election-provided-for-under-subchapter  
 22 S--of-the-Internal-Revenue-Code-of-1954, as-amended,--is--in  
 23 effect--but--with-respect-to-which-the-election-provided-for  
 24 under-15-31-202, as-amended,--is--not--in--effect,--adjusted  
 25 gross--income--does--not--include--any--part--of--the--corporation's

1 undistributed taxable income, net operating loss, capital  
 2 gains or other gains, profits, or losses required to be  
 3 included in the shareholder's federal income tax adjusted  
 4 gross income by reason of the election under subchapter S.  
 5 However, the shareholder's adjusted gross income shall  
 6 include actual distributions from the corporation to the  
 7 extent they would be treated as taxable dividends if the  
 8 subchapter S election were not in effect.

9 (4) A shareholder of a DISC that is exempt from the  
 10 corporation license tax under 15-31-102(1)(i) shall include  
 11 in his adjusted gross income the earnings and profits of the  
 12 DISC in the same manner as provided by federal law (section  
 13 9957, Internal Revenue Code) for all periods for which the  
 14 DISC election is effective.

15 (5) A taxpayer who, in determining federal adjusted  
 16 gross income, has reduced his business deductions by an  
 17 amount for wages and salaries for which a federal tax credit  
 18 was elected under section 44B of the Internal Revenue Code  
 19 of 1954 or as that section may be amended is  
 20 allowed to deduct the amount of the wages and salaries paid  
 21 regardless of the credit taken. The deduction must be made  
 22 in the year the wages and salaries were used to compute the  
 23 credit. In the case of a partnership or small business  
 24 corporation, the deduction must be made to determine the  
 25 amount of income or loss of the partnership or small

1 business corporation.

2 (6) Married taxpayers filing a joint federal return who  
 3 must include part of their social security benefits or part  
 4 of their tier 1 railroad retirement benefits in federal  
 5 adjusted gross income may split the federal base used in  
 6 calculation of federal taxable social security benefits or  
 7 federal taxable tier 1 railroad retirement benefits when  
 8 they file separate Montana income tax returns. The federal  
 9 base must be split equally on the Montana return.

10 (7) A taxpayer receiving retirement disability benefits  
 11 who has not attained age 65 by the end of the taxable year  
 12 and who has retired as permanently and totally disabled may  
 13 exclude from adjusted gross income up to \$100 per week  
 14 received as wages or payments in lieu of wages for a period  
 15 during which the employee is absent from work due to the  
 16 disability. If the adjusted gross income before this  
 17 exclusion and before application of the two-earner married  
 18 couple deduction exceeds \$15,000, the excess reduces the  
 19 exclusion by an equal amount. This limitation affects the  
 20 amount of exclusion, but not the taxpayer's eligibility for  
 21 the exclusion. If eligible married individuals shall apply  
 22 the exclusion separately, but the limitation for income  
 23 exceeding \$15,000 is determined with respect to the spouses  
 24 on their combined adjusted gross income. For the purpose of  
 25 this subsection, permanently and totally disabled means

unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(8) A person receiving benefits described in subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not exclude benefits described in subsection (2)(c) from adjusted gross income unless the benefits received under subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are less than \$3,600, in which case the person may combine benefits to exclude up to a total of \$3,600 from adjusted gross income.

(b) all railroad retirement benefits; and

(c) all income earned by an enrolled member of a federally recognized Indian tribe while living and working on a federally established Indian reservation.

(3) A taxpayer who elects to itemize his deductions from income on his federal return for tax year 1991 and who is required to pay additional federal tax due in 1991 for the 1990 tax year may deduct the federal tax paid in 1991 from his Montana net income. (Subsection (2)(k) terminates on occurrence of contingency see 37 Ch. 634, B, 1983.)

**Section 10.** Section 15-30-131, MCA, is amended to read:

"15-30-131. Nonresident and temporary resident taxpayers adjusted gross income deductions Montana net taxable income for nonresidents. (1) In the case of a

taxpayer other than a resident of this state, Montana net taxable income for nonresidents is derived from adjusted gross income from sources within and outside of the state, determined as follows:

(a) Montana adjusted gross income includes the entire amount of federal adjusted gross income from sources within this state, but shall does not include income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations except to the extent to which the same shall be they are a part of income from any business, trade, profession, or occupation carried on in this state. Interest income from installment sales of real or tangible commercial or business property located in Montana must be included in adjusted gross income. Adjusted gross income from sources within and without this state shall be allocated and apportioned under rules prescribed by the department.

(2) In the case of a taxpayer other than a resident of this state who is a resident of a state that imposes a tax on the income of natural persons residing within that state, the deductions allowed in computing net income are restricted to those directly connected with the production of Montana income.

(3) In the case of a taxpayer other than a resident of

1 this state who is a resident of a state that does not impose  
 2 a tax on the income of natural persons residing within that  
 3 state, the deductions allowed in computing net income are  
 4 restricted to the greater of those directly relating to the  
 5 production of Montana income or a prorated amount of those  
 6 allowed under 15-30-121. For the purposes of this  
 7 subsection, deductions allowed under 15-30-121 apply only to  
 8 earned income and must be prorated according to the ratio  
 9 that the taxpayer's Montana earned income bears to his  
 10 federal earned income.

11 (4) A temporary resident shall be allowed those  
 12 deductions and the credit under 15-32-109 allowed a resident  
 13 to the extent that such deductions or credit were actually  
 14 incurred or expended in the state of Montana during the  
 15 course of his residency.

16 (5) For the purposes of this section, "earned income"  
 17 shall be defined as the same term is defined in section 43  
 18 of the Internal Revenue Code, or as that section may  
 19 subsequently be amended.

20 (6) Notwithstanding the provisions of subsections (2)  
 21 and (3), any contribution made after December 31, 1982, to  
 22 the state of Montana or a political subdivision thereof  
 23 shall be an allowable deduction in computing net income. The  
 24 deduction is subject to the limitations set forth in section  
 25 170 of the Internal Revenue Code of 1954, as labeled or

1 amended:

2 (b) To determine his Montana net taxable income, a  
 3 nonresident may deduct from his Montana adjusted gross  
 4 income only the following items:

5 (i) a prorated part of the federal exemption provided  
 6 for in section 151 of the Internal Revenue Code;

7 (ii) a prorated part of the taxpayer's federally allowed  
 8 home mortgage interest;

9 (iii) a prorated part of the taxpayer's federally  
 10 allowed medical expenses;

11 (iv) all sums donated to:

12 (A) an organization that is qualified under section  
 13 501(c)(3) of the Internal Revenue Code to receive tax-exempt  
 14 contributions and that conducts its principal activity in  
 15 this state; or

16 (B) the state of Montana or a political subdivision or  
 17 agency thereof;

18 (v) all railroad retirement benefits;

19 (vi) all interest received from United States government  
 20 obligations; and

21 (vii) all income earned by an enrolled member of a  
 22 federally recognized Indian tribe while living and working  
 23 on a federally established Indian reservation.

24 (c) A prorated part referred to in subsections  
 25 (1)(b)(i) through (1)(b)(iii) is determined by multiplying



1 the ratio of Montana adjusted gross income to federal  
 2 adjusted gross income by the federally allowed deductions  
 3 specified in subsections (1)(b)(i) through (1)(b)(iii).

4 (d) The department may adopt rules for allocating and  
 5 apportioning adjusted gross income from sources within and  
 6 outside of this state.

7 ~~(7)~~(2) For purposes of this section, "installment  
 8 sales" means sales in which the buyer agrees to pay the  
 9 seller in one or more deferred installments.

10 (3) The nonresident's Montana net taxable income is  
 11 subject to the rates provided in 15-30-103."

12 **NEW SECTION. Section 11.** Montana net taxable income  
 13 for part-year residents. (1) To determine Montana net  
 14 taxable income, a part-year resident may deduct from his  
 15 Montana adjusted gross income a prorated part of his federal  
 16 standard deduction or a prorated part of the itemized  
 17 deductions allowed by the Internal Revenue Code. The  
 18 deduction allowed in this section must be the same as taken  
 19 by the taxpayer on his federal return for the year. The  
 20 prorated part is determined by multiplying the ratio of  
 21 Montana adjusted gross income to federal adjusted gross  
 22 income by the standard deductions or itemized deductions.

23 (2) For purposes of this section, Montana adjusted  
 24 gross income is determined as follows:

25 (a) Montana adjusted gross income includes federal

1 adjusted gross income from all sources received during the  
 2 period of residency and all interest income from installment  
 3 sales of real or tangible commercial or business property  
 4 located in Montana, less the following:

5 (i) all interest received from obligations of the  
 6 United States government;

7 (ii) all railroad retirement income; and

8 (iii) all income earned by an enrolled member of a  
 9 federally recognized Indian tribe while living and working  
 10 on a federally established Indian reservation.

11 (b) Montana adjusted gross income does not include the  
 12 following unless it is a part of income from a business,  
 13 trade, profession, or occupation carried on in this state:

14 (i) income from annuities;

15 (ii) interest on bank deposits;

16 (iii) interest on bonds, notes, or other  
 17 interest-bearing obligations; or

18 (iv) dividends on stock of corporations.

19 (3) The part-year resident's Montana net taxable income  
 20 is subject to the rates provided in 15-30-103.

21 **Section 12.** Section 15-30-132, MCA, is amended to read:

22 ~~"15-30-132. Change from nonresident to resident or vice~~  
 23 ~~versa of residency status. If a taxpayer changes his status~~  
 24 ~~from that of resident to that of nonresident or from that of~~  
 25 ~~nonresident to that of resident during the taxable year,--he~~

~~shall file a return covering the fraction of the year during which he was a resident. The exemptions provided in 15-30-112 shall be prorated on the ratio the Montana adjusted gross income bears to federal adjusted gross income.~~ A Montana citizen moving out of the state, abandoning his residence in the state, and establishing a residence elsewhere must file a return ~~on the fractional basis~~. If he obtains employment outside the state without abandoning his Montana residence, then income from such employment is taxable in Montana."

**Section 13.** Section 15-30-135, MCA, is amended to read:

"15-30-135. Tax on beneficiaries or fiduciaries of estates or trusts. (1) A tax shall be imposed upon either the fiduciaries or the beneficiaries of estates and trusts as hereinafter provided, except to the extent such estates and trusts ~~shall be~~ are held for educational, charitable, or religious purposes, which tax shall be levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust, including:

(a) income received by estates of deceased persons during the period of administration or settlement of the estate;

(b) income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;

(c) income held for future distribution under the terms of the will or trust; and

(d) income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of a minor, to be held or distributed as the court may direct.

(2) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether the fiduciary or the beneficiaries are taxable with reference to the income of such estate or trust. In cases under subsections (a) and (d) of subsection (1), the fiduciary shall include in the return a statement of each beneficiary's distributive share of net income, whether or not distributed before the close of the taxable year for which the return is made.

(3) In cases under subsections (a), (b), and (c) of subsection (1), the tax shall be imposed upon the fiduciary of the estate or trust with respect to the Montana net income of the estate or trust and shall be paid by the fiduciary. If the taxpayer's net income for the taxable year of the estate or trust is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending

1 within the fiscal or calendar year shall be computed upon  
2 the basis on which such beneficiary's net income is  
3 computed. In such cases, a beneficiary not a resident shall  
4 be taxable with respect to his income derived through such  
5 estate or trust only to the extent provided in 15-30-131 for  
6 individuals other than residents.

7 (4) The fiduciary of a trust created by an employer as  
8 a part of a stock bonus, pension, or profit-sharing plan for  
9 the exclusive benefit of some or all of his employees, to  
10 which contributions are made by such employer or employees,  
11 or both, for the purpose of distributing to such employees  
12 the earnings and principal of the fund accumulated by the  
13 trust in accordance with such plan, shall not be taxable  
14 under this section, but any amount contributed to such fund  
15 by the employer and all earnings of such fund shall be  
16 included in computing the income of the distributee in the  
17 year in which distributed or made available to him.

18 (5) Where any part of the income of a trust other than  
19 a testamentary trust is or may be applied to the payment of  
20 premiums upon policies of insurance on the life of the  
21 grantor (except policies of insurance irrevocably payable  
22 for the purposes and in the manner specified relating to the  
23 so-called "charitable contribution" deduction) or to the  
24 payment of premiums upon policies of life insurance under  
25 which the grantor is the beneficiary, such part of the

1 income of the trust shall be included in computing the net  
2 income of the grantor."

3 **Section 14.** Section 15-30-136, MCA, is amended to read:

4 "15-30-136. Computation of income of estates or trusts  
5 -- exemption deductions. (1) ~~Except as otherwise provided in~~  
6 ~~this chapter, "gross income" of estates or trusts means all~~  
7 ~~income from whatever source derived in the taxable year,~~  
8 ~~including but not limited to the following items:~~

9 (a) ~~dividends;~~

10 (b) ~~interest received or accrued, including interest~~  
11 ~~received on obligations of another state or territory or a~~  
12 ~~county, municipality, district, or other political~~  
13 ~~subdivision thereof, but excluding interest income from~~  
14 ~~obligations of:~~

15 (i) ~~the United States government or the state of~~  
16 ~~Montana;~~

17 (ii) ~~a school district; or~~

18 (iii) ~~a county, municipality, district, or other~~  
19 ~~political subdivision of the state;~~

20 (c) ~~income from partnerships and other fiduciaries;~~

21 (d) ~~gross rents and royalties;~~

22 (e) ~~gain from sale or exchange of property, including~~  
23 ~~those gains that are excluded from gross income for federal~~  
24 ~~fiduciary income tax purposes by section 641(c) of the~~  
25 ~~Internal Revenue Code of 1954, as amended;~~

1 (f)--gross profit from trade or business; and  
 2 (g)--refunds recovered on federal income tax, to the  
 3 extent the deduction of such tax resulted in a reduction of  
 4 Montana income tax liability;  
 5 (2)--in computing net income, there are allowed as  
 6 deductions:  
 7 (a)--interest expenses deductible for federal tax  
 8 purposes according to section 163 of the Internal Revenue  
 9 Code of 1954, as amended;  
 10 (b)--taxes paid or accrued within the taxable year,  
 11 including but not limited to federal income tax, but  
 12 excluding Montana income tax;  
 13 (c)--that fiduciary's portion of depreciation or  
 14 depletion which is deductible for federal tax purposes  
 15 according to sections 167, 611, and 642 of the Internal  
 16 Revenue Code of 1954, as amended;  
 17 (d)--charitable contributions that are deductible for  
 18 federal tax purposes according to section 642(c) of the  
 19 Internal Revenue Code of 1954, as amended;  
 20 (e)--administrative expenses claimed for federal income  
 21 tax purposes, according to sections 212 and 642(g) of the  
 22 Internal Revenue Code of 1954, as amended, if such expenses  
 23 were not claimed as a deduction in the determination of  
 24 Montana inheritance tax;  
 25 (f)--losses from fire, storm, shipwreck, or other

1 casualty or from theft, to the extent not compensated for by  
 2 insurance or otherwise, that are deductible for federal tax  
 3 purposes according to section 165 of the Internal Revenue  
 4 Code of 1954, as amended;  
 5 (g)--net operating loss deductions allowed for federal  
 6 income tax under section 642(d) of the Internal Revenue Code  
 7 of 1954, as amended, except estates may not claim losses  
 8 that are deductible on the decedent's final return;  
 9 (h)--all benefits, not in excess of \$3,600, received:  
 10 (i)--as federal employees' retirement;  
 11 (ii)--as retirement from public employment in a state  
 12 other than Montana; or  
 13 (iii)--as an annuity, pension, or endowment under private  
 14 or corporate retirement plans or systems;  
 15 (j)--all benefits paid under the Montana teachers'  
 16 retirement system that are specified as exempt from taxation  
 17 by 19-4-706;  
 18 (k)--all benefits paid under the Montana Public  
 19 Employees' Retirement System Act that are specified as  
 20 exempt from taxation by 19-3-105;  
 21 (l)--all benefits paid under the Montana highway patrol  
 22 officers' retirement system that are specified as exempt  
 23 from taxation by 19-6-705;  
 24 (m)--Montana income tax refunds or credits thereof;  
 25 (n)--all benefits paid under 19-11-602, 19-11-604, and

19-11-605-to-retired-and-disabled-firemen-or-their-surviving spouses-or-children;

(n)--all---benefits---paid---under---the---municipal---police officers'-retirement-system-that---are---specified---as---exempt from-taxation-by-19-9-1005;

(3)--In--the--case--of--a--shareholder--of--a--corporation--with respect--to--which--the--election--provided--for--under--subchapter S--of--the--Internal--Revenue--Code--of--1954--as--amended--is--in effect--but--with--respect--to--which--the--election--provided--for under--15-31-202--is--not--in--effect--net--income--does--not include--any--part--of--the--corporation's--undistributed--taxable income--net--operating--loss--capital--gains--or--other--gains-- profits--or--losses--required--to--be--included--in--the shareholder's--federal--income--tax--net--income--by--reason--of--the election--under--subchapter--S--However--the--shareholder's--net income--shall--include--actual--distribution--from--the corporation--to--the--extent--it--would--be--treated--as--taxable dividends--if--the--subchapter--S--election--were--not--in--effect.

The Montana taxable income of an estate or trust is its federal taxable income as provided by the Internal Revenue Code, including interest received on obligations of another state or a political subdivision thereof, reduced by interest received from obligations of the United States government.

(4)(2) The following additional deductions shall be A

deduction is allowed in deriving taxable income of estates and trusts;

(a)--any for the amount of income for the taxable year currently required to be distributed to beneficiaries for such year;

(b)--any other amounts properly paid or credited or required to be distributed for the taxable year;

(c)--the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year;

(5)--The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8);

(6)--A trust or estate excluding benefits under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) may not exclude benefits described in subsection (2)(h) from net income unless the benefits received under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) are less than \$3,600, in which case the trust or estate may combine benefits to exclude up to a total of \$3,600 from net income."

**Section 15.** Section 15-30-141, MCA, is amended to read:

"15-30-141. **Tax as personal debt.** Every tax imposed by this chapter and all increases, interest, and penalties thereon shall be are, from the time they are due and payable, a personal debt from the person or fiduciary liable to pay the same to the state. Taxpayers filing a joint

1 return are jointly and severally liable for the tax and any  
 2 interest and penalty unless the department of revenue  
 3 determines, based on the criteria in section 6013(e) of the  
 4 Internal Revenue Code, that a spouse is relieved of  
 5 liability."

6 **Section 16.** Section 15-30-142, MCA, is amended to read:

7 "15-30-142. Returns Filing of returns and payment of  
 8 tax ---penalty-and-interest----refunds----credits. (1) Every  
 9 single individual and every married individual not filing a  
 10 joint return with his or her spouse and having a gross  
 11 income for the taxable year of more than \$17,000, as adjusted  
 12 under the provisions of subsection (7), and married  
 13 individuals not filing separate returns and having a  
 14 combined gross income for the taxable year of more than  
 15 \$27,000, as adjusted under the provisions of subsection (7)  
 16 subject to a tax pursuant to this chapter who is required by  
 17 section 6012 of the Internal Revenue Code to file a federal  
 18 income tax return or who receives income in excess of \$5,000  
 19 from obligations of another state or a political subdivision  
 20 thereof, shall be is liable for a return to be filed on such  
 21 forms and according to such rules as the department may  
 22 prescribe. The gross income amounts referred to in the  
 23 preceding sentence shall be increased by \$800, as adjusted  
 24 under the provisions of 15-30-112(7) and (8), for each  
 25 additional personal exemption allowance the taxpayer is

1 entitled to claim for himself and his spouse under  
 2 15-30-112(3) and (4). A nonresident shall be required to  
 3 file a return if his gross income for the taxable year  
 4 derived from sources within Montana exceeds the amount of  
 5 the exemption deduction he is entitled to claim for himself  
 6 and his spouse under the provisions of 15-30-112(2), (3),  
 7 and (4), as prorated according to 15-30-112(6).

8 (2) In accordance with instructions set forth by the  
 9 department, every taxpayer who is married and living with  
 10 husband or wife and is required to file a return may, at his  
 11 or her option, file a joint return with husband or wife even  
 12 though one of the spouses has neither gross income nor  
 13 deductions. If a joint return is made, the tax shall be  
 14 computed on the aggregate taxable income and the liability  
 15 with respect to the tax shall be joint and several. If a  
 16 joint return has been filed for a taxable year, the spouses  
 17 may not file separate returns after the time for filing the  
 18 return of either has expired unless the department so  
 19 consents Every person who is required to file a return under  
 20 subsection (1) shall use the same filing status to file his  
 21 state return as used to file his federal return.

22 (3) If any such taxpayer is unable to make his own  
 23 return, the return shall be made by a duly authorized agent  
 24 or by a guardian or other person charged with the care of  
 25 the person or property of such taxpayer.

1 (4) All taxpayers, including but not limited to those  
 2 subject to the provisions of 15-30-202 and 15-30-241, shall  
 3 compute the amount of income tax payable and shall, at the  
 4 time of filing the return required by this chapter, pay to  
 5 the department any balance of income tax remaining unpaid  
 6 after crediting the amount withheld as provided by 15-30-202  
 7 and/or any payment made by reason of an estimated tax return  
 8 provided for in 15-30-241, ~~provided, however,~~ if the tax so  
 9 computed is greater by \$1 than the amount withheld and/or  
 10 paid by estimated return as provided in this chapter. If the  
 11 amount of tax withheld and/or payment of estimated tax  
 12 exceeds by more than \$1 the amount of income tax as  
 13 computed, the taxpayer ~~shall be~~ is entitled to a refund of  
 14 the excess.

15 (5) As soon as practicable after the return is filed,  
 16 the department shall examine and verify the tax.

17 (6) If the amount of tax as verified is greater than  
 18 the amount theretofore paid, the excess shall be paid by the  
 19 taxpayer to the department within 60 days after notice of  
 20 the amount of the tax as computed, with interest added at  
 21 the rate of ~~9% per annum~~ 3/4 of 1% per month or fraction  
 22 thereof on the additional tax. In such case there shall be  
 23 no penalty because of such understatement, provided the  
 24 deficiency is paid within 60 days after the first notice of  
 25 the amount is mailed to the taxpayer.

1 ~~{7}--By November 1 of each year, the department shall~~  
 2 ~~multiply the minimum amount of gross income necessitating~~  
 3 ~~the filing of a return by the inflation factor for the~~  
 4 ~~taxable year. These adjusted amounts are effective for that~~  
 5 ~~taxable year, and persons having gross incomes less than~~  
 6 ~~these adjusted amounts are not required to file a return.~~

7 ~~{8}--Individual income tax forms distributed by the~~  
 8 ~~department for each taxable year must contain instructions~~  
 9 ~~and tables based on the adjusted base year structure for~~  
 10 ~~that taxable year."~~

11 **Section 17.** Section 15-30-144, MCA, is amended to read:

12 "15-30-144. Time for filing -- extensions of time. (1)  
 13 Returns shall be made to the department on or before the  
 14 15th day of the 4th month following the close of the  
 15 taxpayer's fiscal year, or if the return is made on the  
 16 basis of the calendar year, then the return shall be made on  
 17 or before the 15th day of April following the close of the  
 18 calendar year. Each return shall set forth such facts as the  
 19 department considers necessary for the proper enforcement of  
 20 this chapter. There shall be annexed to such return the  
 21 affidavit or affirmation of the persons making the return to  
 22 the effect that the statements contained therein are true.  
 23 Blank forms of return shall be furnished by the department  
 24 upon application, but failure to secure the form shall not  
 25 relieve any taxpayer of the obligation to make any return

1 required under this law. ~~Every taxpayer liable for a tax~~  
 2 ~~under this law shall pay a minimum tax of \$1.~~

3 (2) ~~An automatic 6-month extension of time for filing a~~  
 4 ~~return is allowed, provided that on or before the due date~~  
 5 ~~of the return, an application is made on forms available~~  
 6 ~~from the department or in writing to the department. The~~  
 7 person making the return may obtain an automatic 2-month  
 8 extension of time for filing a return, subject to the  
 9 following:

10 (a) An application for extension must be filed before  
 11 the due date for filing the return, must be on a form  
 12 prescribed by the department, and must be accompanied by a  
 13 copy of the applicant's federal income tax form 4868  
 14 submitted to the internal revenue service for the same tax  
 15 year and same extension of the return filing period.

16 (b) If the applicant is not required to make a federal  
 17 income tax return, he must indicate that fact on the  
 18 application for extension filed with the department.

19 (c) An automatic extension of time to make the state  
 20 income tax return is not an extension of time to pay the  
 21 income tax due. The applicant must calculate and remit with  
 22 the application the tax due, less withheld tax payments,  
 23 estimated tax payments, and tax credits for which the  
 24 applicant may be eligible.

25 (d) If the applicant underestimates his tax due by 10%

1 or more, he is liable for penalties and interest under  
 2 15-30-323 from the date the tax is due.

3 (3) The department shall grant an application for  
 4 extension of time for filing a return if the applicant  
 5 submits an application as set forth in subsection (2). The  
 6 department need not notify an applicant of its determination  
 7 unless it denies the application.

8 (4) A person granted an automatic extension under  
 9 subsection (2) may be granted an additional extension, not  
 10 to exceed 4 months from the date for filing a return, if  
 11 upon further application the person shows good cause to  
 12 receive another extension. The filing of an appeal from a  
 13 denial of the application for another extension does not  
 14 stay the time for filing the return."

15 **Section 18.** Section 15-30-146, MCA, is amended to read:

16 "15-30-146. Tolling of statute of limitations. The  
 17 running of the statute of limitations provided for under  
 18 15-30-145 shall be suspended during any period that the  
 19 federal statute of limitations for collection of federal  
 20 income tax has been suspended by written agreement signed by  
 21 the taxpayer or when the taxpayer has instituted an action  
 22 which has the effect of suspending the running of the  
 23 federal statute of limitations and for 1 additional year. If  
 24 the taxpayer fails to file a record of changes in federal  
 25 taxable income or an amended return as required by



1 15-30-304, the statute of limitations shall not apply until  
 2 5 years from the date the federal changes become final or  
 3 the amended federal return was filed. If the taxpayer omits  
 4 from gross income an amount properly includable therein  
 5 which is in excess of 25% of the amount of adjusted-gross  
 6 Montana net taxable income stated in the return, the statute  
 7 of limitations shall not apply for 2 additional years from  
 8 the time specified in 15-30-145."

9 **Section 19.** Section 15-30-162, MCA, is amended to read:

10 "15-30-162. Investment credit recapture. (1) There is  
 11 ~~allowed as a credit against the tax imposed by 15-30-103 a~~  
 12 ~~percentage of the credit allowed with respect to certain~~  
 13 ~~depreciable property under section 38 of the Internal~~  
 14 ~~Revenue Code of 1954, as amended, or as section 38 may be~~  
 15 ~~renumbered or amended. However, rehabilitation costs as set~~  
 16 ~~forth under section 46(a)(2)(F) of the Internal Revenue Code~~  
 17 ~~of 1954, or as section 46(a)(2)(F) may be renumbered or~~  
 18 ~~amended, are not to be included in the computation of the~~  
 19 ~~investment credit. The credit is allowed for the purchase~~  
 20 ~~and installation of certain qualified property defined by~~  
 21 ~~section 38 of the Internal Revenue Code of 1954, as amended,~~  
 22 ~~if the property meets all of the following qualifications:~~

23 (a) it was placed in service in Montana, and

24 (b) it was used for the production of Montana ~~adjusted~~  
 25 ~~gross income.~~

1 (2) ~~The amount of the credit allowed for the taxable~~  
 2 ~~year is 5% of the amount of credit determined under section~~  
 3 ~~46(a)(2) of the Internal Revenue Code of 1954, as amended,~~  
 4 ~~or as section 46(a)(2) may be renumbered or amended.~~

5 (3) ~~Notwithstanding the provisions of subsection (2),~~  
 6 ~~the investment credit allowed for the taxable year may not~~  
 7 ~~exceed the taxpayer's tax liability for the taxable year or~~  
 8 ~~\$500, whichever is less.~~

9 (4) ~~If property for which an investment credit is~~  
 10 ~~claimed is used both inside and outside this state, only a~~  
 11 ~~portion of the credit is allowed. The credit must be~~  
 12 ~~apportioned according to a fraction the numerator of which~~  
 13 ~~is the number of days during the taxable year the property~~  
 14 ~~was located in Montana and the denominator of which is the~~  
 15 ~~number of days during the taxable year the taxpayer owned~~  
 16 ~~the property. The investment credit may be applied only to~~  
 17 ~~the tax liability of the taxpayer who purchases and places~~  
 18 ~~in service the property for which an investment credit is~~  
 19 ~~claimed. The credit may not be allocated between spouses~~  
 20 ~~unless the property is used by a partnership or small~~  
 21 ~~business corporation of which they are partners or~~  
 22 ~~shareholders.~~

23 (5) ~~The An investment credit allowed by this section~~  
 24 ~~taken by the taxpayer pursuant to this chapter is subject to~~  
 25 ~~recapture as provided for in section 47 of the Internal~~

1 Revenue Code of ~~1954 as amended~~, or as section ~~47~~ may be  
2 renumbered or amended."

3 **Section 20.** Section 15-30-303, MCA, is amended to read:

4 "15-30-303. Confidentiality of tax records. (1) Except  
5 in accordance with proper judicial order or as otherwise  
6 provided by law, it is unlawful for the department or any  
7 deputy, assistant, agent, clerk, or other officer or  
8 employee to divulge or make known in any manner the amount  
9 of income or any particulars set forth or disclosed in any  
10 report or return required under this chapter or any other  
11 information secured in the administration of this chapter.  
12 It is also unlawful to divulge or make known in any manner  
13 any federal return or federal return information disclosed  
14 on any return or report required by rule of the department  
15 or under this chapter.

16 (2) The officers charged with the custody of such  
17 reports and returns shall not be required to produce any of  
18 them or evidence of anything contained in them in any action  
19 or proceeding in any court, except in any action or  
20 proceeding to which the department is a party under the  
21 provisions of this chapter or any other taxing act or on  
22 behalf of any party to any action or proceedings under the  
23 provisions of this chapter or such other act when the  
24 reports or facts shown thereby are directly involved in such  
25 action or proceedings, in either of which events the court

1 may require the production of and may admit in evidence so  
2 much of said reports or of the facts shown thereby as are  
3 pertinent to the action or proceedings and no more.

4 (3) Nothing herein shall be construed to prohibit:

5 (a) the delivery to a taxpayer or his duly authorized  
6 representative of a certified copy of any return or report  
7 filed in connection with his tax;

8 (b) the publication of statistics so classified as to  
9 prevent the identification of particular reports or returns  
10 and the items thereof; or

11 (c) the inspection by the attorney general or other  
12 legal representative of the state of the report or return of  
13 any taxpayer who shall bring action to set aside or review  
14 the tax based thereon or against whom an action or  
15 proceeding has been instituted in accordance with the  
16 provisions of 15-30-311 and 15-30-322.

17 (4) Reports and returns shall be preserved for 3 years  
18 and thereafter until the department orders them to be  
19 destroyed.

20 (5) Any offense against subsections (1) through (4) of  
21 this section shall be punished by a fine not exceeding  
22 \$1,000 or by imprisonment in the county jail not exceeding 1  
23 year, or both, at the discretion of the court, and if the  
24 offender be an officer or employee of the state, he shall be  
25 dismissed from office and be incapable of holding any public

1 office in this state for a period of 1 year thereafter.

2 (6) Notwithstanding the provisions of this section, the  
3 department may permit the commissioner of internal revenue  
4 of the United States or the proper officer of any state  
5 imposing a tax upon the incomes of individuals or the  
6 authorized representative of either such officer to inspect  
7 the return of income of any individual or may furnish to  
8 such officer or his authorized representative an abstract of  
9 the return of income of any individual or supply him with  
10 information concerning any item of income contained in any  
11 return or disclosed by the report of any investigation of  
12 the income or return of income of any individual, but such  
13 permission shall be granted or such information furnished to  
14 such officer or his representative only if the statutes of  
15 the United States or of such other state, as the case may  
16 be, grant substantially similar privileges to the proper  
17 officer of this state charged with the administration of  
18 this chapter.

19 (7) Further, notwithstanding any of the provisions of  
20 this section, the department shall furnish:

21 (a) ~~to the department of justice all information~~  
22 ~~necessary to identify those persons qualifying for the~~  
23 ~~additional exemption for blindness pursuant to 15-30-112(4)7~~  
24 ~~for the purpose of enabling the department of justice to~~  
25 ~~administer the provisions of 61-5-1057~~

1 (b) to the department of social and rehabilitation  
2 services information acquired under 15-30-301, pertaining to  
3 an applicant for public assistance, reasonably necessary for  
4 the prevention and detection of public assistance fraud and  
5 abuse, provided notice to the applicant has been given;

6 (c) to the department of fish, wildlife, and parks  
7 specific information that is available from income tax  
8 returns and required under 87-2-102 to establish the  
9 residency requirements of an applicant for hunting and  
10 fishing licenses; and

11 (d) to the board of regents information required  
12 under 20-26-1111."

13 **Section 21.** Section 15-30-321, MCA, is amended to read:

14 "15-30-321. Penalties for violation of chapter. (1) If  
15 any person, without purposely or knowingly violating any  
16 requirement imposed by this chapter, fails to file a return  
17 of income on or before its due date (determined with regard  
18 to an extension of time granted for filing the return),  
19 there shall be imposed a penalty of 5% of any balance of tax  
20 unpaid with respect to such return as of its due date--but  
21 ~~in no event shall the penalty for failure to file a return~~  
22 ~~by its due date be less than \$5 or \$10, whichever is~~  
23 greater. In addition, a penalty of 5% of any balance of tax  
24 unpaid with respect to the return must be assessed for each  
25 30-day period during which the tax remains unpaid following

1 notification of delinquency, with a maximum 30% penalty. The  
 2 department may abate the penalty if the taxpayer establishes  
 3 that the failure to file on time was due to reasonable cause  
 4 and was not due to neglect on his part. If any person,  
 5 without purposely or knowingly violating any requirement  
 6 imposed by this chapter, fails to pay any tax on or before  
 7 its due date ~~(determined with regard to an extension of time~~  
 8 ~~granted for filing the return)~~, there shall be added to the  
 9 tax a penalty of ~~10%~~ 5% of said the tax, ~~but not less than~~  
 10 ~~\$57 and interest.~~ In addition, a penalty of 5% of the  
 11 delinquent tax must be assessed for each 30-day period  
 12 during which the tax remains unpaid following notification  
 13 of delinquency, with a maximum 30% penalty. Interest shall  
 14 accrue on the tax at the rate of ~~9% per annum~~ 3/4 of 1% per  
 15 month for the entire period it remains unpaid. The  
 16 department may abate the penalty if the taxpayer establishes  
 17 that the failure to pay on time was due to reasonable cause  
 18 and was not due to neglect on his part.

19 (2) If any person fails, purposely or knowingly  
 20 violating any requirement imposed by this chapter, to make a  
 21 return of income or to pay a tax if one is due at the time  
 22 required by or under the provisions of this chapter, there  
 23 shall be added to the tax an additional amount equal to 25%  
 24 thereof, but such additional amount shall in no case be less  
 25 than \$25, and interest at 1% for each month or fraction of a

1 month during which the tax remains unpaid.

2 (3) Any individual, corporation, or partnership or any  
 3 officer or employee of any corporation or member or employee  
 4 of any partnership who, with intent to evade any tax or any  
 5 requirement of this chapter or any lawful requirement of the  
 6 department thereunder, purposely or knowingly, fails to pay  
 7 the tax or to make, render, or sign any return or to supply  
 8 any information within the time required by or under the  
 9 provisions of this chapter or who, with like intent,  
 10 purposely or knowingly makes, renders, or signs any false or  
 11 fraudulent return or statement or supplies any false or  
 12 fraudulent information shall be liable to a penalty of not  
 13 more than \$1,000, to be recovered by the attorney general in  
 14 the name of the state by action in any court of competent  
 15 jurisdiction, and shall also be guilty of a misdemeanor and  
 16 shall upon conviction be fined not to exceed \$1,000 or be  
 17 imprisoned not to exceed 1 year, or both, at the discretion  
 18 of the court.

19 (4) With respect to the imposition of a civil penalty,  
 20 evidence produced by the department to the effect that a tax  
 21 has not been paid, that a return has not been filed, or that  
 22 information has not been supplied as required under the  
 23 provisions of this chapter is prima facie evidence that the  
 24 tax has not been paid, the return has not been filed, or the  
 25 information has not been supplied.

1       (5) The department may not assess any penalty until the  
 2 penalty equals \$10 or more for any one tax period or for the  
 3 period covered by a return or statement."

4       **Section 22.** Section 15-30-323, MCA, is amended to read:

5       "15-30-323. Penalty for deficiency. (1) If the payment  
 6 required by 15-30-142(6) is not made within 60 days or if  
 7 the understatement is due to negligence on the part of the  
 8 taxpayer but without fraud, there shall be added to the  
 9 amount of the deficiency 5% thereof ~~provided, however, that~~  
 10 no deficiency penalty shall be less than \$2 of the tax. In  
 11 addition, a penalty of 5% of the delinquent tax must be  
 12 assessed for each 30-day period during which the tax remains  
 13 unpaid following notification of delinquency, with a maximum  
 14 30% penalty. Interest will be computed at the rate of 9% per  
 15 annum 3/4 of 1% per month or fraction thereof on the  
 16 additional assessment. Except as otherwise expressly  
 17 provided in this subsection, the interest shall in all cases  
 18 be computed from the date the return and tax were originally  
 19 due as distinguished from the due date as it may have been  
 20 extended to the date of payment.

21       (2) If the time for filing a return is extended, the  
 22 taxpayer shall pay in addition interest thereon at the rate  
 23 of 9% per annum from the time when the return was originally  
 24 required to be filed to the time of payment."

25       **Section 23.** Section 15-31-131, MCA, is amended to read:

1       "15-31-131. Credit for dependent care assistance. (1)  
 2 There is a credit against the taxes otherwise due under this  
 3 chapter allowable to an employer for amounts paid or  
 4 incurred during the taxable year by the employer for  
 5 dependent care assistance actually provided to or on behalf  
 6 of an employee if the assistance is furnished by a  
 7 registered or licensed day-care provider and pursuant to a  
 8 program that meets the requirements of section 89(k) and  
 9 129(d)(2) through (6) of the Internal Revenue Code.

10       (2) (a) The amount of the credit allowed under  
 11 subsection (1) is 15% of the amount paid or incurred by the  
 12 employer during the taxable year, but the credit may not  
 13 exceed \$1,250 of day-care assistance actually provided to or  
 14 on behalf of the employee.

15       (b) For the purposes of this subsection, marital status  
 16 must be determined under the rules of section 21(e)(3) and  
 17 (4) of the Internal Revenue Code.

18       (c) In the case of an onsite facility, the amount upon  
 19 which the credit allowed under subsection (1) is based, with  
 20 respect to any dependent, must be based upon utilization and  
 21 the value of the services provided.

22       (3) An amount paid or incurred during the taxable year  
 23 of an employer in providing dependent care assistance to or  
 24 on behalf of any employee does not qualify for the credit  
 25 allowed under subsection (1) if the amount was paid or

1 incurred to an individual described in section 129(c)(1) or  
2 (2) of the Internal Revenue Code.

3 (4) An amount paid or incurred by an employer to  
4 provide dependent care assistance to or on behalf of an  
5 employee does not qualify for the credit allowed under  
6 subsection (1) if the amount is paid or incurred pursuant to  
7 a salary reduction plan or is paid or incurred for services  
8 not performed within this state.

9 (5) If the credit allowed under subsection (1) is  
10 claimed, the amount of any deduction allowed or allowable  
11 under this chapter for the amount that qualifies for the  
12 credit (or upon which the credit is based) must be reduced  
13 by the dollar amount of the credit allowed. The election to  
14 claim a credit allowed under this section must be made at  
15 the time of filing the tax return.

16 (6) The amount upon which the credit allowed under  
17 subsection (1) is based may not be included in the gross  
18 income of the employee to whom the dependent care assistance  
19 is provided. However, the amount excluded from the income of  
20 an employee under this section may not exceed the  
21 limitations provided in section 129(b) of the Internal  
22 Revenue Code. For purposes of Title 15, chapter 30, part 2,  
23 with respect to an employee to whom dependent care  
24 assistance is provided, "wages" does not include any amount  
25 excluded under this subsection. ~~Amounts-excluded-under-this~~

1 ~~subsection-do-not-qualify-as-expenses-for-which-a--deduction~~  
2 ~~is-allowed-to-the-employee-under-15-30-121-~~

3 (7) Any tax credit otherwise allowable under this  
4 section that is not used by the taxpayer in a particular  
5 year may be carried forward and offset against the  
6 taxpayer's tax liability for the next succeeding tax year.  
7 Any credit remaining unused in the next succeeding tax year  
8 may be carried forward and used in the second succeeding tax  
9 year, and likewise through the fifth year succeeding the tax  
10 year in which the credit was first allowed or allowable. A  
11 credit may not be carried forward beyond the fifth  
12 succeeding tax year.

13 (8) If the taxpayer is an S corporation, as defined in  
14 section 1361 of the Internal Revenue Code, and the taxpayer  
15 elects to take tax credit relief, the election may be made  
16 on behalf of the corporation's shareholders. A shareholder's  
17 credit must be computed using the shareholder's pro rata  
18 share of the corporation's costs that qualify for the  
19 credit. In all other respects, the effect of the tax credit  
20 applies to the corporation as otherwise provided by law.

21 (9) For purposes of the credit allowed under subsection  
22 (1):

23 (a) The definitions and special rules contained in  
24 section 129(e) of the Internal Revenue Code apply to the  
25 extent applicable.

1 (b) "Employer" means an employer carrying on a  
2 business, trade, occupation, or profession in this state.

3 (c) "Internal Revenue Code" means the federal Internal  
4 Revenue Code as amended and in effect on January 1, 1989."

5 **Section 24.** Section 15-31-202, MCA, is amended to read:

6 "15-31-202. Election by small business corporation. (1)  
7 A small business corporation may elect not to be subject to  
8 the taxes imposed by this chapter.

9 (2) If a small business corporation makes an election  
10 under subsection (1), then:

11 (a) with respect to the taxable years of the  
12 corporation for which such election is in effect, such  
13 corporation is not subject to the taxes imposed by this  
14 chapter and, with respect to such taxable years and all  
15 succeeding taxable years, the provisions of this part apply  
16 to such corporation; and

17 (b) with respect to the taxable years of a shareholder  
18 of such corporation in which or with which the taxable years  
19 of the corporation for which such election is in effect end,  
20 the provisions of this part apply to such shareholder, and  
21 with respect to such taxable years and all succeeding  
22 taxable years, the provisions of this part apply to such  
23 shareholder.

24 (3) An election under subsection (1) must be made in  
25 accordance with rules prescribed by the department of

1 revenue.

2 (4) This election is not effective unless the corporate  
3 net income or loss of such electing corporation is included  
4 in the stockholders' ~~adjusted-gross~~ income ~~as--defined--in~~  
5 ~~15-30-111.~~

6 (5) Every electing corporation is required to pay the  
7 minimum fee of \$10 required by 15-31-204."

8 **Section 25.** Section 15-32-104, MCA, is amended to read:

9 "15-32-104. Limitations on deduction and credit. Tax  
10 treatment under 15-32-103 ~~and 15-32-109~~ is limited to:

11 (1) capital investments made after January 1, 1975;

12 (2) persons and firms not primarily engaged in the  
13 provision of gas or electricity derived from fossil fuel  
14 extraction or conventional hydroelectric development; and

15 (3) a ceiling of \$100,000 in tax savings per year to  
16 any one person or firm."

17 **Section 26.** Section 15-32-106, MCA, is amended to read:

18 "15-32-106. Procedure for obtaining benefit of  
19 deduction or credit. ~~The department of revenue shall provide~~  
20 ~~forms--on--which--a--taxpayer--may--apply--for--a--tax--credit--under~~  
21 ~~15-32-109.~~ The department of revenue shall approve a  
22 deduction or credit under 15-32-103 ~~or 15-32-109~~ which that  
23 demonstrably promotes energy conservation or utilizes a  
24 recognized nonfossil form of energy generation. The  
25 department of revenue may refer a deduction or credit

1 involving energy generation to the department of natural  
 2 resources and conservation for its advice, and the  
 3 department of natural resources and conservation shall  
 4 respond within 60 days. The department of revenue may refer  
 5 a deduction or credit involving energy conservation to the  
 6 department of administration for its advice, and the  
 7 department of administration shall respond within 60 days.  
 8 The department of revenue may deny a deduction or credit  
 9 which it finds to be impractical or ineffective."

10 **Section 27.** Section 15-32-203, MCA, is amended to read:

11 ~~"15-32-203. Department to make rules. (1)---The~~  
 12 ~~department-of-revenue-shall---prescribe---rules---necessary---to~~  
 13 ~~carry-out-the-purposes-of-this-part.~~

14 (2) The department of health and environmental sciences  
 15 shall adopt rules establishing emission testing and emission  
 16 certification standards for low emission wood or biomass  
 17 combustion devices and maintain a list of such devices that  
 18 are certified."

19 **Section 28.** Section 15-32-303, MCA, is amended to read:

20 "15-32-303. Deduction for purchase of Montana produced  
 21 organic fertilizer. In addition to all other deductions from  
 22 adjusted--gross--individual--income--allowed--in--computing  
 23 taxable--income--under--Title--15--chapter--30--or--from gross  
 24 corporate income allowed in computing net income under Title  
 25 15, chapter 31, part 1, a taxpayer corporation may deduct

1 his its expenditures for organic fertilizer produced in  
 2 Montana and used in Montana if the expenditure was not  
 3 otherwise deducted in computing taxable income."

4 **Section 29.** Section 15-32-402, MCA, is amended to read:

5 "15-32-402. Commercial investment credit --  
 6 wind-generated electricity. (1) An---individual, A  
 7 corporation, partnership, or small business corporation as  
 8 defined in 15-31-201 that makes an investment of \$5,000 or  
 9 more in certain depreciable property qualifying under  
 10 section 38 of the Internal Revenue Code of 1954--as-amended,  
 11 for a commercial system located in Montana which generates  
 12 electricity by means of wind power is entitled to a tax  
 13 credit against taxes imposed by 15-30-103 or 15-31-121 in an  
 14 amount equal to 35% of the eligible costs, to be taken as a  
 15 credit only against taxes due as a consequence of taxable or  
 16 net income produced by one of the following:

17 (a) manufacturing plants located in Montana that  
 18 produce wind energy generating equipment;

19 (b) a new business facility or the expanded portion of  
 20 an existing business facility for which the wind energy  
 21 generating equipment supplies, on a direct contract sales  
 22 basis, the basic energy needed; or

23 (c) the wind energy generating equipment in which the  
 24 investment for which a credit is being claimed was made.

25 (2) For purposes of determining the amount of the tax



1 credit that may be claimed under subsection (1), eligible  
2 costs include only those expenditures that qualify under  
3 section 38 of the Internal Revenue Code ~~of 1954 as amended,~~  
4 and that are associated with the purchase, installation, or  
5 upgrading of:

6 (a) generating equipment;

7 (b) safety devices and storage components;

8 (c) transmission lines necessary to connect with  
9 existing transmission facilities; and

10 (d) transmission lines necessary to connect directly to  
11 the purchaser of the electricity when no other transmission  
12 facilities are available.

13 (3) Eligible costs under subsection (2) must be reduced  
14 by the amount of any grants provided by the state or federal  
15 government for the system."

16 **Section 30.** Section 15-32-405, MCA, is amended to read:

17 "15-32-405. **Exclusion from other tax incentives.** If a  
18 credit is claimed for an investment pursuant to this part,  
19 no other state energy or investment tax credit, including  
20 but not limited to the tax credits allowed by 15-30-162--and  
21 15-31-123 through 15-31-125, may be claimed for the  
22 investment. Property tax reduction allowed by 15-6-201(3)  
23 may not be applied to a facility for which a credit is  
24 claimed pursuant to this part."

25 **Section 31.** Section 19-3-105, MCA, is amended to read:

1 "19-3-105. **Exemption from taxes and legal process.** The  
2 right of a person to a retirement allowance or any other  
3 benefit under this chapter and the moneys in the fund  
4 created under this chapter is not:

5 (1) subject to execution, garnishment, attachment, or  
6 any other process;

7 (2) ~~subject to state, county, or municipal taxes except~~  
8 ~~for a refund paid under 19-3-703 of a member's contributions~~  
9 ~~picked up by an employer after June 30, 1985, as provided in~~  
10 ~~19-3-701; or~~

11 (3) nor is it assignable except as in this chapter  
12 specifically provided."

13 **Section 32.** Section 19-4-706, MCA, is amended to read:

14 "19-4-706. **Exemption from taxation and legal process.**  
15 The pensions, annuities, or any other benefits accrued or  
16 accruing to any person under the provisions of the  
17 retirement system and the accumulated contributions and cash  
18 and securities in the various funds of the retirement system  
19 are:

20 (1) ~~exempted from any state, county, or municipal tax~~  
21 ~~of the state of Montana except for a withdrawal paid under~~  
22 ~~19-4-603 of a member's contributions picked up by an~~  
23 ~~employer after June 30, 1985, as provided in 19-4-602;~~

24 (2) not subject to execution, garnishment, attachment  
25 by trustee process or otherwise, in law or equity, or any

1 other process, and are

2 (3) unassignable except as specifically provided in  
3 this chapter."

4 **Section 33.** Section 19-5-704, MCA, is amended to read:

5 "19-5-704. **Exemption from taxes and legal process.** Any  
6 money received or to be paid as a member's annuity, state  
7 annuity, or return of deductions or the right of any of  
8 these ~~shall be~~ is exempt from any ~~state or municipal tax and~~  
9 ~~from~~ levy, sale, garnishment, attachment, or any other  
10 process whatsoever and ~~shall be~~ is unassignable except as  
11 specifically provided in 19-5-705."

12 **Section 34.** Section 19-6-705, MCA, is amended to read:

13 "19-6-705. **Exemption from taxes and legal process.** Any  
14 money received or to be paid as a member's annuity, state  
15 annuity, or return of deductions or the right of any of  
16 these is:

17 (1) ~~exempt from any state, county, or municipal tax~~  
18 ~~except for a refund paid under 19-6-403 of a member's~~  
19 ~~contributions picked up by an employer after June 30, 1985,~~  
20 ~~as provided in 19-6-402;~~

21 (2) exempt from levy, sale, garnishment, attachment, or  
22 any other process; and

23 (3) is unassignable except as specifically provided in  
24 19-6-706."

25 **Section 35.** Section 19-7-705, MCA, is amended to read:

1 "19-7-705. **Exemption from taxes and legal process.** Any  
2 money received or to be paid as a member's annuity, state  
3 annuity, or return of deductions or the right of any of  
4 these is:

5 (1) ~~exempt from any state, county, or municipal tax~~  
6 ~~except for a refund paid under 19-7-304(1) of a member's~~  
7 ~~contributions picked up by an employer after June 30, 1985,~~  
8 ~~as provided in 19-7-403;~~

9 (2) exempt from levy, sale, garnishment, attachment, or  
10 any other process; and

11 (3) is unassignable except as specifically provided in  
12 19-7-706."

13 **Section 36.** Section 19-8-805, MCA, is amended to read:

14 "19-8-805. **Exemption from taxes and legal process.** Any  
15 money received or to be paid as a member's annuity, state  
16 annuity, or return of deductions or the right of any of  
17 these is:

18 (1) ~~exempt from any state, county, or municipal tax~~  
19 ~~except for a refund paid under 19-8-503 of the member's~~  
20 ~~contributions picked up by an employer after June 30, 1985,~~  
21 ~~as provided in 19-8-502;~~

22 (2) exempt from levy, sale, garnishment, attachment, or  
23 any other process; and

24 (3) is unassignable except as specifically provided in  
25 19-8-806."

1       **Section 37.** Section 19-21-212, MCA, is amended to read:

2       "19-21-212. Exemption from taxation, legal process, and  
3 assessments. All contracts, benefits, and contributions  
4 under the optional retirement program and the earnings  
5 thereon are:

6       ~~{1}--exempt-from-any-state, county, or municipal tax;~~

7       {2}{1} not subject to execution, garnishment,  
8 attachment, or other process;

9       {3}{2} not covered or assessable by an insurance  
10 guaranty association; and

11       {4}{3} unassignable except as specifically provided in  
12 the contracts."

13       **Section 38.** Section 67-11-303, MCA, is amended to read:

14       "67-11-303. Bonds and obligations. (1) An authority may  
15 borrow money for any of its corporate purposes and issue its  
16 bonds therefor, including refunding bonds, in such form and  
17 upon such terms as it may determine, payable out of any  
18 revenues of the authority, including revenues derived from:

19       (a) an airport or air navigation facility or  
20 facilities;

21       (b) taxes levied pursuant to 67-11-301 or other law for  
22 airport purposes;

23       (c) grants or contributions from the federal  
24 government; or

25       (d) other sources.

1       (2) The bonds may be issued by resolution of the  
2 authority, without an election and without any limitation of  
3 amount, except that no such bonds may be issued at any time  
4 if the total amount of principal and interest to become due  
5 in any year on such bonds and on any then outstanding bonds  
6 for which revenues from the same source or sources are  
7 pledged exceeds the amount of such revenues to be received  
8 in that year as estimated in the resolution authorizing the  
9 issuance of the bonds. The authority shall take all action  
10 necessary and possible to impose, maintain, and collect  
11 rates, charges, rentals, and taxes, if any are pledged,  
12 sufficient to make the revenues from the pledged source in  
13 such year at least equal to the amount of such principal and  
14 interest due in that year.

15       (3) The bonds may be sold at public or private sale and  
16 may bear interest as provided in 17-5-102. Except as  
17 otherwise provided herein, any bonds issued pursuant to this  
18 chapter by an authority may be payable as to principal and  
19 interest solely from revenues of the authority and shall  
20 state on their face the applicable limitations or  
21 restrictions regarding the source from which such principal  
22 and interest are payable.

23       (4) Bonds issued by an authority or municipality  
24 pursuant to the provisions of this chapter are declared to  
25 be issued for an essential public and governmental purpose

1 by a political subdivision ~~within---the--meaning--of~~  
2 ~~15-30-111(2)(a)~~ for purposes of tax exemption determinations  
3 under the Internal Revenue Code.

4 (5) For the security of any such bonds, the authority  
5 or municipality may by resolution make and enter into any  
6 covenant, agreement, or indenture and may exercise any  
7 additional powers authorized to be exercised by a  
8 municipality under Title 7, chapter 7, parts 44 and 45. The  
9 sums required from time to time to pay principal and  
10 interest and to create and maintain a reserve for the bonds  
11 may be paid from any revenues referred to in this chapter,  
12 prior to the payment of current costs of operation and  
13 maintenance of the facilities.

14 (6) Subject to the conditions stated in this subsection  
15 (6), the governing body of any municipality having a  
16 population in excess of 10,000, with respect to bonds issued  
17 pursuant to this chapter by the municipality or by an  
18 authority in which the municipality is included, may by  
19 resolution covenant that in the event that at any time all  
20 revenues, including taxes, appropriated and collected for  
21 such bonds are insufficient to pay principal or interest  
22 then due, it will levy a general tax upon all of the taxable  
23 property in the municipality for the payment of such  
24 deficiency; and may further covenant that at any time a  
25 deficiency is likely to occur within 1 year for the payment

1 of principal and interest due on such bonds, it will levy a  
2 general tax upon all the taxable property in the  
3 municipality for the payment of such deficiency, and such  
4 taxes are not subject to any limitation of rate or amount  
5 applicable to other municipal taxes but are limited to a  
6 rate estimated to be sufficient to produce the amount of the  
7 deficiency. In the event more than one municipality having a  
8 population in excess of 10,000 is included in an authority  
9 issuing bonds pursuant to this chapter, the municipalities  
10 may apportion the obligation to levy taxes for the payment  
11 of, or in anticipation of, a deficiency in the revenues  
12 appropriated for such bonds in such manner as the  
13 municipalities may determine. The resolution shall state the  
14 principal amount and purpose of the bonds and the substance  
15 of the covenant respecting deficiencies. No such resolution  
16 becomes effective until the question of its approval has  
17 been submitted to the qualified electors of the municipality  
18 at a special election called for that purpose by the  
19 governing body of the municipality and a majority of the  
20 electors voting on the question have voted in favor thereof.  
21 The notice and conduct of the election is governed, to the  
22 extent applicable, as provided for municipal general  
23 obligation bonds in Title 7, chapter 7, part 42, for an  
24 election called by cities and towns, and as provided for  
25 county general obligation bonds in Title 7, chapter 7, part

1 22, for an election called by counties. If a majority of the  
 2 electors voting thereon vote against approval of the  
 3 resolution, the municipality has no authority to make the  
 4 covenant or to levy a tax for the payment of deficiencies  
 5 pursuant to this section, but such municipality or authority  
 6 may nevertheless issue bonds under this chapter payable  
 7 solely from the sources referred to in subsection (1)  
 8 above."

9 NEW SECTION. **Section 39.** Repealer. Sections 15-30-110,  
 10 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-116,  
 11 15-30-117, 15-30-121, 15-30-122, 15-30-123, 15-30-125,  
 12 15-30-126, 15-30-156, 15-30-157, 15-30-161, 15-32-109,  
 13 15-32-201, 15-32-202, 19-9-1005, 19-13-1003, MCA, are  
 14 repealed.

15 NEW SECTION. **Section 40.** Codification instruction.  
 16 [Sections 8 and 11] are intended to be codified as an  
 17 integral part of Title 15, chapter 30, part 1, and the  
 18 provisions of Title 15, chapter 30, part 1, apply to  
 19 [sections 8 and 11].

20 NEW SECTION. **Section 41.** Severability. If a part of  
 21 [this act] is invalid, all valid parts that are severable  
 22 from the invalid part remain in effect. If a part of [this  
 23 act] is invalid in one or more of its applications, the part  
 24 remains in effect in all valid applications that are  
 25 severable from the invalid applications.

1 NEW SECTION. **Section 42.** Retroactive applicability.  
 2 [This act] applies retroactively, within the meaning of  
 3 1-2-109, to taxable years beginning after December 31, 1990.  
 4 NEW SECTION. **Section 43.** Effective date. [This act] is  
 5 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0959, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act to generally revise the individual income tax laws of the state; reducing individual income tax rates; applying the rates against net taxable income; providing for an alternative minimum tax for individuals; providing for proration of taxes for part-year residents; eliminating the exemption for retirement income; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Individual income tax collections are \$311,176,000 in FY92, and \$327,201,000 in FY93 (OBPP).
2. The rate tables, coupled with the definition of net taxable income, provided for in this proposal increase tax liability \$74,750,000 in FY92, and \$81,247,000 in FY93.
3. An alternative minimum tax closely patterned after the federal alternative minimum tax (AMT) will increase revenue approximately \$1 million annually. (Based on federal data indicating that the AMT increased federal revenue 0.456 percent in 1987, and 0.171 percent in 1988, and on the estimates of income tax collections in assumption #1).
4. Eliminating the current state credits for energy conservation, alternative energy and wind energy generation increases revenue \$156,000 annually.
5. Under the proposal no taxpayers will be allowed to deduct any portion of their federal income tax liability.
6. All revenue from individual income taxes is deposited in the state general fund under current law.
7. The proposal would provide for administrative savings and also require additional administrative costs to implement. Annual savings include a reduction of 1.28 FTE, with total personal services reduced \$28,655; operating expenses are reduced \$78,248 annually.
8. One-time additional start-up costs to convert the current system to the new system include 2.73 additional FTE. Increased one-time operating expenses are \$71,185; one-time personal services are \$115,740. On-going added costs for operating expense are \$4,755. Additional equipment to maintain the PC-based Alternative Minimum Tax system includes one personal computer.

FISCAL IMPACT:

see next page

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning      2-27-91

  
\_\_\_\_\_  
DAN W. HARRINGTON, PRIMARY SPONSOR      DATE  
3-5-91

Fiscal Note for HB0959, as introduced

**HB 959**

FISCAL IMPACT:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
F.T.E.	0	1.45	1.45	0	(1.28)	(1.28)
Personal Services	0	87,085	87,085	0	(28,655)	(28,655)
Operating Expense	0	(7,063)	(7,063)	0	(73,493)	(73,493)
Equipment	0	2,000	2,000	0	0	0
Total	0	82,022	82,022	0	(102,148)	(102,148)
<u>Funding:</u>						
General Fund	0	82,022	82,022	0	(102,148)	(102,148)
<u>Revenues:</u>						
Individual Income Tax (01)	311,176,000	387,082,000	75,906,000	327,201,000	408,448,000	81,247,000
Impact to General Fund			75,823,978			81,349,148

TECHNICAL NOTES:

The rate tables provided in this bill are in a form that include a fixed amount of tax payable plus the percentage that is applied to amounts in excess of the bracket boundaries. This form is not acceptable in an environment where bracket boundaries are indexed annually for inflation because these fixed amounts also change with indexing (see page 15, lines 8 and 10, for example). A rate table form that includes only bracket boundaries and tax rates would eliminate this problem.

The rate table on page 15 for married couples filing separately excludes taxable income between \$2,250 and \$6,000 from taxation.

Subsection (3) of Section 9, on page 25 is not understandable.

SENATE STANDING COMMITTEE REPORT

Page 2 of 2  
April 29, 1991

Page 1 of 2  
April 29, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 959 (first reading copy -- white), respectfully report that House Bill No. 959 be amended and as so amended be concurred in:

1. Strike: House Committee of the Whole amendments in their entirety

Amend House Bill 959 as follows:

1. Title, lines 5 through 9.

Following: ";" on line 5

Strike: remainder of line 5 through line 9 in its entirety

Insert: "PROVIDING THAT TO BE ELIGIBLE TO APPLY FOR AN EXTENSION OF TIME FOR FILING A RETURN, A TAXPAYER MUST HAVE PAID BY ESTIMATED TAX PAYMENTS, WITHHOLDING TAX, OR A COMBINATION OF ESTIMATED TAX PAYMENTS AND WITHHOLDING TAX 95 PERCENT OF THE CURRENT YEAR'S TAX LIABILITY OR 100 PERCENT OF THE PREVIOUS YEAR'S TAX LIABILITY; PROVIDING AN APPROPRIATION;"

2. Title, lines 10 through 12

Following: "AMENDING" on line 10

Strike: remainder of line 10 through line 12 in its entirety

Insert: "SECTION"

3. Title, lines 13 through 21.

Following: "15-30-144" on line 13

Strike: remainder of line 13 through "19-13-1003" on line 21

4. Title, line 22.

Strike: "AN IMMEDIATE"

Following: "EFFECTIVE"

Strike: "DATE"

Insert: "DATES"

5. Page 2, line 1 through page 69, line 25.

Strike: sections 1 through 41 in their entirety

Insert: "Section 1. Section 15-30-144, MCA, is amended to read:

"15-30-144. Time for filing -- extensions of time. (1) Returns shall be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of April following the close of the calendar year. Each return shall set forth such facts as the department considers necessary for the proper enforcement of this chapter. There shall be annexed to such return the affidavit or affirmation of the persons making the return to the effect that the statements contained therein

are true. Blank forms of return shall be furnished by the department upon application, but failure to secure the form shall not relieve any taxpayer of the obligation to make any return required under this law. Every taxpayer liable for a tax under this law shall pay a minimum tax of \$1.

(2) An automatic 6-month extension of time for filing a return is allowed, provided that:

(a) on or before the due date of the return, an application is made on forms available from the department or in writing to the department; and

(b) the applicant has paid by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax 95% of the current year's tax liability or 100% of the previous year's tax liability."

NEW SECTION. Section 2. Appropriation. There is appropriated from the general fund to the department of revenue \$108,225 for fiscal year 1992 and \$78,705 for fiscal year 1993 to implement the provisions of [this act].

NEW SECTION. Section 3. Coordination instruction. In any bill referring to Senate Bill No. 461, the reference to Senate Bill No. 461 is changed to House Bill No. 959."  
Renumber: subsequent sections

6. Page 70, line 2.

Strike: "This act"

Insert: "Section 1"

7. Page 70, line 4.

Strike: "date"

Insert: "dates"

Following: "."

Insert: "(1) Except as provided in subsection (2),"


Strike: "This"

Insert: "this"

8. Page 70, line 6.

Insert: "(2) [Section 2] is effective July 1, 1991."

Signed:

  
Mike Halligan, Chairman

*4-29-91*  
Am. Coord.

*SB 4-29-91 8:30 pm*  
Sec. of Senate

SENATE

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THIS IS THE ENROLLED VERSION OF HB 959 AS PASSED  
BY BOTH HOUSES OF THE LEGISLATURE.

HOUSE BILL 959 WENT FROM INTRODUCED TO THIS VERSION  
WITHOUT SECOND, THIRD OR REFERENCE PRINTING. THESE  
VERSIONS WILL NOT BE PRINTED ON THIS BILL.

**HB959**



AN ACT TO GENERALLY REVISE THE INDIVIDUAL INCOME TAX LAWS OF THE STATE; PROVIDING THAT TO BE ELIGIBLE TO APPLY FOR AN EXTENSION OF TIME FOR FILING A RETURN, A TAXPAYER MUST HAVE PAID BY ESTIMATED TAX PAYMENTS, WITHHOLDING TAX, OR A COMBINATION OF ESTIMATED TAX PAYMENTS AND WITHHOLDING TAX 95 PERCENT OF THE CURRENT YEAR'S TAX LIABILITY OR 100 PERCENT OF THE PREVIOUS YEAR'S TAX LIABILITY; PROVIDING AN APPROPRIATION; AMENDING SECTION 15-30-144, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE.

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

Section 1. Section 15-30-144, MCA, is amended to read:

"15-30-144. Time for filing -- extensions of time. (1) Returns shall be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of April following the close of the calendar year. Each return shall set forth such facts as the department considers necessary for the proper enforcement of this chapter. There shall be annexed to such return the affidavit or affirmation of the persons making the return to the effect that the statements contained therein are true. Blank forms of return shall be furnished by the department upon application, but failure to secure the form shall not relieve any taxpayer of the obligation to make any return required under this law. Every taxpayer liable for a tax under this law shall pay

a minimum tax of \$1.

(2) An automatic 6-month extension of time for filing a return is allowed, provided that:

(a) on or before the due date of the return, an application is made on forms available from the department or in writing to the department; and

(b) the applicant has paid by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax 95% of the current year's tax liability or 100% of the previous year's tax liability."

Section 2. Appropriation. There is appropriated from the general fund to the department of revenue \$108,225 for fiscal year 1992 and \$78,705 for fiscal year 1993 to implement the provisions of [this act].

Section 3. Coordination instruction. In any bill referring to Senate Bill No. 461, the reference to Senate Bill No. 461 is changed to House Bill No. 959.

Section 4. Retroactive applicability. [Section 1] applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990.

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2] is effective July 1, 1991.