

HOUSE BILL 996

Introduced by Ream, et al.

3/16	Introduced
3/16	Referred to Taxation
3/16	First Reading
3/16	Fiscal Note Requested
3/21	Fiscal Note Received
3/23	Fiscal Note Printed
3/27	Hearing
3/28	Committee Report--Bill Passed as Amended
4/02	2nd Reading Passed
4/04	3rd Reading Passed
	Transmitted to Senate
4/04	First Reading
4/04	Referred to Taxation
4/08	Hearing
4/10	Revised Fiscal Note Printed
4/15	Committee Report--Bill Concurred as Amended
4/16	2nd Reading Concurred as Amended
4/17	3rd Reading Concurred
	Returned to House with Amendments
4/17	2nd Reading Amendments Concurred
4/18	3rd Reading Amendments Concurred
4/18	Signed by Speaker
4/18	Signed by President
4/19	Vetoed

1 *HOUSE* BILL NO. *996*
 2 INTRODUCED BY *Rep. V. Valkenburg Kimberly Elliott*
 3 *13. B. B. B.*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE EXISTING
 5 STATE INDIVIDUAL INCOME TAX AND IMPOSING A STATE INCOME TAX
 6 BASED ON A PERCENTAGE OF THE FEDERAL INCOME TAX PAYABLE ON
 7 MONTANA TAXABLE INCOME; AMENDING SECTIONS 7-14-1133,
 8 7-34-2416, 13-37-218, 13-37-303, 15-30-101, 15-30-125,
 9 15-30-128, 15-30-162, 15-30-241, 15-30-303, 15-30-323,
 10 15-31-131, 15-31-202, 15-32-303, 15-33-106, 19-3-105,
 11 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-21-212,
 12 53-6-111, AND 67-11-303, MCA; REPEALING SECTIONS 15-30-103,
 13 15-30-105, 15-30-108, 15-30-110, 15-30-111, 15-30-112,
 14 15-30-113, 15-30-114, 15-30-115, 15-30-117, 15-30-121,
 15 15-30-122, 15-30-123, 15-30-126, 15-30-131, 15-30-132,
 16 15-30-135, 15-30-136, 15-30-137, 15-30-142, 15-30-143,
 17 15-30-156, 15-30-157, 19-9-1005, AND 19-13-1003, MCA; AND
 18 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
 19 APPLICABILITY DATE."

20
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 7-14-1133, MCA, is amended to read:
 23 "7-14-1133. Bonds and obligations. (1) Except for
 24 providing financial support to a private development
 25 organization, including a corporation organized under Title

1 32, chapter 4, whose purpose is to advance the economic
 2 development of its jurisdiction and of the state and its
 3 citizens, an authority may borrow money for any of its
 4 corporate purposes and issue bonds therefor, including
 5 refunding bonds, in such form and upon such terms as it
 6 determines, payable out of any revenues of the authority,
 7 including revenues derived from:

- 8 (a) any port or transportation and storage facility;
- 9 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
- 10 (c) grants or contributions from the federal
- 11 government; or
- 12 (d) other sources.

13 (2) The bonds may be issued by resolution of the
 14 authority, without an election and without any limitation of
 15 amount, except that no bonds may be issued at any time if
 16 the total amount of principal and interest to become due in
 17 any year on such bonds and on any then outstanding bonds for
 18 which revenues from the same source are pledged exceeds the
 19 amount of such revenues to be received in that year, as
 20 estimated in the resolution authorizing the issuance of the
 21 bonds. The authority shall take all action necessary and
 22 possible to impose, maintain, and collect rates, charges,
 23 rentals, and taxes, if any are pledged, sufficient to make
 24 the revenues from the pledged source in such year at least
 25 equal to the amount of principal and interest due in that

1 year.

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

10 (4) Bonds issued by an authority, county, or
11 municipality pursuant to the provisions of this part are
12 declared to be issued for an essential public and
13 governmental purpose by a political subdivision within the
14 meaning of ~~15-30-111(2)(a)~~ [section 6(2)(c)].

15 (5) For the security of any such bonds, the authority,
16 county, or municipality may by resolution make and enter
17 into any covenant, agreement, or indenture and may exercise
18 any additional powers authorized to be exercised by a
19 municipality under Title 7, chapter 7, parts 44 and 45. The
20 sums required from time to time to pay principal and
21 interest and to create and maintain a reserve for the bonds
22 may be paid from any revenues referred to in this part,
23 prior to the payment of current costs of operation and
24 maintenance of the facilities.

25 (6) Nothing in this section or 7-14-1134 may be

1 construed to limit the use of port authority revenues,
2 including federal and state money as described in 7-14-1136,
3 to make grants and loans or to otherwise provide financial
4 and other support to private development organizations,
5 including corporations organized under the provisions of the
6 development corporation act in Title 32, chapter 4. Under no
7 circumstances may the credit of the state, county, or
8 municipal governments or their agencies or authorities be
9 pledged to provide financial support to such development
10 organizations."

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

12 "7-34-2416. Tax-exempt status of bonds. Bonds issued by
13 a county pursuant to the provisions of 7-34-2411 through
14 7-34-2418 are declared to be issued for an essential public
15 and governmental purpose by a political subdivision within
16 the meaning of ~~15-30-111(2)(a)~~ [section 6(2)(c)]."

17 **Section 3.** Section 13-37-218, MCA, is amended to read:

18 "13-37-218. Limitations on receipts from political
19 committees. (1) A candidate for the state senate may receive
20 no more than \$1,000 in total combined monetary contributions
21 from all political committees contributing to his campaign,
22 and a candidate for the state house of representatives may
23 receive no more than \$600 in total combined monetary
24 contributions from all political committees contributing to
25 his campaign. The foregoing limitations shall be multiplied

1 by the inflation factor as defined in ~~15-30-101(8)~~
 2 subsection (2) for the year in which general elections are
 3 held after 1984; the resulting figure shall be rounded off
 4 to the nearest \$50 increment. The commissioner of political
 5 practices shall publish the revised limitations as a rule.
 6 In-kind contributions may not be included in computing these
 7 limitation totals. The limitation provided in this section
 8 does not apply to contributions made by a political party
 9 eligible for a primary election under 13-10-601.

10 (2) As used in this section, "inflation factor" means a
 11 number determined for each year by dividing the consumer
 12 price index for June of the year by the consumer price index
 13 for June of 1980."

14 **Section 4.** Section 13-37-303, MCA, is amended to read:

15 "13-37-303. Donation by taxpayer. (1) An individual
 16 whose withheld income tax or payment of estimated tax
 17 exceeds by more than \$1 his income tax liability for the
 18 taxable year may donate \$1 to be paid to the fund. In the
 19 case of a joint return, ~~as provided in 15-30-142,~~ of a
 20 husband and wife having an income tax overpayment as defined
 21 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
 22 paid to the fund.

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

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

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

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

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

12 (a) ~~the tax brackets established in 15-30-103 but~~
 13 ~~unadjusted by subsection (2) of 15-30-103 in effect on June~~
 14 ~~30 of the taxable year;~~

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

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

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

25 (3) (1) "Department" means the department of revenue.

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

8 ~~{5} (2) "Fiduciary" means a guardian, trustee, executor,~~
 9 ~~administrator, receiver, conservator, or any person, whether~~
 10 ~~individual or corporate, acting in any fiduciary capacity~~
 11 ~~for any person, trust, or estate.~~

12 ~~{6} (3) "Foreign country" or "foreign government" means~~
 13 ~~any jurisdiction other than the one embraced within the~~
 14 ~~United States, its territories and possessions.~~

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

21 ~~{8} "Inflation factor" means a number determined for~~
 22 ~~each taxable year by dividing the consumer price index for~~
 23 ~~June of the taxable year by the consumer price index for~~
 24 ~~June, 1986.~~

25 ~~(4) "Individual" means a natural person, whether~~

1 ~~married or unmarried, adult or minor, subject to payment of~~
 2 ~~an income tax under the Internal Revenue Code.~~

3 ~~{9} (5) "Information agents" includes all individuals,~~
 4 ~~corporations, associations, and partnerships, in whatever~~
 5 ~~capacity acting, including lessees or mortgagors of real or~~
 6 ~~personal property, fiduciaries, brokers, real estate~~
 7 ~~brokers, employers, and all officers and employees of the~~
 8 ~~state or of any municipal corporation or political~~
 9 ~~subdivision of the state, having the control, receipt,~~
 10 ~~custody, disposal, or payment of interest, rent, salaries,~~
 11 ~~wages, premiums, annuities, compensations, remunerations,~~
 12 ~~emoluments, or other fixed or determinable annual or~~
 13 ~~periodical gains, profits, and income with respect to which~~
 14 ~~any person or fiduciary is taxable under this chapter.~~

15 ~~{10} "Knowingly" is as defined in 45-2-101.~~

16 ~~{11} "Net income" means the adjusted gross income of a~~
 17 ~~taxpayer less the deductions allowed by this chapter.~~

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} "Purpose" is as defined in 45-2-101.~~

25 ~~{14} "Received", for the purpose of computation of~~

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

(6) "Internal Revenue Code" means the Internal Revenue Code of 1954, redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as that code may be amended from time to time by the United States congress. It is the specific intent of the legislature that all amendments by the United States congress must be incorporated into the context of any section of Title 15 referring to the Internal Revenue Code.

(7) "Person" means an individual, a trust or estate, or a partnership.

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

~~(9) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.~~

~~(9) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.~~

~~(10) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."~~

NEW SECTION. Section 6. State income tax as percentage of federal. (1) A state income tax is imposed and must be paid and collected for each taxable year upon:

(a) the federal adjusted taxable income derived from sources within and outside Montana of each resident and fiduciary required to make a return and pay federal income taxes under the Internal Revenue Code; and

(b) the federal adjusted taxable income derived from sources within Montana of each nonresident and fiduciary required to make a return and pay federal income taxes under the Internal Revenue Code.

(2) "Federal adjusted taxable income" means the taxpayer's taxable income, as determined for federal income taxes under the provisions of the Internal Revenue Code, with the following additional deductions:

(a) income earned by an enrolled member of a federally recognized Indian tribe during the time he both lives and works on a reservation;

(b) Montana income tax refunds or credits;

(c) interest income from obligations of the United

1 States government to the extent the income is exempt from
2 state income tax under federal law; and

3 (d) military combat pay received by a Montana resident.

4 (3) A shareholder of a corporation for which the
5 election provided for under subchapter S. of the Internal
6 Revenue Code is in effect but for which the election
7 provided under 15-31-202 is not in effect may deduct from
8 his federal taxable income any part of the corporation's
9 undistributed taxable income, net operating loss, capital or
10 other gains, profits, or losses required to be included in
11 the shareholder's federal taxable income by reason of the
12 election under subchapter S. However, to the shareholder's
13 federal taxable income must be added distributions received
14 from the corporation to the extent the distributions would
15 be treated as taxable dividends if the subchapter S.
16 election were not in effect.

17 (4) Nonresidents taking any of the deductions listed in
18 subsection (2) may claim only that percentage of itemized
19 deductions and the personal exemption deduction allowed from
20 federal adjusted gross income that the percentage of
21 adjusted gross income earned from sources within Montana
22 bears to the taxpayer's federal adjusted gross income.

23 (5) If a taxpayer's federal adjusted taxable income is
24 adjusted for state income tax purposes to include any of the
25 additional deductions or modifications of subsections (2)

1 through (4) and 15-30-107 and 15-30-127, the taxpayer's
2 federal income tax liability must be recomputed on this
3 adjusted figure to allow the state income tax rate to be
4 applied against it.

5 NEW SECTION. **Section 7. Rate of tax.** The rate of state
6 income tax is 32% of a taxpayer's federal income tax
7 liability, excluding the self-employment tax imposed under
8 section 1401, Internal Revenue Code, adjusted as provided in
9 [section 6(5)].

10 NEW SECTION. **Section 8. Nonresidents -- determination**
11 **of in-state income.** A nonresident's income from sources
12 within Montana includes income derived from all property
13 owned in this state and from every business, trade,
14 profession, or occupation carried on in this state. It does
15 not include income from annuities, interest on bank
16 deposits, interest on notes, bonds, or other
17 interest-bearing obligations, or dividends on stock of
18 corporations, except to the extent to which this income is a
19 part of the income derived from a business, trade,
20 profession, or occupation carried on in this state. In the
21 case of a business, trade, profession, or occupation carried
22 on partly within and partly outside this state by a
23 nonresident, the income from sources within this state must
24 be determined by apportionment and allocation under rules
25 adopted by the department.

1 **NEW SECTION. Section 9. Tax return -- contents. (1)**

2 Each individual or fiduciary mentioned in [section 6(1)]
3 shall file a return with the department showing:

4 (a) the amount of tax due and payable as reported on
5 the taxpayer's federal income tax return or as recomputed as
6 required in [section 6(5)];

7 (b) the amount of tax due under [section 7], less
8 credits, if any, claimed against the tax;

9 (c) any other information necessary for administration
10 of the state income tax, as may be prescribed by the
11 department.

12 (2) If a taxpayer is unable to make his own return, an
13 authorized agent, guardian, or other person charged with the
14 care of the person or property of the taxpayer shall file
15 the return.

16 **NEW SECTION. Section 10. Payment of state income tax**

17 -- **refunds -- interest.** (1) A taxpayer required to file a
18 state income tax return shall compute the amount of state
19 income tax due and shall, at the time the return is filed,
20 pay to the department any balance of tax in excess of \$1
21 remaining unpaid after crediting the amount withheld as
22 provided under 15-30-202 or any payment of estimated tax as
23 provided under 15-30-242.

24 (2) If the withheld tax or the estimated tax paid
25 exceeds the state income tax due by more than \$1, the

1 department shall refund the excess to the taxpayer within 30
2 days after receiving the return.

3 (3) Except as provided in 15-30-321, interest at a rate
4 of 9% a year must be added to any state income tax or
5 portion of tax, from the due date until paid, whether the
6 taxpayer has been granted a filing extension or not.

7 (4) If a joint return is made by husband and wife, the
8 liability with respect to the tax is joint and several.

9 **Section 11.** Section 15-30-128, MCA, is amended to read:

10 "15-30-128. Credit for expense of caring for certain
11 elderly family members. (1) There is a credit against the
12 tax imposed by this chapter for qualified elderly care
13 expenses paid by an individual for the care of a qualifying
14 family member during the taxable year.

15 (2) A qualifying family member is an individual who:

16 (a) is related to the taxpayer by blood or marriage;

17 (b) (i) is at least 70 years of age; or

18 (ii) is diagnosed by a physician as having senile
19 dementia of the Alzheimer type; and

20 (c) has a family income of \$15,000 or less for the
21 taxable year.

22 (3) For purposes of this section, "family income"
23 means, in the case of an individual who is not married, the
24 federal adjusted gross income of the individual or, in the
25 case of a married individual, the federal adjusted gross

1 income of the individual and the individual's spouse.

2 (4) Qualified elderly care expenses include:

3 (a) payments by the taxpayer for home health agency

4 services provided by an organization certified by the

5 federal health care financing administration, homemaker

6 services, adult day care, respite care, or health-care

7 equipment and supplies:

8 (i) provided to the qualifying family member;

9 (ii) provided by an organization or individual not

10 related to the taxpayer or the qualifying family member; and

11 (iii) not compensated for by insurance or otherwise;

12 (b) subject to the limitations in subsection (4)(a),

13 payments by the taxpayer for nursing home care of an

14 individual who is diagnosed by a physician as having senile

15 dementia of the Alzheimer type.

16 (5) The percentage amount of credit allowable under

17 this section is:

18 (a) for a taxpayer whose federal adjusted gross income

19 does not exceed \$25,000, 30% of qualified elderly care

20 expenses; or

21 (b) for a taxpayer whose federal adjusted gross income

22 exceeds \$25,000, the greater of:

23 (i) 20% of qualified elderly care expenses; or

24 (ii) 30% of qualified elderly care expenses, less 1% for

25 each \$2,000 or fraction thereof by which the federal

1 adjusted gross income of the taxpayer for the taxable year

2 exceeds \$25,000.

3 (6) The dollar amount of credit allowable under this

4 section is:

5 (a) reduced by \$1 for each dollar of the federal

6 adjusted gross income over \$50,000 for a taxpayer whose

7 federal adjusted gross income exceeds \$50,000;

8 (b) limited to \$5,000 per qualifying family member in a

9 taxable year and to \$10,000 total for two or more family

10 members in a taxable year;

11 (c) prorated among multiple taxpayers who each

12 contribute to qualified elderly care expenses of the same

13 qualified family member in a taxable year in the same

14 proportion that their contributions bear to the total

15 qualified elderly care expenses paid by those taxpayers for

16 that qualified family member.

17 (7) A deduction or credit is not allowed under any

18 other provision of this chapter with respect to any amount

19 for which a credit is allowed under this section. The credit

20 allowed under this section may not be claimed as a carryback

21 or carryforward and may not be refunded if the taxpayer has

22 no tax liability.

23 (8) In the case of a married individual filing a

24 separate return, the percentage amount of credit under

25 subsection (5) and the dollar amount of credit under

1 subsection (6) are limited to one-half of the figures
2 indicated in those subsections."

3 **Section 12.** Section 15-30-162, MCA, is amended to read:

4 **"15-30-162. Investment credit.** (1) There is allowed as
5 a credit against the tax imposed by ~~15-30-103~~ [section 6] a
6 percentage of the credit allowed with respect to certain
7 depreciable property under section 38 of the Internal
8 Revenue Code of 1954, as amended, or as section 38 may be
9 renumbered or amended. However, rehabilitation costs as set
10 forth under section 46(a)(2)(F) of the Internal Revenue Code
11 ~~of 1954, or as section 46(a)(2)(F) may be renumbered or~~
12 ~~amended,~~ are not to be included in the computation of the
13 investment credit. The credit is allowed for the purchase
14 and installation of certain qualified property defined by
15 section 38 of the Internal Revenue Code ~~of 1954, as amended,~~
16 if the property meets all of the following qualifications:

17 (a) it was placed in service in Montana; and
18 (b) it was used for the production of Montana adjusted
19 gross income.

20 (2) The amount of the credit allowed for the taxable
21 year is 5% of the amount of credit determined under section
22 46(a)(2) of the Internal Revenue Code ~~of 1954, as amended,~~
23 or as section 46(a)(2) may be renumbered or amended.

24 (3) Notwithstanding the provisions of subsection (2),
25 the investment credit allowed for the taxable year may not

1 exceed the taxpayer's tax liability for the taxable year or
2 \$500, whichever is less.

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

17 (5) The investment credit allowed by this section is
18 subject to recapture as provided for in section 47 of the
19 Internal Revenue Code ~~of 1954, as amended, or as section 47~~
20 ~~may be renumbered or amended."~~

21 **Section 13.** Section 15-30-241, MCA, is amended to read:

22 **"15-30-241. Declaration of estimated tax.** (1) Every
23 Each individual ~~except farmers, ranchers, or stockmen~~ shall,
24 at the time prescribed in subsection (3) ~~of this section,~~
25 make a declaration of his estimated tax for the taxable year

1 if his net income from sources other than wages, salaries,
 2 bonuses, or other emoluments can reasonably be expected to
 3 equal or exceed his net income from wages, salaries, bonuses
 4 or other emoluments, which are subject to withholding he is
 5 required to file a declaration of his estimated tax under
 6 the provisions of the Internal Revenue Code.

7 (2) In the declaration required under subsection (1) of
 8 this section, the individual shall state:

9 (a) the amount which he estimates as the amount of tax
 10 under ~~15-30-103~~ section 7 for the taxable year;

11 (b) the amount which he estimates will be withheld from
 12 wages paid by his employer if said individual is an
 13 employee;

14 (c) the excess of the amount estimated under subsection
 15 (2)(a) over the amount estimated under subsection (2)(b),
 16 which excess for purposes of this section shall be
 17 considered the estimated tax for the taxable year;

18 (d) such other information as may be prescribed in
 19 rules promulgated by the department.

20 (3) The declaration required under subsection (1) of
 21 ~~this section~~ shall be filed with the department on or before
 22 April 15 of the taxable year, except that if the
 23 requirements of subsection (1) ~~of this section~~ are first
 24 met:

25 (a) after April 1 and before October 1 of the taxable

1 year, the declaration shall be filed on or before October 15
 2 of the taxable year;

3 (b) after October 1 of the taxable year, the
 4 declaration shall be filed on or before February 15 of the
 5 succeeding taxable year.

6 (4) An individual may make amendments of a declaration
 7 filed during the taxable year under subsection (3) ~~of this~~
 8 ~~section~~ under rules prescribed by the department.

9 (5) If, on or before February 15 of the succeeding
 10 taxable year, the taxpayer files a return for the taxable
 11 year for which the declaration is required and pays in full
 12 the amount computed on his return as payable, then under
 13 rules prescribed by the department:

14 (a) if the declaration is not required to be filed
 15 during the taxable year but is required to be filed on or
 16 before ~~such~~ February 15, ~~such~~ the return shall for the
 17 purposes of this section be considered as such declaration;
 18 and

19 (b) if the tax shown on the return is greater than the
 20 estimated tax shown in a declaration previously made or in
 21 the last amendments thereof, ~~such~~ the return shall for the
 22 purposes of this section be considered as the amendment of
 23 the declaration permitted by subsection (4) ~~of this section~~
 24 to be filed on or before ~~such~~ February 15.

25 (6) The department shall promulgate rules governing

1 reasonable extensions of time for filing declarations and
 2 paying the estimated tax except in the case of taxpayers who
 3 are abroad, and no such extension shall be for more than 6
 4 months.

5 (7) If the taxpayer is unable to make his own
 6 declaration, the declaration shall be made by a duly
 7 authorized agent or by the guardian or other person charged
 8 with the care of the person or property of ~~such~~ the
 9 taxpayer.

10 (8) Any individual who fails to file a declaration of
 11 estimated tax as required by this section is not subject to
 12 the penalties set forth in 15-30-321."

13 **Section 14.** Section 15-30-303, MCA, is amended to read:

14 "15-30-303. Confidentiality of tax records. (1) Except
 15 in accordance with proper judicial order or as otherwise
 16 provided by law, it is unlawful for the department or any
 17 deputy, assistant, agent, clerk, or other officer or
 18 employee to divulge or make known in any manner the amount
 19 of income or any particulars set forth or disclosed in any
 20 report or return required under this chapter or any other
 21 information secured in the administration of this chapter.
 22 It is also unlawful to divulge or make known in any manner
 23 any federal return or federal return information disclosed
 24 on any return or report required by rule of the department
 25 or under this chapter.

1 (2) The officers charged with the custody of such
 2 reports and returns shall not be required to produce any of
 3 them or evidence of anything contained in them in any action
 4 or proceeding in any court, except in any action or
 5 proceeding to which the department is a party under the
 6 provisions of this chapter or any other taxing act or on
 7 behalf of any party to any action or proceedings under the
 8 provisions of this chapter or ~~such~~ the other act when the
 9 reports or facts shown thereby are directly involved in such
 10 action or proceedings, in either of which events the court
 11 may require the production of and may admit in evidence so
 12 much of ~~said~~ the reports or of the facts shown thereby as
 13 are pertinent to the action or proceedings and no more.

14 (3) Nothing herein ~~shall~~ may be construed to prohibit:

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

18 (b) the publication of statistics so classified as to
 19 prevent the identification of particular reports or returns
 20 and the items thereof; or

21 (c) the inspection by the attorney general or other
 22 legal representative of the state of the report or return of
 23 any taxpayer who ~~shall~~ may bring action to set aside or
 24 review the tax based thereon or against whom an action or
 25 proceeding has been instituted in accordance with the

1 provisions of 15-30-311 and 15-30-322.

2 (4) Reports and returns ~~shall~~ must be preserved for 3
3 years and thereafter until the department orders them to be
4 destroyed.

5 (5) Any offense against subsections (1) through (4) of
6 ~~this--section~~ shall be punished by a fine not exceeding
7 \$1,000 or by imprisonment in the county jail not exceeding 1
8 year, or both, at the discretion of the court, and if the
9 offender be is an officer or employee of the state, he shall
10 be dismissed from office and be incapable of holding any
11 public office in this state for a period of 1 year
12 thereafter.

13 (6) Notwithstanding the provisions of this section, the
14 department may permit the commissioner of internal revenue
15 of the United States or the proper officer of any state
16 imposing a tax upon the incomes of individuals or the
17 authorized representative of either such officer to inspect
18 the return of income of any individual or may furnish to
19 ~~such~~ the officer or his authorized representative an
20 abstract of the return of income of any individual or supply
21 him with information concerning any item of income contained
22 in any return or disclosed by the report of any
23 investigation of the income or return of income of any
24 individual, but such permission shall be granted or such
25 information furnished to such officer or his representative

1 only if the statutes of the United States or of such other
2 state, as the case may be, grant substantially similar
3 privileges to the proper officer of this state charged with
4 the administration of this chapter.

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

7 ~~(a)--to--the--department--of--justice--all---information~~
8 ~~necessary--to--identify--those--persons--qualifying--for--the~~
9 ~~additional--exemption--for--blindness--pursuant--to--15-30-112(4),~~
10 ~~for--the--purpose--of--enabling--the--department--of--justice--to~~
11 ~~administer--the--provisions--of--61-5-105;~~

12 ~~(b)~~(a) to the department of social and rehabilitation
13 services information acquired under 15-30-301, pertaining to
14 an applicant for public assistance, reasonably necessary for
15 the prevention and detection of public assistance fraud and
16 abuse, provided notice to the applicant has been given;

17 ~~(c)~~(b) to the department of fish, wildlife, and parks
18 specific information that is available from income tax
19 returns and required under 87-2-102 to establish the
20 residency requirements of an applicant for hunting and
21 fishing licenses; and

22 ~~(d)~~(c) to the board of regents information required
23 under 20-26-1111."

24 **Section 15.** Section 15-30-323, MCA, is amended to read:
25 ***15-30-323. Penalty for deficiency.** (1) If the payment

1 required by ~~15-30-142(6)~~ [section 10] is not made within 60
 2 days or if the understatement is due to negligence on the
 3 part of the taxpayer but without fraud, there shall be added
 4 to the amount of the deficiency 5% thereof; provided,
 5 however, that no deficiency penalty shall be less than \$2.
 6 Interest will be computed at the rate of 9% per annum or
 7 fraction thereof on the additional assessment. Except as
 8 otherwise expressly provided in this subsection, the
 9 interest shall in all cases be computed from the date the
 10 return and tax were originally due as distinguished from the
 11 due date as it may have been extended to the date of
 12 payment.

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

17 **Section 16.** Section 15-31-131, MCA, is amended to read:

18 "15-31-131. Credit for dependent care assistance. (1)
 19 There is a credit against the taxes otherwise due under this
 20 chapter allowable to an employer for amounts paid or
 21 incurred during the taxable year by the employer for
 22 dependent care assistance actually provided to or on behalf
 23 of an employee if the assistance is furnished by a
 24 registered or licensed day-care provider and pursuant to a
 25 program that meets the requirements of section 89(k) and

1 129(d)(2) through (6) of the Internal Revenue Code.

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

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

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

14 (3) An amount paid or incurred during the taxable year
 15 of an employer in providing dependent care assistance to or
 16 on behalf of any employee does not qualify for the credit
 17 allowed under subsection (1) if the amount was paid or
 18 incurred to an individual described in section 129(c)(1) or
 19 (2) of the Internal Revenue Code.

20 (4) An amount paid or incurred by an employer to
 21 provide dependent care assistance to or on behalf of an
 22 employee does not qualify for the credit allowed under
 23 subsection (1) if the amount is paid or incurred pursuant to
 24 a salary reduction plan or is paid or incurred for services
 25 not performed within this state.

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

(6) The amount upon which the credit allowed under subsection (1) is based may not be included in the gross income of the employee to whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section may not exceed the limitations provided in section 129(b) of the Internal Revenue Code. For purposes of Title 15, chapter 30, part 2, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection. ~~Amounts excluded under this subsection do not qualify as expenses for which a deduction is allowed to the employee under 15-30-121.~~

(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax

year, and likewise through the fifth year succeeding the tax year in which the credit was first allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

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

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

(a) ~~The~~ the definitions and special rules contained in section 129(e) of the Internal Revenue Code apply to the extent applicable; and

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

~~(c) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on January 17, 1989."~~

Section 17. Section 15-31-202, MCA, is amended to read:

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

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

3 (a) with respect to the taxable years of the
4 corporation for which such election is in effect, such
5 corporation is not subject to the taxes imposed by this
6 chapter and, with respect to such taxable years and all
7 succeeding taxable years, the provisions of this part apply
8 to such corporation; and

9 (b) with respect to the taxable years of a shareholder
10 of such corporation in which or with which the taxable years
11 of the corporation for which such election is in effect end,
12 the provisions of this part apply to such shareholder, and
13 with respect to such taxable years and all succeeding
14 taxable years, the provisions of this part apply to such
15 shareholder.

16 (3) An election under subsection (1) must be made in
17 accordance with rules prescribed by the department of
18 revenue.

19 (4) This election is not effective unless the corporate
20 net income or loss of such electing corporation is included
21 in the stockholders' federal adjusted gross taxable income
22 as defined in ~~15-30-111~~ [section 6].

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

25 **Section 18.** Section 15-32-303, MCA, is amended to read:

1 "15-32-303. Deduction for purchase of Montana produced
2 organic fertilizer. In addition to all other deductions from
3 ~~adjusted---gross---individual---income---allowed---in---computing~~
4 ~~taxable-income-under-Title-15,chapter--307--or--from~~ gross
5 corporate income allowed in computing net income under Title
6 15, chapter 31, part 1, a taxpayer corporation may deduct
7 ~~his~~ its expenditures for organic fertilizer produced in
8 Montana and used in Montana if the expenditure was not
9 otherwise deducted in computing taxable income."

10 **Section 19.** Section 15-33-106, MCA, is amended to read:

11 "15-33-106. Capital gains -- dividends exempted. Any
12 capital gains or dividend income realized by ~~an-individual~~
13 ~~or~~ a corporation from an investment in an SBIC organized in
14 accordance with this part is exempt from taxation under the
15 provisions of Title 15, ~~chapters-30 and~~ chapter 31."

16 **Section 20.** Section 53-6-111, MCA, is amended to read:

17 "53-6-111. Department charged with general
18 administration of medical assistance -- adoption of rules to
19 punish fraud. (1) The department of social and
20 rehabilitation services is hereby authorized and empowered
21 to administer and supervise a vendor payment program of
22 medical assistance under the powers, duties, and functions
23 provided in chapter 2 of this title, as amended, and as
24 contemplated by the provisions of Title XIX of the federal
25 Social Security Act.

1 (2) The department shall adopt rules establishing a
2 system of penalties and sanctions applicable to providers of
3 medical assistance services and supplies who engage in
4 fraudulent, abusive, or improper activities. The department
5 shall define by rule those activities which are fraudulent,
6 abusive, or improper.

7 (3) The penalties or sanctions imposed include but are
8 not limited to:

9 (a) required courses of education in the rules
10 governing the medicaid program;

11 (b) withholding of payments to offset previous improper
12 payments to a provider;

13 (c) suspension of payments to a provider pending
14 resolution of a dispute involving fraudulent, abusive, or
15 improper activities;

16 (d) suspension of participation in the program for a
17 specified period of time; and

18 (e) permanent termination of participation in the
19 medical assistance program.

20 (4) The department is entitled to recover from a
21 provider all amounts paid as a result of fraudulent,
22 abusive, or improper activities, together with interest at
23 the rate set by ~~15-30-142~~ section 10 for tax deficiencies
24 from the date of such payment.

25 (5) In all cases in which a penalty or sanction may be

1 imposed, a provider is entitled to a hearing under the
2 provisions of Title 2, chapter 4, part 6."

3 **Section 21.** Section 67-11-303, MCA, is amended to read:

4 **"67-11-303. Bonds and obligations.** (1) An authority may
5 borrow money for any of its corporate purposes and issue its
6 bonds therefor, including refunding bonds, in such form and
7 upon such terms as it may determine, payable out of any
8 revenues of the authority, including revenues derived from:

9 (a) an airport or air navigation facility or
10 facilities;

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

13 (c) grants or contributions from the federal
14 government; or

15 (d) other sources.

16 (2) The bonds may be issued by resolution of the
17 authority, without an election and without any limitation of
18 amount, except that no such bonds may be issued at any time
19 if the total amount of principal and interest to become due
20 in any year on such bonds and on any then outstanding bonds
21 for which revenues from the same source or sources are
22 pledged exceeds the amount of such revenues to be received
23 in that year as estimated in the resolution authorizing the
24 issuance of the bonds. The authority shall take all action
25 necessary and possible to impose, maintain, and collect

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

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

13 (4) Bonds issued by an authority or municipality
14 pursuant to the provisions of this chapter are declared to
15 be issued for an essential public and governmental purpose
16 by a political subdivision within the meaning of
17 ~~15-30-111(2)(a)~~ [section 6(2)(c)].

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

1 prior to the payment of current costs of operation and
2 maintenance of the facilities.

3 (6) Subject to the conditions stated in this subsection
4 (6), the governing body of any municipality having a
5 population in excess of 10,000, with respect to bonds issued
6 pursuant to this chapter by the municipality or by an
7 authority in which the municipality is included, may by
8 resolution covenant that in the event that at any time all
9 revenues, including taxes, appropriated and collected for
10 such bonds are insufficient to pay principal or interest
11 then due, it will levy a general tax upon all of the taxable
12 property in the municipality for the payment of such
13 deficiency; and may further covenant that at any time a
14 deficiency is likely to occur within 1 year for the payment
15 of principal and interest due on such bonds, it will levy a
16 general tax upon all the taxable property in the
17 municipality for the payment of such deficiency, and such
18 taxes are not subject to any limitation of rate or amount
19 applicable to other municipal taxes but are limited to a
20 rate estimated to be sufficient to produce the amount of the
21 deficiency. In the event more than one municipality having a
22 population in excess of 10,000 is included in an authority
23 issuing bonds pursuant to this chapter, the municipalities
24 may apportion the obligation to levy taxes for the payment
25 of, or in anticipation of, a deficiency in the revenues

1 appropriated for such bonds in such manner as the
 2 municipalities may determine. The resolution shall state the
 3 principal amount and purpose of the bonds and the substance
 4 of the covenant respecting deficiencies. No such resolution
 5 becomes effective until the question of its approval has
 6 been submitted to the qualified electors of the municipality
 7 at a special election called for that purpose by the
 8 governing body of the municipality and a majority of the
 9 electors voting on the question have voted in favor thereof.
 10 The notice and conduct of the election is governed, to the
 11 extent applicable, as provided for municipal general
 12 obligation bonds in Title 7, chapter 7, part 42, for an
 13 election called by cities and towns, and as provided for
 14 county general obligation bonds in Title 7, chapter 7, part
 15 22, for an election called by counties. If a majority of the
 16 electors voting thereon vote against approval of the
 17 resolution, the municipality has no authority to make the
 18 covenant or to levy a tax for the payment of deficiencies
 19 pursuant to this section, but such municipality or authority
 20 may nevertheless issue bonds under this chapter payable
 21 solely from the sources referred to in subsection (1)
 22 above."

23 **Section 22.** Section 19-3-105, MCA, is amended to read:

24 "19-3-105. **Exemption from taxes-and** legal process. The
 25 right of a person to a retirement allowance or any other

1 benefit under this chapter and the moneys in the fund
 2 created under this chapter is not:

3 ~~(1) subject to execution, garnishment, attachment, or~~
 4 ~~any other process;~~

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

9 ~~(3) or~~ or assignable except as in this chapter
 10 specifically provided."

11 **Section 23.** Section 19-4-706, MCA, is amended to read:

12 "19-4-706. **Exemption from taxation-and** legal process.
 13 The pensions, annuities, or any other benefits accrued or
 14 accruing to any person under the provisions of the
 15 retirement system and the accumulated contributions and cash
 16 and securities in the various funds of the retirement system
 17 are:

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

22 ~~(2) not subject to execution, garnishment, attachment~~
 23 ~~by trustee process or otherwise, in law or equity, or any~~
 24 ~~other process; and~~

25 ~~(3) unassignable except as specifically provided in~~

1 this chapter."

2 **Section 24.** Section 19-5-704, MCA, is amended to read:

3 "19-5-704. Exemption from ~~taxes and~~ legal process. Any
4 money received or to be paid as a member's annuity, state
5 annuity, or return of deductions or the right of any of
6 these ~~shall be~~ is exempt from any ~~state or municipal tax and~~
7 ~~from~~ levy, sale, garnishment, attachment, or any other
8 process whatsoever and ~~shall be~~ is unassignable except as
9 specifically provided in 19-5-705."

10 **Section 25.** Section 19-6-705, MCA, is amended to read:

11 "19-6-705. Exemption from ~~taxes and~~ legal process. Any
12 money received or to be paid as a member's annuity, state
13 annuity, or return of deductions or the right of any of
14 these is:

15 ~~{1} exempt from any state, county, or municipal tax~~
16 ~~except for a refund paid under 19-6-403 of a member's~~
17 ~~contributions picked up by an employer after June 30, 1985~~
18 ~~as provided in 19-6-402;~~

19 {2} exempt from levy, sale, garnishment, attachment, or
20 any other process; and

21 {3} is unassignable except as specifically provided in
22 19-6-706."

23 **Section 26.** Section 19-7-705, MCA, is amended to read:

24 "19-7-705. Exemption from ~~taxes and~~ legal process. Any
25 money received or to be paid as a member's annuity, state

1 annuity, or return of deductions or the right of any of
2 these is:

3 ~~{1} exempt from any state, county, or municipal tax~~
4 ~~except for a refund paid under 19-7-304 {1} of a member's~~
5 ~~contributions picked up by an employer after June 30, 1985,~~
6 ~~as provided in 19-7-403;~~

7 {2} exempt from levy, sale, garnishment, attachment, or
8 any other process; and

9 {3} is unassignable except as specifically provided in
10 19-7-706."

11 **Section 27.** Section 19-8-805, MCA, is amended to read:

12 "19-8-805. Exemption from ~~taxes and~~ legal process. Any
13 money received or to be paid as a member's annuity, state
14 annuity, or return of deductions or the right of any of
15 these is:

16 ~~{1} exempt from any state, county, or municipal tax~~
17 ~~except for a refund paid under 19-8-503 of the member's~~
18 ~~contributions picked up by an employer after June 30, 1985,~~
19 ~~as provided in 19-8-502;~~

20 {2} exempt from levy, sale, garnishment, attachment, or
21 any other process; and

22 {3} is unassignable except as specifically provided in
23 19-8-806."

24 **Section 28.** Section 19-21-212, MCA, is amended to read:

25 "19-21-212. Exemption from ~~taxation,~~ legal process, and

1 assessments. All contracts, benefits, and contributions
2 under the optional retirement program and the earnings
3 thereon are:

4 ~~(1) exempt from any state, county, or municipal tax;~~

5 (1) not subject to execution, garnishment,
6 attachment, or other process;

7 (2) not covered or assessable by an insurance
8 guaranty association; and

9 (3) unassignable except as specifically provided in
10 the contracts."

11 **Section 29.** Section 15-30-125, MCA, is amended to read:

12 "15-30-125. **Credit for energy-conserving investments.**
13 There is a credit against tax liability under this chapter
14 as provided in 15-32-109."

15 (2) A temporary resident is allowed the credit allowed
16 a resident under 15-32-109 to the extent the credit was
17 expended in Montana during the during the course of his
18 residency."

19 **NEW SECTION. Section 30. Repealer.** Sections 15-30-103,
20 15-30-105, 15-30-108, 15-30-110, 15-30-111, 15-30-112,
21 15-30-113, 15-30-114, 15-30-115, 15-30-117, 15-30-121,
22 15-30-122, 15-30-123, 15-30-126, 15-30-131, 15-30-132,
23 15-30-135, 15-30-136, 15-30-137, 15-30-142, 15-30-143,
24 15-30-156, 15-30-157, 19-9-1005, and 19-13-1003, MCA, are
25 repealed.

1 **NEW SECTION. Section 31. Codification instruction --**
2 **instruction to code commissioner.** (1) [Sections 6 through
3 10] are intended to be codified as an integral part of Title
4 15, chapter 30, part 1, and the provisions of Title 15,
5 chapter 30, part 1, apply to [sections 6 through 10].

6 (2) The code commissioner is instructed to make changes
7 throughout the Montana Code Annotated to reflect the change
8 in definition of "Internal Revenue Code" in 15-30-101.

9 **NEW SECTION. Section 32. Saving clause.** [This act]
10 does not affect rights and duties that matured, penalties
11 that were incurred, or proceedings that were begun before
12 [the effective date of this act].

13 **NEW SECTION. Section 33. Severability.** If a part of
14 [this act] is invalid, all valid parts that are severable
15 from the invalid part remain in effect. If a part of [this
16 act] is invalid in one or more of its applications, the part
17 remains in effect in all valid applications that are
18 severable from the invalid applications.

19 **NEW SECTION. Section 34. Retroactive applicability.**
20 [This act] applies retroactively, within the meaning of
21 1-2-109, to taxable years beginning after December 31, 1990.

22 **NEW SECTION. Section 35. Effective date.** [This act] is
23 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 HB0996, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act repealing the existing state individual income tax and imposing a state income tax based on a percentage of the federal income tax payable on Montana taxable income; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Individual income tax collections under current law are \$311,176,000 in FY92 and \$327,201,000 in FY93 (OBPP).
2. Under current law, all individual income tax collections are deposited in the state general fund.
3. Under the proposal, state income taxes will be 32% of the taxpayer's adjusted federal tax liability. This increases individual income tax collections \$29,986,000 in FY92 and \$32,692,000 in FY93 (DOR simulations). See technical note.
4. Implementing the proposal will require one-time additional administrative expense of \$125,000 in FY92: 2.00 FTE, at \$78,000 and operating expense of \$47,000. Annual (on-going) administrative expense reductions total \$106,903: 1.00 FTE at \$21,160 and operating expense of \$85,743.

FISCAL IMPACT:


Department of Revenue:

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
F.T.E.	0	1.00	1.00	0	(1.00)	(1.00)
Personal Services	0	56,840	56,840	0	(21,160)	(21,160)
Operating Expense	0	(38,743)	(38,743)	0	(85,743)	(85,743)
Total	0	18,097	18,097	0	(106,903)	(106,903)
<u>Funding:</u>						
General Fund	0	18,097	18,097	0	(106,903)	(106,903)
 <u>Revenues:</u>						
Individual Income Tax (01)	311,176,000	341,162,000	29,986,000	327,201,000	359,893,000	32,692,000
 Net General Fund Impact:			29,967,903			32,798,903

(Continued on next page)


ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

3-22-91


ROBERT R. (BOB) REAM, PRIMARY SPONSOR DATE
 3/23/91

Fiscal Note for HB0996, as introduced

HB 996-1

TECHNICAL NOTE

The simulation model used to estimate the revenue neutral 32% rate has been updated by the Department to include the federal tax impact of recently enacted changes in federal law. As a result of the increases in federal tax due to these changes, the 32% rate is no longer projected to be revenue neutral as shown in the impact table.

If the proposal is intended to be revenue neutral for all taxpayers as a group, the correct rate is projected to be approximately 29.1%. The following shows the fiscal impact of the 29.1% rate.

	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual Income Tax (01)	311,176,000	310,824,000	(352,000)	327,201,000	327,821,000	620,000

If the proposal is structured to be revenue neutral for all taxpayers except retirees, the revenue neutral rate should be 31%. This rate holds all non-retired households harmless, but results in increased revenues because additional retirement income will be subject to tax relative to current law. The impact of the rate is:

	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual Income Tax (01)	311,176,000	330,468,000	19,292,000	327,201,000	349,251,000	22,050,000

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0996, third reading, as amended

DESCRIPTION OF PROPOSED LEGISLATION:


An act repealing the existing state individual income tax and imposing a state income tax based on a percentage of the federal income tax payable on Montana taxable income; and providing an immediate effective date and an applicability date.


ASSUMPTIONS:

1. Individual income tax collections under current law are \$327,201,000 in FY93 (OBPP).
2. The tax base for this proposal is federal taxable income, less any income exempted from state taxation under federal laws, or the federal constitution, plus non-Montana state and local government interest income.
3. Under the proposal, state income taxes will be 30% of the taxpayer's adjusted federal tax liability net of federal credits. The amount of federal credits available to reduce adjusted federal tax liability is \$22 million in FY93, \$23 million in FY94, and \$24 million in FY95.
4. Retirees will be entitled to a tax credit equal to 4.5% of the first \$3,600 of retirement benefit payments. This credit reduces total income tax liabilities \$4,869,000 in FY93; \$4,998,000 in FY94; and \$5,217,000 in FY95.
5. Because the proposal does not apply until January 1, 1992, there will be minimal revenue impacts in FY92.
6. Under current law, all individual income tax collections are deposited in the state general fund.
7. Implementing the proposal will require one-time additional administrative expense of \$125,000 in FY92: 2.00 FTE, at \$78,000 and operating expense of \$47,000. Annual (on-going) administrative expense reductions total \$106,903: 1.00 FTE at \$21,160 and operating expense of \$85,743.

FISCAL IMPACT:

see next page

 4-6-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 4/10/91
ROBERT R. (BOB) REAM, PRIMARY SPONSOR DATE

Fiscal Note for HB0996, third reading, as amended

HB 996-42

Fiscal Note Request, HB0996, third reading, as amended
 Form BD-15
 Page 2

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	1.00	1.00	0	(1.00)	(1.00)
Personal Services	0	56,840	56,840	0	(21,160)	(21,160)
Operating Expense	0	(38,743)	(38,743)	0	(85,743)	(85,743)
Total	0	18,097	18,097	0	(106,903)	(106,903)
<u>Funding:</u>						
General Fund	0	18,097	18,097	0	(106,903)	(106,903)

Revenues:

Individual Income Tax (01)	311,176,000	311,176,000	0	327,201,000	331,508,000	4,307,000
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Net General Fund Impact: (decrease) —→ (18,097) (increase) —→ 4,413,903

LONG-RANGE IMPACTS OF PROPOSED LEGISLATION:

The proposal provides for a single flat rate of 30% of adjusted federal tax liability beginning in each year after 1991. This rate results in a positive revenue impact of \$4.3 million during the coming biennium. However, Department of Revenue computer simulations indicate that the revenue-neutral rate gradually decreases over time. This results in larger revenue impacts in subsequent years. The following table shows the estimated revenue-neutral rates for fiscal years 1993 through 1995, and the associated revenue impact of this proposal in those years:

<u>CY/FY</u>	<u>Revenue-Neutral Rate (CY)</u>	<u>Revenue Impact (FY)</u>
1992/1993	29.64 %	\$ 4,307,000
1993/1994	29.16 %	\$10,248,000
1994/1995	28.99 %	\$12,903,000

During the 1993 biennium, this proposal is projected to increase liabilities approximately \$4.3 million; during the 1995 biennium liabilities are expected to increase by approximately \$23.1 million.

HB 996-#2

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 996

INTRODUCED BY REAM, VAN VALKENBURG, KIMBERLEY, ELLIOTT,
DRISCOLL, COHEN, BARNHART

A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE EXISTING
STATE INDIVIDUAL INCOME TAX AND IMPOSING A STATE INCOME TAX
BASED ON A PERCENTAGE OF THE FEDERAL INCOME TAX PAYABLE ON
MONTANA TAXABLE INCOME; AMENDING SECTIONS 7-14-1133,
7-34-2416, 13-37-218, 13-37-303, 15-30-101, 15-30-125,
15-30-128, 15-30-145, 15-30-149, 15-30-162, 15-30-241,
15-30-303, 15-30-323, 15-31-131, 15-31-202, 15-32-303,
15-33-106, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705,
19-8-805, 19-21-212, 53-6-111, AND 67-11-303, MCA; REPEALING
SECTIONS 15-30-103, 15-30-105, 15-30-106, 15-30-108,
15-30-110, 15-30-111, 15-30-112, 15-30-113, 15-30-114,
15-30-115, 15-30-117, 15-30-121, 15-30-122, 15-30-123,
15-30-126, 15-30-131, 15-30-132, 15-30-135, 15-30-136,
15-30-137, 15-30-142, 15-30-143, 15-30-156, 15-30-157,
19-9-1005, AND 19-13-1003, AND 80-12-211, MCA; AND PROVIDING
AN IMMEDIATE EFFECTIVE DATE AND A--RETROACTIVE AN
APPLICABILITY DATE."

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

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
possible to impose, maintain, and collect rates, charges,
rentals, and taxes, if any are pledged, sufficient to make

1 the revenues from the pledged source in such year at least
 2 equal to the amount of principal and interest due in that
 3 year.

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

12 (4) Bonds issued by an authority, county, or
 13 municipality pursuant to the provisions of this part are
 14 declared to be issued for an essential public and
 15 governmental purpose by a political subdivision ~~within the~~
 16 ~~meaning of 15-30-111(2)(a) {section-6(2)(c)}.~~

17 (5) For the security of any such bonds, the authority,
 18 county, or municipality may by resolution make and enter
 19 into any covenant, agreement, or indenture and may exercise
 20 any additional powers authorized to be exercised by a
 21 municipality under Title 7, chapter 7, parts 44 and 45. The
 22 sums required from time to time to pay principal and
 23 interest and to create and maintain a reserve for the bonds
 24 may be paid from any revenues referred to in this part,
 25 prior to the payment of current costs of operation and

1 maintenance of the facilities.

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

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

14 "7-34-2416. **Tax-exempt status of bonds.** Bonds issued by
 15 a county pursuant to the provisions of 7-34-2411 through
 16 7-34-2418 are declared to be issued for an essential public
 17 and governmental purpose by a political subdivision ~~within~~
 18 ~~the meaning of 15-30-111(2)(a) {section-6(2)(c)}.~~"

19 **Section 3.** Section 13-37-218, MCA, is amended to read:

20 "13-37-218. **Limitations on receipts from political**
 21 **committees.** (1) A candidate for the state senate may receive
 22 no more than \$1,000 in total combined monetary contributions
 23 from all political committees contributing to his campaign,
 24 and a candidate for the state house of representatives may
 25 receive no more than \$600 in total combined monetary

1 contributions from all political committees contributing to
 2 his campaign. The foregoing limitations shall be multiplied
 3 by the inflation factor as defined in ~~15-30-101(0)~~
 4 subsection (2) for the year in which general elections are
 5 held after 1984; the resulting figure shall be rounded off
 6 to the nearest \$50 increment. The commissioner of political
 7 practices shall publish the revised limitations as a rule.
 8 In-kind contributions may not be included in computing these
 9 limitation totals. The limitation provided in this section
 10 does not apply to contributions made by a political party
 11 eligible for a primary election under 13-10-601.

12 (2) As used in this section, "inflation factor" means a
 13 number determined for each year by dividing the consumer
 14 price index for June of the year by the consumer price index
 15 for June of 1980."

16 **Section 4.** Section 13-37-303, MCA, is amended to read:

17 "13-37-303. Donation by taxpayer. (1) An individual
 18 whose withheld income tax or payment of estimated tax
 19 exceeds by more than \$1 his income tax liability for the
 20 taxable year may donate \$1 to be paid to the fund. In the
 21 case of a joint return, ~~as provided in 15-30-142~~ of a
 22 husband and wife having an income tax overpayment as defined
 23 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
 24 paid to the fund.

25 (2) An individual with an unpaid tax liability may at

1 the time of payment donate an extra \$1 to be paid to the
 2 fund.

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

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

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

12 ~~(1) "Base-year structure" means the following elements~~
 13 ~~of the income tax structure:~~

14 ~~(a) the tax brackets established in 15-30-103, but~~
 15 ~~unadjusted by subsection (2) of 15-30-103, in effect on June~~
 16 ~~30 of the taxable year;~~

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

20 ~~(c) the maximum standard deduction provided in~~
 21 ~~15-30-122, but unadjusted by subsection (2) of 15-30-122, in~~
 22 ~~effect on June 30 of the taxable year.~~

23 ~~(2) "Consumer price index" means the consumer price~~
 24 ~~index, United States city average, for all items, using the~~
 25 ~~1967 base of 100 as published by the bureau of labor~~

1 statistics-of-the-U.S.-department-of-labor.
 2 {3}{1} "Department" means the department of revenue.
 3 {4}--"Dividend"--means--any--distribution--made---by---a
 4 corporation---out---of---its--earnings--or--profits--to--its
 5 shareholders--or--members,--whether--in--cash--or--in--other
 6 property--or--in--stock--of--the--corporation,--other--than--stock
 7 dividends--as--herein--defined.--"Stock-dividends"--means--new
 8 stock--issued,--for--surplus--or--profits--capitalized,--to
 9 shareholders--in--proportion--to--their--previous--holdings.
 10 {5}{2} "Fiduciary" means a guardian, trustee, executor,
 11 administrator, receiver, conservator, or any person, whether
 12 individual or corporate, acting in any fiduciary capacity
 13 for any person, trust, or estate.
 14 {6}{3} "Foreign country" or "foreign government" means
 15 any jurisdiction other than the one embraced within the
 16 United States, its territories and possessions.
 17 {7}--"Gross-income"--means--the--taxpayer's--gross--income
 18 for--federal--income--tax--purposes--as--defined--in--section--61--of
 19 the--Internal--Revenue--Code--of--1954--or--as--that--section--may--be
 20 labeled--or--amended,--excluding--unemployment--compensation
 21 included--in--federal--gross--income--under--the--provisions--of
 22 section--85--of--the--Internal--Revenue--Code--of--1954--as--amended.
 23 {8}--"Inflation-factor"--means--a--number--determined--for
 24 each--taxable--year--by--dividing--the--consumer--price--index--for
 25 June--of--the--taxable--year--by--the--consumer--price--index--for

1 June-1980.
 2 {4} "Individual" means a natural person, whether
 3 married or unmarried, adult or minor, subject to payment of
 4 an income tax under the Internal Revenue Code.
 5 {9}{5} "Information agents" includes all individuals,
 6 corporations, associations, and partnerships, in whatever
 7 capacity acting, including lessees or mortgagors of real or
 8 personal property, fiduciaries, brokers, real estate
 9 brokers, employers, and all officers and employees of the
 10 state or of any municipal corporation or political
 11 subdivision of the state, having the control, receipt,
 12 custody, disposal, or payment of interest, rent, salaries,
 13 wages, premiums, annuities, compensations, remunerations,
 14 emoluments, or other fixed or determinable annual or
 15 periodical gains, profits, and income with respect to which
 16 any person or fiduciary is taxable under this chapter.
 17 {10}--"Knowingly"--is--as--defined--in--45-2-101.
 18 {11}--"Net-income"--means--the--adjusted--gross--income--of--a
 19 taxpayer--less--the--deductions--allowed--by--this--chapter.
 20 {12}--"Paid",--for--the--purposes--of--the--deductions--and
 21 credits--under--this--chapter,--means--paid--or--accrued--or--paid--or
 22 incurred,--and--the--terms--"paid--or--incurred"--and--"paid--or
 23 accrued"--shall--be--construed--according--to--the--method--of
 24 accounting--upon--the--basis--of--which--the--taxable--income--is
 25 computed--under--this--chapter.

1 ~~{13}~~-"Purposely"-is-as-defined-in-45-2-101-

2 ~~{14}~~-"Received"--for--the--purpose--of--computation--of

3 ~~taxable-income-under-this-chapter,~~means-received-or-accrued

4 ~~and--the--term--"received--or--accrued"--shall--be--construed~~

5 ~~according-to-the-method-of--accounting--upon--the--basis--of~~

6 ~~which-the-taxable-income-is-computed-under-this-chapter-~~

7 (6) "Internal Revenue Code" means the Internal Revenue

8 Code of 1954, redesignated as the "Internal Revenue Code of

9 1986" by section 2 of Public Law 99-514, as that code may be

10 amended from time to time by the United States congress. It

11 is the specific intent of the legislature that all

12 amendments by the United States congress must be

13 incorporated into the context of any section of Title 15

14 referring to the Internal Revenue Code.

15 (7) "MONTANA ADJUSTED GROSS INCOME" MEANS THE AMOUNT OF

16 INCOME A NONRESIDENT OR PART-YEAR RESIDENT RECEIVES FROM

17 SOURCES WITHIN MONTANA. THE TERM DOES NOT INCLUDE INCOME

18 EXEMPTED FROM STATE TAXATION UNDER THE LAWS OR CONSTITUTION

19 OF THE UNITED STATES.

20 ~~{7}~~(8) "Person" means an individual, a trust or estate,

21 or a partnership.

22 ~~{15}~~~~{8}~~(9) "Resident" applies only to natural persons

23 and includes, for the purpose of determining liability to

24 the tax imposed by this chapter with reference to the income

25 of any taxable year, any person domiciled in the state of

1 Montana and any other person who maintains a permanent place

2 of abode within the state even though temporarily absent

3 from the state and has not established a residence

4 elsewhere.

5 ~~{16}~~-"Taxable income"-means-the-adjusted-gross-income-of

6 ~~a--taxpayer--less-the-deductions-and-exemptions-provided-for~~

7 ~~in-this-chapter-~~

8 ~~{17}~~~~{9}~~(10) "Taxable year" means the taxpayer's taxable

9 year for federal income tax purposes.

10 ~~{10}~~~~{10}~~(11) "Taxpayer" includes any person or

11 fiduciary, resident or nonresident, subject to a tax imposed

12 by this chapter and does not include corporations."

13 NEW SECTION. Section 6. State income tax as percentage

14 of federal. (1) A state income tax is imposed and must be

15 paid and collected for each taxable year upon:

16 (a) the federal adjusted FEDERAL taxable income derived

17 from sources within and outside Montana of each resident and

18 fiduciary required to make a return and pay federal income

19 taxes under the Internal Revenue Code; and

20 (b) the federal adjusted FEDERAL taxable income derived

21 from sources within Montana of each nonresident and

22 fiduciary required to make a return and pay federal income

23 taxes under the Internal Revenue Code.

24 (2) "Federal-adjusted ADJUSTED FEDERAL taxable income"

25 means the taxpayer's taxable income, as determined for

1 federal income taxes under the provisions of the Internal
2 Revenue Code, with the following additional deductions:

3 (a) income--earned-by-an-enrolled-member-of-a-federally
4 recognized-Indian-tribe-during-the-time-he--both--lives--and
5 works-on-a-reservation;

6 (b)--Montana-income-tax-refunds-or-credits;

7 (c)--interest--income--from--obligations--of--the-United
8 States-government-to-the-extent-the-income--is--exempt--from
9 state-income-tax-under-federal-law; and

10 (d)--military-combat-pay-received-by-a-Montana-resident;
11 INCOME EXEMPTED FROM STATE TAXATION UNDER THE LAWS OR
12 CONSTITUTION OF THE UNITED STATES MAY BE DEDUCTED.

13 (3)(B) A shareholder of a corporation for which the
14 election provided for under subchapter S. of the Internal
15 Revenue Code is in effect but for which the election
16 provided under 15-31-202 is not in effect may deduct from
17 his federal taxable income any part of the corporation's
18 undistributed taxable income, net operating loss, capital or
19 other gains, profits, or losses required to be included in
20 the shareholder's federal taxable income by reason of the
21 election under subchapter S. However, to the shareholder's
22 federal taxable income must be added distributions received
23 from the corporation to the extent the distributions would
24 be treated as taxable dividends if the subchapter S.
25 election were not in effect.

1 (4)--Nonresidents-taking-any-of-the-deductions-listed-in
2 subsection-(2)--may-claim-only-that--percentage--of--itemized
3 deductions-and-the-personal-exemption-deduction-allowed-from
4 federal---adjusted--gross--income--that--the--percentage--of
5 adjusted-gross-income-earned--from--sources--within--Montana
6 bears-to-the-taxpayer's-federal-adjusted-gross-income;

7 (5)--if--a-taxpayer's-federal-adjusted-taxable-income-is
8 adjusted-for-state-income-tax-purposes-to-include-any-of-the
9 additional-deductions-or-modifications--of--subsections--(2)
10 through--(4)--and--15-30-107--and--15-30-127--the-taxpayer's
11 federal-income-tax-liability--must--be--recomputed--on--this
12 adjusted--figure--to--allow--the-state-income-tax-rate-to-be
13 applied-against-it;

14 (3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), A
15 NONRESIDENT'S FEDERAL INCOME TAX LIABILITY FOR PURPOSES OF
16 DETERMINING HIS STATE INCOME TAX LIABILITY PURSUANT TO
17 [SECTION 7] IS THE TAXPAYER'S FEDERAL TAX LIABILITY
18 MULTIPLIED BY THE PERCENTAGE DERIVED FROM DIVIDING THE
19 TAXPAYER'S MONTANA ADJUSTED GROSS INCOME BY THE TAXPAYER'S
20 FEDERAL ADJUSTED GROSS INCOME.

21 (B) IF A NONRESIDENT'S FEDERAL ADJUSTED GROSS INCOME IS
22 ZERO OR A LOSS, THEN HIS FEDERAL INCOME TAX LIABILITY FOR
23 PURPOSES OF DETERMINING HIS STATE INCOME TAX LIABILITY
24 PURSUANT TO [SECTION 7] IS THE FULL AMOUNT OF HIS FEDERAL
25 TAX LIABILITY.

1 NEW SECTION. Section 7. Rate of tax. ~~THE RATE OF STATE~~
 2 ~~income tax is 32% of a taxpayer's federal income tax~~
 3 ~~liability, excluding the self-employment tax imposed under~~
 4 ~~section 1401, Internal Revenue Code, adjusted as provided in~~
 5 ~~section 6(5)). (1) THE RATE OF STATE INCOME TAX IS 30% OF~~
 6 THE SUM OF A TAXPAYER'S FEDERAL INCOME TAX LIABILITY LESS
 7 FEDERAL CREDITS.

8 (2) IF A TAXPAYER HAS ADJUSTED HIS FEDERAL TAXABLE
 9 INCOME AS PROVIDED IN (SECTION 6(2)), HE SHALL RECOMPUTE HIS
 10 FEDERAL INCOME TAX LIABILITY, LESS CREDITS, BEFORE APPLYING
 11 THE 30% RATE.

12 (3) A TAXPAYER'S FEDERAL TAX LIABILITY INCLUDES THE TAX
 13 AND PENALTY ON EARLY DISTRIBUTIONS FROM INDIVIDUAL
 14 RETIREMENT ACCOUNTS OR QUALIFIED RETIREMENT PLANS. A
 15 TAXPAYER'S FEDERAL INCOME TAX LIABILITY DOES NOT INCLUDE
 16 SELF-EMPLOYMENT TAX OR THE SOCIAL SECURITY TAX ON TIPS.

17 NEW SECTION. Section 8. Nonresidents -- determination
 18 of in-state income. A nonresident's income from sources
 19 within Montana includes income derived from all property
 20 owned in this state and from every business, trade,
 21 profession, or occupation carried on in this state,
 22 INCLUDING GAIN AND INTEREST RECEIVED FROM THE INSTALLMENT
 23 SALES OF PROPERTY. ~~It does not include income from~~
 24 ~~annuities, interest on bank deposits, interest on notes,~~
 25 ~~bonds, or other interest-bearing obligations, or dividends~~

1 ~~on stock of corporations, except to the extent to which this~~
 2 ~~income is a part of the income derived from a business,~~
 3 ~~trade, profession, or occupation carried on in this state.~~
 4 In the case of a business, trade, profession, or occupation
 5 carried on partly within and partly outside this state by a
 6 nonresident, the income from sources within this state must
 7 be determined by apportionment and allocation under rules
 8 adopted by the department.

9 NEW SECTION. SECTION 9. NONRESIDENT ALTERNATIVE GROSS
 10 RECEIPTS TAX. PURSUANT TO THE PROVISIONS OF ARTICLE III,
 11 SECTION 2, OF THE MULTISTATE TAX COMPACT, EVERY NONRESIDENT
 12 TAXPAYER REQUIRED TO FILE A RETURN AND WHOSE ONLY ACTIVITY
 13 IN MONTANA CONSISTS OF MAKING SALES AND WHO DOES NOT OWN OR
 14 RENT REAL ESTATE OR TANGIBLE PERSONAL PROPERTY WITHIN
 15 MONTANA AND WHOSE ANNUAL GROSS VOLUME OF SALES MADE IN
 16 MONTANA DURING THE TAXABLE YEAR DOES NOT EXCEED \$100,000 MAY
 17 ELECT TO PAY AN INCOME TAX OF 1/2 OF 1% OF THE DOLLAR VOLUME
 18 OF GROSS SALES MADE IN MONTANA DURING THE TAXABLE YEAR. SUCH
 19 TAX SHALL BE IN LIEU OF THE TAX IMPOSED UNDER [SECTION 6].
 20 THE GROSS VOLUME OF SALES MADE IN MONTANA DURING THE TAXABLE
 21 YEAR SHALL BE DETERMINED ACCORDING TO THE PROVISIONS OF
 22 ARTICLE IV, SECTIONS 16 AND 17, OF THE MULTISTATE TAX
 23 COMPACT.

24 NEW SECTION. Section 10. Tax return -- contents. (1)
 25 Each individual, MARRIED COUPLE FILING A JOINT FEDERAL

1 RETURN, or fiduciary mentioned in [section 6(1)] shall file
 2 a return, USING THE SAME FILING STATUS USED TO FILE THE
 3 TAXPAYER'S FEDERAL RETURN, with the department showing:

4 (a) the amount of tax due and payable as reported on
 5 the taxpayer's federal income tax return or as recomputed as
 6 required in [section 6(5) 7];

7 (b) the amount of tax due under [section 7], less
 8 credits, if any, claimed against the tax;

9 (c) A COMPLETE COPY OF THE FEDERAL INDIVIDUAL INCOME
 10 TAX RETURN AND ALL SUPPORTING SCHEDULES AS FILED, A COPY OF
 11 ANY AMENDED FEDERAL INDIVIDUAL INCOME TAX RETURN FILED, AND
 12 any other information necessary for administration of the
 13 state income tax, as may be prescribed by the department.

14 (2) If a taxpayer is unable to make his own return, an
 15 authorized agent, guardian, or other person charged with the
 16 care of the person or property of the taxpayer shall file
 17 the return.

18 NEW SECTION. Section 11. Payment of state income tax
 19 -- refunds -- interest. (1) A taxpayer required to file a
 20 state income tax return shall compute the amount of state
 21 income tax due and shall, at the time the return is filed,
 22 pay to the department any balance of tax in excess of \$1
 23 remaining unpaid after crediting the amount withheld as
 24 provided under 15-30-202 or any payment of estimated tax as
 25 provided under 15-30-242.

1 (2) AS SOON AS PRACTICABLE AFTER THE CURRENT YEAR'S TAX
 2 RETURN IS FILED, THE DEPARTMENT SHALL EXAMINE AND VERIFY THE
 3 TAX. If the withheld tax or the estimated tax paid exceeds
 4 the state income tax due by more than \$1, the department
 5 shall refund the excess to the taxpayer within ~~30~~ 90 days
 6 after receiving the return.

7 (3) IF THE AMOUNT OF TAX DUE IS GREATER THAN THE AMOUNT
 8 PAID, THE DIFFERENCE MUST BE PAID BY THE TAXPAYER TO THE
 9 DEPARTMENT WITHIN 60 DAYS AFTER NOTICE OF THE AMOUNT OF THE
 10 TAX DUE. IF PAYMENT IS MADE AFTER 60 DAYS, INTEREST MUST BE
 11 ADDED AT THE RATE OF 9% PER YEAR ON THE ADDITIONAL TAX. A
 12 PENALTY MAY NOT BE ASSESSED IF THE DEFICIENCY IS PAID WITHIN
 13 60 DAYS AFTER THE FIRST NOTICE OF THE AMOUNT DUE IS MAILED
 14 TO THE TAXPAYER.

15 ~~(3)(4)~~ Except as provided in 15-30-321, interest at a
 16 rate of 9% a year must be added to any state income tax or
 17 portion of tax, from the due date until paid, whether the
 18 taxpayer has been granted a filing extension or not.

19 ~~(4)(5)~~ If a joint return is made by husband and wife,
 20 the liability with respect to the tax is joint and several.

21 SECTION 12. SECTION 15-30-145, MCA, IS AMENDED TO READ:

22 "15-30-145. Revision of return by department --
 23 examination of records and persons. (1) If, in the opinion
 24 of the department, any return of a taxpayer is in any
 25 essential respect incorrect, it may revise such return. The

1 department may revise the return to determine the taxpayer's
 2 correct federal taxable income regardless of whether the
 3 internal revenue service has revised the taxpayer's reported
 4 federal taxable income. If any taxpayer fails to make return
 5 as herein required, the department is authorized to make an
 6 estimate of the taxable income of such taxpayer from any
 7 information in its possession and to audit and state an
 8 account according to such return or the estimate so made by
 9 it for the taxes, penalties, and interest due the state from
 10 such taxpayer. Except in the case of a person who, with
 11 intent to evade the tax, purposely or knowingly files a
 12 false or fraudulent return violating the provisions of this
 13 chapter, the amount of tax due under any return shall be
 14 determined by the department within 5 years after the return
 15 was made and the department thereafter shall be barred from
 16 revising any such returns or recomputing the tax due
 17 thereon, and no proceeding in court for the collection of
 18 such tax shall be instituted after the expiration of said
 19 period, notwithstanding the provisions of 15-30-322. The
 20 department may revise the return to determine the taxpayer's
 21 correct federal taxable income within 5 years after the
 22 return was made regardless of whether the federal statute of
 23 limitations has run. In the case of a person who, with
 24 intent to evade the tax, purposely or knowingly files a
 25 false or fraudulent return violating the provisions of this

1 chapter, the amount of tax due may be determined at any time
 2 after the return is filed and the tax may be collected at
 3 any time after it becomes due and, where no return has been
 4 filed, the tax may be assessed at any time.

5 (2) The department, for the purpose of ascertaining the
 6 correctness of any return or for the purpose of making an
 7 estimate of taxable income of any person where information
 8 has been obtained, may also examine or cause to have
 9 examined by any agent or representative designated by it for
 10 that purpose any books, papers, or records of memoranda
 11 bearing upon the matters required to be included in the
 12 return and may require the attendance of the person
 13 rendering the return or any officer or employee of such
 14 person or the attendance of any person having knowledge in
 15 the premises and may take testimony and require proof
 16 material for its information, with power to administer oaths
 17 to such person or persons. The department may exercise this
 18 power regardless of whether the internal revenue service has
 19 revised the taxpayer's reported federal taxable income and
 20 regardless of whether the federal statute of limitations has
 21 run."

22 **SECTION 13. SECTION 15-30-149, MCA, IS AMENDED TO READ:**

23 *15-30-149. Credits and refunds -- period of
 24 limitations. (1) If the department discovers from the
 25 examination of a return or upon claim duly filed by a

1 taxpayer or upon final judgment of a court that the amount
 2 of income tax collected is in excess of the amount due or
 3 that any penalty or interest was erroneously or illegally
 4 collected, the amount of the overpayment shall be credited
 5 against any income tax, penalty, or interest then due from
 6 the taxpayer and the balance of such excess shall be
 7 refunded to the taxpayer.

8 (2) (a) A credit or refund under the provisions of this
 9 section may be allowed only if, prior to the expiration of
 10 the period provided by 15-30-145 and by 15-30-146 during
 11 which the department may determine tax liability, the
 12 taxpayer files a claim or the department determines there
 13 has been an overpayment.

14 (b) If an overpayment of tax results from a net
 15 operating loss carryback, the overpayment may be refunded or
 16 credited within the period that expires on the 15th day of
 17 the 40th month following the close of the taxable year of
 18 the net operating loss if that period expires later than 5
 19 years from the due date of the return for the year to which
 20 the net operating loss is carried back.

21 (3) Within 6 months after an amended return, a
 22 delinquent return, or a claim for refund is filed, the
 23 department shall examine ~~said~~ the return or claim and either
 24 approve or disapprove it. If ~~said~~ the return or claim is
 25 approved, the credit or refund shall be made to the taxpayer

1 within 60 days after the claim is approved; if the return or
 2 claim is disallowed, the department shall so notify the
 3 taxpayer and shall grant a hearing thereon upon proper
 4 application by the taxpayer. If the department disapproves a
 5 claim for refund, review of the determination of the
 6 department may be had as otherwise provided in this chapter.

7 (4) Except as hereinafter provided for, interest shall
 8 be allowed on overpayments at the same rate as is charged on
 9 delinquent taxes due from the due date of the return or from
 10 the date of the overpayment (whichever date is later) to the
 11 date the department approves refunding or crediting of the
 12 overpayment. With respect to tax paid by withholding or by
 13 estimate, the date of overpayment shall be deemed to be the
 14 date on which the return for the taxable year was due. No
 15 interest shall accrue on an overpayment if the taxpayer
 16 elects to have it applied to his estimated tax for the
 17 succeeding taxable year, nor shall interest accrue during
 18 any period the processing of a return or claim for refund is
 19 delayed more than 30 days by reason of failure of the
 20 taxpayer to furnish information requested by the department
 21 for the purpose of verifying the amount of the overpayment.
 22 No interest shall be allowed if:

23 (a) the overpayment is refunded within 6 months from
 24 the date the return is due or the date the return is filed,
 25 whichever date is later;

1 (b) the overpayment results from the carryback of a net
2 operating loss; or

3 (c) the amount of interest is less than \$1.

4 (5) An overpayment not made incident to a bona fide and
5 orderly discharge of an actual income tax liability or one
6 reasonably assumed to be imposed by this law shall not be
7 considered an overpayment with respect to which interest is
8 allowable."

9 **Section 14.** Section 15-30-128, MCA, is amended to read:

10 **"15-30-128. Credit for expense of caring for certain**
11 **elderly family members.** (1) There is a credit against the
12 tax imposed by this chapter for qualified elderly care
13 expenses paid by an individual for the care of a qualifying
14 family member during the taxable year.

15 (2) A qualifying family member is an individual who:

16 (a) is related to the taxpayer by blood or marriage;

17 (b) (i) is at least 70 years of age; or

18 (ii) is diagnosed by a physician as having senile
19 dementia of the Alzheimer type; and

20 (c) has a family income of \$15,000 or less for the
21 taxable year.

22 (3) For purposes of this section, "family income"
23 means, in the case of an individual who is not married, the
24 federal adjusted gross income of the individual or, in the
25 case of a married individual, the federal adjusted gross

1 income of the individual and the individual's spouse.

2 (4) Qualified elderly care expenses include:

3 (a) payments by the taxpayer for home health agency
4 services provided by an organization certified by the
5 federal health care financing administration, homemaker
6 services, adult day care, respite care, or health-care
7 equipment and supplies:

8 (i) provided to the qualifying family member;

9 (ii) provided by an organization or individual not
10 related to the taxpayer or the qualifying family member; and

11 (iii) not compensated for by insurance or otherwise;

12 (b) subject to the limitations in subsection (4)(a),
13 payments by the taxpayer for nursing home care of an
14 individual who is diagnosed by a physician as having senile
15 dementia of the Alzheimer type.

16 (5) The percentage amount of credit allowable under
17 this section is:

18 (a) for a taxpayer whose federal adjusted gross income
19 does not exceed \$25,000, 30% of qualified elderly care
20 expenses; or

21 (b) for a taxpayer whose federal adjusted gross income
22 exceeds \$25,000, the greater of:

23 (i) 20% of qualified elderly care expenses; or

24 (ii) 30% of qualified elderly care expenses, less 1% for
25 each \$2,000 or fraction thereof by which the federal

1 adjusted gross income of the taxpayer for the taxable year
2 exceeds \$25,000.

3 (6) The dollar amount of credit allowable under this
4 section is:

5 (a) reduced by \$1 for each dollar of the federal
6 adjusted gross income over \$50,000 for a taxpayer whose
7 federal adjusted gross income exceeds \$50,000;

8 (b) limited to \$5,000 per qualifying family member in a
9 taxable year and to \$10,000 total for two or more family
10 members in a taxable year;

11 (c) prorated among multiple taxpayers who each
12 contribute to qualified elderly care expenses of the same
13 qualified family member in a taxable year in the same
14 proportion that their contributions bear to the total
15 qualified elderly care expenses paid by those taxpayers for
16 that qualified family member.

17 (7) A deduction or credit is not allowed under any
18 other provision of this chapter with respect to any amount
19 for which a credit is allowed under this section. The credit
20 allowed under this section may not be claimed as a carryback
21 or carryforward and may not be refunded if the taxpayer has
22 no tax liability.

23 (8) In the case of a married individual filing a
24 separate return, the percentage amount of credit under
25 subsection (5) and the dollar amount of credit under

1 subsection (6) are limited to one-half of the figures
2 indicated in those subsections."

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

4 "15-30-162. Investment credit. (1) There is allowed as
5 a credit against the tax imposed by ~~15-30-103~~ [section 6] a
6 percentage of the credit allowed with respect to certain
7 depreciable property under section 38 of the Internal
8 Revenue Code of 1954, as amended, or as section 38 may be
9 renumbered or amended. However, rehabilitation costs as set
10 forth under section 46(a)(2)(F) of the Internal Revenue Code
11 ~~of 1954, or as section 46(a)(2)(F) may be renumbered or~~
12 ~~amended,~~ are not to be included in the computation of the
13 investment credit. The credit is allowed for the purchase
14 and installation of certain qualified property defined by
15 section 38 of the Internal Revenue Code ~~of 1954, as amended,~~
16 if the property meets all of the following qualifications:

17 (a) it was placed in service in Montana; and
18 (b) it was used for the production of Montana adjusted
19 gross income.

20 (2) The amount of the credit allowed for the taxable
21 year is 5% of the amount of credit determined under section
22 46(a)(2) of the Internal Revenue Code ~~of 1954, as amended,~~
23 or as section 46(a)(2) may be renumbered or amended.

24 (3) Notwithstanding the provisions of subsection (2),
25 the investment credit allowed for the taxable year may not

1 exceed the taxpayer's tax liability for the taxable year or
 2 \$500, whichever is less.

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

17 (5) The investment credit allowed by this section is
 18 subject to recapture as provided for in section 47 of the
 19 Internal Revenue Code of ~~1954, as amended, or as section 47~~
 20 ~~may be renumbered or amended.~~"

21 **Section 16.** Section 15-30-241, MCA, is amended to read:

22 "15-30-241. Declaration of estimated tax. (1) Every
 23 Each individual ~~except farmers, ranchers, or stockmen~~ shall,
 24 at the time prescribed in subsection (3) ~~of this section,~~
 25 make a declaration of his estimated tax for the taxable year

1 if ~~his net income from sources other than wages, salaries,~~
 2 ~~bonuses, or other emoluments can reasonably be expected to~~
 3 ~~equal or exceed his net income from wages, salaries, bonuses~~
 4 ~~or other emoluments, which are subject to withholding he is~~
 5 required to file a declaration of his estimated tax under
 6 the provisions of the Internal Revenue Code.

7 (2) In the declaration required under subsection (1) of
 8 this section, the individual shall state:

9 (a) the amount which he estimates as the amount of tax
 10 under ~~15-30-103~~ [section 7] for the taxable year;

11 (b) the amount which he estimates will be withheld from
 12 wages paid by his employer if said individual is an
 13 employee;

14 (c) the excess of the amount estimated under subsection
 15 (2)(a) over the amount estimated under subsection (2)(b),
 16 which excess for purposes of this section shall be
 17 considered the estimated tax for the taxable year;

18 (d) such other information as may be prescribed in
 19 rules promulgated by the department.

20 (3) The declaration required under subsection (1) of
 21 ~~this section~~ shall be filed with the department on or before
 22 April 15 of the taxable year, except that if the
 23 requirements of subsection (1) ~~of this section~~ are first
 24 met:

25 (a) after April 1 and before October 1 of the taxable

1 year, the declaration shall be filed on or before October 15
2 of the taxable year;

3 (b) after October 1 of the taxable year, the
4 declaration shall be filed on or before February 15 of the
5 succeeding taxable year.

6 (4) An individual may make amendments of a declaration
7 filed during the taxable year under subsection (3) ~~of this~~
8 ~~section~~ under rules prescribed by the department.

9 (5) If, on or before February 15 of the succeeding
10 taxable year, the taxpayer files a return for the taxable
11 year for which the declaration is required and pays in full
12 the amount computed on his return as payable, then under
13 rules prescribed by the department:

14 (a) if the declaration is not required to be filed
15 during the taxable year but is required to be filed on or
16 before ~~such~~ February 15, ~~such~~ the return shall for the
17 purposes of this section be considered as such declaration;
18 and

19 (b) if the tax shown on the return is greater than the
20 estimated tax shown in a declaration previously made or in
21 the last amendments thereof, ~~such~~ the return shall for the
22 purposes of this section be considered as the amendment of
23 the declaration permitted by subsection (4) ~~of this--section~~
24 to be filed on or before ~~such~~ February 15.

25 (6) The department shall promulgate rules governing

1 reasonable extensions of time for filing declarations and
2 paying the estimated tax except in the case of taxpayers who
3 are abroad, and no such extension shall be for more than 6
4 months.

5 (7) If the taxpayer is unable to make his own
6 declaration, the declaration shall be made by a duly
7 authorized agent or by the guardian or other person charged
8 with the care of the person or property of ~~such~~ the
9 taxpayer.

10 (8) Any individual who fails to file a declaration of
11 estimated tax as required by this section is not subject to
12 the penalties set forth in 15-30-321."

13 **Section 17.** Section 15-30-303, MCA, is amended to read:

14 "15-30-303. Confidentiality of tax records. (1) Except
15 in accordance with proper judicial order or as otherwise
16 provided by law, it is unlawful for the department or any
17 deputy, assistant, agent, clerk, or other officer or
18 employee to divulge or make known in any manner the amount
19 of income or any particulars set forth or disclosed in any
20 report or return required under this chapter or any other
21 information secured in the administration of this chapter.
22 It is also unlawful to divulge or make known in any manner
23 any federal return or federal return information disclosed
24 on any return or report required by rule of the department
25 or under this chapter.

1 (2) The officers charged with the custody of such
 2 reports and returns shall not be required to produce any of
 3 them or evidence of anything contained in them in any action
 4 or proceeding in any court, except in any action or
 5 proceeding to which the department is a party under the
 6 provisions of this chapter or any other taxing act or on
 7 behalf of any party to any action or proceedings under the
 8 provisions of this chapter or ~~such~~ the other act when the
 9 reports or facts shown thereby are directly involved in such
 10 action or proceedings, in either of which events the court
 11 may require the production of and may admit in evidence so
 12 much of ~~said~~ the reports or of the facts shown thereby as
 13 are pertinent to the action or proceedings and no more.

14 (3) Nothing herein ~~shall~~ may be construed to prohibit:

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

18 (b) the publication of statistics so classified as to
 19 prevent the identification of particular reports or returns
 20 and the items thereof; or

21 (c) the inspection by the attorney general or other
 22 legal representative of the state of the report or return of
 23 any taxpayer who ~~shall~~ may bring action to set aside or
 24 review the tax based thereon or against whom an action or
 25 proceeding has been instituted in accordance with the

1 provisions of 15-30-311 and 15-30-322.

2 (4) Reports and returns ~~shall~~ must be preserved for 3
 3 years and thereafter until the department orders them to be
 4 destroyed.

5 (5) Any offense against subsections (1) through (4) ~~of~~
 6 ~~this--section~~ shall be punished by a fine not exceeding
 7 \$1,000 or by imprisonment in the county jail not exceeding 1
 8 year, or both, at the discretion of the court, and if the
 9 offender ~~be~~ is an officer or employee of the state, he shall
 10 be dismissed from office and be incapable of holding any
 11 public office in this state for a period of 1 year
 12 thereafter.

13 (6) Notwithstanding the provisions of this section, the
 14 department may permit the commissioner of internal revenue
 15 of the United States or the proper officer of any state
 16 imposing a tax upon the incomes of individuals or the
 17 authorized representative of either such officer to inspect
 18 the return of income of any individual or may furnish to
 19 ~~such~~ the officer or his authorized representative an
 20 abstract of the return of income of any individual or supply
 21 him with information concerning any item of income contained
 22 in any return or disclosed by the report of any
 23 investigation of the income or return of income of any
 24 individual, but such permission shall be granted or such
 25 information furnished to such officer or his representative

1 only if the statutes of the United States or of such other
2 state, as the case may be, grant substantially similar
3 privileges to the proper officer of this state charged with
4 the administration of this chapter.

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

7 ~~{a}--to--the--department--of--justice--all--information~~
8 ~~necessary--to--identify--those--persons--qualifying--for--the~~
9 ~~additional-exemption-for-blindness-pursuant-to-15-30-112{4},~~
10 ~~for-the-purpose-of-enabling-the--department--of--justice--to~~
11 ~~administer-the-provisions-of-61-5-105;~~

12 {b}{a} to the department of social and rehabilitation
13 services information acquired under 15-30-301, pertaining to
14 an applicant for public assistance, reasonably necessary for
15 the prevention and detection of public assistance fraud and
16 abuse, provided notice to the applicant has been given;

17 {c}{b} to the department of fish, wildlife, and parks
18 specific information that is available from income tax
19 returns and required under 87-2-102 to establish the
20 residency requirements of an applicant for hunting and
21 fishing licenses; and

22 {d}{c} to the board of regents information required
23 under 20-26-1111."

24 **Section 18.** Section 15-30-323, MCA, is amended to read:

25 "15-30-323. **Penalty for deficiency.** (1) If the payment

1 required by ~~15-30-142{6}~~ [section 10 11] is not made within
2 60 days or if the understatement is due to negligence on the
3 part of the taxpayer but without fraud, there shall be added
4 to the amount of the deficiency 5% thereof; provided,
5 however, that no deficiency penalty shall be less than \$2.
6 Interest will be computed at the rate of 9% per annum or
7 fraction thereof on the additional assessment. Except as
8 otherwise expressly provided in this subsection, the
9 interest shall in all cases be computed from the date the
10 return and tax were originally due as distinguished from the
11 due date as it may have been extended to the date of
12 payment.

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

17 **Section 19.** Section 15-31-131, MCA, is amended to read:

18 "15-31-131. **Credit for dependent care assistance.** (1)
19 There is a credit against the taxes otherwise due under this
20 chapter allowable to an employer for amounts paid or
21 incurred during the taxable year by the employer for
22 dependent care assistance actually provided to or on behalf
23 of an employee if the assistance is furnished by a
24 registered or licensed day-care provider and pursuant to a
25 program that meets the requirements of section 89(k) and

1 129(d)(2) through (6) of the Internal Revenue Code.

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

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

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

14 (3) An amount paid or incurred during the taxable year
15 of an employer in providing dependent care assistance to or
16 on behalf of any employee does not qualify for the credit
17 allowed under subsection (1) if the amount was paid or
18 incurred to an individual described in section 129(c)(1) or
19 (2) of the Internal Revenue Code.

20 (4) An amount paid or incurred by an employer to
21 provide dependent care assistance to or on behalf of an
22 employee does not qualify for the credit allowed under
23 subsection (1) if the amount is paid or incurred pursuant to
24 a salary reduction plan or is paid or incurred for services
25 not performed within this state.

1 (5) If the credit allowed under subsection (1) is
2 claimed, the amount of any deduction allowed or allowable
3 under this chapter for the amount that qualifies for the
4 credit (or upon which the credit is based) must be reduced
5 by the dollar amount of the credit allowed. The election to
6 claim a credit allowed under this section must be made at
7 the time of filing the tax return.

8 (6) The amount upon which the credit allowed under
9 subsection (1) is based may not be included in the gross
10 income of the employee to whom the dependent care assistance
11 is provided. However, the amount excluded from the income of
12 an employee under this section may not exceed the
13 limitations provided in section 129(b) of the Internal
14 Revenue Code. For purposes of Title 15, chapter 30, part 2,
15 with respect to an employee to whom dependent care
16 assistance is provided, "wages" does not include any amount
17 excluded under this subsection. ~~Amounts-excluded-under-this~~
18 ~~subsection-do-not-qualify-as-expenses-for-which-a--deduction~~
19 ~~is-allowed-to-the-employee-under-15-30-121.~~

20 (7) Any tax credit otherwise allowable under this
21 section that is not used by the taxpayer in a particular
22 year may be carried forward and offset against the
23 taxpayer's tax liability for the next succeeding tax year.
24 Any credit remaining unused in the next succeeding tax year
25 may be carried forward and used in the second succeeding tax

1 year, and likewise through the fifth year succeeding the tax
 2 year in which the credit was first allowed or allowable. A
 3 credit may not be carried forward beyond the fifth
 4 succeeding tax year.

5 (8) If the taxpayer is an S corporation, as defined in
 6 section 1361 of the Internal Revenue Code, and the taxpayer
 7 elects to take tax credit relief, the election may be made
 8 on behalf of the corporation's shareholders. A shareholder's
 9 credit must be computed using the shareholder's pro rata
 10 share of the corporation's costs that qualify for the
 11 credit. In all other respects, the effect of the tax credit
 12 applies to the corporation as otherwise provided by law.

13 (9) For purposes of the credit allowed under subsection
 14 (1):

15 (a) ~~The~~ the definitions and special rules contained in
 16 section 129(e) of the Internal Revenue Code apply to the
 17 extent applicable; and

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

20 ~~(c) --"Internal--Revenue--Code"--means--the--federal--Internal~~
 21 ~~Revenue--Code--as--amended--and--in--effect--on--January--17--1989--"~~

22 **Section 20.** Section 15-31-202, MCA, is amended to read:

23 **"15-31-202. Election by small business corporation.** (1)
 24 A small business corporation may elect not to be subject to
 25 the taxes imposed by this chapter.

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

3 (a) with respect to the taxable years of the
 4 corporation for which such election is in effect, such
 5 corporation is not subject to the taxes imposed by this
 6 chapter and, with respect to such taxable years and all
 7 succeeding taxable years, the provisions of this part apply
 8 to such corporation; and

9 (b) with respect to the taxable years of a shareholder
 10 of such corporation in which or with which the taxable years
 11 of the corporation for which such election is in effect end,
 12 the provisions of this part apply to such shareholder, and
 13 with respect to such taxable years and all succeeding
 14 taxable years, the provisions of this part apply to such
 15 shareholder.

16 (3) An election under subsection (1) must be made in
 17 accordance with rules prescribed by the department of
 18 revenue.

19 (4) This election is not effective unless the corporate
 20 net income or loss of such electing corporation is included
 21 in the stockholders' federal adjusted gross taxable income
 22 as defined in ~~15-30-111~~ [section 6].

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

25 **Section 21.** Section 15-32-303, MCA, is amended to read:

1 **"15-32-303. Deduction for purchase of Montana produced**
 2 **organic fertilizer.** In addition to all other deductions from
 3 ~~adjusted--gross--individual--income--allowed--in--computing~~
 4 ~~taxable--income--under--Title--15--chapter--307--or--from~~ gross
 5 corporate income allowed in computing net income under Title
 6 15, chapter 31, part 1, a taxpayer corporation may deduct
 7 ~~his~~ its expenditures for organic fertilizer produced in
 8 Montana and used in Montana if the expenditure was not
 9 otherwise deducted in computing taxable income."

10 **Section 22.** Section 15-33-106, MCA, is amended to read:

11 **"15-33-106. Capital gains -- dividends exempted.** Any
 12 capital gains or dividend income realized by ~~an--individual~~
 13 or a corporation from an investment in an SBIC organized in
 14 accordance with this part is exempt from taxation under the
 15 provisions of Title 15, ~~chapters--30 and~~ chapter 31."

16 **Section 23.** Section 53-6-111, MCA, is amended to read:

17 **"53-6-111. Department charged with general**
 18 **administration of medical assistance -- adoption of rules to**
 19 **punish fraud.** (1) The department of social and
 20 rehabilitation services is hereby authorized and empowered
 21 to administer and supervise a vendor payment program of
 22 medical assistance under the powers, duties, and functions
 23 provided in chapter 2 of this title, as amended, and as
 24 contemplated by the provisions of Title XIX of the federal
 25 Social Security Act.

1 (2) The department shall adopt rules establishing a
 2 system of penalties and sanctions applicable to providers of
 3 medical assistance services and supplies who engage in
 4 fraudulent, abusive, or improper activities. The department
 5 shall define by rule those activities which are fraudulent,
 6 abusive, or improper.

7 (3) The penalties or sanctions imposed include but are
 8 not limited to:

9 (a) required courses of education in the rules
 10 governing the medicaid program;

11 (b) withholding of payments to offset previous improper
 12 payments to a provider;

13 (c) suspension of payments to a provider pending
 14 resolution of a dispute involving fraudulent, abusive, or
 15 improper activities;

16 (d) suspension of participation in the program for a
 17 specified period of time; and

18 (e) permanent termination of participation in the
 19 medical assistance program.

20 (4) The department is entitled to recover from a
 21 provider all amounts paid as a result of fraudulent,
 22 abusive, or improper activities, together with interest at
 23 the rate set by ~~15-30-142~~ [section 10 11] for tax
 24 deficiencies from the date of such payment.

25 (5) In all cases in which a penalty or sanction may be

1 imposed, a provider is entitled to a hearing under the
2 provisions of Title 2, chapter 4, part 6."

3 **Section 24.** Section 67-11-303, MCA, is amended to read:

4 **"67-11-303. Bonds and obligations.** (1) An authority may
5 borrow money for any of its corporate purposes and issue its
6 bonds therefor, including refunding bonds, in such form and
7 upon such terms as it may determine, payable out of any
8 revenues of the authority, including revenues derived from:

9 (a) an airport or air navigation facility or
10 facilities;

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

13 (c) grants or contributions from the federal
14 government; or

15 (d) other sources.

16 (2) The bonds may be issued by resolution of the
17 authority, without an election and without any limitation of
18 amount, except that no such bonds may be issued at any time
19 if the total amount of principal and interest to become due
20 in any year on such bonds and on any then outstanding bonds
21 for which revenues from the same source or sources are
22 pledged exceeds the amount of such revenues to be received
23 in that year as estimated in the resolution authorizing the
24 issuance of the bonds. The authority shall take all action
25 necessary and possible to impose, maintain, and collect

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

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

13 (4) Bonds issued by an authority or municipality
14 pursuant to the provisions of this chapter are declared to
15 be issued for an essential public and governmental purpose
16 by a political subdivision ~~within---the---meaning---of~~
17 ~~15-30-111(2)(a) [section-6(2)(c)].~~

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

1 prior to the payment of current costs of operation and
2 maintenance of the facilities.

3 (6) Subject to the conditions stated in this subsection
4 (6), the governing body of any municipality having a
5 population in excess of 10,000, with respect to bonds issued
6 pursuant to this chapter by the municipality or by an
7 authority in which the municipality is included, may by
8 resolution covenant that in the event that at any time all
9 revenues, including taxes, appropriated and collected for
10 such bonds are insufficient to pay principal or interest
11 then due, it will levy a general tax upon all of the taxable
12 property in the municipality for the payment of such
13 deficiency; and may further covenant that at any time a
14 deficiency is likely to occur within 1 year for the payment
15 of principal and interest due on such bonds, it will levy a
16 general tax upon all the taxable property in the
17 municipality for the payment of such deficiency, and such
18 taxes are not subject to any limitation of rate or amount
19 applicable to other municipal taxes but are limited to a
20 rate estimated to be sufficient to produce the amount of the
21 deficiency. In the event more than one municipality having a
22 population in excess of 10,000 is included in an authority
23 issuing bonds pursuant to this chapter, the municipalities
24 may apportion the obligation to levy taxes for the payment
25 of, or in anticipation of, a deficiency in the revenues

1 appropriated for such bonds in such manner as the
2 municipalities may determine. The resolution shall state the
3 principal amount and purpose of the bonds and the substance
4 of the covenant respecting deficiencies. No such resolution
5 becomes effective until the question of its approval has
6 been submitted to the qualified electors of the municipality
7 at a special election called for that purpose by the
8 governing body of the municipality and a majority of the
9 electors voting on the question have voted in favor thereof.
10 The notice and conduct of the election is governed, to the
11 extent applicable, as provided for municipal general
12 obligation bonds in Title 7, chapter 7, part 42, for an
13 election called by cities and towns, and as provided for
14 county general obligation bonds in Title 7, chapter 7, part
15 22, for an election called by counties. If a majority of the
16 electors voting thereon vote against approval of the
17 resolution, the municipality has no authority to make the
18 covenant or to levy a tax for the payment of deficiencies
19 pursuant to this section, but such municipality or authority
20 may nevertheless issue bonds under this chapter payable
21 solely from the sources referred to in subsection (1)
22 above."

23 **Section 25.** Section 19-3-105, MCA, is amended to read:
24 "19-3-105. Exemption from taxes-and legal process. The
25 right of a person to a retirement allowance or any other

1 benefit under this chapter and the moneys in the fund
2 created under this chapter is not:

3 {1} subject to execution, garnishment, attachment, or
4 any other process;

5 {2} ~~subject to state, county, or municipal taxes except~~
6 ~~for a refund paid under 19-3-703 of a member's contributions~~
7 ~~picked up by an employer after June 30, 1985, as provided in~~
8 ~~19-3-701; or~~

9 {3} or assignable except as in this chapter
10 specifically provided."

11 **Section 26.** Section 19-4-706, MCA, is amended to read:

12 "19-4-706. ~~Exemption from taxation and legal process.~~
13 The pensions, annuities, or any other benefits accrued or
14 accruing to any person under the provisions of the
15 retirement system and the accumulated contributions and cash
16 and securities in the various funds of the retirement system
17 are:

18 {1} ~~exempted from any state, county, or municipal tax~~
19 ~~of the state of Montana except for a withdrawal paid under~~
20 ~~19-4-603 of a member's contributions picked up by an~~
21 ~~employer after June 30, 1985, as provided in 19-4-602;~~

22 {2} not subject to execution, garnishment, attachment
23 by trustee process or otherwise, in law or equity, or any
24 other process; and

25 {3} unassignable except as specifically provided in

1 this chapter."

2 **Section 27.** Section 19-5-704, MCA, is amended to read:

3 "19-5-704. ~~Exemption from taxes and legal process.~~ Any
4 money received or to be paid as a member's annuity, state
5 annuity, or return of deductions or the right of any of
6 these ~~shall be~~ is exempt from any ~~state or municipal tax and~~
7 ~~from~~ levy, sale, garnishment, attachment, or any other
8 process whatsoever and ~~shall be~~ is unassignable except as
9 specifically provided in 19-5-705."

10 **Section 28.** Section 19-6-705, MCA, is amended to read:

11 "19-6-705. ~~Exemption from taxes and legal process.~~ Any
12 money received or to be paid as a member's annuity, state
13 annuity, or return of deductions or the right of any of
14 these is:

15 {1} ~~exempt from any state, county, or municipal tax~~
16 ~~except for a refund paid under 19-6-403 of a member's~~
17 ~~contributions picked up by an employer after June 30, 1985,~~
18 ~~as provided in 19-6-402;~~

19 {2} exempt from levy, sale, garnishment, attachment, or
20 any other process; and

21 {3} is unassignable except as specifically provided in
22 19-6-706."

23 **Section 29.** Section 19-7-705, MCA, is amended to read:

24 "19-7-705. ~~Exemption from taxes and legal process.~~ Any
25 money received or to be paid as a member's annuity, state

1 annuity, or return of deductions or the right of any of
2 these is:

3 ~~{1}--exempt-from-any-state,--county,--or--municipal--tax~~
4 ~~except--for--a--refund--paid--under--19-7-304{1}--of--a--member's~~
5 ~~contributions--picked-up-by-an-employer--after--June--30,--1985,~~
6 ~~as--provided--in--19-7-403;~~

7 {2} exempt from levy, sale, garnishment, attachment, or
8 any other process; and

9 {3} is unassignable except as specifically provided in
10 19-7-706."

11 **Section 30.** Section 19-8-805, MCA, is amended to read:

12 "19-8-805. **Exemption from taxes and legal process.** Any
13 money received or to be paid as a member's annuity, state
14 annuity, or return of deductions or the right of any of
15 these is:

16 ~~{1}--exempt--from--any--state,--county,--or--municipal--tax~~
17 ~~except--for--a--refund--paid--under--19-8-503--of--the--member's~~
18 ~~contributions--picked-up-by-an-employer--after--June--30,--1985,~~
19 ~~as--provided--in--19-8-502;~~

20 {2} exempt from levy, sale, garnishment, attachment, or
21 any other process; and

22 {3} is unassignable except as specifically provided in
23 19-8-806."

24 **Section 31.** Section 19-21-212, MCA, is amended to read:

25 "19-21-212. **Exemption from taxation, legal process, and**

1 assessments. All contracts, benefits, and contributions
2 under the optional retirement program and the earnings
3 thereon are:

4 ~~{1}--exempt-from-any-state,--county,--or--municipal--tax,~~
5 ~~{2}{1}~~ not subject to execution, garnishment,
6 attachment, or other process;

7 ~~{3}{2}~~ not covered or assessable by an insurance
8 guaranty association; and

9 ~~{4}{3}~~ unassignable except as specifically provided in
10 the contracts."

11 **Section 32.** Section 15-30-125, MCA, is amended to read:

12 "15-30-125. **Credit for energy-conserving investments.**
13 (1) There is a credit against tax liability under this
14 chapter as provided in 15-32-109.

15 (2) A temporary resident is allowed the credit allowed
16 a resident under 15-32-109 to the extent the credit was
17 expended in Montana during the during the course of his
18 residency."

19 **NEW SECTION. Section 33. Repealer.** Sections 15-30-103,

20 15-30-105, 15-30-106, 15-30-108, 15-30-110, 15-30-111,
21 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-117,
22 15-30-121, 15-30-122, 15-30-123, 15-30-126, 15-30-131,
23 15-30-132, 15-30-135, 15-30-136, 15-30-137, 15-30-142,
24 15-30-143, 15-30-156, 15-30-157, 19-9-1005, and 19-13-1003,
25 AND 80-12-211, MCA, are repealed.

1 NEW SECTION. Section 34. Codification instruction --
 2 instruction to code commissioner. (1) [Sections 6 through ~~10~~
 3 11] are intended to be codified as an integral part of Title
 4 15, chapter 30, part 1, and the provisions of Title 15,
 5 chapter 30, part 1, apply to [sections 6 through ~~10~~ 11].

6 (2) The code commissioner is instructed to make changes
 7 throughout the Montana Code Annotated to reflect the change
 8 in definition of "Internal Revenue Code" in 15-30-101.

9 NEW SECTION. SECTION 35. COORDINATION INSTRUCTION. (1)
 10 IF SENATE BILL NO. 333 IS PASSED AND APPROVED, THEN THE
 11 LANGUAGE IN [SECTION 6(3) OF THIS ACT] IS VOID.

12 (2) IF SENATE BILL NO. 445 IS PASSED AND APPROVED, THEN
 13 THE APPEAL PROVISIONS CONTAINED IN THAT BILL GOVERN THE
 14 APPEAL PROVISIONS SET FORTH IN [THIS ACT] AND THE 90-DAY
 15 PROVISION IN [SECTION 10 OF THIS ACT] MUST BE CHANGED TO 60
 16 DAYS.

17 NEW SECTION. Section 36. Saving clause. [This act]
 18 does not affect rights and duties that matured, penalties
 19 that were incurred, or proceedings that were begun before
 20 [the effective date of this act].

21 NEW SECTION. Section 37. Severability. If a part of
 22 [this act] is invalid, all valid parts that are severable
 23 from the invalid part remain in effect. If a part of [this
 24 act] is invalid in one or more of its applications, the part
 25 remains in effect in all valid applications that are

1 severable from the invalid applications.

2 NEW SECTION. Section 38. ~~retroactive~~ ~~applicability~~
 3 APPLICABILITY. [This act] applies ~~retroactively,~~ ~~within~~ ~~the~~
 4 ~~meaning~~ ~~of~~ ~~1-2-1097~~ to taxable years beginning after
 5 December 31, ~~1990~~ 1991.

6 NEW SECTION. Section 39. Effective date. [This act] is
 7 effective on passage and approval.

-End-

1 HOUSE BILL NO. 996

2 INTRODUCED BY REAM, VAN VALKENBURG, KIMBERLEY, ELLIOTT,
3 DRISCOLL, COHEN, BARNHART
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE EXISTING
6 STATE INDIVIDUAL INCOME TAX AND IMPOSING A STATE INCOME TAX
7 BASED ON A PERCENTAGE OF THE FEDERAL INCOME TAX PAYABLE ON
8 MONTANA TAXABLE INCOME; AMENDING SECTIONS 7-14-1133,
9 7-34-2416, 13-37-218, 13-37-303, 15-30-101, 15-30-125,
10 15-30-128, 15-30-145, 15-30-149, 15-30-162, 15-30-241,
11 15-30-303, 15-30-323, 15-31-131, 15-31-202, 15-32-303,
12 15-33-106, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705,
13 19-8-805, 19-21-212, 53-6-111, AND 67-11-303, MCA; REPEALING
14 SECTIONS 15-30-103, 15-30-105, 15-30-106, 15-30-108,
15 15-30-110, 15-30-111, 15-30-112, 15-30-113, 15-30-114,
16 15-30-115, 15-30-117, 15-30-121, 15-30-122, 15-30-123,
17 15-30-126, 15-30-131, 15-30-132, 15-30-135, 15-30-136,
18 15-30-137, 15-30-142, 15-30-143, 15-30-156, 15-30-157,
19 19-9-1005, AND 19-13-1003, AND 80-12-211, MCA; AND PROVIDING
20 AN IMMEDIATE EFFECTIVE DATE AND A--RETROACTIVE AN
21 APPLICABILITY DATE."
22

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

24 **Section 1.** Section 7-14-1133, MCA, is amended to read:

25 *7-14-1133. Bonds and obligations. (1) Except for

1 providing financial support to a private development
2 organization, including a corporation organized under Title
3 32, chapter 4, whose purpose is to advance the economic
4 development of its jurisdiction and of the state and its
5 citizens, an authority may borrow money for any of its
6 corporate purposes and issue bonds therefor, including
7 refunding bonds, in such form and upon such terms as it
8 determines, payable out of any revenues of the authority,
9 including revenues derived from:

10 (a) any port or transportation and storage facility;

11 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;

12 (c) grants or contributions from the federal
13 government; or

14 (d) other sources.

15 (2) The bonds may be issued by resolution of the
16 authority, without an election and without any limitation of
17 amount, except that no bonds may be issued at any time if
18 the total amount of principal and interest to become due in
19 any year on such bonds and on any then outstanding bonds for
20 which revenues from the same source are pledged exceeds the
21 amount of such revenues to be received in that year, as
22 estimated in the resolution authorizing the issuance of the
23 bonds. The authority shall take all action necessary and
24 possible to impose, maintain, and collect rates, charges,
25 rentals, and taxes, if any are pledged, sufficient to make

1 the revenues from the pledged source in such year at least
 2 equal to the amount of principal and interest due in that
 3 year.

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

12 (4) Bonds issued by an authority, county, or
 13 municipality pursuant to the provisions of this part are
 14 declared to be issued for an essential public and
 15 governmental purpose by a political subdivision ~~within the~~
 16 ~~meaning of 15-30-111(2)(a) {section-6(2)(c)}.~~

17 (5) For the security of any such bonds, the authority,
 18 county, or municipality may by resolution make and enter
 19 into any covenant, agreement, or indenture and may exercise
 20 any additional powers authorized to be exercised by a
 21 municipality under Title 7, chapter 7, parts 44 and 45. The
 22 sums required from time to time to pay principal and
 23 interest and to create and maintain a reserve for the bonds
 24 may be paid from any revenues referred to in this part,
 25 prior to the payment of current costs of operation and

1 maintenance of the facilities.

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

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

14 "7-34-2416. ~~Tax-exempt~~ status of bonds. Bonds issued by
 15 a county pursuant to the provisions of 7-34-2411 through
 16 7-34-2418 are declared to be issued for an essential public
 17 and governmental purpose by a political subdivision ~~within~~
 18 ~~the meaning of 15-30-111(2)(a) {section-6(2)(c)}.~~"

19 **Section 3.** Section 13-37-218, MCA, is amended to read:

20 "13-37-218. Limitations on receipts from political
 21 committees. (1) A candidate for the state senate may receive
 22 no more than \$1,000 in total combined monetary contributions
 23 from all political committees contributing to his campaign,
 24 and a candidate for the state house of representatives may
 25 receive no more than \$600 in total combined monetary

1 contributions from all political committees contributing to
 2 his campaign. The foregoing limitations shall be multiplied
 3 by the inflation factor as defined in ~~15-30-101(8)~~
 4 subsection (2) for the year in which general elections are
 5 held after 1984; the resulting figure shall be rounded off
 6 to the nearest \$50 increment. The commissioner of political
 7 practices shall publish the revised limitations as a rule.
 8 In-kind contributions may not be included in computing these
 9 limitation totals. The limitation provided in this section
 10 does not apply to contributions made by a political party
 11 eligible for a primary election under 13-10-601.

12 (2) As used in this section, "inflation factor" means a
 13 number determined for each year by dividing the consumer
 14 price index for June of the year by the consumer price index
 15 for June of 1980."

16 **Section 4.** Section 13-37-303, MCA, is amended to read:

17 **"13-37-303. Donation by taxpayer.** (1) An individual
 18 whose withheld income tax or payment of estimated tax
 19 exceeds by more than \$1 his income tax liability for the
 20 taxable year may donate \$1 to be paid to the fund. In the
 21 case of a joint return, ~~as provided in 15-30-142,~~ of a
 22 husband and wife having an income tax overpayment as defined
 23 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
 24 paid to the fund.

25 (2) An individual with an unpaid tax liability may at

1 the time of payment donate an extra \$1 to be paid to the
 2 fund.

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

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

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

12 ~~(1) "Base-year-structure" means the following elements~~
 13 ~~of the income tax structure:~~

14 ~~(a) the tax brackets established in 15-30-103, but~~
 15 ~~unadjusted by subsection (2) of 15-30-103, in effect on June~~
 16 ~~30 of the taxable year;~~

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

20 ~~(c) the maximum standard deduction provided in~~
 21 ~~15-30-122, but unadjusted by subsection (2) of 15-30-122, in~~
 22 ~~effect on June 30 of the taxable year;~~

23 ~~(2) "Consumer price index" means the consumer price~~
 24 ~~index, United States city average, for all items, using the~~
 25 ~~1967 base of 100 as published by the bureau of labor~~

1 ~~statistics-of-the-U-S-department-of-labor-~~

2 ~~(3)(1) "Department" means the department of revenue.~~

3 ~~(4)--"Dividend"--means--any--distribution--made---by---a~~

4 ~~corporation---out---of---its--earnings--or--profits--to---its~~

5 ~~shareholders--or--members,--whether--in--cash--or--in--other~~

6 ~~property--or--in--stock--of--the--corporation,--other--than--stock~~

7 ~~dividends--as--herein--defined,--"Stock-dividends"--means--new~~

8 ~~stock--issued,--for--surplus--or--profits--capitalized,--to~~

9 ~~shareholders--in--proportion--to--their--previous--holdings-~~

10 ~~(5)(2) "Fiduciary" means a guardian, trustee, executor,~~

11 ~~administrator, receiver, conservator, or any person, whether~~

12 ~~individual or corporate, acting in any fiduciary capacity~~

13 ~~for any person, trust, or estate.~~

14 ~~(6)(3) "Foreign country" or "foreign government" means~~

15 ~~any jurisdiction other than the one embraced within the~~

16 ~~United States, its territories and possessions.~~

17 ~~(7)--"Gross-income"--means--the--taxpayer's--gross--income~~

18 ~~for--federal--income--tax--purposes--as--defined--in--section--61--of~~

19 ~~the--Internal--Revenue--Code--of--1954--or--as--that--section--may--be~~

20 ~~labeled--or--amended,--excluding--unemployment--compensation~~

21 ~~included--in--federal--gross--income--under--the--provisions--of~~

22 ~~section--85--of--the--Internal--Revenue--Code--of--1954--as--amended-~~

23 ~~(8)--"Inflation-factor"--means--a--number--determined--for~~

24 ~~each--taxable--year--by--dividing--the--consumer--price--index--for~~

25 ~~June--of--the--taxable--year--by--the--consumer--price--index--for~~

1 ~~June--1980-~~

2 ~~(4) "Individual" means a natural person, whether~~

3 ~~married or unmarried, adult or minor, subject to payment of~~

4 ~~an income tax under the Internal Revenue Code.~~

5 ~~(9)(5) "Information agents" includes all individuals,~~

6 ~~corporations, associations, and partnerships, in whatever~~

7 ~~capacity acting, including lessees or mortgagors of real or~~

8 ~~personal property, fiduciaries, brokers, real estate~~

9 ~~brokers, employers, and all officers and employees of the~~

10 ~~state or of any municipal corporation or political~~

11 ~~subdivision of the state, having the control, receipt,~~

12 ~~custody, disposal, or payment of interest, rent, salaries,~~

13 ~~wages, premiums, annuities, compensations, remunerations,~~

14 ~~emoluments, or other fixed or determinable annual or~~

15 ~~periodical gains, profits, and income with respect to which~~

16 ~~any person or fiduciary is taxable under this chapter.~~

17 ~~(10)--"Knowingly"--is--as--defined--in--45-2-101-~~

18 ~~(11)--"Net-income"--means--the--adjusted--gross--income--of--a~~

19 ~~taxpayer--less--the--deductions--allowed--by--this--chapter-~~

20 ~~(12)--"Paid",--for--the--purposes--of--the--deductions--and~~

21 ~~credits--under--this--chapter,--means--paid--or--accrued--or--paid--or~~

22 ~~incurred,--and--the--terms--"paid--or--incurred"--and--"paid--or~~

23 ~~accrued"--shall--be--construed--according--to--the--method--of~~

24 ~~accounting--upon--the--basis--of--which--the--taxable--income--is~~

25 ~~computed--under--this--chapter-~~

~~{13}~~ "Purpose" is as defined in 45-2-101.

~~{14}~~ "Received" for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(6) "Internal Revenue Code" means the Internal Revenue Code of 1954, redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as that code may be amended from time to time by the United States congress. It is the specific intent of the legislature that all amendments by the United States congress must be incorporated into the context of any section of Title 15 referring to the Internal Revenue Code.

(7) "MONTANA ADJUSTED GROSS INCOME" MEANS THE AMOUNT OF INCOME A NONRESIDENT OR PART-YEAR RESIDENT RECEIVES FROM SOURCES WITHIN MONTANA. THE TERM DOES NOT INCLUDE INCOME EXEMPTED FROM STATE TAXATION UNDER THE LAWS OR CONSTITUTION OF THE UNITED STATES.

{7}{8} "Person" means an individual, a trust or estate, or a partnership.

~~{15}{10}~~ (9) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of

Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~{16}~~ "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~{17}{9}{10}~~ "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~{18}{10}{11}~~ "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

NEW SECTION. Section 6. State income tax as percentage of federal. (1) A state income tax is imposed and must be paid and collected for each taxable year upon:

(a) the ~~federal~~ adjusted FEDERAL taxable income derived from sources within and outside Montana of each resident and fiduciary required to make a return and pay federal income taxes under the Internal Revenue Code; and

(b) the ~~federal~~ adjusted FEDERAL taxable income derived from sources within Montana of each nonresident and fiduciary required to make a return and pay federal income taxes under the Internal Revenue Code.

(2) "~~Federal-adjusted~~ ADJUSTED FEDERAL taxable income" means the taxpayer's taxable income, as determined for

1 federal income taxes under the provisions of the Internal
2 Revenue Code, with the following additional deductions:

3 (a) income--earned-by-an-enrolled-member-of-a-federally
4 recognized-Indian-tribe-during-the-time-he--both--lives--and
5 works-on-a-reservation;

6 (b)--Montana-income-tax-refunds-or-credits;

7 (c)--interest--income--from--obligations--of--the-United
8 States-government-to-the-extent-the-income--is--exempt--from
9 state-income-tax-under-federal-law,-and

10 (d)--military-combat-pay-received-by-a-Montana-resident-
11 INCOME EXEMPTED FROM STATE TAXATION UNDER THE LAWS OR
12 CONSTITUTION OF THE UNITED STATES MAY BE DEDUCTED.

13 (3)(B) A shareholder of a corporation for which the
14 election provided for under subchapter S. of the Internal
15 Revenue Code is in effect but for which the election
16 provided under 15-31-202 is not in effect may deduct from
17 his federal taxable income any part of the corporation's
18 undistributed taxable income, net operating loss, capital or
19 other gains, profits, or losses required to be included in
20 the shareholder's federal taxable income by reason of the
21 election under subchapter S. However, to the shareholder's
22 federal taxable income must be added distributions received
23 from the corporation to the extent the distributions would
24 be treated as taxable dividends if the subchapter S.
25 election were not in effect.

1 (4)--Nonresidents-taking-any-of-the-deductions-listed-in
2 subsection-(2)-may-claim-only-that--percentage--of--itemized
3 deductions-and-the-personal-exemption-deduction-allowed-from
4 federal--adjusted--gross--income--that--the--percentage--of
5 adjusted-gross-income-earned--from--sources--within--Montana
6 bears-to-the-taxpayer's-federal-adjusted-gross-income;

7 (5)--If--a-taxpayer's-federal-adjusted-taxable-income-is
8 adjusted-for-state-income-tax-purposes-to-include-any-of-the
9 additional-deductions-or-modifications--of--subsections--(2)
10 through--(4)--and--15-30-107--and--15-30-127,-the-taxpayer's
11 federal-income-tax-liability--must--be--recomputed--on--this
12 adjusted--figure--to--allow--the-state-income-tax-rate-to-be
13 applied-against-it-

14 (3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), A
15 NONRESIDENT'S FEDERAL INCOME TAX LIABILITY FOR PURPOSES OF
16 DETERMINING HIS STATE INCOME TAX LIABILITY PURSUANT TO
17 [SECTION 7] IS THE TAXPAYER'S FEDERAL TAX LIABILITY
18 MULTIPLIED BY THE PERCENTAGE DERIVED FROM DIVIDING THE
19 TAXPAYER'S MONTANA ADJUSTED GROSS INCOME BY THE TAXPAYER'S
20 FEDERAL ADJUSTED GROSS INCOME.

21 (B) IF A NONRESIDENT'S FEDERAL ADJUSTED GROSS INCOME IS
22 ZERO OR A LOSS, THEN HIS FEDERAL INCOME TAX LIABILITY FOR
23 PURPOSES OF DETERMINING HIS STATE INCOME TAX LIABILITY
24 PURSUANT TO [SECTION 7] IS THE FULL AMOUNT OF HIS FEDERAL
25 TAX LIABILITY.

1 NEW SECTION. Section 7. Rate of tax. ~~THE RATE OF STATE~~
 2 ~~income tax is 32% of a taxpayer's federal income tax~~
 3 ~~liability, excluding the self-employment tax imposed under~~
 4 ~~section 1401, Internal Revenue Code, adjusted as provided in~~
 5 ~~(section 6(5)).~~ (1) THE RATE OF STATE INCOME TAX IS 30% OF
 6 THE SUM OF A TAXPAYER'S FEDERAL INCOME TAX LIABILITY LESS
 7 FEDERAL CREDITS.

8 (2) IF A TAXPAYER HAS ADJUSTED HIS FEDERAL TAXABLE
 9 INCOME AS PROVIDED IN [SECTION 6(2)], HE SHALL RECOMPUTE HIS
 10 FEDERAL INCOME TAX LIABILITY, LESS CREDITS, BEFORE APPLYING
 11 THE 30% RATE.

12 (3) A TAXPAYER'S FEDERAL TAX LIABILITY INCLUDES THE TAX
 13 AND PENALTY ON EARLY DISTRIBUTIONS FROM INDIVIDUAL
 14 RETIREMENT ACCOUNTS OR QUALIFIED RETIREMENT PLANS. A
 15 TAXPAYER'S FEDERAL INCOME TAX LIABILITY DOES NOT INCLUDE
 16 SELF-EMPLOYMENT TAX OR THE SOCIAL SECURITY TAX ON TIPS.

17 NEW SECTION. Section 8. Nonresidents -- determination
 18 of in-state income. A nonresident's income from sources
 19 within Montana includes income derived from all property
 20 owned in this state and from every business, trade,
 21 profession, or occupation carried on in this state,
 22 INCLUDING GAIN AND INTEREST RECEIVED FROM THE INSTALLMENT
 23 SALES OF PROPERTY. ~~It does not include income from~~
 24 ~~annuities, interest on bank deposits, interest on notes,~~
 25 ~~bonds, or other interest-bearing obligations, or dividends~~

1 ~~on stock of corporations, except to the extent to which this~~
 2 ~~income is a part of the income derived from a business,~~
 3 ~~trade, profession, or occupation carried on in this state.~~
 4 In the case of a business, trade, profession, or occupation
 5 carried on partly within and partly outside this state by a
 6 nonresident, the income from sources within this state must
 7 be determined by apportionment and allocation under rules
 8 adopted by the department.

9 NEW SECTION. SECTION 9. NONRESIDENT ALTERNATIVE GROSS
 10 RECEIPTS TAX. PURSUANT TO THE PROVISIONS OF ARTICLE III,
 11 SECTION 2, OF THE MULTISTATE TAX COMPACT, EVERY NONRESIDENT
 12 TAXPAYER REQUIRED TO FILE A RETURN AND WHOSE ONLY ACTIVITY
 13 IN MONTANA CONSISTS OF MAKING SALES AND WHO DOES NOT OWN OR
 14 RENT REAL ESTATE OR TANGIBLE PERSONAL PROPERTY WITHIN
 15 MONTANA AND WHOSE ANNUAL GROSS VOLUME OF SALES MADE IN
 16 MONTANA DURING THE TAXABLE YEAR DOES NOT EXCEED \$100,000 MAY
 17 ELECT TO PAY AN INCOME TAX OF 1/2 OF 1% OF THE DOLLAR VOLUME
 18 OF GROSS SALES MADE IN MONTANA DURING THE TAXABLE YEAR. SUCH
 19 TAX SHALL BE IN LIEU OF THE TAX IMPOSED UNDER [SECTION 6].
 20 THE GROSS VOLUME OF SALES MADE IN MONTANA DURING THE TAXABLE
 21 YEAR SHALL BE DETERMINED ACCORDING TO THE PROVISIONS OF
 22 ARTICLE IV, SECTIONS 16 AND 17, OF THE MULTISTATE TAX
 23 COMPACT.

24 NEW SECTION. Section 10. Tax return -- contents. (1)
 25 Each individual, MARRIED COUPLE FILING A JOINT FEDERAL

1 RETURN, or fiduciary mentioned in [section 6(1)] shall file
 2 a return, USING THE SAME FILING STATUS USED TO FILE THE
 3 TAXPAYER'S FEDERAL RETURN, with the department showing:

4 (a) the amount of tax due and payable as reported on
 5 the taxpayer's federal income tax return or as recomputed as
 6 required in [section 6+5+ 7];

7 (b) the amount of tax due under [section 7], less
 8 credits, if any, claimed against the tax;

9 (c) A COMPLETE COPY OF THE FEDERAL INDIVIDUAL INCOME
 10 TAX RETURN AND ALL SUPPORTING SCHEDULES AS FILED, A COPY OF
 11 ANY AMENDED FEDERAL INDIVIDUAL INCOME TAX RETURN FILED, AND
 12 any other information necessary for administration of the
 13 state income tax, as may be prescribed by the department.

14 (2) If a taxpayer is unable to make his own return, an
 15 authorized agent, guardian, or other person charged with the
 16 care of the person or property of the taxpayer shall file
 17 the return.

18 NEW SECTION. Section 11. Payment of state income tax
 19 -- refunds -- interest. (1) A taxpayer required to file a
 20 state income tax return shall compute the amount of state
 21 income tax due and shall, at the time the return is filed,
 22 pay to the department any balance of tax in excess of \$1
 23 remaining unpaid after crediting the amount withheld as
 24 provided under 15-30-202 or any payment of estimated tax as
 25 provided under 15-30-242.

1 (2) AS SOON AS PRACTICABLE AFTER THE CURRENT YEAR'S TAX
 2 RETURN IS FILED, THE DEPARTMENT SHALL EXAMINE AND VERIFY THE
 3 TAX. If the withheld tax or the estimated tax paid exceeds
 4 the state income tax due by more than \$1, the department
 5 shall refund the excess to the taxpayer within 90 days
 6 after receiving the return.

7 (3) IF THE AMOUNT OF TAX DUE IS GREATER THAN THE AMOUNT
 8 PAID, THE DIFFERENCE MUST BE PAID BY THE TAXPAYER TO THE
 9 DEPARTMENT WITHIN 60 DAYS AFTER NOTICE OF THE AMOUNT OF THE
 10 TAX DUE. IF PAYMENT IS MADE AFTER 60 DAYS, INTEREST MUST BE
 11 ADDED AT THE RATE OF 9% PER YEAR ON THE ADDITIONAL TAX. A
 12 PENALTY MAY NOT BE ASSESSED IF THE DEFICIENCY IS PAID WITHIN
 13 60 DAYS AFTER THE FIRST NOTICE OF THE AMOUNT DUE IS MAILED
 14 TO THE TAXPAYER.

15 +3+(4) Except as provided in 15-30-321, interest at a
 16 rate of 9% a year must be added to any state income tax or
 17 portion of tax, from the due date until paid, whether the
 18 taxpayer has been granted a filing extension or not.

19 +4+(5) If a joint return is made by husband and wife,
 20 the liability with respect to the tax is joint and several.

21 SECTION 12. SECTION 15-30-145, MCA, IS AMENDED TO READ:

22 *15-30-145. Revision of return by department --
 23 examination of records and persons. (1) If, in the opinion
 24 of the department, any return of a taxpayer is in any
 25 essential respect incorrect, it may revise such return. The

1 department may revise the return to determine the taxpayer's
 2 correct federal taxable income regardless of whether the
 3 internal revenue service has revised the taxpayer's reported
 4 federal taxable income. If any taxpayer fails to make return
 5 as herein required, the department is authorized to make an
 6 estimate of the taxable income of such taxpayer from any
 7 information in its possession and to audit and state an
 8 account according to such return or the estimate so made by
 9 it for the taxes, penalties, and interest due the state from
 10 such taxpayer. Except in the case of a person who, with
 11 intent to evade the tax, purposely or knowingly files a
 12 false or fraudulent return violating the provisions of this
 13 chapter, the amount of tax due under any return shall be
 14 determined by the department within 5 years after the return
 15 was made and the department thereafter shall be barred from
 16 revising any such returns or recomputing the tax due
 17 thereon, and no proceeding in court for the collection of
 18 such tax shall be instituted after the expiration of said
 19 period, notwithstanding the provisions of 15-30-322. The
 20 department may revise the return to determine the taxpayer's
 21 correct federal taxable income within 5 years after the
 22 return was made regardless of whether the federal statute of
 23 limitations has run. In the case of a person who, with
 24 intent to evade the tax, purposely or knowingly files a
 25 false or fraudulent return violating the provisions of this

1 chapter, the amount of tax due may be determined at any time
 2 after the return is filed and the tax may be collected at
 3 any time after it becomes due and, where no return has been
 4 filed, the tax may be assessed at any time.

5 (2) The department, for the purpose of ascertaining the
 6 correctness of any return or for the purpose of making an
 7 estimate of taxable income of any person where information
 8 has been obtained, may also examine or cause to have
 9 examined by any agent or representative designated by it for
 10 that purpose any books, papers, or records of memoranda
 11 bearing upon the matters required to be included in the
 12 return and may require the attendance of the person
 13 rendering the return or any officer or employee of such
 14 person or the attendance of any person having knowledge in
 15 the premises and may take testimony and require proof
 16 material for its information, with power to administer oaths
 17 to such person or persons. The department may exercise this
 18 power regardless of whether the internal revenue service has
 19 revised the taxpayer's reported federal taxable income and
 20 regardless of whether the federal statute of limitations has
 21 run."

22 **SECTION 13. SECTION 15-30-149, MCA, IS AMENDED TO READ:**
 23 "15-30-149. Credits and refunds -- period of
 24 limitations. (1) If the department discovers from the
 25 examination of a return or upon claim duly filed by a

1 taxpayer or upon final judgment of a court that the amount
 2 of income tax collected is in excess of the amount due or
 3 that any penalty or interest was erroneously or illegally
 4 collected, the amount of the overpayment shall be credited
 5 against any income tax, penalty, or interest then due from
 6 the taxpayer and the balance of such excess shall be
 7 refunded to the taxpayer.

8 (2) (a) A credit or refund under the provisions of this
 9 section may be allowed only if, prior to the expiration of
 10 the period provided by 15-30-145 and by 15-30-146 during
 11 which the department may determine tax liability, the
 12 taxpayer files a claim or the department determines there
 13 has been an overpayment.

14 (b) If an overpayment of tax results from a net
 15 operating loss carryback, the overpayment may be refunded or
 16 credited within the period that expires on the 15th day of
 17 the 40th month following the close of the taxable year of
 18 the net operating loss if that period expires later than 5
 19 years from the due date of the return for the year to which
 20 the net operating loss is carried back.

21 (3) Within 6 months after an amended return, a
 22 delinquent return, or a claim for refund is filed, the
 23 department shall examine said the return or claim and either
 24 approve or disapprove it. If said the return or claim is
 25 approved, the credit or refund shall be made to the taxpayer

1 within 60 days after the claim is approved; if the return or
 2 claim is disallowed, the department shall so notify the
 3 taxpayer and shall grant a hearing thereon upon proper
 4 application by the taxpayer. If the department disapproves a
 5 claim for refund, review of the determination of the
 6 department may be had as otherwise provided in this chapter.

7 (4) Except as hereinafter provided for, interest shall
 8 be allowed on overpayments at the same rate as is charged on
 9 delinquent taxes due from the due date of the return or from
 10 the date of the overpayment (whichever date is later) to the
 11 date the department approves refunding or crediting of the
 12 overpayment. With respect to tax paid by withholding or by
 13 estimate, the date of overpayment shall be deemed to be the
 14 date on which the return for the taxable year was due. No
 15 interest shall accrue on an overpayment if the taxpayer
 16 elects to have it applied to his estimated tax for the
 17 succeeding taxable year, nor shall interest accrue during
 18 any period the processing of a return or claim for refund is
 19 delayed more than 30 days by reason of failure of the
 20 taxpayer to furnish information requested by the department
 21 for the purpose of verifying the amount of the overpayment.
 22 No interest shall be allowed if:

23 (a) the overpayment is refunded within 6 months from
 24 the date the return is due or the date the return is filed,
 25 whichever date is later;

1 (b) the overpayment results from the carryback of a net
2 operating loss; or

3 (c) the amount of interest is less than \$1.

4 (5) An overpayment not made incident to a bona fide and
5 orderly discharge of an actual income tax liability or one
6 reasonably assumed to be imposed by this law shall not be
7 considered an overpayment with respect to which interest is
8 allowable."

9 **Section 14.** Section 15-30-128, MCA, is amended to read:

10 **"15-30-128. Credit for expense of caring for certain**
11 **elderly family members.** (1) There is a credit against the
12 tax imposed by this chapter for qualified elderly care
13 expenses paid by an individual for the care of a qualifying
14 family member during the taxable year.

15 (2) A qualifying family member is an individual who:

16 (a) is related to the taxpayer by blood or marriage;

17 (b) (i) is at least 70 years of age; or

18 (ii) is diagnosed by a physician as having senile
19 dementia of the Alzheimer type; and

20 (c) has a family income of \$15,000 or less for the
21 taxable year.

22 (3) For purposes of this section, "family income"
23 means, in the case of an individual who is not married, the
24 federal adjusted gross income of the individual or, in the
25 case of a married individual, the federal adjusted gross

1 income of the individual and the individual's spouse.

2 (4) Qualified elderly care expenses include:

3 (a) payments by the taxpayer for home health agency
4 services provided by an organization certified by the
5 federal health care financing administration, homemaker
6 services, adult day care, respite care, or health-care
7 equipment and supplies:

8 (i) provided to the qualifying family member;

9 (ii) provided by an organization or individual not
10 related to the taxpayer or the qualifying family member; and

11 (iii) not compensated for by insurance or otherwise;

12 (b) subject to the limitations in subsection (4)(a),
13 payments by the taxpayer for nursing home care of an
14 individual who is diagnosed by a physician as having senile
15 dementia of the Alzheimer type.

16 (5) The percentage amount of credit allowable under
17 this section is:

18 (a) for a taxpayer whose federal adjusted gross income
19 does not exceed \$25,000, 30% of qualified elderly care
20 expenses; or

21 (b) for a taxpayer whose federal adjusted gross income
22 exceeds \$25,000, the greater of:

23 (i) 20% of qualified elderly care expenses; or

24 (ii) 30% of qualified elderly care expenses, less 1% for
25 each \$2,000 or fraction thereof by which the federal

1 adjusted gross income of the taxpayer for the taxable year
2 exceeds \$25,000.

3 (6) The dollar amount of credit allowable under this
4 section is:

5 (a) reduced by \$1 for each dollar of the federal
6 adjusted gross income over \$50,000 for a taxpayer whose
7 federal adjusted gross income exceeds \$50,000;

8 (b) limited to \$5,000 per qualifying family member in a
9 taxable year and to \$10,000 total for two or more family
10 members in a taxable year;

11 (c) prorated among multiple taxpayers who each
12 contribute to qualified elderly care expenses of the same
13 qualified family member in a taxable year in the same
14 proportion that their contributions bear to the total
15 qualified elderly care expenses paid by those taxpayers for
16 that qualified family member.

17 (7) A deduction or credit is not allowed under any
18 other provision of this chapter with respect to any amount
19 for which a credit is allowed under this section. The credit
20 allowed under this section may not be claimed as a carryback
21 or carryforward and may not be refunded if the taxpayer has
22 no tax liability.

23 (8) In the case of a married individual filing a
24 separate return, the percentage amount of credit under
25 subsection (5) and the dollar amount of credit under

1 subsection (6) are limited to one-half of the figures
2 indicated in those subsections."

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

4 "15-30-162. Investment credit. (1) There is allowed as
5 a credit against the tax imposed by ~~15-30-103~~ [section 6] a
6 percentage of the credit allowed with respect to certain
7 depreciable property under section 38 of the Internal
8 Revenue Code of 1954, as amended, or as section 38 may be
9 renumbered or amended. However, rehabilitation costs as set
10 forth under section 46(a)(2)(F) of the Internal Revenue Code
11 ~~of 1954, or as section 46(a)(2)(F) may be renumbered or~~
12 ~~amended,~~ are not to be included in the computation of the
13 investment credit. The credit is allowed for the purchase
14 and installation of certain qualified property defined by
15 section 38 of the Internal Revenue Code ~~of 1954, as amended,~~
16 if the property meets all of the following qualifications:

17 (a) it was placed in service in Montana; and
18 (b) it was used for the production of Montana adjusted
19 gross income.

20 (2) The amount of the credit allowed for the taxable
21 year is 5% of the amount of credit determined under section
22 46(a)(2) of the Internal Revenue Code ~~of 1954, as amended,~~
23 or as section 46(a)(2) may be renumbered or amended.

24 (3) Notwithstanding the provisions of subsection (2),
25 the investment credit allowed for the taxable year may not

1 exceed the taxpayer's tax liability for the taxable year or
2 \$500, whichever is less.

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

17 (5) The investment credit allowed by this section is
18 subject to recapture as provided for in section 47 of the
19 Internal Revenue Code ~~of 1954 as amended, or as section 47~~
20 ~~may be renumbered or amended."~~

21 **Section 16.** Section 15-30-241, MCA, is amended to read:

22 "15-30-241. Declaration of estimated tax. (1) Every
23 Each individual ~~except farmers, ranchers, or stockmen~~ shall,
24 at the time prescribed in subsection (3) ~~of this section,~~
25 make a declaration of his estimated tax for the taxable year

1 if ~~his net income from sources other than wages, salaries,~~
2 ~~bonuses, or other emoluments can reasonably be expected to~~
3 ~~equal or exceed his net income from wages, salaries, bonuses~~
4 ~~or other emoluments, which are subject to withholding~~ he is
5 required to file a declaration of his estimated tax under
6 the provisions of the Internal Revenue Code.

7 (2) In the declaration required under subsection (1) of
8 this section, the individual shall state:

9 (a) the amount which he estimates as the amount of tax
10 under ~~15-30-103~~ [section 7] for the taxable year;

11 (b) the amount which he estimates will be withheld from
12 wages paid by his employer if said individual is an
13 employee;

14 (c) the excess of the amount estimated under subsection
15 (2)(a) over the amount estimated under subsection (2)(b),
16 which excess for purposes of this section shall be
17 considered the estimated tax for the taxable year;

18 (d) such other information as may be prescribed in
19 rules promulgated by the department.

20 (3) The declaration required under subsection (1) ~~of~~
21 ~~this section~~ shall be filed with the department on or before
22 April 15 of the taxable year, except that if the
23 requirements of subsection (1) ~~of this section~~ are first
24 met:

25 (a) after April 1 and before October 1 of the taxable

1 year, the declaration shall be filed on or before October 15
2 of the taxable year;

3 (b) after October 1 of the taxable year, the
4 declaration shall be filed on or before February 15 of the
5 succeeding taxable year.

6 (4) An individual may make amendments of a declaration
7 filed during the taxable year under subsection (3) ~~of--this~~
8 ~~section~~ under rules prescribed by the department.

9 (5) If, on or before February 15 of the succeeding
10 taxable year, the taxpayer files a return for the taxable
11 year for which the declaration is required and pays in full
12 the amount computed on his return as payable, then under
13 rules prescribed by the department:

14 (a) if the declaration is not required to be filed
15 during the taxable year but is required to be filed on or
16 before such February 15, such the return shall for the
17 purposes of this section be considered as such declaration;
18 and

19 (b) if the tax shown on the return is greater than the
20 estimated tax shown in a declaration previously made or in
21 the last amendments thereof, such the return shall for the
22 purposes of this section be considered as the amendment of
23 the declaration permitted by subsection (4) ~~of--this-section~~
24 to be filed on or before such February 15.

25 (6) The department shall promulgate rules governing

1 reasonable extensions of time for filing declarations and
2 paying the estimated tax except in the case of taxpayers who
3 are abroad, and no such extension shall be for more than 6
4 months.

5 (7) If the taxpayer is unable to make his own
6 declaration, the declaration shall be made by a duly
7 authorized agent or by the guardian or other person charged
8 with the care of the person or property of such the
9 taxpayer.

10 (8) Any individual who fails to file a declaration of
11 estimated tax as required by this section is not subject to
12 the penalties set forth in 15-30-321."

13 **Section 17.** Section 15-30-303, MCA, is amended to read:
14 "15-30-303. Confidentiality of tax records. (1) Except
15 in accordance with proper judicial order or as otherwise
16 provided by law, it is unlawful for the department or any
17 deputy, assistant, agent, clerk, or other officer or
18 employee to divulge or make known in any manner the amount
19 of income or any particulars set forth or disclosed in any
20 report or return required under this chapter or any other
21 information secured in the administration of this chapter.
22 It is also unlawful to divulge or make known in any manner
23 any federal return or federal return information disclosed
24 on any return or report required by rule of the department
25 or under this chapter.

1 (2) The officers charged with the custody of such
 2 reports and returns shall not be required to produce any of
 3 them or evidence of anything contained in them in any action
 4 or proceeding in any court, except in any action or
 5 proceeding to which the department is a party under the
 6 provisions of this chapter or any other taxing act or on
 7 behalf of any party to any action or proceedings under the
 8 provisions of this chapter or ~~such~~ the other act when the
 9 reports or facts shown thereby are directly involved in such
 10 action or proceedings, in either of which events the court
 11 may require the production of and may admit in evidence so
 12 much of ~~said~~ the reports or of the facts shown thereby as
 13 are pertinent to the action or proceedings and no more.

14 (3) Nothing herein ~~shall~~ may be construed to prohibit:
 15 (a) the delivery to a taxpayer or his duly authorized
 16 representative of a certified copy of any return or report
 17 filed in connection with his tax;
 18 (b) the publication of statistics so classified as to
 19 prevent the identification of particular reports or returns
 20 and the items thereof; or
 21 (c) the inspection by the attorney general or other
 22 legal representative of the state of the report or return of
 23 any taxpayer who ~~shall~~ may bring action to set aside or
 24 review the tax based thereon or against whom an action or
 25 proceeding has been instituted in accordance with the

1 provisions of 15-30-311 and 15-30-322.

2 (4) Reports and returns ~~shall~~ must be preserved for 3
 3 years and thereafter until the department orders them to be
 4 destroyed.

5 (5) Any offense against subsections (1) through (4) of
 6 ~~this section~~ shall be punished by a fine not exceeding
 7 \$1,000 or by imprisonment in the county jail not exceeding 1
 8 year, or both, at the discretion of the court, and if the
 9 offender ~~be~~ is an officer or employee of the state, he shall
 10 be dismissed from office and be incapable of holding any
 11 public office in this state for a period of 1 year
 12 thereafter.

13 (6) Notwithstanding the provisions of this section, the
 14 department may permit the commissioner of internal revenue
 15 of the United States or the proper officer of any state
 16 imposing a tax upon the incomes of individuals or the
 17 authorized representative of either such officer to inspect
 18 the return of income of any individual or may furnish to
 19 ~~such~~ the officer or his authorized representative an
 20 abstract of the return of income of any individual or supply
 21 him with information concerning any item of income contained
 22 in any return or disclosed by the report of any
 23 investigation of the income or return of income of any
 24 individual, but such permission shall be granted or such
 25 information furnished to such officer or his representative

1 only if the statutes of the United States or of such other
 2 state, as the case may be, grant substantially similar
 3 privileges to the proper officer of this state charged with
 4 the administration of this chapter.

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

7 ~~{a)--to--the--department--of--justice--all--information~~
 8 ~~necessary--to--identify--those--persons--qualifying--for--the~~
 9 ~~additional--exemption--for--blindness--pursuant--to--15-30-112(4),~~
 10 ~~for--the--purpose--of--enabling--the--department--of--justice--to~~
 11 ~~administer--the--provisions--of--61-5-105;~~

12 ~~{b)}(a)~~ to the department of social and rehabilitation
 13 services information acquired under 15-30-301, pertaining to
 14 an applicant for public assistance, reasonably necessary for
 15 the prevention and detection of public assistance fraud and
 16 abuse, provided notice to the applicant has been given;

17 ~~{c)}(b)~~ to the department of fish, wildlife, and parks
 18 specific information that is available from income tax
 19 returns and required under 87-2-102 to establish the
 20 residency requirements of an applicant for hunting and
 21 fishing licenses; and

22 ~~{d)}(c)~~ to the board of regents information required
 23 under 20-26-1111."

24 **Section 18.** Section 15-30-323, MCA, is amended to read:

25 "15-30-323. Penalty for deficiency. (1) If the payment

1 required by ~~15-30-142(6)~~ [section ~~10~~ 11] is not made within
 2 60 days or if the understatement is due to negligence on the
 3 part of the taxpayer but without fraud, there shall be added
 4 to the amount of the deficiency 5% thereof; provided,
 5 however, that no deficiency penalty shall be less than \$2.
 6 Interest will be computed at the rate of 9% per annum or
 7 fraction thereof on the additional assessment. Except as
 8 otherwise expressly provided in this subsection, the
 9 interest shall in all cases be computed from the date the
 10 return and tax were originally due as distinguished from the
 11 due date as it may have been extended to the date of
 12 payment.

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

17 **Section 19.** Section 15-31-131, MCA, is amended to read:

18 "15-31-131. Credit for dependent care assistance. (1)
 19 There is a credit against the taxes otherwise due under this
 20 chapter allowable to an employer for amounts paid or
 21 incurred during the taxable year by the employer for
 22 dependent care assistance actually provided to or on behalf
 23 of an employee if the assistance is furnished by a
 24 registered or licensed day-care provider and pursuant to a
 25 program that meets the requirements of section 89(k) and

1 129(d)(2) through (6) of the Internal Revenue Code.

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

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

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

14 (3) An amount paid or incurred during the taxable year
15 of an employer in providing dependent care assistance to or
16 on behalf of any employee does not qualify for the credit
17 allowed under subsection (1) if the amount was paid or
18 incurred to an individual described in section 129(c)(1) or
19 (2) of the Internal Revenue Code.

20 (4) An amount paid or incurred by an employer to
21 provide dependent care assistance to or on behalf of an
22 employee does not qualify for the credit allowed under
23 subsection (1) if the amount is paid or incurred pursuant to
24 a salary reduction plan or is paid or incurred for services
25 not performed within this state.

1 (5) If the credit allowed under subsection (1) is
2 claimed, the amount of any deduction allowed or allowable
3 under this chapter for the amount that qualifies for the
4 credit (or upon which the credit is based) must be reduced
5 by the dollar amount of the credit allowed. The election to
6 claim a credit allowed under this section must be made at
7 the time of filing the tax return.

8 (6) The amount upon which the credit allowed under
9 subsection (1) is based may not be included in the gross
10 income of the employee to whom the dependent care assistance
11 is provided. However, the amount excluded from the income of
12 an employee under this section may not exceed the
13 limitations provided in section 129(b) of the Internal
14 Revenue Code. For purposes of Title 15, chapter 30, part 2,
15 with respect to an employee to whom dependent care
16 assistance is provided, "wages" does not include any amount
17 excluded under this subsection. ~~Amounts-excluded-under--this~~
18 ~~subsection--do-not-qualify-as-expenses-for-which-a-deduction~~
19 ~~is-allowed-to-the-employee-under-15-30-121.~~

20 (7) Any tax credit otherwise allowable under this
21 section that is not used by the taxpayer in a particular
22 year may be carried forward and offset against the
23 taxpayer's tax liability for the next succeeding tax year.
24 Any credit remaining unused in the next succeeding tax year
25 may be carried forward and used in the second succeeding tax

1 year, and likewise through the fifth year succeeding the tax
 2 year in which the credit was first allowed or allowable. A
 3 credit may not be carried forward beyond the fifth
 4 succeeding tax year.

5 (8) If the taxpayer is an S corporation, as defined in
 6 section 1361 of the Internal Revenue Code, and the taxpayer
 7 elects to take tax credit relief, the election may be made
 8 on behalf of the corporation's shareholders. A shareholder's
 9 credit must be computed using the shareholder's pro rata
 10 share of the corporation's costs that qualify for the
 11 credit. In all other respects, the effect of the tax credit
 12 applies to the corporation as otherwise provided by law.

13 (9) For purposes of the credit allowed under subsection
 14 (1):

15 (a) ~~The~~ the definitions and special rules contained in
 16 section 129(e) of the Internal Revenue Code apply to the
 17 extent applicable; and

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

20 ~~(c) --"Internal Revenue Code" means the federal--internal~~
 21 ~~Revenue Code as amended and in effect on January 17, 1989."~~

22 **Section 20.** Section 15-31-202, MCA, is amended to read:

23 "15-31-202. Election by small business corporation. (1)
 24 A small business corporation may elect not to be subject to
 25 the taxes imposed by this chapter.

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

3 (a) with respect to the taxable years of the
 4 corporation for which such election is in effect, such
 5 corporation is not subject to the taxes imposed by this
 6 chapter and, with respect to such taxable years and all
 7 succeeding taxable years, the provisions of this part apply
 8 to such corporation; and

9 (b) with respect to the taxable years of a shareholder
 10 of such corporation in which or with which the taxable years
 11 of the corporation for which such election is in effect end,
 12 the provisions of this part apply to such shareholder, and
 13 with respect to such taxable years and all succeeding
 14 taxable years, the provisions of this part apply to such
 15 shareholder.

16 (3) An election under subsection (1) must be made in
 17 accordance with rules prescribed by the department of
 18 revenue.

19 (4) This election is not effective unless the corporate
 20 net income or loss of such electing corporation is included
 21 in the stockholders' federal adjusted gross taxable income
 22 as defined in ~~15-30-111~~ [section 6].

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

25 **Section 21.** Section 15-32-303, MCA, is amended to read:

1 "15-32-303. Deduction for purchase of Montana produced
 2 organic fertilizer. In addition to all other deductions from
 3 ~~adjusted---gross---individual---income---allowed---in---computing~~
 4 ~~taxable---income---under---Title---15,---chapter---30,---or---from~~ gross
 5 corporate income allowed in computing net income under Title
 6 15, chapter 31, part 1, a taxpayer corporation may deduct
 7 his its expenditures for organic fertilizer produced in
 8 Montana and used in Montana if the expenditure was not
 9 otherwise deducted in computing taxable income."

10 **Section 22.** Section 15-33-106, MCA, is amended to read:

11 "15-33-106. Capital gains -- dividends exempted. Any
 12 capital gains or dividend income realized by ~~an individual~~
 13 or a corporation from an investment in an SBIC organized in
 14 accordance with this part is exempt from taxation under the
 15 provisions of Title 15, ~~chapters 30 and~~ chapter 31."

16 **Section 23.** Section 53-6-111, MCA, is amended to read:

17 "53-6-111. Department charged with general
 18 administration of medical assistance -- adoption of rules to
 19 punish fraud. (1) The department of social and
 20 rehabilitation services is hereby authorized and empowered
 21 to administer and supervise a vendor payment program of
 22 medical assistance under the powers, duties, and functions
 23 provided in chapter 2 of this title, as amended, and as
 24 contemplated by the provisions of Title XIX of the federal
 25 Social Security Act.

1 (2) The department shall adopt rules establishing a
 2 system of penalties and sanctions applicable to providers of
 3 medical assistance services and supplies who engage in
 4 fraudulent, abusive, or improper activities. The department
 5 shall define by rule those activities which are fraudulent,
 6 abusive, or improper.

7 (3) The penalties or sanctions imposed include but are
 8 not limited to:

9 (a) required courses of education in the rules
 10 governing the medicaid program;

11 (b) withholding of payments to offset previous improper
 12 payments to a provider;

13 (c) suspension of payments to a provider pending
 14 resolution of a dispute involving fraudulent, abusive, or
 15 improper activities;

16 (d) suspension of participation in the program for a
 17 specified period of time; and

18 (e) permanent termination of participation in the
 19 medical assistance program.

20 (4) The department is entitled to recover from a
 21 provider all amounts paid as a result of fraudulent,
 22 abusive, or improper activities, together with interest at
 23 the rate set by ~~15-30-142~~ [section 10 11] for tax
 24 deficiencies from the date of such payment.

25 (5) In all cases in which a penalty or sanction may be

1 imposed, a provider is entitled to a hearing under the
2 provisions of Title 2, chapter 4, part 6."

3 **Section 24.** Section 67-11-303, MCA, is amended to read:

4 "67-11-303. Bonds and obligations. (1) An authority may
5 borrow money for any of its corporate purposes and issue its
6 bonds therefor, including refunding bonds, in such form and
7 upon such terms as it may determine, payable out of any
8 revenues of the authority, including revenues derived from:

9 (a) an airport or air navigation facility or
10 facilities;

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

13 (c) grants or contributions from the federal
14 government; or

15 (d) other sources.

16 (2) The bonds may be issued by resolution of the
17 authority, without an election and without any limitation of
18 amount, except that no such bonds may be issued at any time
19 if the total amount of principal and interest to become due
20 in any year on such bonds and on any then outstanding bonds
21 for which revenues from the same source or sources are
22 pledged exceeds the amount of such revenues to be received
23 in that year as estimated in the resolution authorizing the
24 issuance of the bonds. The authority shall take all action
25 necessary and possible to impose, maintain, and collect

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

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

13 (4) Bonds issued by an authority or municipality
14 pursuant to the provisions of this chapter are declared to
15 be issued for an essential public and governmental purpose
16 by a political subdivision ~~within---the---meaning---of~~
17 ~~15-30-111(2)(a)~~ section-6(2)(c).

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

1 prior to the payment of current costs of operation and
2 maintenance of the facilities.

3 (6) Subject to the conditions stated in this subsection
4 (6), the governing body of any municipality having a
5 population in excess of 10,000, with respect to bonds issued
6 pursuant to this chapter by the municipality or by an
7 authority in which the municipality is included, may by
8 resolution covenant that in the event that at any time all
9 revenues, including taxes, appropriated and collected for
10 such bonds are insufficient to pay principal or interest
11 then due, it will levy a general tax upon all of the taxable
12 property in the municipality for the payment of such
13 deficiency; and may further covenant that at any time a
14 deficiency is likely to occur within 1 year for the payment
15 of principal and interest due on such bonds, it will levy a
16 general tax upon all the taxable property in the
17 municipality for the payment of such deficiency, and such
18 taxes are not subject to any limitation of rate or amount
19 applicable to other municipal taxes but are limited to a
20 rate estimated to be sufficient to produce the amount of the
21 deficiency. In the event more than one municipality having a
22 population in excess of 10,000 is included in an authority
23 issuing bonds pursuant to this chapter, the municipalities
24 may apportion the obligation to levy taxes for the payment
25 of, or in anticipation of, a deficiency in the revenues

1 appropriated for such bonds in such manner as the
2 municipalities may determine. The resolution shall state the
3 principal amount and purpose of the bonds and the substance
4 of the covenant respecting deficiencies. No such resolution
5 becomes effective until the question of its approval has
6 been submitted to the qualified electors of the municipality
7 at a special election called for that purpose by the
8 governing body of the municipality and a majority of the
9 electors voting on the question have voted in favor thereof.
10 The notice and conduct of the election is governed, to the
11 extent applicable, as provided for municipal general
12 obligation bonds in Title 7, chapter 7, part 42, for an
13 election called by cities and towns, and as provided for
14 county general obligation bonds in Title 7, chapter 7, part
15 22, for an election called by counties. If a majority of the
16 electors voting thereon vote against approval of the
17 resolution, the municipality has no authority to make the
18 covenant or to levy a tax for the payment of deficiencies
19 pursuant to this section, but such municipality or authority
20 may nevertheless issue bonds under this chapter payable
21 solely from the sources referred to in subsection (1)
22 above."

23 **Section 25.** Section 19-3-105, MCA, is amended to read:
24 "19-3-105. **Exemption from taxes-and legal process.** The
25 right of a person to a retirement allowance or any other

1 benefit under this chapter and the moneys in the fund
2 created under this chapter is not:

3 {1} subject to execution, garnishment, attachment, or
4 any other process;

5 {2} ~~subject to state, county, or municipal taxes except~~
6 ~~for a refund paid under 19-3-703 of a member's contributions~~
7 ~~picked up by an employer after June 30, 1985, as provided in~~
8 ~~19-3-701 or~~

9 {3} or assignable except as in this chapter
10 specifically provided."

11 **Section 26.** Section 19-4-706, MCA, is amended to read:

12 "19-4-706. **Exemption from taxation and legal process.**

13 The pensions, annuities, or any other benefits accrued or
14 accruing to any person under the provisions of the
15 retirement system and the accumulated contributions and cash
16 and securities in the various funds of the retirement system
17 are:

18 {1} ~~exempted from any state, county, or municipal tax~~
19 ~~of the state of Montana except for a withdrawal paid under~~
20 ~~19-4-603 of a member's contributions picked up by an~~
21 ~~employer after June 30, 1985, as provided in 19-4-602;~~

22 {2} not subject to execution, garnishment, attachment
23 by trustee process or otherwise, in law or equity, or any
24 other process; and

25 {3} unassignable except as specifically provided in

1 this chapter."

2 **Section 27.** Section 19-5-704, MCA, is amended to read:

3 "19-5-704. **Exemption from taxes and legal process.** Any
4 money received or to be paid as a member's annuity, state
5 annuity, or return of deductions or the right of any of
6 these ~~shall be~~ is exempt from any ~~state or municipal tax and~~
7 ~~from~~ levy, sale, garnishment, attachment, or any other
8 process whatsoever and ~~shall be~~ is unassignable except as
9 specifically provided in 19-5-705."

10 **Section 28.** Section 19-6-705, MCA, is amended to read:

11 "19-6-705. **Exemption from taxes and legal process.** Any
12 money received or to be paid as a member's annuity, state
13 annuity, or return of deductions or the right of any of
14 these ~~is:~~

15 {1} ~~exempt from any state, county, or municipal tax~~
16 ~~except for a refund paid under 19-6-403 of a member's~~
17 ~~contributions picked up by an employer after June 30, 1985,~~
18 ~~as provided in 19-6-402;~~

19 {2} exempt from levy, sale, garnishment, attachment, or
20 any other process; and

21 {3} is unassignable except as specifically provided in
22 19-6-706."

23 **Section 29.** Section 19-7-705, MCA, is amended to read:

24 "19-7-705. **Exemption from taxes and legal process.** Any
25 money received or to be paid as a member's annuity, state

1 annuity, or return of deductions or the right of any of
2 these is:

3 ~~{1}--exempt--from--any--state,--county,--or--municipal--tax~~
4 ~~except--for--a--refund--paid--under--19-7-304{1}--of--a--member's~~
5 ~~contributions--picked-up-by-an-employer-after-June-30,--1985,~~
6 ~~as--provided--in--19-7-403,~~

7 {2} exempt from levy, sale, garnishment, attachment, or
8 any other process; and

9 {3} is unassignable except as specifically provided in
10 19-7-706."

11 **Section 30.** Section 19-8-805, MCA, is amended to read:

12 "19-8-805. **Exemption from taxes and legal process.** Any
13 money received or to be paid as a member's annuity, state
14 annuity, or return of deductions or the right of any of
15 these is:

16 ~~{1}--exempt--from--any--state,--county,--or--municipal--tax~~
17 ~~except--for--a--refund--paid--under--19-8-503--of--the--member's~~
18 ~~contributions--picked-up-by-an-employer-after-June-30,--1985,~~
19 ~~as--provided--in--19-8-502,~~

20 {2} exempt from levy, sale, garnishment, attachment, or
21 any other process; and

22 {3} is unassignable except as specifically provided in
23 19-8-806."

24 **Section 31.** Section 19-21-212, MCA, is amended to read:

25 "19-21-212. **Exemption from taxation, legal process, and**

1 assessments. All contracts, benefits, and contributions
2 under the optional retirement program and the earnings
3 thereon are:

4 ~~{1}--exempt--from--any--state,--county,--or--municipal--tax,~~
5 ~~{2}{1}~~ not subject to execution, garnishment,
6 attachment, or other process;

7 ~~{3}{2}~~ not covered or assessable by an insurance
8 guaranty association; and

9 ~~{4}{3}~~ unassignable except as specifically provided in
10 the contracts."

11 **Section 32.** Section 15-30-125, MCA, is amended to read:

12 "15-30-125. **Credit for energy-conserving investments.**
13 (1) There is a credit against tax liability under this
14 chapter as provided in 15-32-109.

15 (2) A temporary resident is allowed the credit allowed
16 a resident under 15-32-109 to the extent the credit was
17 expended in Montana during the during the course of his
18 residency."

19 **NEW SECTION. Section 33. Repealer.** Sections 15-30-103,
20 15-30-105, 15-30-106, 15-30-108, 15-30-110, 15-30-111,
21 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-117,
22 15-30-121, 15-30-122, 15-30-123, 15-30-126, 15-30-131,
23 15-30-132, 15-30-135, 15-30-136, 15-30-137, 15-30-142,
24 15-30-143, 15-30-156, 15-30-157, 19-9-1005, and 19-13-1003,
25 AND 80-12-211, MCA, are repealed.

1 NEW SECTION. Section 34. Codification instruction --
 2 instruction to code commissioner. (1) [Sections 6 through 10
 3 11] are intended to be codified as an integral part of Title
 4 15, chapter 30, part 1, and the provisions of Title 15,
 5 chapter 30, part 1, apply to [sections 6 through 10 11].
 6 (2) The code commissioner is instructed to make changes
 7 throughout the Montana Code Annotated to reflect the change
 8 in definition of "Internal Revenue Code" in 15-30-101.
 9 NEW SECTION. SECTION 35. COORDINATION INSTRUCTION. (1)
 10 IF SENATE BILL NO. 333 IS PASSED AND APPROVED, THEN THE
 11 LANGUAGE IN [SECTION 6(3) OF THIS ACT] IS VOID.
 12 (2) IF SENATE BILL NO. 445 IS PASSED AND APPROVED, THEN
 13 THE APPEAL PROVISIONS CONTAINED IN THAT BILL GOVERN THE
 14 APPEAL PROVISIONS SET FORTH IN [THIS ACT] AND THE 90-DAY
 15 PROVISION IN [SECTION 10 OF THIS ACT] MUST BE CHANGED TO 60
 16 DAYS.
 17 (3) (A) IF SENATE BILL NO. 226 IS NOT PASSED AND
 18 APPROVED, THEN [THIS ACT] IS VOID.
 19 (B) IF SENATE BILL NO. 226 IS PASSED AND APPROVED, THEN
 20 THE FOLLOWING SECTION IS TO BE CODIFIED IN TITLE 15, CHAPTER
 21 30, PART 1, AND THE BRACKETED BLANKS MUST CONTAIN THE DOLLAR
 22 AMOUNT OF THE EXEMPTION THAT APPEARS IN 15-30-111(2)(C) AS
 23 IT READS IN SENATE BILL NO. 226:
 24 "CREDIT FOR QUALIFIED RETIREMENT INCOME. (1) THERE IS A
 25 RETIREMENT INCOME CREDIT AGAINST THE TAX IMPOSED BY THIS

1 CHAPTER FOR THE FIRST [\$] OF QUALIFIED RETIREMENT
 2 INCOME RECEIVED BY A TAXPAYER.
 3 (2) THE AMOUNT OF THE CREDIT AUTHORIZED BY THIS SECTION
 4 IS 4.5% OF THE FIRST [\$] OF QUALIFIED RETIREMENT
 5 INCOME.
 6 (3) INCOME QUALIFIES FOR THE CREDIT UNDER THIS SECTION
 7 IF IT IS RECEIVED BY THE TAXPAYER FROM ANY OF THE FOLLOWING:
 8 (A) THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OR ANY
 9 OTHER FEDERAL RETIREMENT SYSTEM SUBJECT TO FEDERAL INCOME
 10 TAXATION;
 11 (B) THE PUBLIC EMPLOYEE RETIREMENT LAWS OF MONTANA OR
 12 ANOTHER STATE;
 13 (C) AN ANNUITY, PENSION, OR ENDOWMENT UNDER ANY PRIVATE
 14 OR CORPORATE RETIREMENT PLAN OR SYSTEM."
 15 NEW SECTION. Section 36. Saving clause. [This act]
 16 does not affect rights and duties that matured, penalties
 17 that were incurred, or proceedings that were begun before
 18 [the effective date of this act].
 19 NEW SECTION. Section 37. Severability. If a part of
 20 [this act] is invalid, all valid parts that are severable
 21 from the invalid part remain in effect. If a part of [this
 22 act] is invalid in one or more of its applications, the part
 23 remains in effect in all valid applications that are
 24 severable from the invalid applications.
 25 NEW SECTION. Section 38. ~~retroactive~~ applicability

1 APPLICABILITY. [This act] applies ~~retroactively, within the~~
2 ~~meaning of 1-2-1997~~, to taxable years beginning after
3 December 31, ~~1998~~ 1991.

4 NEW SECTION. Section 39. Effective date. [This act] is
5 effective on passage and approval.

-End-

1 HOUSE BILL NO. 996

2 INTRODUCED BY REAM, VAN VALKENBURG, KIMBERLEY, ELLIOTT,
3 DRISCOLL, COHEN, BARNHART

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE EXISTING
6 STATE INDIVIDUAL INCOME TAX AND IMPOSING A STATE INCOME TAX
7 BASED ON A PERCENTAGE OF THE FEDERAL INCOME TAX PAYABLE ON
8 MONTANA TAXABLE INCOME; AMENDING SECTIONS 7-14-1133,
9 7-34-2416, 13-37-218, 13-37-303, 15-30-101, 15-30-125,
10 15-30-128, 15-30-145, 15-30-149, 15-30-162, 15-30-241,
11 15-30-303, 15-30-323, 15-31-131, 15-31-202, 15-32-303,
12 15-33-106, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705,
13 19-8-805, 19-21-212, 53-6-111, AND 67-11-303, MCA; REPEALING
14 SECTIONS 15-30-103, 15-30-105, 15-30-106, 15-30-108,
15 15-30-110, 15-30-111, 15-30-112, 15-30-113, 15-30-114,
16 15-30-115, 15-30-116, 15-30-117, 15-30-121, 15-30-122,
17 15-30-123, 15-30-126, 15-30-131, 15-30-132, 15-30-135,
18 15-30-136, 15-30-137, 15-30-142, 15-30-143, 15-30-156,
19 15-30-157, 19-9-1005, AND 19-13-1003, AND 80-12-211, MCA;
20 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A--RETROACTIVE
21 AN APPLICABILITY DATE."

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

24 **Section 1.** Section 7-14-1133, MCA, is amended to read:

25 "7-14-1133. Bonds and obligations. (1) Except for

1 providing financial support to a private development
2 organization, including a corporation organized under Title
3 32, chapter 4, whose purpose is to advance the economic
4 development of its jurisdiction and of the state and its
5 citizens, an authority may borrow money for any of its
6 corporate purposes and issue bonds therefor, including
7 refunding bonds, in such form and upon such terms as it
8 determines, payable out of any revenues of the authority,
9 including revenues derived from:

10 (a) any port or transportation and storage facility;

11 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;

12 (c) grants or contributions from the federal
13 government; or

14 (d) other sources.

15 (2) The bonds may be issued by resolution of the
16 authority, without an election and without any limitation of
17 amount, except that no bonds may be issued at any time if
18 the total amount of principal and interest to become due in
19 any year on such bonds and on any then outstanding bonds for
20 which revenues from the same source are pledged exceeds the
21 amount of such revenues to be received in that year, as
22 estimated in the resolution authorizing the issuance of the
23 bonds. The authority shall take all action necessary and
24 possible to impose, maintain, and collect rates, charges,
25 rentals, and taxes, if any are pledged, sufficient to make

1 the revenues from the pledged source in such year at least
2 equal to the amount of principal and interest due in that
3 year.

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

12 (4) Bonds issued by an authority, county, or
13 municipality pursuant to the provisions of this part are
14 declared to be issued for an essential public and
15 governmental purpose by a political subdivision ~~within--the~~
16 ~~meaning-of 15-30-111(2)(a) section-6(2)(c)~~.

17 (5) For the security of any such bonds, the authority,
18 county, or municipality may by resolution make and enter
19 into any covenant, agreement, or indenture and may exercise
20 any additional powers authorized to be exercised by a
21 municipality under Title 7, chapter 7, parts 44 and 45. The
22 sums required from time to time to pay principal and
23 interest and to create and maintain a reserve for the bonds
24 may be paid from any revenues referred to in this part,
25 prior to the payment of current costs of operation and

1 maintenance of the facilities.

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

13 **Section 2.** Section 7-34-2416, MCA, is amended to read:
14 "7-34-2416. Tax-exempt status of bonds. Bonds issued by
15 a county pursuant to the provisions of 7-34-2411 through
16 7-34-2418 are declared to be issued for an essential public
17 and governmental purpose by a political subdivision ~~within~~
18 ~~the-meaning-of 15-30-111(2)(a) section-6(2)(c)~~."

19 **Section 3.** Section 13-37-218, MCA, is amended to read:
20 "13-37-218. Limitations on receipts from political
21 committees. (1) A candidate for the state senate may receive
22 no more than \$1,000 in total combined monetary contributions
23 from all political committees contributing to his campaign,
24 and a candidate for the state house of representatives may
25 receive no more than \$600 in total combined monetary

1 contributions from all political committees contributing to
 2 his campaign. The foregoing limitations shall be multiplied
 3 by the inflation factor as defined in ~~15-30-101(8)~~
 4 subsection (2) for the year in which general elections are
 5 held after 1984; the resulting figure shall be rounded off
 6 to the nearest \$50 increment. The commissioner of political
 7 practices shall publish the revised limitations as a rule.
 8 In-kind contributions may not be included in computing these
 9 limitation totals. The limitation provided in this section
 10 does not apply to contributions made by a political party
 11 eligible for a primary election under 13-10-601.

12 (2) As used in this section, "inflation factor" means a
 13 number determined for each year by dividing the consumer
 14 price index for June of the year by the consumer price index
 15 for June of 1980."

16 **Section 4.** Section 13-37-303, MCA, is amended to read:

17 **"13-37-303. Donation by taxpayer.** (1) An individual
 18 whose withheld income tax or payment of estimated tax
 19 exceeds by more than \$1 his income tax liability for the
 20 taxable year may donate \$1 to be paid to the fund. In the
 21 case of a joint return, ~~as provided in 15-30-142~~ of a
 22 husband and wife having an income tax overpayment as defined
 23 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
 24 paid to the fund.

25 (2) An individual with an unpaid tax liability may at

1 the time of payment donate an extra \$1 to be paid to the
 2 fund.

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

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

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

12 (1) ~~"Base-year-structure" means the following elements~~
 13 ~~of the income tax structure:~~

14 (a) ~~the tax brackets established in 15-30-103, but~~
 15 ~~unadjusted by subsection (2) of 15-30-103, in effect on June~~
 16 ~~30 of the taxable year;~~

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

20 (c) ~~the maximum standard deduction provided in~~
 21 ~~15-30-122, but unadjusted by subsection (2) of 15-30-122, in~~
 22 ~~effect on June 30 of the taxable year;~~

23 (2) ~~"Consumer price index" means the consumer price~~
 24 ~~index, United States city average, for all items, using the~~
 25 ~~1967 base of 100 as published by the bureau of labor~~

1 statistics-of-the-U-S-department-of-labor-

2 {3}(1) "Department" means the department of revenue.

3 {4}--"Dividend"--means---any---distribution---made---by---a

4 corporation---out---of---its---earnings---or---profits---to---its

5 shareholders---or---members,---whether---in---cash---or---in---other

6 property---or---in---stock-of-the-corporation,---other-than-stock

7 dividends-as-herein-defined.---"Stock---dividends"--means---new

8 stock---issued,---for---surplus---or---profits---capitalized,---to

9 shareholders-in-proportion-to-their-previous-holdings-

10 {5}(2) "Fiduciary" means a guardian, trustee, executor,

11 administrator, receiver, conservator, or any person, whether

12 individual or corporate, acting in any fiduciary capacity

13 for any person, trust, or estate.

14 {6}(3) "Foreign country" or "foreign government" means

15 any jurisdiction other than the one embraced within the

16 United States, its territories and possessions.

17 {7}--"Gross--income"--means--the--taxpayer's--gross--income

18 for--federal--income--tax--purposes--as--defined--in--section--61--of

19 the--Internal--Revenue--Code--of--1954--or--as--that--section--may--be

20 labeled--or--amended,---excluding---unemployment---compensation

21 included-in-federal-gross-income--under--the--provisions--of

22 section-85-of-the-Internal-Revenue-Code-of-1954-as-amended-

23 {8}--"Inflation--factor"--means--a--number--determined--for

24 each-taxable-year-by-dividing-the-consumer-price--index--for

25 June--of--the--taxable--year--by--the--consumer-price-index--for

1 June,1980-

2 {4) "Individual" means a natural person, whether

3 married or unmarried, adult or minor, subject to payment of

4 an income tax under the Internal Revenue Code.

5 {9}(5) "Information agents" includes all individuals,

6 corporations, associations, and partnerships, in whatever

7 capacity acting, including lessees or mortgagors of real or

8 personal property, fiduciaries, brokers, real estate

9 brokers, employers, and all officers and employees of the

10 state or of any municipal corporation or political

11 subdivision of the state, having the control, receipt,

12 custody, disposal, or payment of interest, rent, salaries,

13 wages, premiums, annuities, compensations, remunerations,

14 emoluments, or other fixed or determinable annual or

15 periodical gains, profits, and income with respect to which

16 any person or fiduciary is taxable under this chapter.

17 {10}--"Knowingly"--is--as--defined--in--45-2-101-

18 {11}--"Net--income"--means--the--adjusted--gross--income--of--a

19 taxpayer--less--the--deductions--allowed--by--this--chapter-

20 {12}--"Paid",---for---the---purposes---of---the---deductions---and

21 credits-under-this-chapter,---means---paid---or---accrued---or---paid---or

22 incurred,---and---the---terms---"paid---or---incurred"--and---"paid---or

23 accrued"--shall---be---construed---according---to---the---method---of

24 accounting---upon---the---basis---of---which---the---taxable---income---is

25 computed-under-this-chapter-

1 ~~{13}~~ "Purpose" is as defined in 45-2-101.

2 ~~{14}~~ "Received", for the purpose of computation of

3 taxable income under this chapter, means received or accrued

4 and the term "received or accrued" shall be construed

5 according to the method of accounting upon the basis of

6 which the taxable income is computed under this chapter.

7 (6) "Internal Revenue Code" means the Internal Revenue

8 Code of 1954, redesignated as the "Internal Revenue Code of

9 1986" by section 2 of Public Law 99-514, as that code may be

10 amended from time to time by the United States congress. It

11 is the specific intent of the legislature that all

12 amendments by the United States congress must be

13 incorporated into the context of any section of Title 15

14 referring to the Internal Revenue Code.

15 (7) "MONTANA ADJUSTED GROSS INCOME" MEANS THE AMOUNT OF

16 INCOME A NONRESIDENT OR PART-YEAR RESIDENT RECEIVES FROM

17 SOURCES WITHIN MONTANA. THE TERM DOES NOT INCLUDE INCOME

18 EXEMPTED FROM STATE TAXATION UNDER THE LAWS OR CONSTITUTION

19 OF THE UNITED STATES.

20 ~~{7}~~(8) "Person" means an individual, a trust or estate,

21 or a partnership.

22 ~~{15}~~~~{8}~~(9) "Resident" applies only to natural persons

23 and includes, for the purpose of determining liability to

24 the tax imposed by this chapter with reference to the income

25 of any taxable year, any person domiciled in the state of

1 Montana and any other person who maintains a permanent place

2 of abode within the state even though temporarily absent

3 from the state and has not established a residence

4 elsewhere.

5 ~~{16}~~ "Taxable income" means the adjusted gross income of

6 a taxpayer less the deductions and exemptions provided for

7 in this chapter.

8 ~~{17}~~~~{9}~~(10) "Taxable year" means the taxpayer's taxable

9 year for federal income tax purposes.

10 ~~{18}~~~~{10}~~(11) "Taxpayer" includes any person or

11 fiduciary, resident or nonresident, subject to a tax imposed

12 by this chapter and does not include corporations."

13 **NEW SECTION. Section 6. State income tax as percentage**

14 **of federal.** (1) A state income tax is imposed and must be

15 paid and collected for each taxable year upon:

16 (a) the federal adjusted FEDERAL taxable income derived

17 from sources within and outside Montana of each resident and

18 fiduciary required to make a return and pay federal income

19 taxes under the Internal Revenue Code; and

20 (b) the federal adjusted FEDERAL taxable income derived

21 from sources within Montana of each nonresident and

22 fiduciary required to make a return and pay federal income

23 taxes under the Internal Revenue Code.

24 (2) "Federal--adjusted ADJUSTED FEDERAL taxable income"

25 means the taxpayer's taxable income, as determined for

federal income taxes under the provisions of the Internal Revenue Code, with the following additional--deductions
ADDITIONS AND DEDUCTIONS:

(a) ~~income earned by an enrolled member of a federally recognized Indian tribe during the time he both lives and works on a reservation;~~

~~(b) Montana income tax refunds or credits;~~

~~(c) interest income from obligations of the United States government to the extent the income is exempt from state income tax under federal law; and~~

~~(d) military combat pay received by a Montana resident.~~

THE FOLLOWING INCOME MUST BE DEDUCTED:

(I) INCOME EXEMPTED FROM STATE TAXATION UNDER THE LAWS OR CONSTITUTION OF THE UNITED STATES MAY BE DEDUCTED;

(II) ALL PAYMENTS UNDER VETERANS BONUS LAWS; AND

(III) THE SALARY RECEIVED FROM THE ARMED FORCES BY RESIDENTS OF MONTANA WHO ARE SERVING ON ACTIVE DUTY IN THE REGULAR ARMED FORCES AND WHO ENTERED INTO ACTIVE DUTY FROM MONTANA.

(3)(B) A shareholder of a corporation for which the election provided for under subchapter S. of the Internal Revenue Code is in effect but for which the election provided under 15-31-202 is not in effect may deduct from his federal taxable income any part of the corporation's undistributed taxable income, net operating loss, capital or

other gains, profits, or losses required to be included in the shareholder's federal taxable income by reason of the election under subchapter S. However, to the shareholder's federal taxable income must be added distributions received from the corporation to the extent the distributions would be treated as taxable dividends if the subchapter S. election were not in effect.

(C) THE FOLLOWING INCOME MUST BE ADDED: INTEREST RECEIVED ON OBLIGATIONS OF ANOTHER STATE, TERRITORY, COUNTY, MUNICIPALITY, DISTRICT, OR OTHER POLITICAL SUBDIVISION THEREOF.

~~(4) Nonresidents taking any of the deductions listed in subsection (2) may claim only that percentage of itemized deductions and the personal exemption deduction allowed from federal adjusted gross income that the percentage of adjusted gross income earned from sources within Montana bears to the taxpayer's federal adjusted gross income.~~

~~(5) If a taxpayer's federal adjusted taxable income is adjusted for state income tax purposes to include any of the additional deductions or modifications of subsections (2) through (4) and 15-30-107 and 15-30-127, the taxpayer's federal income tax liability must be recomputed on this adjusted figure to allow the state income tax rate to be applied against it.~~

(3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), A

1 NONRESIDENT'S FEDERAL INCOME TAX LIABILITY FOR PURPOSES OF
 2 DETERMINING HIS STATE INCOME TAX LIABILITY PURSUANT TO
 3 [SECTION 7] IS THE TAXPAYER'S FEDERAL TAX LIABILITY
 4 MULTIPLIED BY THE PERCENTAGE DERIVED FROM DIVIDING THE
 5 TAXPAYER'S MONTANA ADJUSTED GROSS INCOME BY THE TAXPAYER'S
 6 FEDERAL ADJUSTED GROSS INCOME.

7 (B) IF A NONRESIDENT'S FEDERAL ADJUSTED GROSS INCOME IS
 8 ZERO OR A LOSS, THEN HIS FEDERAL INCOME TAX LIABILITY FOR
 9 PURPOSES OF DETERMINING HIS STATE INCOME TAX LIABILITY
 10 PURSUANT TO [SECTION 7] IS THE FULL AMOUNT OF HIS FEDERAL
 11 TAX LIABILITY.

12 NEW SECTION. Section 7. Rate of tax. THE RATE OF STATE
 13 income tax is 32% of a taxpayer's federal income tax
 14 liability, excluding the self-employment tax imposed under
 15 section 1401, Internal Revenue Code, adjusted as provided in
 16 {section 6(5)}; (1) THE RATE OF STATE INCOME TAX IS 30% OF
 17 THE SUM OF A TAXPAYER'S FEDERAL INCOME TAX LIABILITY LESS
 18 FEDERAL CREDITS.

19 (2) IF A TAXPAYER HAS ADJUSTED HIS FEDERAL TAXABLE
 20 INCOME AS PROVIDED IN [SECTION 6(2)], HE SHALL RECOMPUTE HIS
 21 FEDERAL INCOME TAX LIABILITY, LESS CREDITS, BEFORE APPLYING
 22 THE 30% RATE.

23 (3) A TAXPAYER'S FEDERAL TAX LIABILITY INCLUDES THE TAX
 24 AND PENALTY ON EARLY DISTRIBUTIONS FROM INDIVIDUAL
 25 RETIREMENT ACCOUNTS OR QUALIFIED RETIREMENT PLANS. A

1 TAXPAYER'S FEDERAL INCOME TAX LIABILITY DOES NOT INCLUDE
 2 SELF-EMPLOYMENT TAX OR THE SOCIAL SECURITY TAX ON TIPS.

3 NEW SECTION. Section 8. Nonresidents -- determination
 4 of in-state income. A nonresident's income from sources
 5 within Montana includes income derived from all property
 6 owned in this state and from every business, trade,
 7 profession, or occupation carried on in this state,
 8 INCLUDING GAIN AND INTEREST RECEIVED FROM THE INSTALLMENT
 9 SALES OF PROPERTY. It does not include income from
 10 annuities, interest on bank deposits, interest on notes,
 11 bonds, or other interest-bearing obligations, or dividends
 12 on stock of corporations, except to the extent to which this
 13 income is a part of the income derived from a business,
 14 trade, profession, or occupation carried on in this state.
 15 In the case of a business, trade, profession, or occupation
 16 carried on partly within and partly outside this state by a
 17 nonresident, the income from sources within this state must
 18 be determined by apportionment and allocation under rules
 19 adopted by the department.

20 NEW SECTION. SECTION 9. NONRESIDENT ALTERNATIVE GROSS
 21 RECEIPTS TAX. PURSUANT TO THE PROVISIONS OF ARTICLE III,
 22 SECTION 2, OF THE MULTISTATE TAX COMPACT, EVERY NONRESIDENT
 23 TAXPAYER REQUIRED TO FILE A RETURN AND WHOSE ONLY ACTIVITY
 24 IN MONTANA CONSISTS OF MAKING SALES AND WHO DOES NOT OWN OR
 25 RENT REAL ESTATE OR TANGIBLE PERSONAL PROPERTY WITHIN

1 MONTANA AND WHOSE ANNUAL GROSS VOLUME OF SALES MADE IN
 2 MONTANA DURING THE TAXABLE YEAR DOES NOT EXCEED \$100,000 MAY
 3 ELECT TO PAY AN INCOME TAX OF 1/2 OF 1% OF THE DOLLAR VOLUME
 4 OF GROSS SALES MADE IN MONTANA DURING THE TAXABLE YEAR. SUCH
 5 TAX SHALL BE IN LIEU OF THE TAX IMPOSED UNDER [SECTION 6].
 6 THE GROSS VOLUME OF SALES MADE IN MONTANA DURING THE TAXABLE
 7 YEAR SHALL BE DETERMINED ACCORDING TO THE PROVISIONS OF
 8 ARTICLE IV, SECTIONS 16 AND 17, OF THE MULTISTATE TAX
 9 COMPACT.

10 NEW SECTION. Section 10. Tax return -- contents. (1)

11 Each individual, MARRIED COUPLE FILING A JOINT FEDERAL
 12 RETURN, or fiduciary mentioned in [section 6(1)] shall file
 13 a return, USING THE SAME FILING STATUS USED TO FILE THE
 14 TAXPAYER'S FEDERAL RETURN, with the department showing:

15 (a) the amount of tax due and payable as reported on
 16 the taxpayer's federal income tax return or as recomputed as
 17 required in [section 6(5) 7];

18 (b) the amount of tax due under [section 7], less
 19 credits, if any, claimed against the tax;

20 (c) A COMPLETE COPY OF THE FEDERAL INDIVIDUAL INCOME
 21 TAX RETURN AND ALL SUPPORTING SCHEDULES AS FILED, A COPY OF
 22 ANY AMENDED FEDERAL INDIVIDUAL INCOME TAX RETURN FILED, AND
 23 any other information necessary for administration of the
 24 state income tax, as may be prescribed by the department.

25 (2) If a taxpayer is unable to make his own return, an

1 authorized agent, guardian, or other person charged with the
 2 care of the person or property of the taxpayer shall file
 3 the return.

4 NEW SECTION. Section 11. Payment of state income tax

5 -- refunds -- interest. (1) A taxpayer required to file a
 6 state income tax return shall compute the amount of state
 7 income tax due and shall, at the time the return is filed,
 8 pay to the department any balance of tax in excess of \$1
 9 remaining unpaid after crediting the amount withheld as
 10 provided under 15-30-202 or any payment of estimated tax as
 11 provided under 15-30-242.

12 (2) AS SOON AS PRACTICABLE AFTER THE CURRENT YEAR'S TAX
 13 RETURN IS FILED, THE DEPARTMENT SHALL EXAMINE AND VERIFY THE
 14 TAX. If the withheld tax or the estimated tax paid exceeds
 15 the state income tax due by more than \$1, the department
 16 shall refund the excess to the taxpayer within 30 90 days
 17 after receiving the return.

18 ~~(3) -- IF THE AMOUNT OF TAX DUE IS GREATER THAN THE AMOUNT~~
 19 ~~PAID, THE DIFFERENCE MUST BE PAID BY THE TAXPAYER TO THE~~
 20 ~~DEPARTMENT WITHIN 60 DAYS AFTER NOTICE OF THE AMOUNT OF THE~~
 21 ~~TAX DUE. IF PAYMENT IS MADE AFTER 60 DAYS, INTEREST MUST BE~~
 22 ~~ADDED AT THE RATE OF 9% PER YEAR ON THE ADDITIONAL TAX. A~~
 23 ~~PENALTY MAY NOT BE ASSESSED IF THE DEFICIENCY IS PAID WITHIN~~
 24 ~~60 DAYS AFTER THE FIRST NOTICE OF THE AMOUNT DUE IS MAILED~~
 25 ~~TO THE TAXPAYER.~~

1 (3) IF THE AMOUNT OF TAX DUE IS GREATER THAN THE AMOUNT
 2 PAID, THE DIFFERENCE MUST BE PAID BY THE TAXPAYER TO THE
 3 DEPARTMENT WITHIN 60 DAYS AFTER NOTICE OF THE AMOUNT OF THE
 4 TAX AS COMPUTED, WITH INTEREST ADDED AT THE RATE OF 9% PER
 5 YEAR OR FRACTION THEREOF ON THE ADDITIONAL TAX. IN SUCH
 6 CASE, THERE MAY BE NO PENALTY BECAUSE OF THE UNDERPAYMENT,
 7 PROVIDED THE DEFICIENCY IS PAID WITHIN 60 DAYS AFTER THE
 8 FIRST NOTICE OF THE AMOUNT IS MAILED TO THE TAXPAYER.

9 ~~(3)~~(4) Except as provided in 15-30-321, interest at a
 10 rate of 9% a year must be added to any state income tax or
 11 portion of tax, from the due date until paid, whether the
 12 taxpayer has been granted a filing extension or not.

13 ~~(4)~~(5) If a joint return is made by husband and wife,
 14 the liability with respect to the tax is joint and several.

15 **SECTION 12. SECTION 15-30-145, MCA, IS AMENDED TO READ:**

16 "15-30-145. Revision of return by department --
 17 examination of records and persons. (1) If, in the opinion
 18 of the department, any return of a taxpayer is in any
 19 essential respect incorrect, it may revise such return. The
 20 department may revise the return to determine the taxpayer's
 21 correct federal taxable income regardless of whether the
 22 internal revenue service has revised the taxpayer's reported
 23 federal taxable income. If any taxpayer fails to make return
 24 as herein required, the department is authorized to make an
 25 estimate of the taxable income of such taxpayer from any

1 estimate of the taxable income of such taxpayer from any
 2 information in its possession and to audit and state an
 3 account according to such return or the estimate so made by
 4 it for the taxes, penalties, and interest due the state from
 5 such taxpayer. Except in the case of a person who, with
 6 intent to evade the tax, purposely or knowingly files a
 7 false or fraudulent return violating the provisions of this
 8 chapter, the amount of tax due under any return shall be
 9 determined by the department within 5 years after the return
 10 was made and the department thereafter shall be barred from
 11 revising any such returns or recomputing the tax due
 12 thereon, and no proceeding in court for the collection of
 13 such tax shall be instituted after the expiration of said
 14 period, notwithstanding the provisions of 15-30-322. The
 15 department may revise the return to determine the taxpayer's
 16 correct federal taxable income within 5 years after the
 17 return was made regardless of whether the federal statute of
 18 limitations has run. In the case of a person who, with
 19 intent to evade the tax, purposely or knowingly files a
 20 false or fraudulent return violating the provisions of this
 21 chapter, the amount of tax due may be determined at any time
 22 after the return is filed and the tax may be collected at
 23 any time after it becomes due and, where no return has been
 24 filed, the tax may be assessed at any time.

25 (2) The department, for the purpose of ascertaining the

1 correctness of any return or for the purpose of making an
 2 estimate of taxable income of any person where information
 3 has been obtained, may also examine or cause to have
 4 examined by any agent or representative designated by it for
 5 that purpose any books, papers, or records of memoranda
 6 bearing upon the matters required to be included in the
 7 return and may require the attendance of the person
 8 rendering the return or any officer or employee of such
 9 person or the attendance of any person having knowledge in
 10 the premises and may take testimony and require proof
 11 material for its information, with power to administer oaths
 12 to such person or persons. The department may exercise this
 13 power regardless of whether the internal revenue service has
 14 revised the taxpayer's reported federal taxable income and
 15 regardless of whether the federal statute of limitations has
 16 run."

17 **SECTION 13. SECTION 15-30-149, MCA, IS AMENDED TO READ:**

18 "15-30-149. Credits and refunds -- period of
 19 limitations. (1) If the department discovers from the
 20 examination of a return or upon claim duly filed by a
 21 taxpayer or upon final judgment of a court that the amount
 22 of income tax collected is in excess of the amount due or
 23 that any penalty or interest was erroneously or illegally
 24 collected, the amount of the overpayment shall be credited
 25 against any income tax, penalty, or interest then due from

1 the taxpayer and the balance of such excess shall be
 2 refunded to the taxpayer.

3 (2) (a) A credit or refund under the provisions of this
 4 section may be allowed only if, prior to the expiration of
 5 the period provided by 15-30-145 and by 15-30-146 during
 6 which the department may determine tax liability, the
 7 taxpayer files a claim or the department determines there
 8 has been an overpayment.

9 (b) If an overpayment of tax results from a net
 10 operating loss carryback, the overpayment may be refunded or
 11 credited within the period that expires on the 15th day of
 12 the 40th month following the close of the taxable year of
 13 the net operating loss if that period expires later than 5
 14 years from the due date of the return for the year to which
 15 the net operating loss is carried back.

16 (3) Within 6 months after an amended return, a
 17 delinquent return, or a claim for refund is filed, the
 18 department shall examine said the return or claim and either
 19 approve or disapprove it. If said the return or claim is
 20 approved, the credit or refund shall be made to the taxpayer
 21 within 60 days after the claim is approved; if the return or
 22 claim is disallowed, the department shall so notify the
 23 taxpayer and shall grant a hearing thereon upon proper
 24 application by the taxpayer. If the department disapproves a
 25 claim for refund, review of the determination of the

1 department may be had as otherwise provided in this chapter.

2 (4) Except as hereinafter provided for, interest shall
3 be allowed on overpayments at the same rate as is charged on
4 delinquent taxes due from the due date of the return or from
5 the date of the overpayment (whichever date is later) to the
6 date the department approves refunding or crediting of the
7 overpayment. With respect to tax paid by withholding or by
8 estimate, the date of overpayment shall be deemed to be the
9 date on which the return for the taxable year was due. No
10 interest shall accrue on an overpayment if the taxpayer
11 elects to have it applied to his estimated tax for the
12 succeeding taxable year, nor shall interest accrue during
13 any period the processing of a return or claim for refund is
14 delayed more than 30 days by reason of failure of the
15 taxpayer to furnish information requested by the department
16 for the purpose of verifying the amount of the overpayment.
17 No interest shall be allowed if:

18 (a) the overpayment is refunded within 6 months from
19 the date the return is due or the date the return is filed,
20 whichever date is later;

21 (b) the overpayment results from the carryback of a net
22 operating loss; or

23 (c) the amount of interest is less than \$1.

24 (5) An overpayment not made incident to a bona fide and
25 orderly discharge of an actual income tax liability or one

1 reasonably assumed to be imposed by this law shall not be
2 considered an overpayment with respect to which interest is
3 allowable."

4 **Section 14.** Section 15-30-128, MCA, is amended to read:

5 "15-30-128. Credit for expense of caring for certain
6 elderly family members. (1) There is a credit against the
7 tax imposed by this chapter for qualified elderly care
8 expenses paid by an individual for the care of a qualifying
9 family member during the taxable year.

10 (2) A qualifying family member is an individual who:

11 (a) is related to the taxpayer by blood or marriage;

12 (b) (i) is at least 70 years of age; or

13 (ii) is diagnosed by a physician as having senile
14 dementia of the Alzheimer type; and

15 (c) has a family income of \$15,000 or less for the
16 taxable year.

17 (3) For purposes of this section, "family income"
18 means, in the case of an individual who is not married, the
19 federal adjusted gross income of the individual or, in the
20 case of a married individual, the federal adjusted gross
21 income of the individual and the individual's spouse.

22 (4) Qualified elderly care expenses include:

23 (a) payments by the taxpayer for home health agency
24 services provided by an organization certified by the
25 federal health care financing administration, homemaker

1 services, adult day care, respite care, or health-care
2 equipment and supplies:

- 3 (i) provided to the qualifying family member;
- 4 (ii) provided by an organization or individual not
5 related to the taxpayer or the qualifying family member; and
- 6 (iii) not compensated for by insurance or otherwise;
- 7 (b) subject to the limitations in subsection (4)(a),
8 payments by the taxpayer for nursing home care of an
9 individual who is diagnosed by a physician as having senile
10 dementia of the Alzheimer type.

11 (5) The percentage amount of credit allowable under
12 this section is:

- 13 (a) for a taxpayer whose federal adjusted gross income
14 does not exceed \$25,000, 30% of qualified elderly care
15 expenses; or
- 16 (b) for a taxpayer whose federal adjusted gross income
17 exceeds \$25,000, the greater of:
18 (i) 20% of qualified elderly care expenses; or
19 (ii) 30% of qualified elderly care expenses, less 1% for
20 each \$2,000 or fraction thereof by which the federal
21 adjusted gross income of the taxpayer for the taxable year
22 exceeds \$25,000.

23 (6) The dollar amount of credit allowable under this
24 section is:

- 25 (a) reduced by \$1 for each dollar of the federal

1 adjusted gross income over \$50,000 for a taxpayer whose
2 federal adjusted gross income exceeds \$50,000;

- 3 (b) limited to \$5,000 per qualifying family member in a
4 taxable year and to \$10,000 total for two or more family
5 members in a taxable year;
- 6 (c) prorated among multiple taxpayers who each
7 contribute to qualified elderly care expenses of the same
8 qualified family member in a taxable year in the same
9 proportion that their contributions bear to the total
10 qualified elderly care expenses paid by those taxpayers for
11 that qualified family member.

12 (7) A deduction or credit is not allowed under any
13 other provision of this chapter with respect to any amount
14 for which a credit is allowed under this section. The credit
15 allowed under this section may not be claimed as a carryback
16 or carryforward and may not be refunded if the taxpayer has
17 no tax liability.

18 (8) In the case of a married individual filing a
19 separate return, the percentage amount of credit under
20 subsection (5) and the dollar amount of credit under
21 subsection (6) are limited to one-half of the figures
22 indicated in those subsections."

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

24 "15-30-162. Investment credit. (1) There is allowed as
25 a credit against the tax imposed by ~~15-30-103~~ [section 6] a

1 percentage of the credit allowed with respect to certain
 2 depreciable property under section 38 of the Internal
 3 Revenue Code of 1954, as amended, or as section 38 may be
 4 renumbered or amended. However, rehabilitation costs as set
 5 forth under section 46(a)(2)(F) of the Internal Revenue Code
 6 ~~of 1954 or as section 46(a)(2)(F) may be renumbered or~~
 7 ~~amended~~, are not to be included in the computation of the
 8 investment credit. The credit is allowed for the purchase
 9 and installation of certain qualified property defined by
 10 section 38 of the Internal Revenue Code ~~of 1954 as amended~~,
 11 if the property meets all of the following qualifications:

12 (a) it was placed in service in Montana; and

13 (b) it was used for the production of Montana adjusted
 14 gross income.

15 (2) The amount of the credit allowed for the taxable
 16 year is 5% of the amount of credit determined under section
 17 46(a)(2) of the Internal Revenue Code ~~of 1954 as amended~~,
 18 or as section 46(a)(2) may be renumbered or amended.

19 (3) Notwithstanding the provisions of subsection (2),
 20 the investment credit allowed for the taxable year may not
 21 exceed the taxpayer's tax liability for the taxable year or
 22 \$500, whichever is less.

23 (4) If property for which an investment credit is
 24 claimed is used both inside and outside this state, only a
 25 portion of the credit is allowed. The credit must be

1 apportioned according to a fraction the numerator of which
 2 is the number of days during the taxable year the property
 3 was located in Montana and the denominator of which is the
 4 number of days during the taxable year the taxpayer owned
 5 the property. The investment credit may be applied only to
 6 the tax liability of the taxpayer who purchases and places
 7 in service the property for which an investment credit is
 8 claimed. The credit may not be allocated between spouses
 9 unless the property is used by a partnership or small
 10 business corporation of which they are partners or
 11 shareholders.

12 (5) The investment credit allowed by this section is
 13 subject to recapture as provided for in section 47 of the
 14 Internal Revenue Code ~~of 1954 as amended or as section 47~~
 15 ~~may be renumbered or amended.~~"

16 **Section 16.** Section 15-30-241, MCA, is amended to read:

17 "15-30-241. Declaration of estimated tax. (1) Every
 18 Each individual ~~except farmers, ranchers, or stockmen~~ shall,
 19 at the time prescribed in subsection (3) ~~of this section~~,
 20 make a declaration of his estimated tax for the taxable year
 21 ~~if his net income from sources other than wages, salaries,~~
 22 ~~bonuses, or other emoluments can reasonably be expected to~~
 23 ~~equal or exceed his net income from wages, salaries, bonuses~~
 24 ~~or other emoluments, which are subject to withholding~~ he is
 25 required to file a declaration of his estimated tax under

1 the provisions of the Internal Revenue Code.

2 (2) In the declaration required under subsection (1) of
3 this section, the individual shall state:

4 (a) the amount which he estimates as the amount of tax
5 under ~~15-30-103~~ [section 7] for the taxable year;

6 (b) the amount which he estimates will be withheld from
7 wages paid by his employer if said individual is an
8 employee;

9 (c) the excess of the amount estimated under subsection
10 (2)(a) over the amount estimated under subsection (2)(b),
11 which excess for purposes of this section shall be
12 considered the estimated tax for the taxable year;

13 (d) such other information as may be prescribed in
14 rules promulgated by the department.

15 (3) The declaration required under subsection (1) of
16 ~~this section~~ shall be filed with the department on or before
17 April 15 of the taxable year, except that if the
18 requirements of subsection (1) ~~of--this--section~~ are first
19 met:

20 (a) after April 1 and before October 1 of the taxable
21 year, the declaration shall be filed on or before October 15
22 of the taxable year;

23 (b) after October 1 of the taxable year, the
24 declaration shall be filed on or before February 15 of the
25 succeeding taxable year.

1 (4) An individual may make amendments of a declaration
2 filed during the taxable year under subsection (3) ~~of this~~
3 ~~section~~ under rules prescribed by the department.

4 (5) If, on or before February 15 of the succeeding
5 taxable year, the taxpayer files a return for the taxable
6 year for which the declaration is required and pays in full
7 the amount computed on his return as payable, then under
8 rules prescribed by the department:

9 (a) if the declaration is not required to be filed
10 during the taxable year but is required to be filed on or
11 before ~~such~~ February 15, ~~such~~ the return shall for the
12 purposes of this section be considered as such declaration;
13 and

14 (b) if the tax shown on the return is greater than the
15 estimated tax shown in a declaration previously made or in
16 the last amendments thereof, ~~such~~ the return shall for the
17 purposes of this section be considered as the amendment of
18 the declaration permitted by subsection (4) ~~of this--section~~
19 to be filed on or before ~~such~~ February 15.

20 (6) The department shall promulgate rules governing
21 reasonable extensions of time for filing declarations and
22 paying the estimated tax except in the case of taxpayers who
23 are abroad, and no such extension shall be for more than 6
24 months.

25 (7) If the taxpayer is unable to make his own

1 declaration, the declaration shall be made by a duly
2 authorized agent or by the guardian or other person charged
3 with the care of the person or property of such the
4 taxpayer.

5 (8) Any individual who fails to file a declaration of
6 estimated tax as required by this section is not subject to
7 the penalties set forth in 15-30-321."

8 **Section 17.** Section 15-30-303, MCA, is amended to read:

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

21 (2) The officers charged with the custody of such
22 reports and returns shall not be required to produce any of
23 them or evidence of anything contained in them in any action
24 or proceeding in any court, except in any action or
25 proceeding to which the department is a party under the

1 provisions of this chapter or any other taxing act or on
2 behalf of any party to any action or proceedings under the
3 provisions of this chapter or such the other act when the
4 reports or facts shown thereby are directly involved in such
5 action or proceedings, in either of which events the court
6 may require the production of and may admit in evidence so
7 much of said the reports or of the facts shown thereby as
8 are pertinent to the action or proceedings and no more.

9 (3) Nothing herein ~~shall~~ may be construed to prohibit:

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

13 (b) the publication of statistics so classified as to
14 prevent the identification of particular reports or returns
15 and the items thereof; or

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

22 (4) Reports and returns ~~shall~~ must be preserved for 3
23 years and thereafter until the department orders them to be
24 destroyed.

25 (5) Any offense against subsections (1) through (4) of

1 ~~this section~~ shall be punished by a fine not exceeding
 2 \$1,000 or by imprisonment in the county jail not exceeding 1
 3 year, or both, at the discretion of the court, and if the
 4 offender be is an officer or employee of the state, he shall
 5 be dismissed from office and be incapable of holding any
 6 public office in this state for a period of 1 year
 7 thereafter.

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

25 (7) Further, notwithstanding any of the provisions of

1 this section, the department shall furnish:

2 ~~{a}--to--the--department--of--justice--all---information~~
 3 ~~necessary--to--identify--those--persons--qualifying--for--the~~
 4 ~~additional--exemption--for--blindness--pursuant--to--15-30-112{4}~~
 5 ~~for--the--purpose--of--enabling--the--department--of--justice--to~~
 6 ~~administer--the--provisions--of--61-5-105;~~

7 ~~{b}{a}~~ to the department of social and rehabilitation
 8 services information acquired under 15-30-301, pertaining to
 9 an applicant for public assistance, reasonably necessary for
 10 the prevention and detection of public assistance fraud and
 11 abuse, provided notice to the applicant has been given;

12 ~~{c}{b}~~ to the department of fish, wildlife, and parks
 13 specific information that is available from income tax
 14 returns and required under 87-2-102 to establish the
 15 residency requirements of an applicant for hunting and
 16 fishing licenses; and

17 ~~{d}{c}~~ to the board of regents information required
 18 under 20-26-1111."

19 **Section 18.** Section 15-30-323, MCA, is amended to read:
 20 "15-30-323. Penalty for deficiency. (1) If the payment
 21 required by ~~15-30-142{6}~~ [section 10 11] is not made within
 22 60 days or if the understatement is due to negligence on the
 23 part of the taxpayer but without fraud, there shall be added
 24 to the amount of the deficiency 5% thereof; provided,
 25 however, that no deficiency penalty shall be less than \$2.

1 Interest will be computed at the rate of 9% per annum or
 2 fraction thereof on the additional assessment. Except as
 3 otherwise expressly provided in this subsection, the
 4 interest shall in all cases be computed from the date the
 5 return and tax were originally due as distinguished from the
 6 due date as it may have been extended to the date of
 7 payment.

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

12 **Section 19.** Section 15-31-131, MCA, is amended to read:

13 "15-31-131. **Credit for dependent care assistance.** (1)
 14 There is a credit against the taxes otherwise due under this
 15 chapter allowable to an employer for amounts paid or
 16 incurred during the taxable year by the employer for
 17 dependent care assistance actually provided to or on behalf
 18 of an employee if the assistance is furnished by a
 19 registered or licensed day-care provider and pursuant to a
 20 program that meets the requirements of section 89(k) and
 21 129(d)(2) through (6) of the Internal Revenue Code.

22 (2) (a) The amount of the credit allowed under
 23 subsection (1) is 15% of the amount paid or incurred by the
 24 employer during the taxable year, but the credit may not
 25 exceed \$1,250 of day-care assistance actually provided to or

1 on behalf of the employee.

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

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

9 (3) An amount paid or incurred during the taxable year
 10 of an employer in providing dependent care assistance to or
 11 on behalf of any employee does not qualify for the credit
 12 allowed under subsection (1) if the amount was paid or
 13 incurred to an individual described in section 129(c)(1) or
 14 (2) of the Internal Revenue Code.

15 (4) An amount paid or incurred by an employer to
 16 provide dependent care assistance to or on behalf of an
 17 employee does not qualify for the credit allowed under
 18 subsection (1) if the amount is paid or incurred pursuant to
 19 a salary reduction plan or is paid or incurred for services
 20 not performed within this state.

21 (5) If the credit allowed under subsection (1) is
 22 claimed, the amount of any deduction allowed or allowable
 23 under this chapter for the amount that qualifies for the
 24 credit (or upon which the credit is based) must be reduced
 25 by the dollar amount of the credit allowed. The election to

1 claim a credit allowed under this section must be made at
2 the time of filing the tax return.

3 (6) The amount upon which the credit allowed under
4 subsection (1) is based may not be included in the gross
5 income of the employee to whom the dependent care assistance
6 is provided. However, the amount excluded from the income of
7 an employee under this section may not exceed the
8 limitations provided in section 129(b) of the Internal
9 Revenue Code. For purposes of Title 15, chapter 30, part 2,
10 with respect to an employee to whom dependent care
11 assistance is provided, "wages" does not include any amount
12 excluded under this subsection. ~~Amounts-excluded-under-this~~
13 ~~subsection-do-not-qualify-as-expenses-for-which-a-deduction~~
14 ~~is-allowed-to-the-employee-under-15-30-121.~~

15 (7) Any tax credit otherwise allowable under this
16 section that is not used by the taxpayer in a particular
17 year may be carried forward and offset against the
18 taxpayer's tax liability for the next succeeding tax year.
19 Any credit remaining unused in the next succeeding tax year
20 may be carried forward and used in the second succeeding tax
21 year, and likewise through the fifth year succeeding the tax
22 year in which the credit was first allowed or allowable. A
23 credit may not be carried forward beyond the fifth
24 succeeding tax year.

25 (8) If the taxpayer is an S corporation, as defined in

1 section 1361 of the Internal Revenue Code, and the taxpayer
2 elects to take tax credit relief, the election may be made
3 on behalf of the corporation's shareholders. A shareholder's
4 credit must be computed using the shareholder's pro rata
5 share of the corporation's costs that qualify for the
6 credit. In all other respects, the effect of the tax credit
7 applies to the corporation as otherwise provided by law.

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

10 (a) ~~The~~ the definitions and special rules contained in
11 section 129(e) of the Internal Revenue Code apply to the
12 extent applicable; and

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

15 ~~(c) "Internal Revenue Code" means the federal Internal~~
16 ~~Revenue Code as amended and in effect on January 17, 1989.~~

17 **Section 20.** Section 15-31-202, MCA, is amended to read:

18 **"15-31-202. Election by small business corporation.** (1)
19 A small business corporation may elect not to be subject to
20 the taxes imposed by this chapter.

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

23 (a) with respect to the taxable years of the
24 corporation for which such election is in effect, such
25 corporation is not subject to the taxes imposed by this

1 chapter and, with respect to such taxable years and all
 2 succeeding taxable years, the provisions of this part apply
 3 to such corporation; and

4 (b) with respect to the taxable years of a shareholder
 5 of such corporation in which or with which the taxable years
 6 of the corporation for which such election is in effect end,
 7 the provisions of this part apply to such shareholder, and
 8 with respect to such taxable years and all succeeding
 9 taxable years, the provisions of this part apply to such
 10 shareholder.

11 (3) An election under subsection (1) must be made in
 12 accordance with rules prescribed by the department of
 13 revenue.

14 (4) This election is not effective unless the corporate
 15 net income or loss of such electing corporation is included
 16 in the stockholders' federal adjusted gross taxable income
 17 as defined in ~~15-30-111~~ [section 6].

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

20 **Section 21.** Section 15-32-303, MCA, is amended to read:

21 "15-32-303. Deduction for purchase of Montana produced
 22 organic fertilizer. In addition to all other deductions from
 23 ~~adjusted--gross--individual--income--allowed--in--computing~~
 24 ~~taxable--income--under--Title--157--chapter--307--or--from~~ gross
 25 corporate income allowed in computing net income under Title

1 15, chapter 31, part 1, a ~~taxpayer~~ corporation may deduct
 2 ~~his~~ its expenditures for organic fertilizer produced in
 3 Montana and used in Montana if the expenditure was not
 4 otherwise deducted in computing taxable income."

5 **Section 22.** Section 15-33-106, MCA, is amended to read:

6 "15-33-106. Capital gains -- dividends ~~exempted~~. Any
 7 capital gains or dividend income realized by ~~an--individual~~
 8 ~~or~~ a corporation from an investment in an SBIC organized in
 9 accordance with this part is exempt from taxation under the
 10 provisions of Title 15, ~~chapters--30~~ and chapter 31."

11 **Section 23.** Section 53-6-111, MCA, is amended to read:

12 "53-6-111. Department ~~charged~~ with general
 13 administration of medical assistance -- adoption of rules to
 14 punish fraud. (1) The department of social and
 15 rehabilitation services is hereby authorized and empowered
 16 to administer and supervise a vendor payment program of
 17 medical assistance under the powers, duties, and functions
 18 provided in chapter 2 of this title, as amended, and as
 19 contemplated by the provisions of Title XIX of the federal
 20 Social Security Act.

21 (2) The department shall adopt rules establishing a
 22 system of penalties and sanctions applicable to providers of
 23 medical assistance services and supplies who engage in
 24 fraudulent, abusive, or improper activities. The department
 25 shall define by rule those activities which are fraudulent,

1 abusive, or improper.

2 (3) The penalties or sanctions imposed include but are
3 not limited to:

4 (a) required courses of education in the rules
5 governing the medicaid program;

6 (b) withholding of payments to offset previous improper
7 payments to a provider;

8 (c) suspension of payments to a provider pending
9 resolution of a dispute involving fraudulent, abusive, or
10 improper activities;

11 (d) suspension of participation in the program for a
12 specified period of time; and

13 (e) permanent termination of participation in the
14 medical assistance program.

15 (4) The department is entitled to recover from a
16 provider all amounts paid as a result of fraudulent,
17 abusive, or improper activities, together with interest at
18 the rate set by ~~15-30-142~~ [section ~~10~~ 11] for tax
19 deficiencies from the date of such payment.

20 (5) In all cases in which a penalty or sanction may be
21 imposed, a provider is entitled to a hearing under the
22 provisions of Title 2, chapter 4, part 6."

23 **Section 24.** Section 67-11-303, MCA, is amended to read:

24 *67-11-303. Bonds and obligations. (1) An authority may
25 borrow money for any of its corporate purposes and issue its

1 bonds therefor, including refunding bonds, in such form and
2 upon such terms as it may determine, payable out of any
3 revenues of the authority, including revenues derived from:

4 (a) an airport or air navigation facility or
5 facilities;

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

8 (c) grants or contributions from the federal
9 government; or

10 (d) other sources.

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

25 (3) The bonds may be sold at public or private sale and

1 may bear interest as provided in 17-5-102. Except as
 2 otherwise provided herein, any bonds issued pursuant to this
 3 chapter by an authority may be payable as to principal and
 4 interest solely from revenues of the authority and shall
 5 state on their face the applicable limitations or
 6 restrictions regarding the source from which such principal
 7 and interest are payable.

8 (4) Bonds issued by an authority or municipality
 9 pursuant to the provisions of this chapter are declared to
 10 be issued for an essential public and governmental purpose
 11 by a political subdivision within---the--meaning--of
 12 ~~15-30-111(2)(a)~~ section-6(2)(c).

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

23 (6) Subject to the conditions stated in this subsection
 24 (6), the governing body of any municipality having a
 25 population in excess of 10,000, with respect to bonds issued

1 pursuant to this chapter by the municipality or by an
 2 authority in which the municipality is included, may by
 3 resolution covenant that in the event that at any time all
 4 revenues, including taxes, appropriated and collected for
 5 such bonds are insufficient to pay principal or interest
 6 then due, it will levy a general tax upon all of the taxable
 7 property in the municipality for the payment of such
 8 deficiency; and may further covenant that at any time a
 9 deficiency is likely to occur within 1 year for the payment
 10 of principal and interest due on such bonds, it will levy a
 11 general tax upon all the taxable property in the
 12 municipality for the payment of such deficiency, and such
 13 taxes are not subject to any limitation of rate or amount
 14 applicable to other municipal taxes but are limited to a
 15 rate estimated to be sufficient to produce the amount of the
 16 deficiency. In the event more than one municipality having a
 17 population in excess of 10,000 is included in an authority
 18 issuing bonds pursuant to this chapter, the municipalities
 19 may apportion the obligation to levy taxes for the payment
 20 of, or in anticipation of, a deficiency in the revenues
 21 appropriated for such bonds in such manner as the
 22 municipalities may determine. The resolution shall state the
 23 principal amount and purpose of the bonds and the substance
 24 of the covenant respecting deficiencies. No such resolution
 25 becomes effective until the question of its approval has

1 been submitted to the qualified electors of the municipality
 2 at a special election called for that purpose by the
 3 governing body of the municipality and a majority of the
 4 electors voting on the question have voted in favor thereof.
 5 The notice and conduct of the election is governed, to the
 6 extent applicable, as provided for municipal general
 7 obligation bonds in Title 7, chapter 7, part 42, for an
 8 election called by cities and towns, and as provided for
 9 county general obligation bonds in Title 7, chapter 7, part
 10 22, for an election called by counties. If a majority of the
 11 electors voting thereon vote against approval of the
 12 resolution, the municipality has no authority to make the
 13 covenant or to levy a tax for the payment of deficiencies
 14 pursuant to this section, but such municipality or authority
 15 may nevertheless issue bonds under this chapter payable
 16 solely from the sources referred to in subsection (1)
 17 above."

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

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

23 (1) subject to execution, garnishment, attachment, or
 24 any other process;

25 (2) ~~subject to state, county, or municipal taxes except~~

1 ~~for a refund paid under 19-3-703 of a member's contributions~~
 2 ~~picked up by an employer after June 30, 1985, as provided in~~
 3 ~~19-3-701, or~~

4 (3) or assignable except as in this chapter
 5 specifically provided."

6 **Section 26.** Section 19-4-706, MCA, is amended to read:

7 "19-4-706. **Exemption from taxation and legal process.**

8 The pensions, annuities, or any other benefits accrued or
 9 accruing to any person under the provisions of the
 10 retirement system and the accumulated contributions and cash
 11 and securities in the various funds of the retirement system
 12 are:

13 (1) ~~exempted from any state, county, or municipal tax~~
 14 ~~of the state of Montana except for a withdrawal paid under~~
 15 ~~19-4-603 of a member's contributions picked up by an~~
 16 ~~employer after June 30, 1985, as provided in 19-4-602;~~

17 (2) not subject to execution, garnishment, attachment
 18 by trustee process or otherwise, in law or equity, or any
 19 other process; and

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

22 **Section 27.** Section 19-5-704, MCA, is amended to read:

23 "19-5-704. **Exemption from taxes and legal process.** Any
 24 money received or to be paid as a member's annuity, state
 25 annuity, or return of deductions or the right of any of

1 these shall be is exempt from any state or municipal tax and
2 from levy, sale, garnishment, attachment, or any other
3 process whatsoever and shall be is unassignable except as
4 specifically provided in 19-5-705."

5 **Section 28.** Section 19-6-705, MCA, is amended to read:

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

10 {1} ~~exempt from any state, county, or municipal tax~~
11 ~~except for a refund paid under 19-6-403 of a member's~~
12 ~~contributions picked up by an employer after June 30, 1985,~~
13 ~~as provided in 19-6-402;~~

14 {2} exempt from levy, sale, garnishment, attachment, or
15 any other process; and

16 {3} is unassignable except as specifically provided in
17 19-6-706."

18 **Section 29.** Section 19-7-705, MCA, is amended to read:

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

23 {1} ~~exempt from any state, county, or municipal tax~~
24 ~~except for a refund paid under 19-7-304(1) of a member's~~
25 ~~contributions picked up by an employer after June 30, 1985,~~

1 ~~as provided in 19-7-403;~~

2 {2} exempt from levy, sale, garnishment, attachment, or
3 any other process; and

4 {3} is unassignable except as specifically provided in
5 19-7-706."

6 **Section 30.** Section 19-8-805, MCA, is amended to read:

7 "19-8-805. **Exemption from taxes and legal process.** Any
8 money received or to be paid as a member's annuity, state
9 annuity, or return of deductions or the right of any of
10 these is:

11 {1} ~~exempt from any state, county, or municipal tax~~
12 ~~except for a refund paid under 19-8-503 of the member's~~
13 ~~contributions picked up by an employer after June 30, 1985,~~
14 ~~as provided in 19-8-502;~~

15 {2} exempt from levy, sale, garnishment, attachment, or
16 any other process; and

17 {3} is unassignable except as specifically provided in
18 19-8-806."

19 **Section 31.** Section 19-21-212, MCA, is amended to read:

20 "19-21-212. **Exemption from taxation, legal process, and**
21 **assessments.** All contracts, benefits, and contributions
22 under the optional retirement program and the earnings
23 thereon are:

24 {1} ~~exempt from any state, county, or municipal tax;~~
25 {2} (1) not subject to execution, garnishment,

1 attachment, or other process;

2 ~~†3†~~(2) not covered or assessable by an insurance
3 guaranty association; and

4 ~~†4†~~(3) unassignable except as specifically provided in
5 the contracts."

6 **Section 32.** Section 15-30-125, MCA, is amended to read:

7 "15-30-125. Credit for energy-conserving investments.

8 (1) There is a credit against tax liability under this
9 chapter as provided in 15-32-109.

10 (2) A temporary resident is allowed the credit allowed
11 a resident under 15-32-109 to the extent the credit was
12 expended in Montana during--the during the course of his
13 residency."

14 **NEW SECTION. Section 33. Repealer.** Sections 15-30-103,
15 15-30-105, 15-30-106, 15-30-108, 15-30-110, 15-30-111,
16 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-116,
17 15-30-117, 15-30-121, 15-30-122, 15-30-123, 15-30-126,
18 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-137,
19 15-30-142, 15-30-143, 15-30-156, 15-30-157, 19-9-1005, and
20 19-13-1003, AND 80-12-211, MCA, are repealed.

21 **NEW SECTION. Section 34. Codification instruction --**
22 **instruction to code commissioner.** (1) [Sections 6 through ~~10~~
23 11] are intended to be codified as an integral part of Title
24 15, chapter 30, part 1, and the provisions of Title 15,
25 chapter 30, part 1, apply to [sections 6 through ~~10~~ 11].

1 (2) The code commissioner is instructed to make changes
2 throughout the Montana Code Annotated to reflect the change
3 in definition of "Internal Revenue Code" in 15-30-101.

4 **NEW SECTION. SECTION 35. COORDINATION INSTRUCTION.** (1)
5 IF SENATE BILL NO. 333 IS PASSED AND APPROVED, THEN THE
6 LANGUAGE IN [SECTION 6(3) OF THIS ACT] IS VOID.

7 (2) IF SENATE BILL NO. 445 IS PASSED AND APPROVED, THEN
8 THE APPEAL PROVISIONS CONTAINED IN THAT BILL GOVERN THE
9 APPEAL PROVISIONS SET FORTH IN [THIS ACT] AND THE 90-DAY
10 60-DAY PROVISION IN [SECTION ~~10~~ 11 OF THIS ACT] MUST BE
11 CHANGED TO 60 30 DAYS.

12 (3) (A) IF SENATE BILL NO. 226 IS NOT PASSED AND
13 APPROVED, THEN [THIS ACT] IS VOID.

14 (B) IF SENATE BILL NO. 226 IS PASSED AND APPROVED, THEN
15 THE FOLLOWING SECTION IS TO BE CODIFIED IN TITLE 15, CHAPTER
16 30, PART 1, AND THE BRACKETED BLANKS MUST CONTAIN THE DOLLAR
17 AMOUNT OF THE EXEMPTION THAT APPEARS IN 15-30-111(2)(C) AS
18 IT READS IN SENATE BILL NO. 226:

19 "CREDIT FOR QUALIFIED RETIREMENT INCOME. (1) THERE IS A
20 RETIREMENT INCOME CREDIT AGAINST THE TAX IMPOSED BY THIS
21 CHAPTER FOR THE FIRST [\$] OF QUALIFIED RETIREMENT
22 INCOME RECEIVED BY A TAXPAYER.

23 (2) THE AMOUNT OF THE CREDIT AUTHORIZED BY THIS SECTION
24 IS 4.5% OF THE FIRST [\$] OF QUALIFIED RETIREMENT
25 INCOME.

1 (3) INCOME QUALIFIES FOR THE CREDIT UNDER THIS SECTION
2 IF IT IS RECEIVED BY THE TAXPAYER FROM ANY OF THE FOLLOWING:

3 (A) THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OR ANY
4 OTHER FEDERAL RETIREMENT SYSTEM SUBJECT TO FEDERAL INCOME
5 TAXATION;

6 (B) THE PUBLIC EMPLOYEE RETIREMENT LAWS OF MONTANA OR
7 ANOTHER STATE;

8 (C) AN ANNUITY, PENSION, OR ENDOWMENT UNDER ANY PRIVATE
9 OR CORPORATE RETIREMENT PLAN OR SYSTEM."

10 NEW SECTION. Section 36. Saving clause. [This act]
11 does not affect rights and duties that matured, penalties
12 that were incurred, or proceedings that were begun before
13 [the effective date of this act].

14 NEW SECTION. Section 37. Severability. If a part of
15 [this act] is invalid, all valid parts that are severable
16 from the invalid part remain in effect. If a part of [this
17 act] is invalid in one or more of its applications, the part
18 remains in effect in all valid applications that are
19 severable from the invalid applications.

20 NEW SECTION. Section 38. ~~retroactive~~ applicability
21 APPLICABILITY. [This act] applies ~~retroactively,~~ within the
22 meaning ~~of 1-2-1997~~ to taxable years beginning after
23 December 31, 1998 1991.

24 NEW SECTION. Section 39. Effective date. [This act] is
25 effective on passage and approval.

-End-

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 996 (third reading copy -- blue), report that House Bill No. 996 be amended and as so amended be concurred in:

1. Page 48, lines 21 and 22.

Following: "CHAPTER" on line 21Strike: remainder of line 21 through "TAXPAYER" on line 22

2. Page 48, line 23.

Following: "(2)"

Insert: "(a)"

Following: "SECTION"

Insert: "for taxpayers whose filing status is single, married filing separately, or head of household"

3. Page 48, line 25.

Following: "INCOME."

Insert: "The amount of the credit may not exceed [4.5% of the amount of the exemption provided for in Senate Bill No. 226].

(b) The amount of the credit for taxpayers filing jointly is 4.5% of the first [\$] of qualified retirement income earned by each person."

4. Page 49, lines 3 through 9.

Following: "(A)" on line 3Strike: remainder of line 3 through "SYSTEM" on line 9

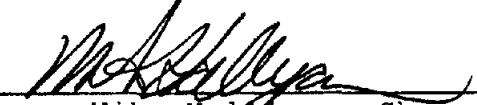
Insert: "systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code, or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or to the recipient's beneficiary upon the cessation of employment;

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

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

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

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

Signed: 

Mike Halligan, Chairman

Sec. of Sen.

4/15-91 AC

JB 4/15

SENATE
HB 996

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1. Page 48, lines 21 and 22.

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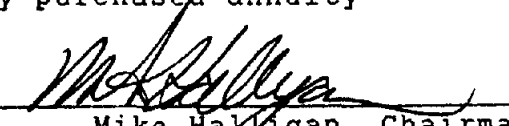
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Signed: 

Mike Halligan, Chairman

Sec. of Sen.

4/15-91 AC

JB 4/15

SENATE
HB 996

SENATE COMMITTEE OF THE WHOLE AMENDMENT

#2

April 16, 1991 10:19 am

Mr. Chairman: I move to amend House Bill No. 996 (third reading copy, second printing, includes Ream amendment -- blue) as follows:

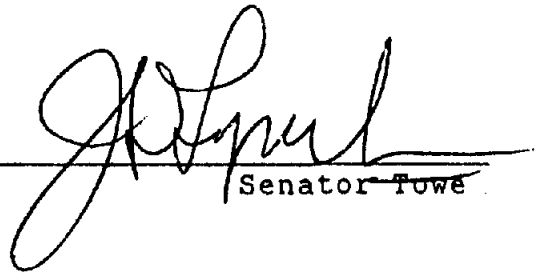
1. Page 11, line 15.
Following: "LAWS;"
Strike: "AND"

2. Page 11, following line 19.
Insert: "(IV) Unemployment compensation included in federal gross income under the provisions of section 85 of the internal revenue code;
(V) All tips covered by section 340 (K) of the Internal Revenue Code, as received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging."

ADOPT

REJECT

Signed: _____



Senator Towe

Am. Coord.

SB 4-16

Sec. of Senate

SENATE

HB 996

4-16-91

HOUSE BILL NO. 996

INTRODUCED BY REAM, VAN VALKENBURG, KIMBERLEY, ELLIOTT,
DRISCOLL, COHEN, BARNHART

A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE EXISTING
STATE INDIVIDUAL INCOME TAX AND IMPOSING A STATE INCOME TAX
BASED ON A PERCENTAGE OF THE FEDERAL INCOME TAX PAYABLE ON
MONTANA TAXABLE INCOME; AMENDING SECTIONS 7-14-1133,
7-34-2416, 13-37-218, 13-37-303, 15-30-101, 15-30-125,
15-30-128, 15-30-145, 15-30-149, 15-30-162, 15-30-241,
15-30-303, 15-30-323, 15-31-131, 15-31-202, 15-32-303,
15-33-106, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705,
19-8-805, 19-21-212, 53-6-111, AND 67-11-303, MCA; REPEALING
SECTIONS 15-30-103, 15-30-105, 15-30-106, 15-30-108,
15-30-110, 15-30-111, 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, 15-30-126, 15-30-131, 15-30-132, 15-30-135,
15-30-136, 15-30-137, 15-30-142, 15-30-143, 15-30-156,
15-30-157, 19-9-1005, AND 19-13-1003, AND 80-12-211, MCA;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A--RETROACTIVE
AN APPLICABILITY DATE."

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

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
possible to impose, maintain, and collect rates, charges,
rentals, and taxes, if any are pledged, sufficient to make

1 the revenues from the pledged source in such year at least
2 equal to the amount of principal and interest due in that
3 year.

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

12 (4) Bonds issued by an authority, county, or
13 municipality pursuant to the provisions of this part are
14 declared to be issued for an essential public and
15 governmental purpose by a political subdivision ~~within--the~~
16 ~~meaning-of 15-30-111(2)(a) {section-6(2)(c)}.~~

17 (5) For the security of any such bonds, the authority,
18 county, or municipality may by resolution make and enter
19 into any covenant, agreement, or indenture and may exercise
20 any additional powers authorized to be exercised by a
21 municipality under Title 7, chapter 7, parts 44 and 45. The
22 sums required from time to time to pay principal and
23 interest and to create and maintain a reserve for the bonds
24 may be paid from any revenues referred to in this part,
25 prior to the payment of current costs of operation and

1 maintenance of the facilities.

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

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

14 "7-34-2416. Tax-exempt status of bonds. Bonds issued by
15 a county pursuant to the provisions of 7-34-2411 through
16 7-34-2418 are declared to be issued for an essential public
17 and governmental purpose by a political subdivision ~~within~~
18 ~~the-meaning-of 15-30-111(2)(a) {section-6(2)(c)}."~~

19 **Section 3.** Section 13-37-218, MCA, is amended to read:

20 "13-37-218. Limitations on receipts from political
21 committees. (1) A candidate for the state senate may receive
22 no more than \$1,000 in total combined monetary contributions
23 from all political committees contributing to his campaign,
24 and a candidate for the state house of representatives may
25 receive no more than \$600 in total combined monetary

1 contributions from all political committees contributing to
 2 his campaign. The foregoing limitations shall be multiplied
 3 by the inflation factor as defined in ~~15-30-101(4)~~
 4 subsection (2) for the year in which general elections are
 5 held after 1984; the resulting figure shall be rounded off
 6 to the nearest \$50 increment. The commissioner of political
 7 practices shall publish the revised limitations as a rule.
 8 In-kind contributions may not be included in computing these
 9 limitation totals. The limitation provided in this section
 10 does not apply to contributions made by a political party
 11 eligible for a primary election under 13-10-601.

12 (2) As used in this section, "inflation factor" means a
 13 number determined for each year by dividing the consumer
 14 price index for June of the year by the consumer price index
 15 for June of 1980."

16 **Section 4.** Section 13-37-303, MCA, is amended to read:

17 "13-37-303. **Donation by taxpayer.** (1) An individual
 18 whose withheld income tax or payment of estimated tax
 19 exceeds by more than \$1 his income tax liability for the
 20 taxable year may donate \$1 to be paid to the fund. In the
 21 case of a joint return, ~~as provided in 15-30-142,~~ of a
 22 husband and wife having an income tax overpayment as defined
 23 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
 24 paid to the fund.

25 (2) An individual with an unpaid tax liability may at

1 the time of payment donate an extra \$1 to be paid to the
 2 fund.

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

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

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

12 (i) ~~"Base-year-structure" means the following elements~~
 13 ~~of the income tax structure:~~

14 (a) ~~the tax brackets established in 15-30-103, but~~
 15 ~~unadjusted by subsection (2) of 15-30-103, in effect on June~~
 16 ~~30 of the taxable year;~~

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

20 (c) ~~the maximum standard deduction provided in~~
 21 ~~15-30-122, but unadjusted by subsection (2) of 15-30-122, in~~
 22 ~~effect on June 30 of the taxable year;~~

23 (2) ~~"Consumer price index" means the consumer price~~
 24 ~~index, United States city average, for all items, using the~~
 25 ~~1967 base of 100 as published by the bureau of labor~~

1 ~~statistics-of-the-U-S-department-of-labor-~~
 2 ~~{3}{1} "Department" means the department of revenue.~~
 3 ~~{4}--"Dividend"---means---any--distribution--made--by--a~~
 4 ~~corporation--out--of--its--earnings--or---profits---to---its~~
 5 ~~shareholders--or--members,--whether--in--cash--or--in--other~~
 6 ~~property--or--in--stock-of-the-corporation,--other--than--stock~~
 7 ~~dividends-as-herein-defined.--"Stock--dividends"---means--new~~
 8 ~~stock---issued,--for--surplus--or--profits--capitalized,--to~~
 9 ~~shareholders-in-proportion-to-their-previous-holdings-~~
 10 ~~{5}{2} "Fiduciary" means a guardian, trustee, executor,~~
 11 ~~administrator, receiver, conservator, or any person, whether~~
 12 ~~individual or corporate, acting in any fiduciary capacity~~
 13 ~~for any person, trust, or estate.~~
 14 ~~{6}{3} "Foreign country" or "foreign government" means~~
 15 ~~any jurisdiction other than the one embraced within the~~
 16 ~~United States, its territories and possessions.~~
 17 ~~{7}--"Gross--income"---means--the-taxpayer's-gross-income~~
 18 ~~for-federal-income-tax-purposes-as-defined-in-section-61--of~~
 19 ~~the--Internal-Revenue-Code-of-1954-or-as-that-section-may-be~~
 20 ~~labeled--or--amended,--excluding--unemployment--compensation~~
 21 ~~included-in-federal-gross-income--under--the--provisions--of~~
 22 ~~section-85-of-the-Internal-Revenue-Code-of-1954-as-amended-~~
 23 ~~{8}--"Inflation--factor"---means--a-number-determined-for~~
 24 ~~each-taxable-year-by-dividing-the-consumer-price--index--for~~
 25 ~~June--of--the--taxable--year-by-the-consumer-price-index-for~~

1 ~~June, 1980-~~
 2 ~~{4} "Individual" means a natural person, whether~~
 3 ~~married or unmarried, adult or minor, subject to payment of~~
 4 ~~an income tax under the Internal Revenue Code.~~
 5 ~~{9}{5} "Information agents" includes all individuals,~~
 6 ~~corporations, associations, and partnerships, in whatever~~
 7 ~~capacity acting, including lessees or mortgagors of real or~~
 8 ~~personal property, fiduciaries, brokers, real estate~~
 9 ~~brokers, employers, and all officers and employees of the~~
 10 ~~state or of any municipal corporation or political~~
 11 ~~subdivision of the state, having the control, receipt,~~
 12 ~~custody, disposal, or payment of interest, rent, salaries,~~
 13 ~~wages, premiums, annuities, compensations, remunerations,~~
 14 ~~emoluments, or other fixed or determinable annual or~~
 15 ~~periodical gains, profits, and income with respect to which~~
 16 ~~any person or fiduciary is taxable under this chapter.~~
 17 ~~{10}--"Knowingly"---is-as-defined-in-45-2-101-~~
 18 ~~{11}--"Net--income"---means--the-adjusted-gross-income-of-a~~
 19 ~~taxpayer-less-the-deductions-allowed-by-this-chapter-~~
 20 ~~{12}--"Paid"---for--the--purposes--of--the--deductions--and~~
 21 ~~credits-under-this-chapter,--means--paid--or--accrued--or--paid--or~~
 22 ~~incurred,--and--the--terms--"paid--or--incurred"---and--"paid--or~~
 23 ~~accrued"---shall--be--construed--according--to--the--method--of~~
 24 ~~accounting--upon--the--basis--of--which--the--taxable-income-is~~
 25 ~~computed-under-this-chapter-~~

~~{13}~~ "Purpose" is as defined in 45-2-101.

~~{14}~~ "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(6) "Internal Revenue Code" means the Internal Revenue Code of 1954, redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as that code may be amended from time to time by the United States congress. It is the specific intent of the legislature that all amendments by the United States congress must be incorporated into the context of any section of Title 15 referring to the Internal Revenue Code.

(7) "MONTANA ADJUSTED GROSS INCOME" MEANS THE AMOUNT OF INCOME A NONRESIDENT OR PART-YEAR RESIDENT RECEIVES FROM SOURCES WITHIN MONTANA. THE TERM DOES NOT INCLUDE INCOME EXEMPTED FROM STATE TAXATION UNDER THE LAWS OR CONSTITUTION OF THE UNITED STATES.

~~{7}~~(8) "Person" means an individual, a trust or estate, or a partnership.

~~{15}~~~~{8}~~(9) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of

Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~{16}~~ "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~{17}~~~~{9}~~(10) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~{18}~~~~{10}~~(11) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

NEW SECTION. Section 6. State income tax as percentage of federal. (1) A state income tax is imposed and must be paid and collected for each taxable year upon:

(a) the federal adjusted FEDERAL taxable income derived from sources within and outside Montana of each resident and fiduciary required to make a return and pay federal income taxes under the Internal Revenue Code; and

(b) the federal adjusted FEDERAL taxable income derived from sources within Montana of each nonresident and fiduciary required to make a return and pay federal income taxes under the Internal Revenue Code.

(2) "~~Federal~~ adjusted ADJUSTED FEDERAL taxable income" means the taxpayer's taxable income, as determined for

1 federal income taxes under the provisions of the Internal
2 Revenue Code, with the following additional--deductions
3 ADDITIONS AND DEDUCTIONS:

4 (a) ~~income-earned-by-an-enrolled-member-of-a--federally~~
5 ~~recognized--Indian--tribe--during-the-time-he-both-lives-and~~
6 ~~works-on-a-reservation;~~

7 ~~(b)--Montana-income-tax-refunds-or-credits;~~

8 ~~(c)--interest-income--from--obligations--of--the--United~~
9 ~~States--government--to--the-extent-the-income-is-exempt-from~~
10 ~~state-income-tax-under-federal-law;-and~~

11 ~~(d)--military-combat-pay-received-by-a-Montana-resident;~~

12 THE FOLLOWING INCOME MUST BE DEDUCTED:

13 (I) INCOME EXEMPTED FROM STATE TAXATION UNDER THE LAWS
14 OR CONSTITUTION OF THE UNITED STATES MAY BE DEDUCTED;

15 (II) ALL PAYMENTS UNDER VETERANS BONUS LAWS; AND

16 (III) THE SALARY RECEIVED FROM THE ARMED FORCES BY
17 RESIDENTS OF MONTANA WHO ARE SERVING ON ACTIVE DUTY IN THE
18 REGULAR ARMED FORCES AND WHO ENTERED INTO ACTIVE DUTY FROM
19 MONTANA;

20 (IV) UNEMPLOYMENT COMPENSATION INCLUDED IN FEDERAL
21 GROSS INCOME UNDER THE PROVISIONS OF SECTION 85 OF THE
22 INTERNAL REVENUE CODE;

23 (V) ALL TIPS COVERED BY SECTION 3402(K) OF THE INTERNAL
24 REVENUE CODE, AS RECEIVED BY PERSONS FOR SERVICES RENDERED
25 BY THEM TO PATRONS OF PREMISES LICENSED TO PROVIDE FOOD,

1 BEVERAGES, OR LODGING.

2 (3)(B) A shareholder of a corporation for which the
3 election provided for under subchapter S. of the Internal
4 Revenue Code is in effect but for which the election
5 provided under 15-31-202 is not in effect may deduct from
6 his federal taxable income any part of the corporation's
7 undistributed taxable income, net operating loss, capital or
8 other gains, profits, or losses required to be included in
9 the shareholder's federal taxable income by reason of the
10 election under subchapter S. However, to the shareholder's
11 federal taxable income must be added distributions received
12 from the corporation to the extent the distributions would
13 be treated as taxable dividends if the subchapter S.
14 election were not in effect.

15 (C) THE FOLLOWING INCOME MUST BE ADDED: INTEREST
16 RECEIVED ON OBLIGATIONS OF ANOTHER STATE, TERRITORY, COUNTY,
17 MUNICIPALITY, DISTRICT, OR OTHER POLITICAL SUBDIVISION
18 THEREOF.

19 (4) ~~Nonresidents-taking-any-of-the-deductions-listed-in~~
20 ~~subsection-(2)-may-claim-only-that--percentage--of--itemized~~
21 ~~deductions-and-the-personal-exemption-deduction-allowed-from~~
22 ~~federal---adjusted--gross--income--that--the--percentage--of~~
23 ~~adjusted-gross-income-earned--from--sources--within--Montana~~
24 ~~bears-to-the-taxpayer's-federal-adjusted-gross-income;~~

25 (5) ~~if-a-taxpayer's-federal-adjusted-taxable-income-is~~

1 ~~adjusted-for-state-income-tax-purposes-to-include-any-of-the~~
 2 ~~additional-deductions-or-modifications--of--subsections--(2)~~
 3 ~~through--(4)--and--15-30-107--and--15-30-127,-the-taxpayer's~~
 4 ~~federal-income-tax-liability--must--be--recomputed--on--this~~
 5 ~~adjusted--figure--to--allow--the-state-income-tax-rate-to-be~~
 6 ~~applied-against-it.~~

7 (3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), A
 8 NONRESIDENT'S FEDERAL INCOME TAX LIABILITY FOR PURPOSES OF
 9 DETERMINING HIS STATE INCOME TAX LIABILITY PURSUANT TO
 10 [SECTION 7] IS THE TAXPAYER'S FEDERAL TAX LIABILITY
 11 MULTIPLIED BY THE PERCENTAGE DERIVED FROM DIVIDING THE
 12 TAXPAYER'S MONTANA ADJUSTED GROSS INCOME BY THE TAXPAYER'S
 13 FEDERAL ADJUSTED GROSS INCOME.

14 (B) IF A NONRESIDENT'S FEDERAL ADJUSTED GROSS INCOME IS
 15 ZERO OR A LOSS, THEN HIS FEDERAL INCOME TAX LIABILITY FOR
 16 PURPOSES OF DETERMINING HIS STATE INCOME TAX LIABILITY
 17 PURSUANT TO [SECTION 7] IS THE FULL AMOUNT OF HIS FEDERAL
 18 TAX LIABILITY.

19 NEW SECTION. Section 7. Rate of tax. THE RATE OF STATE
 20 income--tax--is--32%--of--a--taxpayer's--federal--income--tax
 21 liability,-excluding-the-self-employment-tax--imposed--under
 22 section-1401,-Internal-Revenue-Code,-adjusted-as-provided-in
 23 fsection--6(5)). (1) THE RATE OF STATE INCOME TAX IS 30% OF
 24 THE SUM OF A TAXPAYER'S FEDERAL INCOME TAX LIABILITY LESS
 25 FEDERAL CREDITS.

1 (2) IF A TAXPAYER HAS ADJUSTED HIS FEDERAL TAXABLE
 2 INCOME AS PROVIDED IN [SECTION 6(2)], HE SHALL RECOMPUTE HIS
 3 FEDERAL INCOME TAX LIABILITY, LESS CREDITS, BEFORE APPLYING
 4 THE 30% RATE.

5 (3) A TAXPAYER'S FEDERAL TAX LIABILITY INCLUDES THE TAX
 6 AND PENALTY ON EARLY DISTRIBUTIONS FROM INDIVIDUAL
 7 RETIREMENT ACCOUNTS OR QUALIFIED RETIREMENT PLANS. A
 8 TAXPAYER'S FEDERAL INCOME TAX LIABILITY DOES NOT INCLUDE
 9 SELF-EMPLOYMENT TAX OR THE SOCIAL SECURITY TAX ON TIPS.

10 NEW SECTION. Section 8. Nonresidents -- determination
 11 of in-state income. A nonresident's income from sources
 12 within Montana includes income derived from all property
 13 owned in this state and from every business, trade,
 14 profession, or occupation carried on in this state,
 15 INCLUDING GAIN AND INTEREST RECEIVED FROM THE INSTALLMENT
 16 SALES OF PROPERTY. It--does--not--include--income--from
 17 annuities,-interest--on--bank--deposits,-interest-on-notes,-
 18 bonds,-or-other-interest-bearing-obligations,-or--dividends
 19 on-stock-of-corporations,-except-to-the-extent-to-which-this
 20 income--is--a--part--of--the-income-derived-from-a-business,-
 21 trade,-profession,-or-occupation-carried-on-in--this--state-
 22 In the case of a business, trade, profession, or occupation
 23 carried on partly within and partly outside this state by a
 24 nonresident, the income from sources within this state must
 25 be determined by apportionment and allocation under rules

1 adopted by the department.

2 NEW SECTION. SECTION 9. NONRESIDENT ALTERNATIVE GROSS
 3 RECEIPTS TAX. PURSUANT TO THE PROVISIONS OF ARTICLE III,
 4 SECTION 2, OF THE MULTISTATE TAX COMPACT, EVERY NONRESIDENT
 5 TAXPAYER REQUIRED TO FILE A RETURN AND WHOSE ONLY ACTIVITY
 6 IN MONTANA CONSISTS OF MAKING SALES AND WHO DOES NOT OWN OR
 7 RENT REAL ESTATE OR TANGIBLE PERSONAL PROPERTY WITHIN
 8 MONTANA AND WHOSE ANNUAL GROSS VOLUME OF SALES MADE IN
 9 MONTANA DURING THE TAXABLE YEAR DOES NOT EXCEED \$100,000 MAY
 10 ELECT TO PAY AN INCOME TAX OF 1/2 OF 1% OF THE DOLLAR VOLUME
 11 OF GROSS SALES MADE IN MONTANA DURING THE TAXABLE YEAR. SUCH
 12 TAX SHALL BE IN LIEU OF THE TAX IMPOSED UNDER [SECTION 6].
 13 THE GROSS VOLUME OF SALES MADE IN MONTANA DURING THE TAXABLE
 14 YEAR SHALL BE DETERMINED ACCORDING TO THE PROVISIONS OF
 15 ARTICLE IV, SECTIONS 16 AND 17, OF THE MULTISTATE TAX
 16 COMPACT.

17 NEW SECTION. Section 10. Tax return -- contents. (1)
 18 Each individual, MARRIED COUPLE FILING A JOINT FEDERAL
 19 RETURN, or fiduciary mentioned in [section 6(1)] shall file
 20 a return, USING THE SAME FILING STATUS USED TO FILE THE
 21 TAXPAYER'S FEDERAL RETURN, with the department showing:

22 (a) the amount of tax due and payable as reported on
 23 the taxpayer's federal income tax return or as recomputed as
 24 required in [section 6(5) 7];

25 (b) the amount of tax due under [section 7], less

1 credits, if any, claimed against the tax;

2 (c) A COMPLETE COPY OF THE FEDERAL INDIVIDUAL INCOME
 3 TAX RETURN AND ALL SUPPORTING SCHEDULES AS FILED, A COPY OF
 4 ANY AMENDED FEDERAL INDIVIDUAL INCOME TAX RETURN FILED, AND
 5 any other information necessary for administration of the
 6 state income tax, as may be prescribed by the department.

7 (2) If a taxpayer is unable to make his own return, an
 8 authorized agent, guardian, or other person charged with the
 9 care of the person or property of the taxpayer shall file
 10 the return.

11 NEW SECTION. Section 11. Payment of state income tax
 12 -- refunds -- interest. (1) A taxpayer required to file a
 13 state income tax return shall compute the amount of state
 14 income tax due and shall, at the time the return is filed,
 15 pay to the department any balance of tax in excess of \$1
 16 remaining unpaid after crediting the amount withheld as
 17 provided under 15-30-202 or any payment of estimated tax as
 18 provided under 15-30-242.

19 (2) AS SOON AS PRACTICABLE AFTER THE CURRENT YEAR'S TAX
 20 RETURN IS FILED, THE DEPARTMENT SHALL EXAMINE AND VERIFY THE
 21 TAX. If the withheld tax or the estimated tax paid exceeds
 22 the state income tax due by more than \$1, the department
 23 shall refund the excess to the taxpayer within 30 90 days
 24 after receiving the return.

25 ~~(3) -- IF THE AMOUNT OF TAX DUE IS GREATER THAN THE AMOUNT~~

1 ~~PAID, THE DIFFERENCE MUST BE PAID BY THE TAXPAYER TO THE~~
 2 ~~DEPARTMENT WITHIN 60 DAYS AFTER NOTICE OF THE AMOUNT OF THE~~
 3 ~~TAX DUE. IF PAYMENT IS MADE AFTER 60 DAYS, INTEREST MUST BE~~
 4 ~~ADDED AT THE RATE OF 9% PER YEAR ON THE ADDITIONAL TAX. A~~
 5 ~~PENALTY MAY NOT BE ASSESSED IF THE DEFICIENCY IS PAID WITHIN~~
 6 ~~60 DAYS AFTER THE FIRST NOTICE OF THE AMOUNT DUE IS MAILED~~
 7 ~~TO THE TAXPAYER.~~

8 (3) IF THE AMOUNT OF TAX DUE IS GREATER THAN THE AMOUNT
 9 PAID, THE DIFFERENCE MUST BE PAID BY THE TAXPAYER TO THE
 10 DEPARTMENT WITHIN 60 DAYS AFTER NOTICE OF THE AMOUNT OF THE
 11 TAX AS COMPUTED, WITH INTEREST ADDED AT THE RATE OF 9% PER
 12 YEAR OR FRACTION THEREOF ON THE ADDITIONAL TAX. IN SUCH
 13 CASE, THERE MAY BE NO PENALTY BECAUSE OF THE UNDERPAYMENT,
 14 PROVIDED THE DEFICIENCY IS PAID WITHIN 60 DAYS AFTER THE
 15 FIRST NOTICE OF THE AMOUNT IS MAILED TO THE TAXPAYER.

16 (3)(4) Except as provided in 15-30-321, interest at a
 17 rate of 9% a year must be added to any state income tax or
 18 portion of tax, from the due date until paid, whether the
 19 taxpayer has been granted a filing extension or not.

20 (4)(5) If a joint return is made by husband and wife,
 21 the liability with respect to the tax is joint and several.

22 **SECTION 12.** SECTION 15-30-145, MCA, IS AMENDED TO READ:

23 *15-30-145. Revision of return by department --
 24 examination of records and persons. (1) If, in the opinion
 25 of the department, any return of a taxpayer is in any

1 essential respect incorrect, it may revise such return. The
 2 department may revise the return to determine the taxpayer's
 3 correct federal taxable income regardless of whether the
 4 internal revenue service has revised the taxpayer's reported
 5 federal taxable income. If any taxpayer fails to make return
 6 as herein required, the department is authorized to make an
 7 estimate of the taxable income of such taxpayer from any
 8 information in its possession and to audit and state an
 9 account according to such return or the estimate so made by
 10 it for the taxes, penalties, and interest due the state from
 11 such taxpayer. Except in the case of a person who, with
 12 intent to evade the tax, purposely or knowingly files a
 13 false or fraudulent return violating the provisions of this
 14 chapter, the amount of tax due under any return shall be
 15 determined by the department within 5 years after the return
 16 was made and the department thereafter shall be barred from
 17 revising any such returns or recomputing the tax due
 18 thereon, and no proceeding in court for the collection of
 19 such tax shall be instituted after the expiration of said
 20 period, notwithstanding the provisions of 15-30-322. The
 21 department may revise the return to determine the taxpayer's
 22 correct federal taxable income within 5 years after the
 23 return was made regardless of whether the federal statute of
 24 limitations has run. In the case of a person who, with
 25 intent to evade the tax, purposely or knowingly files a

1 false or fraudulent return violating the provisions of this
 2 chapter, the amount of tax due may be determined at any time
 3 after the return is filed and the tax may be collected at
 4 any time after it becomes due and, where no return has been
 5 filed, the tax may be assessed at any time.

6 (2) The department, for the purpose of ascertaining the
 7 correctness of any return or for the purpose of making an
 8 estimate of taxable income of any person where information
 9 has been obtained, may also examine or cause to have
 10 examined by any agent or representative designated by it for
 11 that purpose any books, papers, or records of memoranda
 12 bearing upon the matters required to be included in the
 13 return and may require the attendance of the person
 14 rendering the return or any officer or employee of such
 15 person or the attendance of any person having knowledge in
 16 the premises and may take testimony and require proof
 17 material for its information, with power to administer oaths
 18 to such person or persons. The department may exercise this
 19 power regardless of whether the internal revenue service has
 20 revised the taxpayer's reported federal taxable income and
 21 regardless of whether the federal statute of limitations has
 22 run."

23 **SECTION 13. SECTION 15-30-149, MCA, IS AMENDED TO READ:**

24 "15-30-149. Credits and refunds -- period of
 25 limitations. (1) If the department discovers from the

1 examination of a return or upon claim duly filed by a
 2 taxpayer or upon final judgment of a court that the amount
 3 of income tax collected is in excess of the amount due or
 4 that any penalty or interest was erroneously or illegally
 5 collected, the amount of the overpayment shall be credited
 6 against any income tax, penalty, or interest then due from
 7 the taxpayer and the balance of such excess shall be
 8 refunded to the taxpayer.

9 (2) (a) A credit or refund under the provisions of this
 10 section may be allowed only if, prior to the expiration of
 11 the period provided by 15-30-145 and by 15-30-146 during
 12 which the department may determine tax liability, the
 13 taxpayer files a claim or the department determines there
 14 has been an overpayment.

15 (b) If an overpayment of tax results from a net
 16 operating loss carryback, the overpayment may be refunded or
 17 credited within the period that expires on the 15th day of
 18 the 40th month following the close of the taxable year of
 19 the net operating loss if that period expires later than 5
 20 years from the due date of the return for the year to which
 21 the net operating loss is carried back.

22 (3) Within 6 months after an amended return, a
 23 delinquent return, or a claim for refund is filed, the
 24 department shall examine said the return or claim and either
 25 approve or disapprove it. If said the return or claim is

1 approved, the credit or refund shall be made to the taxpayer
 2 within 60 days after the claim is approved; if the return or
 3 claim is disallowed, the department shall so notify the
 4 taxpayer and shall grant a hearing thereon upon proper
 5 application by the taxpayer. If the department disapproves a
 6 claim for refund, review of the determination of the
 7 department may be had as otherwise provided in this chapter.

8 (4) Except as hereinafter provided for, interest shall
 9 be allowed on overpayments at the same rate as is charged on
 10 delinquent taxes due from the due date of the return or from
 11 the date of the overpayment (whichever date is later) to the
 12 date the department approves refunding or crediting of the
 13 overpayment. With respect to tax paid by withholding or by
 14 estimate, the date of overpayment shall be deemed to be the
 15 date on which the return for the taxable year was due. No
 16 interest shall accrue on an overpayment if the taxpayer
 17 elects to have it applied to his estimated tax for the
 18 succeeding taxable year, nor shall interest accrue during
 19 any period the processing of a return or claim for refund is
 20 delayed more than 30 days by reason of failure of the
 21 taxpayer to furnish information requested by the department
 22 for the purpose of verifying the amount of the overpayment.
 23 No interest shall be allowed if:

24 (a) the overpayment is refunded within 6 months from
 25 the date the return is due or the date the return is filed,

1 whichever date is later;

2 (b) the overpayment results from the carryback of a net
 3 operating loss; or

4 (c) the amount of interest is less than \$1.

5 (5) An overpayment not made incident to a bona fide and
 6 orderly discharge of an actual income tax liability or one
 7 reasonably assumed to be imposed by this law shall not be
 8 considered an overpayment with respect to which interest is
 9 allowable."

10 **Section 14.** Section 15-30-128, MCA, is amended to read:

11 "15-30-128. Credit for expense of caring for certain
 12 elderly family members. (1) There is a credit against the
 13 tax imposed by this chapter for qualified elderly care
 14 expenses paid by an individual for the care of a qualifying
 15 family member during the taxable year.

16 (2) A qualifying family member is an individual who:

17 (a) is related to the taxpayer by blood or marriage;

18 (b) (i) is at least 70 years of age; or

19 (ii) is diagnosed by a physician as having senile
 20 dementia of the Alzheimer type; and

21 (c) has a family income of \$15,000 or less for the
 22 taxable year.

23 (3) For purposes of this section, "family income"
 24 means, in the case of an individual who is not married, the
 25 federal adjusted gross income of the individual or, in the

1 case of a married individual, the federal adjusted gross
 2 income of the individual and the individual's spouse.

3 (4) Qualified elderly care expenses include:

4 (a) payments by the taxpayer for home health agency
 5 services provided by an organization certified by the
 6 federal health care financing administration, homemaker
 7 services, adult day care, respite care, or health-care
 8 equipment and supplies:

- 9 (i) provided to the qualifying family member;
- 10 (ii) provided by an organization or individual not
- 11 related to the taxpayer or the qualifying family member; and
- 12 (iii) not compensated for by insurance or otherwise;
- 13 (b) subject to the limitations in subsection (4)(a),
- 14 payments by the taxpayer for nursing home care of an
- 15 individual who is diagnosed by a physician as having senile
- 16 dementia of the Alzheimer type.

17 (5) The percentage amount of credit allowable under
 18 this section is:

- 19 (a) for a taxpayer whose federal adjusted gross income
- 20 does not exceed \$25,000, 30% of qualified elderly care
- 21 expenses; or
- 22 (b) for a taxpayer whose federal adjusted gross income
- 23 exceeds \$25,000, the greater of:
- 24 (i) 20% of qualified elderly care expenses; or
- 25 (ii) 30% of qualified elderly care expenses, less 1% for

1 each \$2,000 or fraction thereof by which the federal
 2 adjusted gross income of the taxpayer for the taxable year
 3 exceeds \$25,000.

4 (6) The dollar amount of credit allowable under this
 5 section is:

- 6 (a) reduced by \$1 for each dollar of the federal
- 7 adjusted gross income over \$50,000 for a taxpayer whose
- 8 federal adjusted gross income exceeds \$50,000;
- 9 (b) limited to \$5,000 per qualifying family member in a
- 10 taxable year and to \$10,000 total for two or more family
- 11 members in a taxable year;
- 12 (c) prorated among multiple taxpayers who each
- 13 contribute to qualified elderly care expenses of the same
- 14 qualified family member in a taxable year in the same
- 15 proportion that their contributions bear to the total
- 16 qualified elderly care expenses paid by those taxpayers for
- 17 that qualified family member.

18 (7) A deduction or credit is not allowed under any
 19 other provision of this chapter with respect to any amount
 20 for which a credit is allowed under this section. The credit
 21 allowed under this section may not be claimed as a carryback
 22 or carryforward and may not be refunded if the taxpayer has
 23 no tax liability.

24 (8) In the case of a married individual filing a
 25 separate return, the percentage amount of credit under

1 subsection (5) and the dollar amount of credit under
 2 subsection (6) are limited to one-half of the figures
 3 indicated in those subsections."

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

5 "15-30-162. Investment credit. (1) There is allowed as
 6 a credit against the tax imposed by ~~15-30-103~~ [section 6] a
 7 percentage of the credit allowed with respect to certain
 8 depreciable property under section 38 of the Internal
 9 Revenue Code of 1954, as amended, or as section 38 may be
 10 renumbered or amended. However, rehabilitation costs as set
 11 forth under section 46(a)(2)(F) of the Internal Revenue Code
 12 ~~of-1954, or as section--46(a)(2)(F)--may--be--renumbered--or~~
 13 ~~amended,~~ are not to be included in the computation of the
 14 investment credit. The credit is allowed for the purchase
 15 and installation of certain qualified property defined by
 16 section 38 of the Internal Revenue Code ~~of-1954, as amended,~~
 17 if the property meets all of the following qualifications:

18 (a) it was placed in service in Montana; and
 19 (b) it was used for the production of Montana adjusted
 20 gross income.

21 (2) The amount of the credit allowed for the taxable
 22 year is 5% of the amount of credit determined under section
 23 46(a)(2) of the Internal Revenue Code ~~of-1954, as amended,~~
 24 or as section 46(a)(2) may be renumbered or amended.

25 (3) Notwithstanding the provisions of subsection (2),

1 the investment credit allowed for the taxable year may not
 2 exceed the taxpayer's tax liability for the taxable year or
 3 \$500, whichever is less.

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

18 (5) The investment credit allowed by this section is
 19 subject to recapture as provided for in section 47 of the
 20 Internal Revenue Code ~~of-1954, as amended, or as section--47~~
 21 ~~may-be-renumbered-or-amended."~~

22 **Section 16.** Section 15-30-241, MCA, is amended to read:

23 "15-30-241. Declaration of estimated tax. (1) Every
 24 Each individual ~~except-farmers, ranchers, or stockmen~~ shall,
 25 at the time prescribed in subsection (3) ~~of--this--section,~~

1 make a declaration of his estimated tax for the taxable year
 2 if ~~his net income from sources other than wages, salaries,~~
 3 ~~bonuses, or other emoluments can reasonably be expected to~~
 4 ~~equal or exceed his net income from wages, salaries, bonuses~~
 5 ~~or other emoluments, which are subject to withholding~~ he is
 6 required to file a declaration of his estimated tax under
 7 the provisions of the Internal Revenue Code.

8 (2) In the declaration required under subsection (1) of
 9 this section, the individual shall state:

10 (a) the amount which he estimates as the amount of tax
 11 under ~~15-38-103~~ [section 7] for the taxable year;

12 (b) the amount which he estimates will be withheld from
 13 wages paid by his employer if said individual is an
 14 employee;

15 (c) the excess of the amount estimated under subsection
 16 (2)(a) over the amount estimated under subsection (2)(b),
 17 which excess for purposes of this section shall be
 18 considered the estimated tax for the taxable year;

19 (d) such other information as may be prescribed in
 20 rules promulgated by the department.

21 (3) The declaration required under subsection (1) of
 22 ~~this section~~ shall be filed with the department on or before
 23 April 15 of the taxable year, except that if the
 24 requirements of subsection (1) ~~of this section~~ are first
 25 met:

1 (a) after April 1 and before October 1 of the taxable
 2 year, the declaration shall be filed on or before October 15
 3 of the taxable year;

4 (b) after October 1 of the taxable year, the
 5 declaration shall be filed on or before February 15 of the
 6 succeeding taxable year.

7 (4) An individual may make amendments of a declaration
 8 filed during the taxable year under subsection (3) ~~of this~~
 9 ~~section~~ under rules prescribed by the department.

10 (5) If, on or before February 15 of the succeeding
 11 taxable year, the taxpayer files a return for the taxable
 12 year for which the declaration is required and pays in full
 13 the amount computed on his return as payable, then under
 14 rules prescribed by the department:

15 (a) if the declaration is not required to be filed
 16 during the taxable year but is required to be filed on or
 17 before such February 15, such the return shall for the
 18 purposes of this section be considered as such declaration;
 19 and

20 (b) if the tax shown on the return is greater than the
 21 estimated tax shown in a declaration previously made or in
 22 the last amendments thereof, such the return shall for the
 23 purposes of this section be considered as the amendment of
 24 the declaration permitted by subsection (4) ~~of this section~~
 25 to be filed on or before such February 15.

1 (6) The department shall promulgate rules governing
2 reasonable extensions of time for filing declarations and
3 paying the estimated tax except in the case of taxpayers who
4 are abroad, and no such extension shall be for more than 6
5 months.

6 (7) If the taxpayer is unable to make his own
7 declaration, the declaration shall be made by a duly
8 authorized agent or by the guardian or other person charged
9 with the care of the person or property of such the
10 taxpayer.

11 (8) Any individual who fails to file a declaration of
12 estimated tax as required by this section is not subject to
13 the penalties set forth in 15-30-321."

14 **Section 17.** Section 15-30-303, MCA, is amended to read:

15 "15-30-303. Confidentiality of tax records. (1) Except
16 in accordance with proper judicial order or as otherwise
17 provided by law, it is unlawful for the department or any
18 deputy, assistant, agent, clerk, or other officer or
19 employee to divulge or make known in any manner the amount
20 of income or any particulars set forth or disclosed in any
21 report or return required under this chapter or any other
22 information secured in the administration of this chapter.
23 It is also unlawful to divulge or make known in any manner
24 any federal return or federal return information disclosed
25 on any return or report required by rule of the department

1 or under this chapter.

2 (2) The officers charged with the custody of such
3 reports and returns shall not be required to produce any of
4 them or evidence of anything contained in them in any action
5 or proceeding in any court, except in any action or
6 proceeding to which the department is a party under the
7 provisions of this chapter or any other taxing act or on
8 behalf of any party to any action or proceedings under the
9 provisions of this chapter or such the other act when the
10 reports or facts shown thereby are directly involved in such
11 action or proceedings, in either of which events the court
12 may require the production of and may admit in evidence so
13 much of said the reports or of the facts shown thereby as
14 are pertinent to the action or proceedings and no more.

15 (3) Nothing herein ~~shall~~ may be construed to prohibit:

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

19 (b) the publication of statistics so classified as to
20 prevent the identification of particular reports or returns
21 and the items thereof; or

22 (c) the inspection by the attorney general or other
23 legal representative of the state of the report or return of
24 any taxpayer who ~~shall~~ may bring action to set aside or
25 review the tax based thereon or against whom an action or

1 proceeding has been instituted in accordance with the
 2 provisions of 15-30-311 and 15-30-322.

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

6 (5) Any offense against subsections (1) through (4) of
 7 this-section shall be punished by a fine not exceeding
 8 \$1,000 or by imprisonment in the county jail not exceeding 1
 9 year, or both, at the discretion of the court, and if the
 10 offender be is an officer or employee of the state, he shall
 11 be dismissed from office and be incapable of holding any
 12 public office in this state for a period of 1 year
 13 thereafter.

14 (6) Notwithstanding the provisions of this section, the
 15 department may permit the commissioner of internal revenue
 16 of the United States or the proper officer of any state
 17 imposing a tax upon the incomes of individuals or the
 18 authorized representative of either such officer to inspect
 19 the return of income of any individual or may furnish to
 20 such the officer or his authorized representative an
 21 abstract of the return of income of any individual or supply
 22 him with information concerning any item of income contained
 23 in any return or disclosed by the report of any
 24 investigation of the income or return of income of any
 25 individual, but such permission shall be granted or such

1 information furnished to such officer or his representative
 2 only if the statutes of the United States or of such other
 3 state, as the case may be, grant substantially similar
 4 privileges to the proper officer of this state charged with
 5 the administration of this chapter.

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

8 ~~(a) to the department of justice all information~~
 9 ~~necessary to identify those persons qualifying for the~~
 10 ~~additional exemption for blindness pursuant to 15-30-112(4),~~
 11 ~~for the purpose of enabling the department of justice to~~
 12 ~~administer the provisions of 61-5-105;~~

13 ~~(b)(a)~~ to the department of social and rehabilitation
 14 services information acquired under 15-30-301, pertaining to
 15 an applicant for public assistance, reasonably necessary for
 16 the prevention and detection of public assistance fraud and
 17 abuse, provided notice to the applicant has been given;

18 ~~(c)(b)~~ to the department of fish, wildlife, and parks
 19 specific information that is available from income tax
 20 returns and required under 87-2-102 to establish the
 21 residency requirements of an applicant for hunting and
 22 fishing licenses; and

23 ~~(d)(c)~~ to the board of regents information required
 24 under 20-26-1111."

25 **Section 18.** Section 15-30-323, MCA, is amended to read:

1 "15-30-323. Penalty for deficiency. (1) If the payment
2 required by ~~15-30-142(6)~~ [section 10 11] is not made within
3 60 days or if the understatement is due to negligence on the
4 part of the taxpayer but without fraud, there shall be added
5 to the amount of the deficiency 5% thereof; provided,
6 however, that no deficiency penalty shall be less than \$2.
7 Interest will be computed at the rate of 9% per annum or
8 fraction thereof on the additional assessment. Except as
9 otherwise expressly provided in this subsection, the
10 interest shall in all cases be computed from the date the
11 return and tax were originally due as distinguished from the
12 due date as it may have been extended to the date of
13 payment.

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

18 **Section 19.** Section 15-31-131, MCA, is amended to read:

19 "15-31-131. Credit for dependent care assistance. (1)
20 There is a credit against the taxes otherwise due under this
21 chapter allowable to an employer for amounts paid or
22 incurred during the taxable year by the employer for
23 dependent care assistance actually provided to or on behalf
24 of an employee if the assistance is furnished by a
25 registered or licensed day-care provider and pursuant to a

1 program that meets the requirements of section 89(k) and
2 129(d)(2) through (6) of the Internal Revenue Code.

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

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

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

15 (3) An amount paid or incurred during the taxable year
16 of an employer in providing dependent care assistance to or
17 on behalf of any employee does not qualify for the credit
18 allowed under subsection (1) if the amount was paid or
19 incurred to an individual described in section 129(c)(1) or
20 (2) of the Internal Revenue Code.

21 (4) An amount paid or incurred by an employer to
22 provide dependent care assistance to or on behalf of an
23 employee does not qualify for the credit allowed under
24 subsection (1) if the amount is paid or incurred pursuant to
25 a salary reduction plan or is paid or incurred for services

1 not performed within this state.

2 (5) If the credit allowed under subsection (1) is
 3 claimed, the amount of any deduction allowed or allowable
 4 under this chapter for the amount that qualifies for the
 5 credit (or upon which the credit is based) must be reduced
 6 by the dollar amount of the credit allowed. The election to
 7 claim a credit allowed under this section must be made at
 8 the time of filing the tax return.

9 (6) The amount upon which the credit allowed under
 10 subsection (1) is based may not be included in the gross
 11 income of the employee to whom the dependent care assistance
 12 is provided. However, the amount excluded from the income of
 13 an employee under this section may not exceed the
 14 limitations provided in section 129(b) of the Internal
 15 Revenue Code. For purposes of Title 15, chapter 30, part 2,
 16 with respect to an employee to whom dependent care
 17 assistance is provided, "wages" does not include any amount
 18 excluded under this subsection. ~~Amounts-excluded-under--this~~
 19 ~~subsection--do-not-qualify-as-expenses-for-which-a-deduction~~
 20 ~~is-allowed-to-the-employee-under-15-30-121.~~

21 (7) Any tax credit otherwise allowable under this
 22 section that is not used by the taxpayer in a particular
 23 year may be carried forward and offset against the
 24 taxpayer's tax liability for the next succeeding tax year.
 25 Any credit remaining unused in the next succeeding tax year

1 may be carried forward and used in the second succeeding tax
 2 year, and likewise through the fifth year succeeding the tax
 3 year in which the credit was first allowed or allowable. A
 4 credit may not be carried forward beyond the fifth
 5 succeeding tax year.

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

14 (9) For purposes of the credit allowed under subsection
 15 (1):

16 (a) ~~The~~ the definitions and special rules contained in
 17 section 129(e) of the Internal Revenue Code apply to the
 18 extent applicable; and

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

21 ~~(c) --"Internal Revenue Code" means the federal -- Internal~~
 22 ~~Revenue Code as amended and in effect on January 17, 1989."~~

23 **Section 20.** Section 15-31-202, MCA, is amended to read:

24 **"15-31-202. Election by small business corporation.** (1)
 25 A small business corporation may elect not to be subject to

1 the taxes imposed by this chapter.

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

4 (a) with respect to the taxable years of the
5 corporation for which such election is in effect, such
6 corporation is not subject to the taxes imposed by this
7 chapter and, with respect to such taxable years and all
8 succeeding taxable years, the provisions of this part apply
9 to such corporation; and

10 (b) with respect to the taxable years of a shareholder
11 of such corporation in which or with which the taxable years
12 of the corporation for which such election is in effect end,
13 the provisions of this part apply to such shareholder, and
14 with respect to such taxable years and all succeeding
15 taxable years, the provisions of this part apply to such
16 shareholder.

17 (3) An election under subsection (1) must be made in
18 accordance with rules prescribed by the department of
19 revenue.

20 (4) This election is not effective unless the corporate
21 net income or loss of such electing corporation is included
22 in the stockholders' federal adjusted gross taxable income
23 as defined in ~~15-30-111~~ [section 6].

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

1 **Section 21.** Section 15-32-303, MCA, is amended to read:

2 "15-32-303. Deduction for purchase of Montana produced
3 organic fertilizer. In addition to all other deductions from
4 ~~adjusted--gross--individual--income--allowed--in--computing~~
5 ~~taxable-income-under-Title-15,--chapter--307--or--from~~ gross
6 corporate income allowed in computing net income under Title
7 15, chapter 31, part 1, a taxpayer corporation may deduct
8 ~~his~~ its expenditures for organic fertilizer produced in
9 Montana and used in Montana if the expenditure was not
10 otherwise deducted in computing taxable income."

11 **Section 22.** Section 15-33-106, MCA, is amended to read:

12 "15-33-106. Capital gains -- dividends ~~exempted~~. Any
13 capital gains or dividend income realized by ~~an individual~~
14 ~~or~~ a corporation from an investment in an SBIC organized in
15 accordance with this part is exempt from taxation under the
16 provisions of Title 15, ~~chapters-30 and~~ chapter 31."

17 **Section 23.** Section 53-6-111, MCA, is amended to read:

18 "53-6-111. Department charged with general
19 administration of medical assistance -- adoption of rules to
20 punish fraud. (1) The department of social and
21 rehabilitation services is hereby authorized and empowered
22 to administer and supervise a vendor payment program of
23 medical assistance under the powers, duties, and functions
24 provided in chapter 2 of this title, as amended, and as
25 contemplated by the provisions of Title XIX of the federal

1 Social Security Act.

2 (2) The department shall adopt rules establishing a
3 system of penalties and sanctions applicable to providers of
4 medical assistance services and supplies who engage in
5 fraudulent, abusive, or improper activities. The department
6 shall define by rule those activities which are fraudulent,
7 abusive, or improper.

8 (3) The penalties or sanctions imposed include but are
9 not limited to:

10 (a) required courses of education in the rules
11 governing the medicaid program;

12 (b) withholding of payments to offset previous improper
13 payments to a provider;

14 (c) suspension of payments to a provider pending
15 resolution of a dispute involving fraudulent, abusive, or
16 improper activities;

17 (d) suspension of participation in the program for a
18 specified period of time; and

19 (e) permanent termination of participation in the
20 medical assistance program.

21 (4) The department is entitled to recover from a
22 provider all amounts paid as a result of fraudulent,
23 abusive, or improper activities, together with interest at
24 the rate set by ~~15-30-142~~ [section 10 11] for tax
25 deficiencies from the date of such payment.

1 (5) In all cases in which a penalty or sanction may be
2 imposed, a provider is entitled to a hearing under the
3 provisions of Title 2, chapter 4, part 6."

4 **Section 24.** Section 67-11-303, MCA, is amended to read:

5 **"67-11-303. Bonds and obligations.** (1) An authority may
6 borrow money for any of its corporate purposes and issue its
7 bonds therefor, including refunding bonds, in such form and
8 upon such terms as it may determine, payable out of any
9 revenues of the authority, including revenues derived from:

10 (a) an airport or air navigation facility or
11 facilities;

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

14 (c) grants or contributions from the federal
15 government; or

16 (d) other sources.

17 (2) The bonds may be issued by resolution of the
18 authority, without an election and without any limitation of
19 amount, except that no such bonds may be issued at any time
20 if the total amount of principal and interest to become due
21 in any year on such bonds and on any then outstanding bonds
22 for which revenues from the same source or sources are
23 pledged exceeds the amount of such revenues to be received
24 in that year as estimated in the resolution authorizing the
25 issuance of the bonds. The authority shall take all action

1 necessary and possible to impose, maintain, and collect
 2 rates, charges, rentals, and taxes, if any are pledged,
 3 sufficient to make the revenues from the pledged source in
 4 such year at least equal to the amount of such principal and
 5 interest due in that 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 herein, any bonds issued pursuant to this
 9 chapter by an authority may be payable as to principal and
 10 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 or municipality
 15 pursuant to the provisions of this chapter are declared to
 16 be issued for an essential public and governmental purpose
 17 by a political subdivision within---the---meaning---of
 18 ~~15-38-111(2)(a)~~ section-6(2)(c).

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

1 may be paid from any revenues referred to in this chapter,
 2 prior to the payment of current costs of operation and
 3 maintenance of the facilities.

4 (6) Subject to the conditions stated in this subsection
 5 (6), the governing body of any municipality having a
 6 population in excess of 10,000, with respect to bonds issued
 7 pursuant to this chapter by the municipality or by an
 8 authority in which the municipality is included, may by
 9 resolution covenant that in the event that at any time all
 10 revenues, including taxes, appropriated and collected for
 11 such bonds are insufficient to pay principal or interest
 12 then due, it will levy a general tax upon all of the taxable
 13 property in the municipality for the payment of such
 14 deficiency; and may further covenant that at any time a
 15 deficiency is likely to occur within 1 year for the payment
 16 of principal and interest due on such bonds, it will levy a
 17 general tax upon all the taxable property in the
 18 municipality for the payment of such deficiency, and such
 19 taxes are not subject to any limitation of rate or amount
 20 applicable to other municipal taxes but are limited to a
 21 rate estimated to be sufficient to produce the amount of the
 22 deficiency. In the event more than one municipality having a
 23 population in excess of 10,000 is included in an authority
 24 issuing bonds pursuant to this chapter, the municipalities
 25 may apportion the obligation to levy taxes for the payment

1 of, or in anticipation of, a deficiency in the revenues
 2 appropriated for such bonds in such manner as the
 3 municipalities may determine. The resolution shall state the
 4 principal amount and purpose of the bonds and the substance
 5 of the covenant respecting deficiencies. No such resolution
 6 becomes effective until the question of its approval has
 7 been submitted to the qualified electors of the municipality
 8 at a special election called for that purpose by the
 9 governing body of the municipality and a majority of the
 10 electors voting on the question have voted in favor thereof.
 11 The notice and conduct of the election is governed, to the
 12 extent applicable, as provided for municipal general
 13 obligation bonds in Title 7, chapter 7, part 42, for an
 14 election called by cities and towns, and as provided for
 15 county general obligation bonds in Title 7, chapter 7, part
 16 22, for an election called by counties. If a majority of the
 17 electors voting thereon vote against approval of the
 18 resolution, the municipality has no authority to make the
 19 covenant or to levy a tax for the payment of deficiencies
 20 pursuant to this section, but such municipality or authority
 21 may nevertheless issue bonds under this chapter payable
 22 solely from the sources referred to in subsection (1)
 23 above."

24 **Section 25.** Section 19-3-105, MCA, is amended to read:
 25 "19-3-105. **Exemption from taxes-and legal process.** The

1 right of a person to a retirement allowance or any other
 2 benefit under this chapter and the moneys in the fund
 3 created under this chapter is not:
 4 {1} subject to execution, garnishment, attachment, or
 5 any other process;
 6 {2} ~~subject to state, county, or municipal taxes except~~
 7 ~~for a refund paid under 19-3-703 of a member's contributions~~
 8 ~~picked up by an employer after June 30, 1985, as provided in~~
 9 ~~19-3-701, or~~
 10 {3} or assignable except as in this chapter
 11 specifically provided."

12 **Section 26.** Section 19-4-706, MCA, is amended to read:
 13 "19-4-706. **Exemption from taxation and legal process.**
 14 The pensions, annuities, or any other benefits accrued or
 15 accruing to any person under the provisions of the
 16 retirement system and the accumulated contributions and cash
 17 and securities in the various funds of the retirement system
 18 are:

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

23 {2} not subject to execution, garnishment, attachment
 24 by trustee process or otherwise, in law or equity, or any
 25 other process; and

1 ~~{3}~~ unassignable except as specifically provided in
2 this chapter."

3 **Section 27.** Section 19-5-704, MCA, is amended to read:

4 "~~19-5-704. Exemption from taxes-and legal process.~~ Any
5 money received or to be paid as a member's annuity, state
6 annuity, or return of deductions or the right of any of
7 these ~~shall-be~~ is exempt from any state-or-municipal-tax-and
8 from levy, sale, garnishment, attachment, or any other
9 process whatsoever and ~~shall-be~~ is unassignable except as
10 specifically provided in 19-5-705."

11 **Section 28.** Section 19-6-705, MCA, is amended to read:

12 "~~19-6-705. Exemption from taxes-and legal process.~~ Any
13 money received or to be paid as a member's annuity, state
14 annuity, or return of deductions or the right of any of
15 these is:

16 ~~{1}-exempt-from-any-state,-county,-or-municipal-tax~~
17 ~~except-for-a-refund-paid-under-19-6-403-of-a-member's~~
18 ~~contributions-picked-up-by-an-employer-after-June-30,-1985,~~
19 ~~as-provided-in-19-6-402;~~

20 ~~{2}~~ exempt from levy, sale, garnishment, attachment, or
21 any other process; and

22 ~~{3}~~ is unassignable except as specifically provided in
23 19-6-706."

24 **Section 29.** Section 19-7-705, MCA, is amended to read:

25 "~~19-7-705. Exemption from taxes-and legal process.~~ Any

1 money received or to be paid as a member's annuity, state
2 annuity, or return of deductions or the right of any of
3 these is:

4 ~~{1}-exempt-from-any-state,-county,-or-municipal-tax~~
5 ~~except-for-a-refund-paid-under-19-7-304{1}-of-a-member's~~
6 ~~contributions-picked-up-by-an-employer-after-June-30,-1985,~~
7 ~~as-provided-in-19-7-403;~~

8 ~~{2}~~ exempt from levy, sale, garnishment, attachment, or
9 any other process; and

10 ~~{3}~~ is unassignable except as specifically provided in
11 19-7-706."

12 **Section 30.** Section 19-8-805, MCA, is amended to read:

13 "~~19-8-805. 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-19-8-503-of-the-member's~~
19 ~~contributions-picked-up-by-an-employer-after-June-30,-1985,~~
20 ~~as-provided-in-19-8-502;~~

21 ~~{2}~~ exempt from levy, sale, garnishment, attachment, or
22 any other process; and

23 ~~{3}~~ is unassignable except as specifically provided in
24 19-8-806."

25 **Section 31.** Section 19-21-212, MCA, is amended to read:

1 *19-21-212. Exemption from taxation, legal process, and
2 assessments. All contracts, benefits, and contributions
3 under the optional retirement program and the earnings
4 thereon are:

5 ~~(1) exempt from any state, county, or municipal tax;~~

6 (2) (1) not subject to execution, garnishment,
7 attachment, or other process;

8 (3) (2) not covered or assessable by an insurance
9 guaranty association; and

10 (4) (3) unassignable except as specifically provided in
11 the contracts."

12 Section 32. Section 15-30-125, MCA, is amended to read:

13 *15-30-125. Credit for energy-conserving investments.

14 (1) There is a credit against tax liability under this
15 chapter as provided in 15-32-109.

16 (2) A temporary resident is allowed the credit allowed
17 a resident under 15-32-109 to the extent the credit was
18 expended in Montana during the during the course of his
19 residency."

20 NEW SECTION. Section 33. Repealer. Sections 15-30-103,

21 15-30-105, 15-30-106, 15-30-108, 15-30-110, 15-30-111,

22 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-116,

23 15-30-117, 15-30-121, 15-30-122, 15-30-123, 15-30-126,

24 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-137,

25 15-30-142, 15-30-143, 15-30-156, 15-30-157, 19-9-1005, and

1 19-13-1003, AND 80-12-211, MCA, are repealed.

2 NEW SECTION. Section 34. Codification instruction --

3 instruction to code commissioner. (1) [Sections 6 through ~~10~~
4 11] are intended to be codified as an integral part of Title
5 15, chapter 30, part 1, and the provisions of Title 15,
6 chapter 30, part 1, apply to [sections 6 through ~~10~~ 11].

7 (2) The code commissioner is instructed to make changes
8 throughout the Montana Code Annotated to reflect the change
9 in definition of "Internal Revenue Code" in 15-30-101.

10 NEW SECTION. SECTION 35. COORDINATION INSTRUCTION. (1)

11 IF SENATE BILL NO. 333 IS PASSED AND APPROVED, THEN THE
12 LANGUAGE IN [SECTION 6(3) OF THIS ACT] IS VOID.

13 (2) IF SENATE BILL NO. 445 IS PASSED AND APPROVED, THEN
14 THE APPEAL PROVISIONS CONTAINED IN THAT BILL GOVERN THE
15 APPEAL PROVISIONS SET FORTH IN [THIS ACT] AND THE ~~90-DAY~~
16 60-DAY PROVISION IN [SECTION ~~10~~ 11 OF THIS ACT] MUST BE
17 CHANGED TO 60 30 DAYS.

18 (3) (A) IF SENATE BILL NO. 226 IS NOT PASSED AND
19 APPROVED, THEN [THIS ACT] IS VOID.

20 (B) IF SENATE BILL NO. 226 IS PASSED AND APPROVED, THEN
21 THE FOLLOWING SECTION IS TO BE CODIFIED IN TITLE 15, CHAPTER
22 30, PART 1, AND THE BRACKETED BLANKS MUST CONTAIN THE DOLLAR
23 AMOUNT OF THE EXEMPTION THAT APPEARS IN 15-30-111(2)(C) AS
24 IT READS IN SENATE BILL NO. 226:

25 "CREDIT FOR QUALIFIED RETIREMENT INCOME. (1) THERE IS A

1 RETIREMENT INCOME CREDIT AGAINST THE TAX IMPOSED BY THIS
2 CHAPTER FOR THE FIRST [\$] OF QUALIFIED RETIREMENT
3 INCOME RECEIVED BY A TAXPAYER.

4 (2) (A) THE AMOUNT OF THE CREDIT AUTHORIZED BY THIS
5 SECTION FOR TAXPAYERS WHOSE FILING STATUS IS SINGLE, MARRIED
6 FILING SEPARATELY, OR HEAD OF HOUSEHOLD IS 4.5% OF THE FIRST
7 [\$] OF QUALIFIED RETIREMENT INCOME. THE AMOUNT OF THE
8 CREDIT MAY NOT EXCEED [4.5% OF THE AMOUNT OF THE EXEMPTION
9 PROVIDED FOR IN SENATE BILL NO. 226].

10 (B) THE AMOUNT OF THE CREDIT FOR TAXPAYERS FILING
11 JOINTLY IS 4.5% OF THE FIRST [\$] OF QUALIFIED RETIREMENT
12 INCOME EARNED BY EACH PERSON.

13 (3) INCOME QUALIFIES FOR THE CREDIT UNDER THIS SECTION
14 IF IT IS RECEIVED BY THE TAXPAYER FROM ANY OF THE FOLLOWING:

15 (A) THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OR ANY
16 OTHER FEDERAL RETIREMENT SYSTEM SUBJECT TO FEDERAL INCOME
17 TAXATION;

18 (B) THE PUBLIC EMPLOYEE RETIREMENT LAWS OF MONTANA OR
19 ANOTHER STATE;

20 (C) AN ANNUITY, PENSION, OR ENDOWMENT UNDER ANY PRIVATE
21 OR CORPORATE RETIREMENT PLAN OR SYSTEM; SYSTEMATIC PAYMENTS
22 OF A DEFINITELY DETERMINABLE AMOUNT FROM A QUALIFIED PENSION
23 PLAN, AS THAT TERM IS USED IN SECTION 401 OF THE INTERNAL
24 REVENUE CODE, OR SYSTEMATIC PAYMENTS RECEIVED AS THE RESULT
25 OF CONTRIBUTIONS MADE TO A QUALIFIED PENSION PLAN THAT ARE

1 PAID TO THE RECIPIENT OR TO THE RECIPIENT'S BENEFICIARY UPON
2 THE CESSATION OF EMPLOYMENT;

3 (B) PAYMENTS RECEIVED AS THE RESULT OF PAST SERVICE AND
4 CESSATION OF EMPLOYMENT IN THE UNIFORMED SERVICES OF THE
5 UNITED STATES;

6 (C) LUMP-SUM DISTRIBUTIONS FROM PENSION OR PROFIT-
7 SHARING PLANS TO THE EXTENT THAT THE DISTRIBUTIONS ARE
8 INCLUDED IN FEDERAL ADJUSTED GROSS INCOME;

9 (D) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT, DEFERRED
10 COMPENSATION, AND SELF-EMPLOYED RETIREMENT PLANS RECOGNIZED
11 UNDER SECTIONS 401 THROUGH 408 OF THE INTERNAL REVENUE CODE,
12 TO THE EXTENT THAT THE DISTRIBUTIONS ARE NOT CONSIDERED TO
13 BE PREMATURE DISTRIBUTIONS FOR FEDERAL INCOME TAX PURPOSES;
14 OR

15 (E) AMOUNTS AFTER CESSATION OF REGULAR EMPLOYMENT
16 RECEIVED FROM FULLY MATURED, PRIVATELY PURCHASED ANNUITY
17 CONTRACTS."

18 NEW SECTION. Section 36. Saving clause. [This act]
19 does not affect rights and duties that matured, penalties
20 that were incurred, or proceedings that were begun before
21 [the effective date of this act].

22 NEW SECTION. Section 37. Severability. If a part of
23 [this act] is invalid, all valid parts that are severable
24 from the invalid part remain in effect. If a part of [this
25 act] is invalid in one or more of its applications, the part

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1 remains in effect in all valid applications that are
2 severable from the invalid applications.

3 NEW SECTION. Section 38. ~~retroactive~~ applicability
4 APPLICABILITY. [This act] applies ~~retroactively~~ within the
5 ~~meaning of 1-2-1097~~ to taxable years beginning after
6 December 31, ~~1990~~ 1991.

7 NEW SECTION. Section 39. Effective date. [This act] is
8 effective on passage and approval.

-End-



State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

STAN STEPHENS
GOVERNOR

April 19, 1991

The Honorable Hal Harper
Speaker of the House
House of Representatives
Capitol Station
Helena, Montana 59620

The Honorable Joseph P. Mazurek
President
Montana State Senate
Capitol Station
Helena, Montana 59620

Dear Speaker Harper and President Mazurek:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto the adoption of House Bill 996, "AN ACT REPEALING THE EXISTING STATE INDIVIDUAL INCOME TAX AND IMPOSING A STATE INCOME TAX BASED ON A PERCENTAGE OF THE FEDERAL INCOME TAX PAYABLE ON MONTANA TAXABLE INCOME; AMENDING SECTIONS 7-14-1133, 7-34-2416, 13-37-218, 13-37-303, 15-30-101, 15-30-125, 15-30-128, 15-30-145, 15-30-149, 15-30-162, 15-30-241, 15-30-303, 15-30-323, 15-31-131, 15-31-202, 15-32-303, 15-33-106, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-21-212, 53-6-111, AND 67-11-303, MCA; REPEALING SECTIONS 15-30-103, 15-30-105, 15-30-106, 15-30-108, 15-30-110, 15-30-111, 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, 15-30-126, 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-137, 15-30-142, 15-30-143, 15-30-156, 15-30-157, 19-9-1005, AND 19-13-1003, AND 80-12-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE AN APPLICABILITY DATE."

This bill raises taxes on working couples in Montana by over \$50 million dollars during the next five years. It is clear that this is a general tax increase and is therefore unacceptable.

Montanans have just completed the filing of their state and federal income taxes. When they multiply their Federal taxes by 30% as called for in this bill, they know that "revenue neutral" really means they will pay more taxes.

This bill is particularly onerous to senior citizens. It's supposed "revenue neutrality" actually results in an increased tax burden on retirees and senior citizens with qualified pension income of 64%.

In addition, Montanans must not be subject to the whims of Federal tax policy. Under this legislation, our state runs the risk of losing stability and control of our tax system by subjecting it to the dictates of politicians on the Potomac. When Montana's income tax is so closely tied to federal tax policy, Montana taxpayers will be stuck with double increases. They will be burdened with one increase for any federal boost, and then an automatic increase because of the coordination of Montana's income tax that this bill creates.

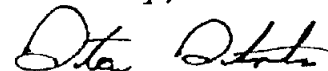
By enacting this legislation, the Legislature has abdicated its responsibility to determine tax policy for Montana. They turn that responsibility over to the federal government for all their future actions and future generations of Montanans. This is an abrogation of duty which is not in the best interest of Montana.

The flat tax will eliminate federal tax deductibility on state income tax returns and it will eliminate the advantage that working couples have in filing separate state returns. Why should Montanans - who support family values - be forced to pay state taxes based on a federal formula that is so unfair to families?

Finally, this bill will not do what its supporters claim. They say it will simplify tax filing for Montanans. Untrue. Anyone who receives interest from U.S. savings bonds or other federal notes or bonds or who receives unemployment insurance must still compute his or her income tax in the old way. The same is true for anyone who gets tips as part of their work, receives military pay or is a native American.

Montanans have seen tax increases virtually every year of the last two decades. Montanans, and this administration, are asking when does it all stop. It stops now - no new taxes.

Sincerely,



STAN STEPHENS
Governor