1 HOUSE BILL NO. 15 MARKS 2 TETRODUCED BY 3 Û. A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 CLABIFY THE LAWS RELATING TO INCOME, GASOLINE, AND CORPORATION TAXES: ABENDING SECTIONS 84-1501.2. 84-1838. 6 84-1840, 84-4903.8, 84-4926, 84-6305, AND 84-6307, R.C.M. 7 я 1947; REPEALING SECTIONS 84-4903.1, 84-4903.13, AND 84-6303, 9 R.C. E. 1947. " 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: 12 Section 1. Section 84-1501.2, R.C.H. 1947. is amended 13 to read as follows: 14 *84-1501.2. Election by small business corporation. 15 (a) (1) Bligibility, Except as provided in subsection (f) 16 (6), any small business corporation may elect, in accordance 17 with the provisions of this section, not to be subject to 18 the taxes imposed by this chapter. Such election shall be 19 valid only if consented to by all persons who are 20 shareholders in such corporation-, the election is 21 effective: 22 (1) (a) on the first day of the first taxable year for

22 (+) (a) on the first day of the first taxable year for
23 which such election is effective, if such election is made
24 on or before such first day; or

25 (2)(b) on the day on which the election is made, if

the election is made after such first day, consent to such
 election.

5 (1)(a) with respect to the tarable years of the 6 corporation for which such election is in effect, such 7 corporation shall not be subject to the tares imposed by 8 this chapter and, with respect to such tarable years and all 9 succeeding tarable years, the provisions of this act shall 10 apply to such corporation, and

11 (2)(b) with respect to the taxable years of a 12 shareholder of such corporation in which or with which the 13 taxable years of the corporation for which such election is 14 in effect end, the provisions of this act shall apply to 15 such shareholder, and with respect to such taxable years and 16 all succeeding taxable years, the provisions of this act 17 shall apply to such shareholder.

18 -(d)----Where and-how-made.

19 (1) (3) In-general. An election under subsection (a) 20 (1) may be made by a small business corporation for any 21 taxable year at any time during the first month of such 22 taxable year, or at any time during the month preceding such 23 first month. Such election shall be made in such manner as 24 the state department of revenue shall prescribe by 25 regulations.

INTRODUCED BILL

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1	-{2}Taxableyears-beginning-before-date-of-enastment-
2	An-oloction may be made under subsection (a) by a small
3	business-serperation-for-its first taxable year which begins
4	after December 31, 1958, and on or before the date of the
5	enactment of this subshapter, and ends after such date at
6	asy-timo
7	(h) vithin the 90-day period-beginning-on-the-day
8	after the date of the enagtment of this subshaptery or
9	(B)ifitstarableyearondsvithinsuch90-day
10	period, before the close of guch tazable year.
11	la election may be made pursuant to this paragraph only
12	ifthe-gmall-business corporation-has-been-a-small-business
13	corporation-{as-defined-in-this-ast} on-each dayafterthe
14	date of the enactment of this subchapter and before the day
15	of such clostion.
16	(d)<u>(4)</u> Years for which offective, An election under
17	subsection (a)(1) shall be effective for the taxable year of
18	the corporation for which it is made and for all succeeding
19	taxable years of the corporation, unless it is terminated,
20	with respect to any such taxable year, under subsection
21	(e) <u>(5)</u> .
2 2	(c) - Terzizzticz,
23	(4)<u>(5)</u> (a) Boxsharoholders, An election under
24	subsection (a)(1) made by a small business corporation shall

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1 corporation-2 (1) on the first day of the first taxable year of the corporation for which the clockion is offestive, if such 3 election is-made-on or before such first day, or ù, (B) on the day on which the election is made, if such 5 election is nade after such first day, at the time of the 6 initial election under subsection (1) subsequently becomes a 7 shareholder in such corporation and does not consent to such 8 election within such time as the department of revenue shall 9 prescribe by regulations. Such termination shall be 10 effective for the taxable year of the corporation in which 11 such person becomes a shareholder in the corporation and for 12 all succeeding taxable years of the corporation. 13 -{2}-(b) Revocation. An election under subsection (a)-14 (1) made by a small business corporation may be revoked by 15 it for any taxable year after the first taxable year for 16 which the election is effective. An election may be revoked 17 only if all persons who are shareholders in the corporation 18 on the day on which the revocation is made consent to the 19 revocation. A revocation under this paragraph shall be 20 effective--: 21 (h) (i) for the taxable year in which made, if made 22 before the close of the first month of such taxable year -: 23 (B) (ii) for the taxable year following the taxable year 24

25 in which made, if made after the close of such first month,

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terminate if any person who was not a shareholder in such

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.

2 Such revocation shall be made in such manner as the state 3 department of revenue shall prescribe by regulations. 4 (3) (c) Geases to be seall business corporation. An 5 election under subsection (a) (1) made by a small business 6 corporation shall terminate if the corporation ceases to 7 meet the definition of a small business corporation at any 8 time- after election is effective under subsection (1). 9 (h) -- aftor--- the -- first-day of the first terable year of 10 the corporation for which the election is offertive, if each 11 election-is-sade-on-or before-such first day, or 12 (B) after the day on which the clockion is made, -- if 13 auch-election-is-made-after such-first-day, the corporation 14 seases to be a chall business correction (as defined in 15 this act). 16 (d) Such termination shall be effective for the 17 taxable year of the corporation in which the corporation 18 ceases to be a small business corporation and for all 19 succeeding taxable years of the corporation. 20 (f) (6) Blootion after termination. If a small business

and for all succeeding taxable years of the corporation.

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21 corporation has made an election under subsection (a)(1) and 22 if such election has been terminated or revoked under 23 subsection (a)(5), such corporation (and any successor 24 corporation) shall not be eligible to make an election under 25 subsection (a)(1) for any taxable year prior to its fifth

taxable year which begins after the first taxable year for 1 2 which such termination or revocation is effective, unless 3 the state department of revenue consents to such election. (q) [7] This election shall not be effective unless the 4 5 corporate net income or loss of such electing corporation shall have been included in the stockholders' adjusted gross 6 7 income as such is defined in section 64-4905. 8 (b) (8) Every electing corporation shall be required to 9 pay the minimum fee of ton-dollarg--(\$10-00)- required by 10 costion 84-1501." 11 Section 2. Section 84-1838, B.C.B. 1947, is amended to 12 read as follows: 13 #84-1838. Administration Administrative _____ powers. (a) -- Bules and regulations: (1) The department shall enforce 14 15 the provisions of this act, and may prescribe, adopt, and enforce reasonable rules and requilations relating to the 16 administration and enforcement thereof. 17 (b) (2) Examination of records: The department or its 18 19 authorized representative is hereby empowered to examine the 20 books, papers, records, and equipment of any special fuel 21 dealer or special fuel user or any person dealing in, 22 transporting, or storing special fuel, as defined in this 23 act and to investigate the character of the disposition 24 which any person makes of such special fuel in order to

ascertain and determine whether all excise taxes due

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1 hereunder are being properly reported and paid. If such 2 books, papers, records, and equipment are not maintained in 3 this state at the time of demand, they shall be furnished to 4 the department for review and shall be accompanied by the 5 special fuel dealer or special fuel user or such dealer or 6 user shall bear the reasonable cost of examination by an 7 agent authorized or designated by the department at the place where such books or records are kept, provided the 8 9 taxpayer shall not be liable for such costs for a period 10 erceeding one-(1) week or for such longer period as he may 11 consent to in writing, unless the result of said examination 12 is the payment of a tax deficiency.

13 (3) Evidence: For the purpose of enforcing the 14 provisions of this act, the fact that a special fuel dealer or a special fuel user has placed or received special fuel 15 16 into storage or dispensing equipment designed to fuel motor vehicles shall be prime facie evidence that all of such 17 18 special fuel has been delivered by the special fuel dealer 19 or special fuel user into the fuel supply tanks of motor 20 vehicles and consumed in the propulsion of motor vehicles 21 upon the highways as herein defined unless the contrary 22 shall be established by satisfactory evidence.

23 (4) (4) Bodiproval exchange of data; The department
 24 shall, upon request from officials to whom are entrusted the
 25 enforcement of the special fuel tax law of any other state,

the District of Columbia, the United States, its territories 1 2 and possessions, or the provinces of the Dominion of Canada, forward to such officials any information which it may have 3 relative to the receipt, storage, delivery, sale, use, or п other disposition of special fuel by any special fuel dealer 5 or special fuel user, provided such other state or states 6 furnish like information to this state." 7 Section 3. Section 84-1840, R.C.B. 1947, is amended to 8 9 read as follows: 10 #84-1840. Disposition of funds. All taxes, interest, and penalties collected under this act chapter or chapters 11 12 63 of this title shall be turned over promptly to the state treasurer, and the state treasurer who shall place the same 13 14 in the earmarked revenue fund to the credit of the 15 department of highways, except those funds hereinbelow allocated to cities, towns and counties, which funds shall 16 17 be paid by the state treasurer directly to such cities, 18 towns, and counties. 19 (1) <u>Six million five hundred theusand dollars</u> 20 +\$6,500,000+ of the funds collected under this act shall be 21 allocated each fiscal year on a monthly basis to the counties and incorporated cities and towns in Montana for 22

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provided in subsections (a) and (b) hereof_{τ}:

construction, reconstruction, maintenance, and repair of

rural roads, and city or town streets and alleys, as

23

24

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(a) Two-million-nime hundred - fifty --thousand --dollars
 (\$2,950,000) shall be divided among the various counties in
 the following manner:

4 (i) **Porty per contum (40%)** in the ratio that the rural 5 road mileage in each county, exclusive of the federal-aid 6 interstate system and the federal-aid primary system, bears 7 to the total rural road mileage in the state, exclusive. of 8 the federal-aid interstate system and the federal-aid 9 primary system-:

10 (ii) Forty per sentum (40%) in the ratio that the rural 11 population in each county outside incorporated cities and 12 towns bears to the total rural population in the state 13 outside incorporated cities and towns-:

14 (iii) Tweaty per contra (20%) in the ratio that the
15 land area of each county bears to the total land area of the
16 state-:

17 (b) Three-million-five-hundred-fifty-thousand-dollars
18 (\$3,550,000)- shall be divided among the incorporated cities
19 and towns in the following manner:

(i) <u>Fifty per cent (50%)</u> of the sun shall be divided
in the ratio that the population within the corporate limits
of the city or town bears to the total population within
corporate limits of all the cities and towns in Hontanav:

24 (ii) Fifty-per cont. (50%) shall be divided in the ratio
25 that the city or town street and alley mileage, exclusive of

the federal-aid interstate system and the federal-aid primary system, within corporate limits bears to the total street and alley mileage, exclusive of the federal-aid interstate system and federal-aid primary system, within the corporate limits of all cities and towns in Montana.

6 (2) All funds hereby allocated to counties, cities, 7 and towns shall be used exclusively for the construction. 8 reconstruction, maintenance, and repair of rural roads, city 9 or town streets and alleys, or for the share which such 10 city, town, or county might otherwise expend for 11 proportionate matching of federal funds allocated for the construction of roads or streets which are part of the 12 federal-aid primary or secondary highway systemy or urban 13 14 extensions thereto.

(3) Upon receipt of the allocation provided herein,
the governing bodies of the recipient counties, cities, and
towns, shall inform the department of highways of the
purposes for which the funds shall will be expended so that
the county commissioners, the governing body, and the
department of highways may co-ordinate coordinate
the expenditure of public funds for road improvements.

(4) All funds hereby allocated to counties, cities,
and towns shall be disbursed to the lowest responsible
bidder according to applicable bidding procedures followed
in all cases where the contract for construction,

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reconstruction, and maintenance or repair is in ercess of
 \$4,000.

3 (5) For the purposes of this act section where 4 distribution of funds is made on a basis related to 5 population, the population shall be determined by the last 6 preceding official federal census.

7 (6) For the purposes of this act section where 8 determination of mileage is necessary for distribution of 9 funds it shall be the responsibility of the cities, towns, 10 and counties to furnish to the department of highways and state treasurer a yearly certified statement indicating the 11 total mileage within their respective areas applicable to 12 13 this act. All mileage submitted shall be subject to review 14 and approval by the department of highways.

15 (7) None of the funds authorized by this section shall
16 be used for the purchase of capital equipment."

Section 4. Section 84-4903.8, R.C.M. 1947, is amended
to read as follows:

*84-4903.8. Department may require withholding agent
to make return and pay tax at any time. If the state
department of revenue in any case has reason to believe that
the collection of the tax provided for in this-section
<u>84-4903.2</u> is in jeopardy, it may require the withholding
agent to make such return and pay such tax at any time."
Section 5. Section 84-4926, R.C.B. 1947, is amended to

1 read as follows:

2 "84-4926. Deforacet of colloction of incore tax of ٦ percent in military pervice statute of limitations ш suspended. Soldiers! and sailors! relief. (1) The collection from any person in the military service, as defined by the 5 Soldiers' and Sailors' Civil Relief Act of 1940, effective 6 7 October 17, 1940, as arended October 6, 1942, of any tax 8 prescribed by the state of Montana on the income of such 9 person, whether falling due prior to or during his period of 10 military service, shall be deferred for a period extending not more than siz-(6) months after the termination of his 11 12 period of military service, if such person's ability to pay 13 such tax is materially impaired by reason of such service. 14 (2) No interest on any amount of tax, collection of 15 which is deferred for any period under this act, and no 16 penalty for nonpayment of such amount during such period-17 shall accrue for such period of deferment by reason of such 18 nonpayment. The running of any statute of limitations against the payment of such tax by any lawful means shall be 19 20 suspended for the period of military service of any 21 individual, for whom the collection of such tax is deferred under this section, and for an additional period of one (1)-22 23 year, beginning with the day following the period of military service." 24 25 Section 6. Section 84-6305, R.C.M. 1947, is amended to

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1 read as follows:

2 "84-6305. Definition of other words and terms. All 3 other words and terms used in this act, including the words 4 "person₇", "motor vehicle₇", "gasoline", and "use₇", unless 5 otherwise indicated in this act, shall have the same meaning 6 given to said words by section 84-1803 84-1846."

7 Section 7. Section 84-6307, R.C.M. 1947, is amended to 8 read as follows:

9 #84-6307. Failure or refusal to make and file return or false retarn --- department of revenue to prepare 10 statement. If any importer fails or refuses to make and file 11 12 a return at the time prescribed in this act, or make makes, 13 willfully or otherwise, an erroneous, false, or fraudulent statement, the state department of revenue, or its duly 14 15 appointed agenty shall make the statement from its or his own knowledge and from such information as it or he can 16 obtain through testimony or otherwise. Any statement so made 17 shall be prima facie good and sufficient for all legal 18 19 purposes. As a further means of making the statement, the state department of revenue or its duly appointed agenty 20 21 shall have the power to examine the books, records, and 22 papers of such importer, to ascertain the amount of tax due 23 under the provisions of this act. From the statement so made, the state department of revenue shall determine the 24 25 amount of tax due, if any, and shall add the penalty

1 provided herein for failure to pay the tax or to file the 2 return within the time prescribed for the payment of such tax or the filing of such returny and shall notify the 3 4 importery of the amount of tax and penalty assessed. 5 together with a demand for immediate payment of the tax and 6 penalty. If such tax and penalty is are not paid within 7 thirty (30) days, the state treasurer of the state of B Hontana shall proceed to collect such tax and penalty in the 9 manner prescribed in sestion 84-1807 84-1858." 10 Section 8. Repealer. Sections 84-4903.1, 84-4903.13,

11 and 84-6303, R.C.B. 1947, are repealed.

-End-

HOUSE MEMBERS

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FRANCIS BARDANOUVE

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PAT MC KITTRICK

ROSE WEBER EXECUTIVE DIRECTOR

PAMELA DUENSING ADMINISTRATIVE ASSISTANT

ROBERTA MOODY SUPERVISOR, ALTER SYSTEM

State Capitol Helena, 59601

Montana Legislative Council

1977 Legislature Code Commissioner Bill - Summary

House Bill No. 15

TO REVISE AND CLARIFY INDIVIDUAL AND CORPORATE INCOME TAXES AND GASOLINE TAXES.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 84-1501.2. The rearrangement makes it clear in (a) that (1) and (2) refer to when the election is effective and not to when the consent takes place. In (e)(1) and (e)(3)the language in (A) and (B) is not needed for meaning. Again, wording is rearranged to clarify.

Subsection (c)(2) is deleted as temporary.

84-1838. Inserts the word "or" between the Section 2. penultimate and last items in a series.

Section 3. 84-1840. Expands scope of "this act" so that it includes the chapter which encompasses all motor fuel taxes. In practice, all of these taxes are paid into the highway fund now, so no substantive change is involved.

Substituted "84-4903.2" for "this Section 4. 84-4903.8. section" because that is the section which is concerned with the tax in question.

Section 5. Amend 84-4926 by inserting the words "for which" in the last sentence to make it grammatical.

Sections 6 and 7. 84-6305 and 84-6307 correct references to repealed sections.

Section 8. Repeals.

84-4903.1 is merely a declaratory, non-legal statement and is not needed.



RENATE MEMBERS

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GLEN DRAKE

CARROLL GRAHAM

FRANK HAZELBAKER

DIANA DOWLING DIRECTOR, LEGAL SERVICES; CODE COMMISSIONER

ROBERT PERSON DIRECTOR, RESEARCH

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84-4903.13 relates to rule-making powers - not needed because 84-4930 delegates such authority for all of Chapter 49.

84-6303 is redundant since (a) the amendment to 84-1840 would specify that this tax is paid into the highway fund, and (b) the 5% overhead factor is not used in budgeting; the department of revenue simply receives an appropriation from the highway fund for the actual costs of collecting all motor fuel taxes.

45th Legislature

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1	HOUSE BILL NO. 15	1
2	INTRODUCED BY MARKS	2
3		3
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND	4
5	CLARIFY THE LAWS RELATING TO INCOME, GASOLINE, AND	5
6	CORPORATION TAKES; AMENDING SECTIONS 84-1501.2, 84-1838,	6
7	84-1840, 84-4903.8, 84-4926, 84-6305, AND 84-6307, R.C.M.	7
8	1947; REPEALING SECTIONS 84-4903.1, 84-4903.13, AND 84-6303,	8
9	B.C.B. 1947.	9
10		10
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	11
12	Section 1. Section 84-1501.2, R.C.M. 1947, is amended	12
13	to read as follows:	13
14	#84-1501.2. Blection by small business corporation.	14
15	(1) Bligibility. Except as provided in subsection (f)	15
16	(6), any small business corporation may elect, in accordance	16
17	with the provisions of this section, not to be subject to	17
18	the taxes imposed by this chapter. Such election shall be	18
19	walid only if <u>consented to by</u> all persons who are	19
20	shareholders in such corporation— <u>, the election is</u>	20
21	<u>effective:</u>	21
22	<pre>(1) (a) on the first day of the first taxable year for</pre>	22
23	which such election is effective, if such election is made	23 .
24	on or before such first day ₇₁ or	24
25	$\frac{1}{2}$ on the day on which the election is made, if	25

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the election is made after such first day, concent to such
 olection.

3 (b) (2) Effect. If a small business corporation makes
 4 an election under subsection (a) (1), then...:

5 (1)(a) with respect to the taxable years of the 6 corporation for which such election is in effect, such 7 corporation shall not be subject to the taxes imposed by 8 this chapter and, with respect to such taxable years and all 9 succeeding taxable years, the provisions of this act shall 10 apply to such corporation, and

11 (2)(b) with respect to the taxable years of a 12 shareholder of such corporation in which or with which the 13 taxable years of the corporation for which such election is 14 in effect end, the provisions of this act shall apply to 15 such shareholder, and with respect to such taxable years and 16 all succeeding taxable years, the provisions of this act 17 shall apply to such shareholder.

8 (c) Where and how made.

19 (1) In general. In election under subsection (a) 20 (1) may be made by a small business corporation for any 21 taxable year at any time during the first month of such 22 taxable year, or at any time during the month preceding such 23 first month. Such election shall be made in such manner as 24 the state department of revenue shall prescribe by 25 regulations.

THIRD READING

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1 (2)-- Tazable -- Tazz beginning before-date-of-onagtment-2 3 bacinees corporation for its first taxable year which begins after -- December --- 21, --- 1958, -- and on or before the date of the a 5 chaotheat of this subphaptor, and onds after grob date at any time---6 7 (1) within the 90 day period beginning on the day 8 after the date of the endets of this subshapter, or 9 (B) if its tarable year onds within such 90 day 10 period, before the close of such tarable year. 11 In election may be made pursuant to this paragraph only 12 if---the-patt-busizess-derperation-has-been-a-small-business 13 corporation (ac-defined in this ect) on cech der after the 14 date---of-the-onactment-of-this-subchapter-and-before-the-day 15 of-such election. 16 (d) (4) Years for which effective. An election under 17 subsection (a) (1) shall be effective for the taxable year of 18 the corporation for which it is made and for all succeeding 19 taxable years of the corporation, unless it is terminated. 20 with respect to any such taxable year, under subsection 21 (e) <u>(5)</u>. 22 -{e}---fermination-

23 (1) (5) (a) Nor shareholders, An election under
24 subsection (a) (1) made by a small business corporation shall
25 terminate if any person who was not a shareholder in such

corporation-1 2 corporation-for which-the election is offertive, if such 3 election is made on or before such first day, or (B) - on the day on shigh the clostica is made, if worth 5 6 election--- is --- adde-- after such first day, at the time of the initial election under subsection (1) subsequently becomes a 7 shareholder in such corporation and does not consent to such 8 election within such time as the department of revenue shall 9 prescribe by regulations. Such termination shall be 10 effective for the taxable year of the corporation in which 11 12 such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation. 13 14 (2) (b) Revocation, In election under subsection (a) 15 (1) made by a small business corporation may be revoked by 16 it for any taxable year after the first taxable year for 17 which the election is effective. An election may be revoked

18 only if all persons who are shareholders in the corporation 19 on the day on which the revocation is made consent to the 20 revocation. A revocation under this paragraph shall be 21 effective—:

22 (1)(i) for the taxable year in which made, if made
23 before the close of the first month of such taxable year-:

24 . (B)(ii) for the taxable year following the taxable year

25 in which made, if made after the close of such first month,

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1 and for all succeeding taxable years of the corporation. 2 Such revocation shall be made in such manner as the state 3 department of revenue shall prescribe by regulations. (2) (c) Geases to be small business corporation. An 4 5 election under subsection (a) (1) made by a small business 6 corporation shall terminate if the corporation seases to 7 neet the definition of a small business corporation at any time--- after election is effective under subsection (1). 8 9 (1) -- after the first day of the first tamable year of 10 the corporation for which the cleation is officitive, if such 11 election is made on or before such first day, or 12 (B) -- after the day or which the election is -- pade, -- if 13 sach--election-is-made-after-sach-first-day,-the-serperation 14 coaces to be a small business correction (as defined in

15 this act)-

16 <u>(d)</u> Such termination shall be effective for the 17 taxable year of the corporation in which the corporation 18 ceases to be a small business corporation and for all 19 succeeding taxable years of the corporation.

20 (5) (6) Bloction after termination. If a small business
21 corporation has made an election under subsection (a) (1) and
22 if such election has been terminated or revoked under
23 subsection (a) (5), such corporation (and any successor
24 corporation) shall not be eligible to make an election under
25 subsection (a) (1) for any taxable year prior to its fifth

taxable year which begins after the first taxable year for
 which such termination or revocation is effective, unless
 the state department of revenue consents to such election.

4 (9)(7) This election shall not be effective unless the 5 corporate net income or loss of such electing corporation 6 shall have been included in the stockholders⁴ adjusted gross 7 income as such is defined in soction 84-4905.

8 (b) (8) Every electing corporation shall be required to
 9 pay the minimum fee of ton delland (\$10,00) required by
 10 section 84-1501."

Section 2. Section 84-1838, R.C.B. 1947, is amended to
read as follows:

13 #84-1838. Administration Administrative powers.
14 (a) - Belos and regulations: (1) The department shall enforce
15 the provisions of this act, and may prescribe, adopt, and
16 enforce reasonable rules and regulations relating to the
17 administration and enforcement thereof.

18 (b) (2) Brasination of records: The department or its 19 authorized representative is hereby empowered to examine the 20 books, papers, records, and equipment of any special fuel 21 dealer or special fuel user or any person dealing in, 22 transporting, or storing special fuel, as defined in this 23 act and to investigate the character of the disposition 24 which any person makes of such special fuel in order to 25 ascertain and determine whether all excise taxes due

1 hereunder are being properly reported and paid. If such 2 books, papers, records, and equipment are not maintained in 3 this state at the time of demand, they shall be furnished to the department for review and shall be accompanied by the а 5 special fuel dealer or special fuel user or such dealer or 6 user shall bear the reasonable cost of examination by an 7 agent authorized or designated by the department at the 8 place where such books or records are kept, provided the 9 tarpayer shall not be liable for such costs for a period 10 exceeding ene----{1} week or for such longer period as he may consent to in writing, unless the result of said examination 11 12 is the payment of a tax deficiency.

13 (3) Evidences For the purpose of enforcing the 14 provisions of this act, the fact that a special fuel dealer 15 or a special fuel user has placed or received special fuel into storage or dispensing equipment designed to fuel motor 16 17 vehicles shall be prime facie evidence that all of such special fuel has been delivered by the special fuel dealer 18 19 or special fuel user into the fuel supply tanks of motor 20 vehicles and consumed in the propulsion of motor vehicles 21 upon the highways as herein defined unless the contrary 22 shall be established by satisfactory evidence.

(4) (4) Reciprocal exchange of data: The department
 shall, upon request from officials to whom are entrusted the
 enforcement of the special fuel tax law of any other state,

1 the District of Columbia, the United States, its territories and possessions, or the provinces of the Dominion of Canada, 2 forward to such officials any information which it may have 3 relative to the receipt, storage, delivery, sale, use, or ħ other disposition of special fuel by any special fuel dealer 5 or special fuel user, provided such other state or states 6 7 furnish like information to this state.* Section 3. Section 84-1840, R.C.H. 1947, is anended to 8 q read as follows:

#84-1840. Disposition of funds. All taxes, interest, 10 and penalties collected under this ast chapter or chapters 11 12 63 of this title shall be turned over promptly to the state treasurer, and the state treasurer she shall place the same 13 in the earmarked revenue fund to the credit of the 14 department of highways, except those funds hereinbelow 15 allocated to cities, towns and counties, which funds shall 16 be paid by the state treasurer directly to such cities, 17 18 towns, and counties.

19 (1) <u>Six million five hundred thousand dellars</u> 20 (\$6,500,000) of the funds collected under this act shall be 21 allocated each fiscal year on a monthly basis to the 22 counties and incorporated cities and towns in Montana for 23 construction, reconstruction, maintenance, and repair of 24 rural roads, and city or town streets and alleys, as 25 provided in subsections (a) and (b) hereof,

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1 (a) Two-million-mime hundred fifty thousand dollars 2 -{\$2,950,000} shall be divided among the various counties in 3 the following manner:

(i) Porty per-content (40%) in the ratio that the rural
road mileage in each county, exclusive of the federal-aid
interstate system and the federal-aid primary system, bears
to the total rural road mileage in the state, exclusive. of
the federal-aid interstate system and the federal-aid
primary system-:

10 (ii) Porty per senter (40%) in the ratio that the rural
11 population in each county outside incorporated cities and
12 towns bears to the total rural population in the state
13 outside incorporated cities and towns+:

14 (iii) Twesty per centur (20%) in the ratio that the
15 land area of each county bears to the total land area of the
16 state-:

(b) Phroe million five hundred fifty thousand dollars
(\$3,550,000) shall be divided among the incorporated cities
and towns in the following manner:

(i) Fifty por sent (50%) of the sum shall be divided
in the ratio that the population within the corporate limits
of the city or town bears to the total population within
corporate limits of all the cities and towns in Montana-;
(ii) Fifty por sent (50%) shall be divided in the ratio
that the city or town street and alley mileage, exclusive of

1 the federal-aid interstate system and the federal-aid 2 primary system, within corporate limits bears to the total 3 street and alley mileage, exclusive of the federal-aid 4 interstate system and federal-aid primary system, within the 5 corporate limits of all cities and towns in Hontana.

6 (2) All funds hereby allocated to counties. cities. 7 and towns shall be used exclusively for the construction. 8 reconstruction, maintenance, and repair of rural roads, city 9 or town streets and alleys, or for the share which such 10 city, town, or county might otherwise expend for proportionate matching of federal funds allocated for the 11 12 construction of roads or streets which are part of the 13 federal-aid primary or secondary highway system- or urban 14 extensions thereto.

15 (3) Upon receipt of the allocation provided herein, 16 the governing bodies of the recipient counties, cities, and 17 towns, shall inform the department of highways of the 18 purposes for which the funds shall will be expended so that 19 the county commissioners, the governing body, and the 20 department of highways may co-ordinate coordinate the 21 expenditure of public funds for road improvements.

(4) All funds hereby allocated to counties, cities,
and towns shall be disbursed to the lowest responsible
bidder according to applicable bidding procedures followed
in all cases where the contract for construction,

reconstruction, and maintenance or repair is in excess of
 \$4,000.

3 (5) For the purposes of this as section where 4 distribution of funds is made on a basis related to 5 population, the population shall be determined by the last 6 preceding official federal census.

7 (6) For the purposes of this act section where 8 determination of mileage is necessary for distribution of 9 funds it shall be the responsibility of the cities, towns, 10 and counties to furnish to the department of highways and 11 state treasurer a yearly certified statement indicating the 12 total mileage within their respective, areas applicable to this act. All mileage submitted shall be subject to review 13 14 and approval by the department of highways.

15 (7) Hone of the funds authorized by this section shall
16 be used for the purchase of capital equipment."

17 Section 4. Section 84-4903.8, R.C.H. 1947, is amended
18 to read as follows:

19 "84-4903.8. Department may require withholding agent 20 to make return and pay tax at any time. If the state 21 department of revenue in any case has reason to believe that 22 the collection of the tax provided for in this section 23 <u>84-4903.2</u> is in jeopardy, it may require the withholding 24 agent to make such return and pay such tax at any time." 25 Section 5. Section 84-4926, R.C.H. 1947, is amended to 1 read as follows:

*84_4926. Deforment of collection of income tar of 2 3 supponded, Soldiers' and sailors' relief. (1) The collection n from any person in the military service, as defined by the 5 Soldiers' and Sailors' Civil Relief Act of 1940, effective 6 October 17, 1940, as amended October 6, 1942, of any tax 7 prescribed by the state of Montana on the income of such я person, whether falling due prior to or during his period of q military service, shall be deferred for a period extending 10 not more than size (6) months after the termination of his 11 period of military service, if such person's ability to pay 12 13 such tax is materially impaired by reason of such service.

14 (2) No interest on any amount of tax, collection of which is deferred for any period under this act, and no 15 16 penalty for nonpayment of such amount during such periody shall accrue for such period of deferment by reason of such 17 nonpayment. The running of any statute of limitations 18 against the payment of such tax by any lawful means shall be 19 suspended for the period of military service of any 20 individual- for whom the collection of such tax is deferred 21 22 under this section, and for an additional period of one (1) 23 year, beginning with the day following the period of 24 military service."

Section 6. Section 84-6305, R.C.H. 1947, is amended to

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1 read as follows:

"84-6305. Definition of other words and terms. All
other words and terms used in this act, including the words
"person₇", "motor vehicle₇", "gasoline", and "use₇", unless
otherwise indicated in this act, shall have the same meaning
given to said words by section 34-1801 84-1846."

7 Section 7. Section 84-6307, R.C.M. 1947, is amended to 8 read as follows:

9 #84-6307. Failure or refusal to make and file return 10 or false return --- department of revenue to prepare 11 statement. If any importer fails or refuses to make and file 12 a return at the time prescribed in this act, or make makes, 13 willfully or otherwise, an erroneous, false, or fraudulent 14 statement, the state department of revenue, or its duly 15 appointed agent- shall make the statement from its or his 16 own knowledge and from such information as it or he can 17 obtain through testimony or otherwise. Any statement so made shall be prima facie good and sufficient for all legal 18 19 purposes. As a further means of making the statement, the 20 state department of revenue or its duly appointed agenty 21 shall have the power to examine the books, records, and 22 papers of such importer, to ascertain the amount of tax due 23 under the provisions of this act. From the statement so 24 made, the state department of revenue shall determine the 25 amount of tax due, if any, and shall add the penalty

1 provided herein for failure to pay the tar or to file the 2 return within the time prescribed for the payment of such tax or the filing of such return- and shall notify the 3 B. importery of the amount of tax and penalty assessed, 5 together with a demand for immediate payment of the tax and 6 penalty. If such tax and penalty is are not paid within 7 thirty (30) days, the state treasurer of the state of 8 Hontana shall proceed to collect such tax and penalty in the 9 manner prescribed in section-84-1807 84-1858." 10 Section 8. Repealer. Sections 84-4903.1, 84-4903.13,

11 and 84-6303, R.C.S. 1947, are repealed.

-End-

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LC 0018/01

45th Legislature

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2	INTRODUCED BY MARKS	2
ذ		3
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND	4
5	CLARIFY THE LANS RELATING TO INCOME, GASOLINE, AND	5
6	CORPORATION TAXES; AMENDING SECTIONS 84-1501.2, 84-1838,	6
1	84-1840, 84-4903.8, 84-4926, 84-6305, AND 84-6307, R.C.M.	7
8	1947; REPEALING SECTIONS 84-4903.1, 84-4903.13, AND 84-6303,	8
9	R.C.M. 1947	9
10		10
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	11
12	Section 1. Section 84-1501.2, R.C.M. 1947, is amended	12
13	to read as follows:	13
14	<pre>#84-1501.2. Election by small business corporation.</pre>	14
15	[0][]] Eligibilityv Except as provided in subsection [f]	15
16	(6), any small business corporation may elect, in accordance	16
17	with the provisions of this section, not to be subject to	17
18	the taxes imposed by this chapter. Such election shall be	18
19	valid only if <u>consented to by</u> all persons who are	19
20	shareholders in such corporation <u>, the election is</u>	20
21	effeckive:	21
20	<pre>fit(a) on the first day of the first taxable year for</pre>	22
23	which such election is effective, if such election is made	23
24	on or before such first day vi or	24

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t2)(b) on the day on which the election is made, if

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- the election is made after such first day, consent to such
 election.
- 3 (b)(2) Effect. If a small business corporation makes
 4 an election under subsection (a)(1), then--:

5 <u>(1)(a)</u> with respect to the taxable years of the 6 corporation for which such election is in effect, such 7 corporation shall not be subject to the taxes imposed by 8 this chapter and, with respect to such taxable years and all 9 succeeding taxable years, the provisions of this act shall 0 apply to such corporation, and

11 (2)(b) with respect to the taxable years of a 12 shareholder of such corporation in which or with which the 13 taxable years of the corporation for which such election is 14 in effect end, the provisions of this act shall apply to 15 such shareholder, and with respect to such taxable years and 16 all succeeding taxable years, the provisions of this act 17 shall apply to such shareholder.

.8 tc)--Hhere-and-how-mades

19 (1)(1) in-general. An election under subsection (a) 20 (1) may be made by a small business corporation for any 21 taxable year at any time during the first month of such 22 taxable year, or at any time during the month preceding such 23 first month. Such election shall be made in such manner as 24 the state department of revenue shall prescribe by 25 regulations.

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1 12}-- faxable-- years-beginning-before-date-of-enactment. 2 An-election-may-be-made-under--subsection--(a)--by--a--small 3 business-corporation-for-its-first-taxable-year-which-beains after--Becember--31y--1958y-and-on-or-before-the-date-of-the 4 5 enoctment-of-this-subchaptery-and-ends-after--such--date--at 6 any-time--7 (*)--within--the--90-day--period--beginning--on-the-day A after-the-date-of-the-enoctment-of-this-subchaptery-or 9 tb)--if--its--taxable--year--ends--within--such--98-day 10 periody-before-the-close-of-such-taxable-years 11 An-election-may-be-made-pursuant-to-this-paragraph-only 12 if--the-small-business-corporation-has-been-a-small-business 13 corporation-(as-defined-in-this-act)-on-each-day--after--the 14 date--of-the-enactment-of-this-subchapter-and-before-the-day of-such-elections 15 16 (d)(4) Years-for-which-effective. An election under 17 subsection tetril shall be effective for the taxable year of 18 the corporation for which it is made and for all succeeding taxable years of the corporation, unless it is terminated, 19 20 with respect to any such taxable yeary under subsection 21 tet151. 22 tel--Termination. 23 (1)(5) (a) New---shareholdersy An election under

24 subsection <u>tatil</u> made by a small business corporation shall
25 terminate if any person who was not a shareholder in such

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1 corporation--

2 +++--on-the-first-day-of-the-first-taxable-year-of--the 3 corporation-for--which--the--election-is-effectivey-if-such election-is-made-on-or-before-such-first-dayy-or 4 -5 (B)--on-the-day-on-which-the-election-is-madey-if--such election--is--made--after-such-first-days at the time of the 6 7 initial election_under_subsection [1]_subsequently becomes a 8 shareholder in such corporation and does not consent to such q election within such time as the department of revenue shall 10 prescribe by regulations. Such termination shall be 11 effective for the taxable year of the corporation in which 12 such person becomes a shareholder in the corporation and for all succeeding taxable years of the corporation. 13

14 (2)(b) Revocation. An election under subsection (a) 15 (1) made by a small business corporation may be revoked by 16 it for any taxable year after the first taxable year for 17 which the election is effective. An election may be revoked 18 only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the 19 revocation. A revocation under this paragraph shall be 20 21 effective--:

22 (+)(i) for the taxable year in which made, if made
23 before the close of the first month of such taxable year
24 (+)(ii) for the taxable year following the taxable year
25 in which made, if made after the close of such first month,

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1	and for all succeeding taxable years of the corporation.
2	Such revocation shall be made in such manner as the state
3	department of revenue shall prescribe by regulations.
4	(3)<u>[c]</u> Ceasestobesmallbusiness-corporation* An
5	election under subsection (a)[1] made by a small business
6	corporation shall terminate if the corporation ceases to
1	weet the definition of a small business corporation at any
8	time after election is effective under subsection [1].
9	{A}afterthefirst-day-of-the-first-taxab}s-year-of
10	the-corporation-for-whick-the-election-is-effectivey-if-such
11	election-is-mode-on-or-before-such-first-dayy-or
12	(8)after-the-day-on-which-the-electionismadeyif
12 13	t8}after-the-day-on-which-the-electionismadeyif suchelection-is-made-after-such-first-dayy-the-corporation
	(·), ···································
13	suchelection-is-made-after-such-first-days-the-corporation
13 14	suchelection-is-made-after-such-first-dayy-the-corporation ceases-to-be-a-small-businesscorporation{asdefinedin
13 14 15	suchelection-is-made-after-such-first-days-the-corporation ceases-to-be-a-small-businesscorporation(asdefinedin this-actjs
13 14 15 16	suchelection-is-made-after-such-first-days-the-corporation ceases-to-be-a-small-businesscorporation{asdefinedin this-act}= (u) Such termination shall be effective for the
13 14 15 16 17	suchelection-is-made-after-such-first-days-the-corporation ceases-to-be-a-small-businesscorporation(asdefinedin this-act)s (a) Such termination shall be effective for the taxable year of the corporation in which the corporation
13 14 15 16 17 18	suchelection-is-made-after-such-first-days-the-corporation ceases-to-be-a-small-businesscorporation{asdefinedin this-actys (u) Such termination shall be effective for the taxable year of the corporation in which the corporation ceases to be a small business corporation and for all
13 14 15 16 17 18 19	suchelection-is-made-after-such-first-days-the-corporation ceases-to-be-a-small-businesscorporation(asdefinedin this-act)w (u) Such termination shall be effective for the taxable year of the corporation in which the corporation ceases to be a small business corporation and for all succeeding taxable years of the corporation.

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23 subsection (et(5), such corporation (and any successor
24 corporation) shall not be eligible to make an election under
25 subsection (et(1)) for any taxable year prior to its fifth

taxable year which begins after the first taxable year for 1 2 which such termination or revocation is effective, unless 3 the state department of revenue consents to such election. 4 tet[1] This election shall not be effective unless the 5 corporate net income or loss of such electing corporation shall have been included in the stockholders! adjusted gross 6 7 income as such is defined in section 84-4905. 8 (h)(8) Every electing corporation shall be required to 9 pay the minimum fee of ten--dollars--(\$10+00) required by 10 section 84-1501.* 11 Section 2. Section 84-1838, R.C.M. 1947, is amended to 12 read as follows: 13 *84-1838. Administration Administrative powers. 14 ta)--Rules-and-regulations+ (1) The department shall enforce 15 the provisions of this act, and may prescribe, adopt, and 16 enforce reasonable rules and--regulations relating to the 17 administration and enforcement thereof. 18 (b)(2) Exemination-of-records+ The department or its 19 authorized representative is hereby empowered to examine the 20 books, papers, records, and equipment of any special fuel 21 dealer or special fuel user or any person dealing in.

22 transporting, or storing special fuel_ as defined in this 23 act and to investigate the character of the disposition 24 which any person makes of such special fuel in order to 25 ascertain and determine whether all excise taxes due

hereunder are being properly reported and paid. If such 1 2 books. papers. records. and equipment are not maintained in 3 this state at the time of demand, they shall be furnished to 4 the department for review and shall be accompanied by the 5 special fuel dealer or special fuel user or such dealer or user shall bear the reasonable cost of examination by an 6 7 agent authorized or designated by the department at the 8 place where such books or records are kept, provided the 9 taxpayer shall not be liable for such costs for a period 10 11 consent to in writing, unless the result of said examination 12 is the payment of a tax deficiency.

13 (c)(3) Evidence+ For the purpose of enforcing the 14 provisions of this act, the fact that a special fuel dealer or a special fuel user has placed or received special fuel 15 16 into storage or dispensing equipment designed to fuel motor 17 vehicles shall be prima facie evidence that all of such 18 special fuel has been delivered by the special fuel dealer or special fuel user into the fuel supply tanks of motor 19 20 vehicles and consumed in the propulsion of motor vehicles 21 upon the highways as herein defined unless the contrary 22 shall be established by satisfactory evidence.

(d)(4)
 Reciprocal--exchange-of--data+ The department
 shall, upon request from officials to whom are entrusted the
 enforcement of the special fuel tax law of any other state,

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the District of Columbia, the United States, its territories and possessions, <u>or</u> the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the receipt, storage, delivery, sale, use<u></u> or other disposition of special fuel by any special fuel dealer or special fuel user, provided such other state or states furnish like information to this state."

8 Section 3. Section 84-1840, R.C.M. 1947, is amended to 9 read as follows:

10 #84-1840. Disposition of funds. All taxes, interests 11 and penalties collected under this act chapter or chapters 63 of this title shall be turned over promptly to the state 12 treasurer, and-the-state-treasurer who shall place the same 13 in the earmarked revenue fund to the credit of the 14 department of highways, except those funds hereinbelow 15 allocated to cities, towns and counties, which funds shall 16 be paid by the state treasurer directly to such cities. 17 towns, and counties. 18

19 (1) Six-million---five---hundred---thousand---dollars 20 (\$6,500,000) of the funds collected under this act shall be 21 allocated each fiscal year on a monthly basis to the 22 counties and incorporated cities and towns in Montana for 23 construction, reconstruction, maintenance, and repair of 24 rural roads, and city or town streets and alleys, as 25 provided in subsections (a) and (b) hereofy:

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(a) Two-million-nine-hundred-fifty-thousand-dollars
 t\$2,950,0007 shall be divided among the various counties in
 the following manner:

4 (i) forty-per-centum (40%) in the ratio that the rural 5 road mileage in each county, exclusive of the federal-aid 6 interstate system and the federal-aid primary system, bears 7 to the total rural road mileage in the state, exclusive of 8 the federal-aid interstate system and the federal-aid 9 primary system.

10 (ii) Forty-per-centum (40%) in the ratio that the rural 11 population in each county outside incorporated cities and 12 towns bears to the total rural population in the state 13 outside incorporated cities and townswi

14 (iii) Twenty-per-centum-(20%) in the ratio that the 15 land area of each county bears to the total land area of the 16 stater:

17 (b) Three--million-five-hundred-fifty-thousand-dollars
18 (\$3,550,000) shall be divided among the incorporated cities
19 and towns in the following manner:

(i). Fifty-per-cent-(50%) of the sum shall-be-divided
in the ratio that the population within the corporate limits
of the city or town bears to the total population within
corporate limits of all the cities and towns in Montanaw;
(ii) Fifty-per-cent-(50%)-shall-be-divided in the ratio
that the city or town street and alley mileage, exclusive of

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the federal-aid interstate system and the federal-aid
 primary system, within corporate limits bears to the total
 street and alley mileage, exclusive of the federal-aid
 interstate system and federal-aid primary system, within the
 corporate limits of all cities and towns in Montana.

6 (2) All funds hereby allocated to counties, cities. 7 and towns shall be used exclusively for the construction, 8 reconstruction, maintenance, and repair of rural roads, city or town streets and alleys, or for the share which such 9 10 city, town, or county might otherwise expend for 11 proportionate matching of federal funds allocated for the 12 construction of roads or streets which are part of the 13 federal-aid primary or secondary highway systemy or urban 14 extensions thereto.

15 (3) Upon receipt of the allocation provided herein, 16 the governing bodies of the recipient counties, cities, and 17 towns, shall inform the department of highways of the 18 purposes for which the funds shall will be expended so that 19 the county commissioners, the governing body, and the 20 department of highways may co-ordinate coordinate the 21 expenditure of public funds for road improvements.

(4) All funds hereby allocated to counties, cities.
and towns shall be disbursed to the lowest responsible
bidder according to applicable bidding procedures followed
in all cases where the contract for construction,

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1 reconstruction<u>e</u> and maintenance or repair is in excess of 2 \$4,000.

3 (5) For the purposes of this act section where 4 distribution of funds is made on a basis related to 5 population, the population shall be determined by the last 6 preceding official federal census.

7 (6) For the purposes of this act section where 8 determination of mileage is necessary for distribution of funds it shall be the responsibility of the cities, towns, 9 10 and counties to furnish to the department of highways and 11 state treasurer a yearly certified statement indicating the 12 total mileage within their respective areas applicable to 13 this act. All mileage submitted shall be subject to review 14 and approval by the department of highways.

15 (7) None of the funds authorized by this section shall
be used for the purchase of capital equipment."

17 Section 4. Section 84-4903.8, R.C.M. 1947, is amended 18 to read as follows:

19 *84-4903.8. Department may require withholding agent 20 to make return and pay tax at any time. If the state 21 department of revenue in any case has reason to believe that 22 the collection of the tax provided for in this-section 23 <u>84-4903.2</u> is in jeopardy, it may require the withholding 24 agent to make such return and pay such tax at any time.[#] 25 Section 5. Section 84-4926, R.C.M. 1947, is amended to

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25

1 read as follows:

2 *84-4926. Beferment--of--collection--of--income-tax-of 3 persons---in----military---service--statute---of---limitations 4 suspendedw Soldiers! and sailors! relief. (1) The collection 5 from any person in the military service, as defined by the 6 Soldiers' and Sailors' Civil Relief Act of 1940, effective 7 October 17, 1940, as amended October 6, 1942, of any tax R prescribed by the state of Montana on the income of such 9 person, whether falling due prior to or during his period of 10 military service, shall be deferred for a period extending 11 not more than six (6) months after the termination of his period of military service, if such person's ability to pay 12 13 such tax is materially impaired by reason of such service.

14 121 No interest on any amount of tax, collection of which is deferred for any period under this act, and no 15 16 penalty for nonpayment of such amount during such periody 17 shall accrue for such period of deferment by reason of such 18 nonpayment. The running of any statute of limitations 19 against the payment of such tax by any lawful means shall be 20 suspended for the period of military service of any 21 individualy for whom the collection of such tax is deferred 22 under this section, and for an additional period of one-tl; 23 year, beginning with the day following the period of 24 military service.*

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Section 6. Section 84-6305, R.C.M. 1947, is amended to

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1 read as follows:

^{84-6305.} Definition of other words and terms. All
other words and terms used in this act, including the words
^mpersonyⁿ, ^mmotor vehicleyⁿ, ^mgasoline^m, and ^musey^m, unless
otherwise indicated in this act, shall have the same meaning
given to said words by section-04-1001 84-1846."

7 Section 7. Section 84-6307, R.C.M. 1947, is amended to 8 read as follows:

9 #84-6307. Failure or refusal to make and file return 10 or false return --- department of revenue to prepare 11 statement. If any importer fails or refuses to make and file 12 a return at the time prescribed in this act, or make makes, willfully or otherwise, an erroneous, false, or fraudulent 13 statement, the state department of revenue, or its duly 14 appointed agenty shall make the statement from its or his 15 own knowledge and from such information as it or he can 16 obtain through testimony or otherwise. Any statement so made 17 18 shall be prima facie good and sufficient for all legal purposes. As a further means of making the statement, the 19 20 state department of--revenue or its duly appointed agenty 21 shall have the power to examine the books, records, and papers of such importery to ascertain the amount of tax due 22 under the provisions of this act. From the statement so 23 24 made, the state department of-revenue shall determine the 25 amount of tax due, if any, and shall add the penalty

provided herein for failure to pay the tax or to file the 1 2 return within the time prescribed for the payment of such 3 tax or the filing of such returny and shall notify the 4 importery of the amount of tax and penalty assessed. 5 together with a demand for immediate payment of the tax and 6 penalty. If such tax and penalty is are not paid within 7 thirty--{30} days, the state treasurer of--the-state-of R Montone shall proceed to collect such tax and penalty in the 9 manner prescribed in section-84-1887 84-1858.*

- 10 Section 8. Repeater. Sections 84-4903.1, 84-4903.13.
- 11 and 84-6303, R.C.M. 1947, are repealed.

-End-