# CHAPTER NO. 581

## HOUSE BILL NO. 181

## INTRODUCED BY MARKS

## BY REQUEST OF THE CODE COMMISSIONER

## IN THE HOUSE

January 16, 1979 February 13, 1979 Introduced and referred to Committee on Taxation. Committee recommend bill

- do pass as amended. Report adopted.
- February 15, 1979 Printed and placed on members' desks.
- February 16, 1979 Second reading, do pass.
- February 17, 1979 Considered correctly engrossed.
  - Third reading, passed. Transmitted to second house.

## IN THE SENATE

February 21, 1979	Introduced and referred to Committee on Taxation.
March 31, 1979	Statement of Intent adopted.
	Committee recommend bill be concurred in. Report adopted.
April 2, 1979	Second reading, concurred in.
April 4, 1979	Third reading, concurred in.
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## IN THE HOUSE

April 5, 1979

February 20, 1979

Returned from second house. Concurred in. Sent to enrolling.

Reported correctly enrolled.

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HOLEAE BILL NO. 181 1 INTRODUCED 8Y 2 3 BY REQUEST OF THE CODE COMMISSIONER 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 5 CLARIFY THE LAWS RELATING TO TAXATION: REPEALING SECTIONS 7 34-510. 84-6210. R.C.M. 1947. AND SECTIONS 15-23-509. 8 15-24-401. AND 15-51-105. MCA.\* 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 15-1-105. MCA: is amended to read: 12 #15-1-105. Fines and forfeitures to county. Except for the forfeiture described in 15-8-706(2), all fines, 13 14 forfeitures, and penalties incurred by a violation of any of 15 the provisions of this-title the state tax laws must be paid 16 into the treasury for the use of the county where the person 17 against whom the recovery is had resides.\* 18 Section 2. Section 15-1-401, MCA, is amended to read: 19 \*15-1-401. Payment of license fees under protest --20 action to recover. (1) Whenever any license fee or tax is 21 demanded of any person for the use and benefit of the state 22 of Montana and the same is deemed considered unlawful by the 23 person from whom the same is demanded, such person may pay 24 the same, or so much thereof as may be deamed considered 25 unlawful, under written protest, specifying the grounds of

protest, to the state agency or officer responsible for collecting the license fee or tax.

3 (2) The person paying or his legal representatives representative may bring an action in a court of competent 4 jurisdiction against the state agency or officer responsible 5 for collecting the <u>license fee or</u> tax to recover the same. 6 7 without interest. Any action instituted to recover any license fee or tax paid under protest shall must be 8 9 commenced and summons and copy of complaint served within 60 days after the date of payment thereof to the state agency 10 11 or officer responsible for collecting the license fee, or tax. If such action be-finally is decided adversely to the 12 13 state, the state treasurer shall, upon receiving a copy of the final judgment in seld such action, refund such license 14 15 fee or tax to the person in whose favor such judgment is 16 rendered."

17 Section 3. Section 15-6-113. MCA, is amended to read:

18 "15-6-113. Class twelve property -- description --19 taxable percentage. (1) Class twelve property includes:

- 20 (a) boats and all watercraft;
- 21 (b) aircraft;
- 22 (c) motorcycles; and
- 23 (d) large farm machinery valued in the official-guide
- 24 troctors Official Guide Iractors and form--implements Earm
- 25 Equipment and in department valuation schedules.

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Ł (2) Class twelve property is taxed at 11% of its 2 market value." 3 Section 4. Section 15-6-117, MCA, is amended to read: "15-6-117. Class sixteen property -- description --5 taxable percentage. (1) Class sixteen property includes: (a) business inventories as defined in this section: 6 7 and 6 (b) mobile machines, valued as other heavy 9 construction equipment is valued, used in new industries as 10 defined in class eighteen. 11 (2) Mobile machines used in new industry are subject 12 to the conditions imposed in class eighteen for other 13 property used in new industries. 14 (3) "Business inventories" includes goods intended for 15 sale or lease in the ordinary course of business and raw 16 materials and work in progress with respect to such goods. 17 Business inventories shall do not include goods leased or 18 rented or mobile homes held by a dealer or distributor as 19 part of his stock-in-trade. (4) The market value of business inventories, for 20 21 property tax purposes, is the cost or present value.

23 tax.

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24 (5) Class sixteen property is taxed at 4+2% of market
 25 value.\*

Section 5. Section 15-7-215. MCA, is amended to read:
 "15-7-215. Violation a misdemeanor. Any person who
 violates any provision of this feet] part shall-be is guilty
 of a misdemeanor."

Section 6. Section 15-10-203, NCA, is amended to read: 5 \*15-10-203. Increase of tax revenue -- advertising 6 7 notice of intention required. No taxing authority shall may 8 budget an increased amount of ad valorem tax revenue 9 exclusive of revenue from ad valorem taxation on properties 10 appearing for the first time on the assessment roll unless 11 it advertises gives notice of its intention to do so at the 12 same time and in the same manner that it advertises gives 13 notice of its intention-to-fix hearing on its preliminary budget for the forthcoming fiscal year." 14

15 Section 7. Section 15-10-204, NCA, is amended to read: \*15-10-204. Resolution or ordinance for increase over 16 17 certified millage. No millage in excess of the department of 18 revenue's certified millage shall may be levied until a 19 resolution or ordinance has--been is approved by the 20 governing board of the taxing authority, which resolution or ordinance must be approved by sold the taxing authority 21 22 according to the following procedure:

(1) The taxing authority shall edvertise publish
 notice of its intent to exceed the department's certified
 millage in e-newspaper-of-general-circulation-in-the-countyy

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whichever is lowers to the person subject to the inventory

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1 es--provided--in--15-10-203 the same manner that it gives 2 notice of hearings on its preliminary budget for the forthcoming\_fiscal\_year. The advertisement notice shall 3 must state that the taxing authority will meet on a day, at 4 a time and place fixed in the edvertisement notice, which 5 shall must be approximately 7 days after the day that the 6 advertisement notice is published, for the purpose of 7 hearing comments regarding the proposed increase and to 8 9 explain the reasons for the proposed increase. The meeting may coincide with the meeting on the tentative budget as 10 11 required by law.

12 (2) After the public hearing has been held in accordance with the above procedures, the taxing authority 13 may adopt a resolution or ordinance levying a millage rate 14 15 in excess of the certified millage. If the resolution or ordinance adopting said such millage rate is not approved on 16 17 the day of the public hearing, the day, time, and place at 18 which the resolution or ordinance will be scheduled for 19 consideration and approval by the taxing authority must be announced at the public hearing. If the resolution or 20 ordinance is to be considered at a day and time that is more 21 22 than 2 weeks from the public hearing, the taxing authority 23 must again advertise <u>publish notice</u> in the same manner as provided in 15-10-203-and subsection (1)-of-this-section. 24 +3+--Public--notice--given--and-public-hearings-held-in 25

compliance-with-the-requirements-of--Title--20y--chapter--9y
part--ly--in-setting-school-budgets-satisfy-the-requirements
contained-in-this-sectiony"
Section 8. Section 15-10-207. MCA, is amended to read:
 "15-10-207. Additional millage increase --readvertising--and--revoting new notice\_required. Ify after
the initial millage-vote notice provided for in 15-10-203
the taxing authority determines that it requires a greater
millage or fails to act in the specified period. it shall
readvertise must\_give notice\_anew under\_15-10-203
and revote
proceed as required in 15-10-208. MCA, is amended to read:
 Section 9. Section 15-10-208. MCA, is amended to read:
 Section 9. Section 15-10-208.

13 "15-10-208. Increase over legal maximum not authorized 14 -- reductions permitted. Nothing contained in this section 15 part shall may serve to extend or authorize any millage in 16 excess of the maximum millage permitted by law or prevent 17 the reduction of millage."

18 Section 10. Section 15-17-303, MCA, is amended to 19 read:

20 "15-17-303. Assignment of rights of county. (1) At any 21 time after any parcel of land has been bid in upon by the 22 county as the purchaser thereof for taxes as provided in 23 15-17-207, the same not having been redeemed, the county 24 treasurer shall assign all the right of the county therein 25 acquired at such sale to any person who shell-pay pays the

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amount for which the same was bid in, with interest upon the 1 2 original tax at the rate of 2/3 of 1% per month and the amount of all subsequent delinquent taxes, penalties, costs, 3 4 and interest as provided by law upon the same from time to time when such tax became delinquent. He <u>The county</u> 5 6 treasurer shall execute to such person a certificate for 7 such parcel, which may be substantially in the following 8 form:

9 \*Is ..... the treasurer of the county of ..... state of 10 Montana, do hereby certify that at the sale of lands 11 pursuant to the tax assessment for the year 19... in the 12 county of .... and which sale was held on the .... day of ..... 19..., for the purpose of liquidating moved assessment, 13 14 the following described parcel of land, situate in said the 15 county of ..... state of Montana, to wit: (insert 16 description) was duly offered for sale; that there was no 17 purchaser in good faith for the same as provided by law and 18 no person or purchaser offered to take the same and pay the 19 taxes, cost, and charges due as aforesaid. Accordingly, the 20 whole amount of the property assessed and described as above 21 was struck off to the county of .... as purchaser thereof 22 for the sum of ...., and the same still remaining 23 unredeemed, and on this gay .... having paid into the treasury of said such county the amount for which the same 24 25 was bid in, together with all subsequent delinguent taxes,

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1 penalties, costs, and interest amounting in all to .... 2 dollars:

Now, therefore, in consideration thereof and pursuant 3 to the statute in such case made and provided, I do hereby 4 5 assign and set over all the right, title, and interest of 6 the county of ..... state of Montana, acquired in said such 7 lands under and by virtue of said the sale to the said ..... 8 his heirs and assigns forever, together with all the rights, 9 powers. and privileges of the said county of .... to take 10 steps to receive a deed thereof or receive payment in case of a redemption; subject, however, to redemption as provided 11 12 by law. 13 Witness my hand and official seal of office this .... day of .... 19... 14

16 (2) in-case If the certificate hereinabove described 17 in..subsection (1) shall-by-accident-become becomes lost by 18 accident or destroyed by the assignee, then-in-such-an-event 19 the county treasurer shall issue a duplicate certificate to 20 the assignee after the said county treasurer is convinced 21 that the certificate has been lost or destroyed and after 22 the assignee has made an affidavit to that effect.

..... (County Treasurer)\*

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(3) The provisions of this section shell apply to any
 and for which a treasurer's deed shell was
 not issued by March 5, 1917, have-actually-issuedy

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regardless-of-whether-the-sale-shall-hove-been-made-ot--any date--heretoforey-as-well-as-to-future-sales-for-recovery-of texest and the holder of any such certificate shall therefore--have described in subsection (1) has the same rights, powers, and privileges with regard to securing a deed as any purchaser of lands land at tax sale may now have.

8 (4) As to any tends land received by the county in
9 exchange, the same may be sold or leased the same as might
10 have been done with the lands exchanged."

Section 11. Section 15-18-305, MCA, is amended to read:

13 \*15-18-305. Defense to action -- redemption of 14 parcels. Any defendant may appear in the action within the 15 time provided by law for appearances in civil actions, may set up any defense to the action he may have, and may 16 therein question the legality, validity, or the sufficiency 17 of any act had in connection with the assessment or sale of 18 19 the land. Any defendant to the action may make redemption of the lands from the tax sale by paying the total amount of 20 delinquent taxes and penalties which plaintiff has paid, 21 22 with interest thereon at 8% a year from date of payment. together with costs of the action. Upon such payment, a 23 certificate of redemption shall must be issued by the county 24 treasurer to the defendant so paying, and thereupon the 25

action shell must be dismissed. Whenever a defendant desires 1 to redeem from a tax sale and pay all subsequent taxes upon 2 any lot, piece, or parcel of real estate which e-person such 3 defendant owns or holds a mortgage or other lien against or 4 5 has any interest in, the county treasurer of the county in which such real estate is situated shall permit such 6 1 redemption and payment. In case the real estate has been assessed against any other property and is a lien thereon. я 9 then the county treasurer shall compute and apportion the tax that should have properly been assessed against the real 10 11 estate sought to be redeemed and upon which the taxes are 12 sought to be paid, the same as if the property had been 13 separately assessed. Any personal property tax which is a 14 lien upon such real estate shall must be likewise computed 15 and apportioned on the same percentage basis as the tax assessed against the real estate is apportioned." 16

17 Section 12. Section 15-23-806, MCA, is amended to 18 read:

19 \*15-23-806. Lien of tax. The tax or penalty on gross 20 proceeds is a lien upon the mine from which the metal is 21 extracted and is <u>a</u> prior lien upon all owned or leased 22 personal property and improvements used in extracting the 23 ore or metal. The tax shall be collected in the manner 24 provided under--15-16-101--through---15-16-105t---15-16-503 25 through--15-16-505t-parts-2y-3y-and-6-of-chapter-16t-parts-1

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1 through-3-of-chapter-17;-and-chapter in chapters 16: 17: and 2 18 of this title."

3 Section 13. Section 15-23-807. NCA, is amended to 4 read:

\*15-23-807. Assessment and-collection procedures. The
gross proceeds of metal mines shall be assessed and--taxes
thereon--collected under the provisions of 15-23-101 through
15-23-107.\*\*

9 Section 14. Section 15-24-104, HCA, is amended to 10 read:

11 \*15-24-104. Situs in state of proportionally 12 registered fleets. (1) For the purposes of this section 13 part, sil--vehicles any vehicle previously registered or 14 which registration has been-applied-for had application for 15 registration made under the provisions of 61-3-711 through 16 61-3-733 are is hereby declared to have a situs in the state 17 for the purposes of taxation.

18 (2) The department or its designated agent shall 19 collect the personal property taxes prescribed herein."

20 Section 15. Section 15-24-202. NCA, is amended to 21 read:

22 "15-24-202. Tax-paid sticker -- display required. (1)
23 The owner of a mobile home or housetrailer which is not
24 taxed as an improvement, as improvements are defined in
25 15-1-101, shall pay the personal property tax in two

payments, except as provided in 15-24-206(2). The first 1 payment is due within 30 days from the date of the notice of 2 3 taxes due. The second payment is due no later than September 30 of the year in which the property is assessed. The 4 5 department of revenue shall issue tax-paid stickers to the county treasurers. The treasurers shall issue the stickers 6 to the owners of mobile homes and housetrailers if the taxes 7 8 are paid in full. An owner shall then display the sticker, 9 which shall must be visible from the exterior of the mobile home or housetrailer. No mobile home movement permit 10 provided for in 15-24-206 may be issued unless the taxes 11 12 have been paid in full to the county treasurer.

13 +2+--The-owner-of-a-housetrailer-must--display--on--the 14 back--of--his-housetrailer-or-in-enother-conspicuous-place-a property-tax-peid-sticker--prescribed--by--the--division--of 15 motor--vehiclesy--department--of-justicey-The-division-shall 16 17 produce-the-stickers-for-each--county--The--stickers--sholt 18 contain-the-identifying-number-of-the-county-and-consecutive 19 numbers--storting--with--the--number--i--in-each-countyy-The 20 sticker-shall-be-issued-by-the-county-treasurer-at-the--time 21 of-payment-of-property-taxes-The-sticker-shall-be-displayed 22 from---15-days-after-the-due-date-for-personal-property-taxes 23 of-1-year-to-the-due-date-for-personal-property-taxes-of-the 24 next-veerv" 25 Section 16. Section 15-24-203, MCA, is amended to l read:

2 **\*15-24-203.** Housetrailer---tex <u>Iax</u> receipt -- when 3 production required. If stopped on a highway or at a state 4 vehicle weight station by a state highway patrolman or state 5 vehicle weight station attendant, a person transporting a 6 <u>mobilehome or</u> housetrailer must produce, if requested, tha 7 property-tax-paid receipt or a duplicate issued by the 8 county treasurer where the vehicle was taxed.\*

9 Section 17. Section 15-24-206, MCA, is amended to 10 read:

#15-24-206. Declaration of destination on imported 11 mobile homes -- display -- tax receipt -- exemptions. (1) 12 whoever brings a mobile home into the state shall 13 immediately upon arrival in the state execute a written 14 declaration, verified under oath, stating the destination of 15 the mobile home and such other information as the department 16 of revenue shall may require and shall deliver the original 17 18 of the declaration to whoever whomever is on duty at the 19 nearest port of entry station, state vehicle weight station, or such other place and person as the department may 20 prescribe. He shall also immediately upon arrival in the 21 state affix a copy of the declaration to the mobile home at 22 23 a conspicuous place.

24 (2) The treasurer shall issue the mobile home movement
 25 declaration provided for in this section to a person

required by this section to execute it, in such quantities 1 as he requests to a maximum of 100. The treasurer shall 2 3 issue such additional quantities of the declaration to a maximum of 100 as the person requests at the discretion of the county treasurer upon receipt from the person of the 5 6 previously issued declarations properly executed. In any 7 event executed declarations must be delivered to the treasurer within 30 days from their issue. 8 9 (3) Whoever moves a mobile home from a point within 10 the state to another point within or without the state shall

11 first:
12 (a) execute the declaration provided for in subsection
13 (1) of this section, deliver the original of it to the
14 treasurer of the county in which the move originates or to
15 such other person as the department shall may prescribe, and
16 affix a copy of it to <u>in a conspicuous place on</u> the mobile
17 home to be moved-at-e-conspicuous-place;
18 (b) obtain from the county treasurer of the county in

18 (b) obtain from the county treasurer of the county in 19 which the move originates a receipt showing payment in full 20 of property taxes due with respect to that mobile home--to 21 the-date-it-is-moved.

22 (4) The provisions of subsection (3)(b) of--this
 23 section-shall do not apply whenever a person moves a mobile
 24 home:

25 (a) from a point without to a point within the state;

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(b) between places of business of dealers within or
 without the state;

3 (c) from the place of business of a dealer to a point 4 within or without the state."

5 Section 18. Section 15-24-302, MCA, is smended to 6 read:

"15-24-302. Collection procedure. 7 All property 8 mentioned in fthe-preceding-section3 15-24-301 shell-be is 9 assessed at the same value as property of like kind and cheracter, and the assessment, levy, and collection of the 10 11 tax shall--be is governed by the provisions of 15-8-408: 12 15-16-111 through 15-16-115; 15-16-404; chapter 17, part 9; and 15-24-202(1); as amended, except livestock taxation 13 14 which is governed by part 9 of this chapter, 81-7-104, and 15 Title 81, chapter 7, part 2."

16 Section 19. Section 15-24-1001, MCA, is amended to 17 read:

18 #15-24-1001. Custom combiner's tax -- collection --19 distribution -- not transferable. (1) In lieu of the taxes required by 15-24-301, motor vehicle license fees and gross 20 vehicle weight fees, overwidth and overheight permits, fitle 21 22 61, a nonresident engaged in the business of custom 23 combining who brings equipment into the state shall pay a 24 fee of \$40 per unit for a period beginning July 1 and ending 25 October 31. A unit shall include:

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1(a) one truck suitable for hauling grain;2(b) one header trailer or one combine trailer; and3(c) pickup trucks and all other equipment, except4combines, used by a nonresident and brought into the state5as part of his business of custom combining.

6 (2) The fee required by this section shall must be collected by the department of highways. Upon payment of the 7 8 fee, the department of highways shall must provide an 9 identifying device to be displayed on each truck, header trailer, or combine trailer and other equipment used by the 10 nonresident in his business of custom combining in the 11 state, which device shall-be is valid for a period beginning 12 13 July 1 and ending October 31.

14 (3) All fees collected under this section shall must 15 be distributed not later than December 1 immediately 16 following the period of license as follows: 62 1/2% to the 17 county general fund in the county in which the permittee 18 declares the greatest amount of time will be spent to 19 operate, 37 1/2% to the earmarked revenue fund for the 20 department of highways.

21 (4) The identifying devices and fee paid for each unit
 22 shall is not be transferable from one vehicle to another or
 23 transferable on the sale or change of ownership.

24 (5) Any owner or operator of any equipment included in
 25 the unit definition in subsection <del>(2)</del> (1) of this section

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who violates any provision of this section is guilty of a
 misdemeanor and shall--ba-punished punishable by a fine of
 not wore than \$300 or by a sentence of not more than 60 days
 in the county jail, or both.

5 Section 20. Section 15-30-201. MCA, is amended to 6 read:

7 \*15-30-201. Definitions. When used in 15-30-201
8 through 15-30-209, the following definitions apply:

9 (1) "Agricultural labor" includes all services 10 performed on a farm or ranch in connection with cultivating 11 the soil or in connection with raising or harvesting any 12 agricultural or horticultural commodity, including the 13 raising, shearing, feeding, caring for, training, and 14 management of livestock, bees, poultry, and fur-bearing 15 animals and wildlife.

(2) "Employee" includes an officer, employee, or 16 elected public official of the United States, the state of 17 Montana, or any political subdivision thereof or any agency 18 or instrumentality of any one or more of the foregoing. The 19 20 term "employee" also includes an officer of a corporation. (3) "Employer" means the person for whom an individual 21 22 performs or performed any service, of whatever nature, as the employee of such person; except that if the person for 23 whom the individual performs or performed the service does Z4 not have control of the payment of the wages for such 25

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service, the term "employer" means the person having control 1 2 of the payment of such wages. 3 (4)-- #Payroll--period -- means--e--period--for--which--a payment-of-wages-is-ordinarily-made-to-the-employee--by--his 4 5 employer. 151(1) "Wages" means all remuneration (other than fees 6 7 paid to a public official) for services performed by an employee for his employer, including the cash value of all 8 9 remuneration paid in any medium other than cash. except that 10 such term shall not include remuneration paid: 11 (a) for active service as a member of the armed forces of the United States: 12 (b) for agricultural labor as defined in subsection 13 (1);14 (c) for domestic service in a private home, a local 15 college clube or local chapter of a college fraternity or 16 17 sorority; 18 (d) for casual labor not in the course of the 19 employer's trade or business performed in any calendar 20 quarter by an employee unless the cash remuneration paid for 21 such service is \$50 or more and such service is performed by 22 an individual who is regularly employed by such employer to 23 perform such service. For purposes of this subsection +5+141(d), an individual shall-be-deemed is considered to be 24 regularly employed by an employer during a calendar guarter 25

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2 (i) on each of some 24 days during such quarter such
3 individual performs for such employer for some portion of
4 the day service not in the course of the employer's trade or
5 business;

6 (ii) such individual was regularly employed (as
7 determined under subsection (5)(4)(d)(i) by such employer
8 in the performance of such service during the preceding
9 calendar guarter;

10 (e) for services by a citizen or resident of the
11 United States for a foreign government or an international
12 organization;

13 (f) for services performed by a duly ordained.
14 commissioned, or licensed minister of a church in the
15 exercise of his ministry or by a member of a religious order
16 in the exercise of duties required by such order:

17 (g) (i) for services performed by an individual under
18 the age of 18 in the delivery or distribution of newspapers
19 or shopping news, not including delivery or distribution to
20 any point for subsequent delivery or distribution; or

21 (ii) for services performed by an individual in and at 22 the time of the sale of newspapers or magazines to ultimate 23 consumers under an arrangement under which the newspapers or 24 magazines are to be sold by him at a fixed price, his 25 compensation being based on the retention of the excess of such price over the amount at which the newspapers or
 magazines are charged to him, whether or not he is
 quaranteed a minimum amount of compensation for such service
 or is entitled to be credited with the unsold newspapers or
 magazines turned back;

6 (h) for services not in the course of the employer's
7 trade or business to the extent paid in any medium other
8 than cash when such payments are in the form of lodgings or
9 meals and such services are received by the employee at the
10 request of and for the convenience of the employer;

11 (i) to or for an employee as a payment for or a 12 contribution toward the cost of any group plan or program 13 which benefits the employee, including but not limited to 14 life insurance, hospitalization insurance for the employee 15 or dependents, and employees' club activities."

16 Section 21. Section 15-30-221, MCA, is amended to 17 read:

18 #15-30-221. Withholding on payments to nonresidents --19 exception. (1) Every person. firm. corporation. association. 20 partnership, or fiduciary doing business in or having income in the state of Montana, including the state of Montana, its 21 22 agencies and instrumentalities, counties, cities, towns, 23 school districts, and municipal corporations of every kind, 24 which knowingly makes payments of any kind to any nonresident of the state of Montana for services performed 25

within the state of Montana other than those described 1 payments excepted in 15-30-201 and--15-30-202 (5) or for 2 casual sales of property, either real or personal, located 3 within the state of Montana, or any prizes or winnings 4 5 payable from or within the state of Montana or hiring or having a contract with any nonresident of a temporary nature 6 to be carried out within the state of Nontana shall deduct 7 from such payment or payments an amount, to be set by the 8 department, not to exceed 32 of such payment which shall be 9 transmitted by him to the department as partial payment of 10 such nonresident's income tax. 11

12 (2) Upon finding that reports and information in 13 addition to that now required by law or regulation should be 14 filed in order to insure the collection of Montana state 15 income tax on payment to nonresidents for leases. rentals. 16 or royalties derived from property located within the state 17 of Montana, the department may adopt rules requiring the 18 filing of such reports and information.

19 (3) If • upon notice to a nonresident taxpayer and 20 hearing, the department finds that withholding should be 21 made on payments to the taxpayer for leases. rentals. or 22 royalties derived from property located within the state of 23 Montana in order to insure the collection of Montana state 24 income tax, it may order withholding on such payments in an 25 amount equal to the tax liability of the nonresident

1 taxpayer. Such order <del>shall-be</del> is binding upon all withholding agents, as hereinafter described, who shall 2 3 receive a copy thereof by mail or otherwise until such agent 4 shell-receive receives a copy of an order of the department 5 terminating such withholding as to the nonresident taxpaver. 6 (4) Payments made for livestock or agricultural 7 products raised or grown outside Nontana and sold at a market within this state shell-not-be are not subject to 8 9 withholding under this section." Section 22. Section 15-31-202, NCA, is amended to 10 11 read: 12 #15-31-202. Election by small business corporation. 13 (1) Except as provided in subsection (6), any small business 14 corporation may elect, in accordance with the provisions of 15 this section, not to be subject to the taxes imposed by this 16 chapter. Such election shall be valid only if consented to 17 by all persons who are shareholders in such corporation. The 18 election is effective:

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

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

23 election is made after such first day.

24 (2) If a small business corporation makes an election25 under subsection (1), then:

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{a) with respect to the taxable years of the
corporation for which such election is in effect, such
corporation shall is not be subject to the taxes imposed by
this chapter and, with respect to such taxable years and all
succeeding taxable years, the provisions of this part shall
apply to such corporation; and

7 (b) with respect to the taxable years of a shareholder 8 of such corporation in which or with which the taxable years 9 of the corporation for which such election is in effect end, 10 the provisions of this part shall apply to such shareholder, 11 and with respect to such taxable years and all succeeding 12 taxable years, the provisions of this part shall apply to 13 such shareholder.

14 (3) An election under subsection (1) may be made by a 15 small business corporation for any taxable year at any time 16 during the first month of such taxable year or at any time 17 during the month preceding such first month. Such election 18 shall must be made in such-manner-as accordance with rules 19 prescribed by the department of revenue-shall-prescribe-by 20 regulations.

(4) An election under subsection (1) shall--be is
effective for the taxable year of the corporation for which
it is made and for all succeeding taxable years of the
corporation unless it is terminated, with respect to any
such taxable year, under subsection (5).

(5) (a) (i) An election under subsection (1) made by a 1 2 small business corporation shall-terminate terminates if any ucroon who was not a shareholder in such corporation at the 3 4 time of the initial election under subsection (1) subsequently becomes a shareholder in such corporation and 5 6 affirmatively refuses tin such--manner-as accordance with rules prescribed by the department shell-by-rules-prescribe; 7 8 to consent to such election on or before the 60th day on 9 which he acquires the stock.

(ii) If the person acquiring the stock is the estate of
a decedent, the period under subsection (5)(a)(i) for
affirmatively refusing to consent to the election shall
expire expires on the 60th day after whichever of the
following is the earlier:

15 (A) the day on which the executor or administrator of16 the estate qualifies; or

17 (B) the last day of the taxable year of the18 corporation, in which the decedent died.

(iii) Any termination of an election under subsection
(5)(a)(i) by reason of the affirmative refusal of any person
to consent to such election shall-be is effective for the
taxable year of the corporation in which such person becomes
a shareholder in the corporation and for all succeeding
taxable years of the corporation.

(b) An election under subsection (1) made by a small

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business corporation may be revoked by it for any taxable year after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall-be is effective:

7 (i) for the taxable year in which made, if made before
8 the close of the first month of such taxable year;

9 (ii) for the taxable year following the taxable year in 10 which made, if made after the close of such first month, and 11 for all succeeding taxable years of the corporation. Such 12 revocation shall must be made in such-manner-es accordance 13 with rules prescribed by the department-shall-prescribe-by 14 requisitions.

15 (c) An election under subsection (1) made by a small 16 business corporation shall--terminate terminates if the 17 corporation ceases to meet the definition of a small 18 business corporation at any time after election is effective 19 under subsection (1).

20 (d) Such termination shell-be is effective for the 21 taxable year of the corporation in which the corporation 22 ceases to be a small business corporation and for all 23 succeeding taxable years of the corporation.

24 (6) If a small business corporation has made an
25 election under subsection (1) and if such election has been

fand any successor corporation; -shall is not be eligible to 2 3 make an election under subsection (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 5 6 effective unless the department consents to such election. 7 (7) This election shall is not be effective unless the A corporate net income or loss of such electing corporation 9 shall--have--been is included in the stockholders' adjusted 10 gross income as such-is defined in 15-30-111. 11 (8) Every electing corporation shall-be is required to 12 pay the minimum fee of \$10 required by f84-1501-7 15-31-204." 13 Section 23. Section 15-31-521, NCA, is amended to 14 read: 15 #15-31-521. Closing agreements. (1) The director of 16 revenue or any person authorized in writing by him is 17 authorized to enter into an agreement with any person 18 taxpayer relating to the liability of such person taxpayer 19 in respect to the tax imposed by this chapter for any taxable ceriod. 20

terminated or revoked under subsection (5), such corporation

(2) Any such agreement sholl--be is final and
 conclusive, and except upon a showing of fraud or
 malfeasance or misrepresentation of a material fact:

24 (a) the case may not be reopened as to matters agreed
25 upon or the agreement modified by any officer, employee, or

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1 agent of this state; and

(b) in any suit, action, or proceeding under such
agreement or any determination, assessment, collection,
payment, abatement, refund, or credit made in accordance
therewith, the agreement may not be annulled, modified, set
aside, or disregarded."

7 Section 24. Section 15-31-601, MCA, is amended to 8 read:

9 \*15-31-601. Central reporting system for identification of corporations. It shall-be is the duty of 10 11 the department of revenue to establish a central reporting 12 system to assist in the identification of corporations, 13 foreign and domestic. which transact business within the state of Montana and/or are subject to taxation by the state 14 15 of Montana-pursuant-to-the-provisions-of-fitte-84]."

16 Section 25. Section 15-31-605, HCA, is amended to 17 read:

18 \*15-31-605. List corporations compiled by of 19 department of revenue. The department of revenue shall compile a list of all corporations, foreign and domestic, 20 21 subject to taxation by the state of Montana under-the--terms of--ffitle--041 to be filed in the central reporting system. 22 Said The list shall must contain the following information: 23 24 (1) the name of the corporation;

25 (2) the principal office of the corporation;

(3) the name and address of the registered agent of
 the corporation in Montana;

3 (4) whether the corporation filed such reports.
4 returns, and other information pursuant to the terms of this
5 chapter."

6 Section 26. Section 15-32-108, MCA, is amended to 7 read:

#15-32-108. Extension of existing classifications. Any 8 classification of property under the provisions of 15-32-103 9 section 3. Chaoter 548, Laws of 1975, that existed prior to 10 the -- effective-date-of-this-oct lanuary 1: 1977, approved by 11 the department of revenue before April 19, 1977, shall 12 continue in effect until December 31, 1982. On January 1, 13 1983, the taxable percentage of such property shall be 14 determined under chapter 6, part 1, or that part as it may 15 be recodified or amended." 16

17 Section 27. Section 15-36-109, MCA, is amended to 18 read:

19 "15-36-109. Penalty for violations. Any--violation 20 <u>Violation</u> of any of the provisions of this part shall--be 21 deemed <u>is</u> a misdemeanor and shall-be-punished <u>punishable</u> by 22 a fine of not exceeding \$1,000 or by imprisonment in the 23 county jail for not exceeding 6 months or by both such fine 24 and imprisonment."

Section 28. Section 15-51-111. MCA, is amended to

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1 read:

#15-51-111. Procedure to compute tax in absence of z statement. If any person fails, neglects, or refuses to file З any statement required by 15-51-101 within the time therein 4 required, the department of revenue shall, after such time 5 has expired, proceed to inform itself as best it may 6 regarding the number of KWH produced by such person in this 7 state during such quarter and compute the amount of taxes 8 due to the state from such person for such quarter and add 9 the penalty and interest as required by 15-51-103. The 10 department shall mail to the person required to file a 11 quarterly report and pay such tax a letter setting forth the 12 amount of tax, penalty, and interest due, and the letter 13 shall must further contain a statement that if payment is 14 not made within such time, a lien may be filed. Upon receipt 15 of the letter, the person shall remit to the department the 16 full amount of tax, penalty, and interest within 15 days. 17 The 10% penalty may be waived by the department if 18 reasonable cause for failure and neglect to file the 19 statement required by 15-51-113 15-51-101 is provided to the 20 21 department."

22 Section 29. Section 15-55-107. MCA, is amended to 23 read:

24 \*15-55-107. Actions to recover delinquent taxes and 25 penalties -- additional taxes. (1) If the taxes and

penalties provided for in this chapter to be paid by the 1 railroad company on the property of such freight line 2 company remain uppaid more than 90 days from the due date, 3 the department shall cause an action to be brought to 4 recover the amount of such delinguent taxes and penalties in 5 the district court of any county within the state of Montana 6 in which service can be had on the railroad company which is 7 8 liable for the payment of such taxes or penalties or in 9 which the property of such delinguent railroad company can be seized under attachment or garnishment proceedings in the 10 11 manner prescribed by law.

12 (2) In the event the state tax appeal board, under its 13 authority to raise or lower the rate of the taxes which 14 would be payable on the cars of such freight line company if 15 taxed upon an ad valorem basis, shall finds, after a hearing 16 as herein provided, find taxes due from any such freight line company in excess of the 5% 5.1/2% of all gross revenue 17 in this state which is required to be paid by the railroad 18 companies, such additional tax as so determined shall-be is 19 20 due and payable by the freight line company upon which the 21 assessment is made, and if such tax shall--remain remains 22 unpaid for more than 90 days after notification of such 23 assessment by the state tax appeal board, the board shall 24 cause an action to be brought to recover the amount of such 25 additional tax in the district court of any county within

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1 the state of Montana in which service can be had on the 2 freight line company liable for the tax or in which the 3 property of such delinquent freight line company can be 4 seized under attachment or garnishment proceedings in the 5 manner prescribed by law."

6 Section 30. Section 15-70-208, MCA, is amended to 7 read:

8 #15-70-208. Examination of records. (1) The department 9 of revenue or its authorized representative is hereby 10 empowered to examine the books+ papers+ records+ and equipment of any gasoline distributor or any person dealing 11 12 in, transporting, or storing gasoline as defined in this 13 part and to investigate the character of the disposition 14 which any person makes of such gasoline in order to 15 ascertain and determine whether all excise license taxes due 16 hereunder are being properly reported and paid. If such 17 books, papers, records, and equipment are not maintained in 18 this state at the time of demand, they shall must be 19 furnished to the department for review or such dealer shall 20 must bear the reasonable cost of examination by an agent 21 authorized or designated by the department at the place 22 where such books or records are kepty, provided However, the taxpayer shell is not be liable for such costs for a period 23 exceeding 1 week or for such longer period as he may consent 24 to in writing unless the result of such examination is the 25

1 payment of a tax deficiency.

2 (2) The records, receipts, and invoices and any other
3 pertinent papers supporting sales of every distributor or
4 any person dealing in, transporting, or storing gasoline
5 shall must be open and subject to inspection by the
6 department or any of its employees or assistants during
7 business hours in order to ascertain the amount of license
8 tax due."

9 Section 31. Section 20-9-115, MCA, is amended to read: "20-9-115. Notice of preliminary budget filing and 10 final budget meeting. (1) Between July 10 and July 20 of 11 each year, the clerk of each district shall publish notice 12 one time in the official newspaper of the county stating 13 14 that the preliminary budget for the district for the school fiscal year just beginning, as prepared and adopted by the 15 trustees, is on file in his office and open to inspection by 16 all taxpayers. The notice shall also state that the trustees 17 will meet at 10 a.m. on the fourth Monday in July for the 18 purpose of considering and adopting the final budget of the 19 20 district, that the meeting of the trustees may be continued from day to day until the final adoption of the district's 21 22 budget, and that any taxpaver in the district may appear at such meeting and be heard for or against any part of the 23 24 budget.

25 {2}--Notice--given--under--this---section---meets---the

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<ul> <li>department of revenue may adopt rules necessary for the</li> <li>taxation of property under [chapter 35 of Title 15].</li> <li>Section 33. Codification. Section 33 is intended to be</li> <li>codified as an integral part of Title 15. chapter 35. and</li> <li>the provisions of Title 15. chapter 35. apply to section 33.</li> <li>Section 34. Repealer. Sections 84-510 and 84-6210.</li> <li>R.C.M. 1947. are repealed.</li> </ul>	1	requirement-for-notice-contained-in-19-10-203*"
<ul> <li>taxation of property under [chapter 35 of Title 15].</li> <li>Section 33. Codification. Section 33 is intended to be</li> <li>codified as an integral part of Title 15, chapter 35, and</li> <li>the provisions of Title 15, chapter 35, apply to section 33.</li> <li>Section 34. Repealer. Sections 84-510 and 84-6210,</li> <li>R.C.M. 1947, are repealed.</li> <li>Section 35. Repealer. Sections 15-23-509, 15-24-401,</li> </ul>	z	<u>NEW SECTION</u> . Section 32. Rulemaking authority. The
5 Section 33. Codification. Section 33 is intended to be 6 codified as an integral part of Title 15, chapter 35, and 7 the provisions of Title 15, chapter 35, apply to section 33. 8 Section 34. Repealer. Sections 84-510 and 84-6210, 9 R.C.M. 1947, are repealed. 10 Section 35. Repealer. Sections 15-23-509, 15-24-401,	3	department of revenue may adopt rules necessary for the
<ul> <li>codified as an integral part of Title 15, chapter 35, and</li> <li>the provisions of Title 15, chapter 35, apply to section 33.</li> <li>Section 34. Repealer. Sections 84-510 and 84-6210,</li> <li>R.C.M. 1947, are repealed.</li> <li>Section 35. Repealer. Sections 15-23-509, 15-24-401,</li> </ul>	4	taxation of property under [chapter 35 of Title 15].
<ul> <li>7 the provisions of Title 15, chapter 35, apply to section 33.</li> <li>8 Section 34. Repealer. Sections 84-510 and 84-6210,</li> <li>9 R.C.H. 1947, are repealed.</li> <li>10 Section 35. Repealer. Sections 15-23-509, 15-24-401,</li> </ul>	5	Section 33. Codification. Section 33 is intended to be
<ul> <li>8 Section 34. Repealer. Sections 84-510 and 84-6210.</li> <li>9 R.C.M. 1947. are repealed.</li> <li>10 Section 35. Repealer. Sections 15-23-509. 15-24-401.</li> </ul>	6	codified as an integral part of Title 15, chapter 35, and
9 R.C.H. 1947, are repealed. 10 Section 35. Repealer. Sections 15-23-509, 15-24-401.	7	the provisions of Title 15, chapter 35, apply to section 33.
10 Section 35. Repeater. Sections 15-23-509, 15-24-401.	8	Section 34. Repealer. Sections 84-510 and 84-6210.
·	9	R.C.H. 1947, are repealed.
ll and 15-51-105, MCA, are repealed.	10	Section 35。 Repeater。 Sections 15-23-509,15-24-401。
	11	and 15-51-105, MCA, are repealed.

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HB 0181/02

 HOUSE BILL NO. 181
 Approved by Committee

 2
 INTRODUCED BY MARKS
 on Texation

 3
 BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO TAXATION; REPEALING SECTIONS 84-510, 84-6210, R.C.M. 1947, AND SECTIONS 15-23-509, 15-24-401, AND 15-51-105, MCA."

9

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

11 Section 1. Section 15-1-105, MCA, is amended to read: 12 "15-1-105. Fines and forfeitures to county. Except for 13 the forfeiture described in 15-8-706(2), all fines, 14 forfeitures, and penalties incurred by a violation of any of 15 the provisions of this-title the state tax laws must be paid 16 into the treasury for the use of the county where the person 17 against whom the recovery is had resides."

Section 2. Section 15-1-401. MCA. is amended to read: 19 #15-1-401. Payment of license fees under protest --19 action to recover. (1) Whenever any license fee or tax is 20 demanded of any person for the use and benefit of the state 21 of Montana and the same is deemed considered unlawful by the 22 23 person from whom the same is demanded, such person may pay the same. or so much thereof as may be deemed considered 24 25 unlawful, under written protest, specifying the grounds of protest. to the state agency or officer responsible for

2 collecting the <u>license fee or</u> tax.

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3 (2) The person paying or his legal representatives 4 representative may bring an action in a court of competent 5 jurisdiction against the state agency or officer responsible for collecting the license fee or tax to recover the same. 6 7 without interest. Any action instituted to recover any 8 license fee\_or\_tax paid under protest shall must be 9 commenced and summons and copy of complaint served within 60 days after the date of payment thereof to the state agency 10 11 or officer responsible for collecting the <u>license\_fee\_or</u> 12 tax. If such action be-finally is decided adversely to the 13 state, the state treasurer shall, upon receiving a copy of 14 the final judgment in said such action. refund such license fee or tax to the person in whose favor such judgment is 15 16 rendered.\*

17 Section 3. Section 15-6-113, MCA, is amended to read:

18 "15-6-113. Class twelve property -- description - 19 taxable percentage. (1) Class twelve property includes:

- 20 (a) boats and all watercraft;
- 21 (b) aircraft;
- 22 (c) motorcycles; and

23 (d) large farm machinery valued in the official-guide
24 tractors <u>Official\_Guide\_Tractors</u> and form--implements <u>Earm</u>
25 <u>Equipment</u> and <u>in</u> department valuation schedules.

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1 (2) Class twelve property is taxed at 11% of its 2 garket value." 3 Section 4. Section 15~6-117. MCA, is amended to read: ۵ #15-6-117. Class sixteen property -- description --5 taxable percentage. (1) Class sixteen property includes: 6 (a) business inventories as defined in this section; 7 and 8 (b) mobile machines. valued as other heavy 9 construction equipment is valued, used in new industries as 10 defined in class eighteen. 11 (2) Mobile machines used in new industry are subject 12 to the conditions imposed in class eighteen for other 13 property used in new industries. (3) "Business inventories" includes goods intended for 14 15 sale or lease in the ordinary course of business and raw materials and work in progress with respect to such goods. 16 17 Business inventories shall do not include goods leased or rented or mobile homes held by a dealer or distributor as 18 19 part of his stock-in-trade. (4) The market value of business inventories, for 20

21 property tax purposes. is the cost <u>or present valuer</u> 22 <u>whichever is lower</u> to the person subject to the inventory 23 tax.

24 (5) Class sixteen property is taxed at 4.2% of market
25 value.\*

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Section 5. Section 15-7-215, MCA, is amended to read:
 "15-7-215. Violation a misdemeanor. Any person who
 violates any provision of this feet] part shell-be is guilty
 of a misdemeanor."

Section 6. Section 15-10-203, MCA, is amended to read:
"15-10-203. Increase of tax revenue -- ndvertising
notice of intention required. No taxing authority shall may

8 budget an increased amount of ad valorem tax revenue 9 exclusive of revenue from ad valorem taxation on properties 10 appearing for the first time on the assessment roll unless 11 it edvertises gives notice of its intention to do so at the 12 same time and in the same manner that it edvertises gives 13 notice of its intention-to-fix hearing on its preliminary 14 budget for the forthcoming fiscal year."

15 Section 7. Section 15-10-204, MCA, is amended to read: 16 #15-10-204. Resolution or ordinance for increase over certified millage. No millage in excess of the department of 17 revenue's certified millage shall may be levied until . 18 resolution or ordinance has-been is approved by the 19 governing board of the taxing authority, which resolution or 20 21 ordinance must be approved by said the taxing authority 22 according to the following procedure:

(1) The taxing authority shall advertise <u>publish</u>
 <u>notice of</u> its intent to exceed the department's certifie:
 millage in a-newspaper-of-general-circulation-in-the-country

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os--provideo--rn--to-to-203 the same\_manner\_that\_it\_gives i notice of hearings on its preliminary budget for the Z forthcoming\_fiscal\_year. The advertisement notice shall must state that the taxing authority will meet on a day. at 4 a time and place fixed in the advertisement notice, which £ -ball must be approximately 7 days after the day that the advertisement notice is published, for the purpose of 7 8 hearing comments regarding the proposed increase and to 3 explain the reasons for the proposed increase. The meeting may coincide with the meeting on the tentative budget as 10 required by law. 11

(2) After the public hearing has been held in 12 accordance with the above procedures, the taxing authority 13 may adopt a resolution or ordinance levying a millage rate 14 in excess of the certified millage. If the resolution or 15 orginance adopting said such millage rate is not approved on 16 the day of the public hearing, the day, time, and place at 17 which the resolution or ordinance will be scheduled for 13 consideration and approval by the taxing authority must be 19 announced at the public hearing. If the resolution or 20 ordinance is to be considered at a day and time that is more 21 than 2 weeks from the public hearing, the taxing authority 22 must again advertise publish notice in the same manner as 23 provided in 15-10-203-and subsection (1)-of-this-section. 24

25 t3t--Public-notice--given--and-public-hearings-held-in

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compliance-with-the-requirements-of--Title--20v--chapter--9v
 psrt--lv--in-setting-school-budgets-satisfy-the-requirements
 containea-in-this-sections\*

4 Section 8. Section 15-10-207, NCA, is amended to read: 5 \*15-10-207. Additional millage increase readvertising--and--revoting <u>new notice required</u>. If after 6 7 the initial millage-vote notice provided for in 15-10-203 the taxing authority determines that it requires a greater 8 9 millage or fails to act in the specified period, it shall 10 readvertise must\_give\_notice\_anew under 15-10-203 and revote 11 proceed as required in 15-10-203-and 15-10-204.\* 12 Section 9. Section 15-10-208. MCA. is amended to read:

13 "15-10-208. Increase over legal maximum not authorized 14 -- reductions permitted. Nothing contained in this section 15 part shall may serve to extend or authorize any millage in 16 excess of the maximum millage permitted by law or prevent 17 the reduction of millage."

18 Section 10. Section 15-17-303, MCA, is amended to 19 read:

20 "15-17-303. Assignment of rights of county. (1) At any 21 time after any parcel of land has been bid in <u>upon</u> by the 22 county as the purchaser thereof for taxes as provided in 23 15-17-207, the same not having been redeemed, the county 24 treasurer shall assign all the right of the county therein 25 acquired at such sale to any person who shall-pay pays the

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1 amount for which the same was bid in, with interest upon the 2 original tax at the rate of 2/3 of 1% per month and the 3 amount of all subsequent delinquent taxes, penalties, costs, 4 and interest as provided by law upon the same from time to 5 tiae when such tax became delinquent. He The county 6 treasurer shall execute to such person a certificate for 7 such parcels which may be substantially in the following 8 formi

9 "Is seen the treasurer of the county of seens state of 10 Montana, do hereby certify that at the sale of lands 11 pursuant to the tax assessment for the year 19... in the 12 county of .... and which sale was held on the .... day of 13 ..... 19... for the purpose of liquidating said assessment, the following described parcel of land, situate in soid the 14 15 county of ...., state of Montana, to wit: (insert 16 description) was duly offered for sale; that there was no 17 purchaser in good faith for the same as provided by law and 18 no person or purchaser offered to take the same and pay the 19 taxes, cost, and charges due as aforesaid. Accordingly, the 20 whole amount of the property assessed and described as above 21 was struck off to the county of .... as purchaser thereof 22 for the sum of ...., and the same still remaining 23 unredeemed, and on this day .... having paid into the 24 treasury of seid such county the amount for which the same 25 was bid in together with all subsequent delinguent taxes. penalties, costs, and interest amounting in all to ....
 dollars;
 Now, therefore, in consideration thereof and pursuant
 to the statute in such case made and provided, I do hereby

assign and set over all the right, title, and interest of 5 6 the county of ...., state of Montana, acquired in said such lands under and by virtue of said the sale to the said ..... 7 his heirs and assigns forever, together with all the rights, 8 powers, and privileges of the said county of .... to take 9 10 steps to receive a deed thereof or receive payment in Case 11 of a redemption; subject, however, to redemption as provided 12 by law.

13 Witness my hand and official seal of office this ....
14 day of ..... 19...

..... (County Treasurer)"

16 (2) in-case If the certificate hereinabove described 17 in\_\_subsuction\_\_(1) shall-by-accident-become becomes lost by 18 accident or destroyed by the assignee, then-in-such-an-ex at 19 the county treasurer shall issue a duplicate certificate to 20 the assignee after the said county treasurer is convinced 21 that the certificate has been lost or destroyed and after 22 the assignee has made an affidavit to that effect.

23 (3) The provisions of this section shall apply to any
24 sales sale of land for which a treasurer's deed shall <u>Num</u>
25 not issued by March 5, 1917, have-actually-issued

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regardless-of-wheamer-the-sale-shall-have-been-made--ot--ony date--heretoforey-as-well-as-to-future-sales-for-recovery-of toxest and the holder of any such certificate shall therefore--have described in subsection (1) has the same rights, powers, and privileges with regard to securing a deed as any purchaser of tonds land at tax sale may now have.

8 (4) As to any fands land received by the county in
9 exchange, the same may be sold or leased the same as might
10 have been done with the lands exchanged.<sup>m</sup>

Section 11. Section 15-18-305, MCA, is amended to read:

"15-18-305. Defense to action -- redemption of 13 14 parcels. Any defendant may appear in the action within the 15 time provided by law for appearances in civil actions, may 16 set up any defense to the action he may have, and may therein question the legality, validity, or the sufficiency 17 13 of any act had in connection with the assessment or sale of 19 the land. Any defendant to the action may make redemption of 20 the lands from the tax sale by paying the total amount of 21 delinguent taxes and penalties which plaintiff has paid. 22 with interest thereon at 8% a year from date of payment, 23 together with costs of the action. Upon such payment, a 24 certificate of redemption shall gust be issued by the county 25 treasurer to the defendant so paying, and thereupon the

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action shall must be dismissed. Whenever a defendant desires 1 2 to redeem from a tax sale and pay all subsequent taxes upon 3 any lot, piece, or parcel of real estate which a-person such 4 defendant owns or holds a mortgage or other lien against or 5 has any interest in, the county treasurer of the county in which such real estate is situated shall permit such 6 7 redemption and payment. In case the real estate has been assessed against any other property and is a lien thereon. A 9 then the county treasurer shall compute and apportion the tax that should have properly been assessed against the real 10 11 estate sought to be redeemed and upon which the taxes are 12 sought to be paid, the same as if the property had been separately assessed. Any personal property tax which is a 13 lien upon such real estate shall must be likewise computed 14 15 and apportioned on the same percentage basis as the tax 16 assessed against the real estate is apportioned."

17 Section 12. Section 15-23-806, MCA, is amended to 18 read:

19 "15-23-806. Lien of tax. The tax or penalty on gross 20 proceeds is a lien upon the mine from which the metal is 21 extracted and is <u>a</u> prior lien upon all owned or leased 22 personal property and improvements used in extracting the 23 ore or metal. The tax shall be collected in the manner 24 provided under--15-16-101--through---15-16-105t---15-16-503 25 through--15-16-505t-parts-2x-3x-and-6-of-chapter-16t-parts-1

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1 through-3-of-chapter-17+-and-chapter in\_chapters\_16: 17: and 2 18 of this title."

3 Section 13. Section 15-23-807. MCA, is amended to 4 read:

\*15-23-807. Assessment and-collection procedures. The
gross proceeds of metal mines shall be assessed and--taxes
thereon--collected under the provisions of 15-23-101 through
15-23-107.\*\*

9 Section 14. Section 15-24-104, MCA, is amended to 10 read:

11 \*15-24-104. Situs in state of proportionally 12 registered fleets. (1) For the purposes of this section 13 part. eH--vehicles any\_vehicle previously registered or 14 which registration has been-applied-for had\_application\_for 15 registration\_made under the provisions of 61-3-711 through 16 61-3-733 are is hereby declared to have a situs in the state 17 for the purposes of taxation.

18 (2) The department or its designated agent shall
 19 collect the personal property taxes prescribed herein."

20 Section 15. Section 15-24-202, MCA. is amended to 21 read:

22 #15-24-202. Tax-paid sticker -- display required. the constraints which is not taxed as an improvement, as improvements are defined in 15-1-101, shall pay the personal property tax in two constraints are taxed.

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payments, except as provided in 15-24-206(2). The first 1 payment is due within 30 days from the date of the notice of 2 з taxes due. The second payment is due no later than September 30 of the year in which the property is assessed. The 4 5 department of revenue shall issue tax-paid stickers to the county treasurers. The treasurers shall issue the stickers 5 7 to the owners of mobile homes and housetrailers if the taxes are paid in full. An owner shall then display the sticker, • 9 which shall must be visible from the exterior of the mobile home or housetrailer. No mobile home movement permit 10 11 provided for in 15-24-206 may be issued unless the taxes 12 have been paid in full to the county treasurer.

13 t2t--The-owner-of-o-housetrailer-must--display--on--the 14 beck--ef--his-housetreiler-er-in-enother-conspicuous-place-a property-tex-paid-sticker--prescribed--by--the--division--of 15 16 motor--vehiclesy--department--of-justicey-The-division-shall 17 produce-the-stickers-for-each--countys--The--stickers--she 18 contain-the-identifying-number-of-the-county-and-consecutive 19 numbers--starting--with--the--number--1--in-each-countys-ihe 20 sticker-shall-be-issued-by-the-county-treasurer-st-the--time 21 of-payment-of-property-taxes-The-sticker-shall-be-displayed 22 from--15-days-after-the-due-date-for-personal-property-taxes 23 of-l-year-to-the-due-date-for-personal-property-taxes-of-th 24 next-veary# 25 Section 16. Section 15-24-203, MCA, is amend to

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read: 1 "15-24-203. Housetrailer---tax Iax receipt -- when 2 production required. If stopped on a highway or at a state 3 vehicle weight station by a state highway patrolman or state 4 vehicle weight station attendant, a person transporting a 5 appilehome or housetrailer must produce, if requested, the 6 property-tax-paid receipt or a duplicate issued by the 7 8 county treasurer where the vehicle was taxed."

9 Section 17. Section 15-24-206. MCA. is amended to 10 read:

#15-24-206. Declaration of destination on imported 11 mobile homes -- display -- tax receipt -- exemptions. (1) 12 whoever brings a mobile home into the state shall 13 immediately upon arrival in the state execute a written 14 declaration, verified under oath, stating the destination of 15 the mobile home and such other information as the department 15 of revenue shall may require and shall deliver the original 17 of the declaration to whoever whomever is on duty at the 18 nearest port of entry station, state vehicle weight station. 19 or such other blace and person as the department may 20 prescribe. He shall also immediately upon arrival in the 21 state affix a copy of the declaration to the mobile home at 22 a conspicuous place. 23

(2) The treasurer shall issue the mobile home movementdeclaration provided for in this section to a person

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1 required by this section to execute it, in such quantities 2 as he requests to a maximum of 100. The treasurer shall issue such additional guantities of the declaration to a 3 maximum of 100 as the person requests at the discretion of 4 the county treasurer upon receipt from the person of the 5 previously issued declarations properly executed. In any 6 7 event executed declarations must be delivered to the treasurer within 30 days from their issue. 8 9 . (3) Wheever moves a mobile home from a point within 10 the state to another point within or without the state shall 11 first: 12 (a) execute the declaration provided for in subsection 13 (1) of this section, deliver the original of it to the treasurer of the county in which the move originates or to 14 15 such other person as the department shall may prescribe, and affix a copy of it to in a conspicuous place on the mobile 16 nome to be moved-at-a-conspicuous-place; 17 18 (b) obtain from the county treasurer of the county in 19 which the move originates a receipt showing payment in full 20 of property taxes due with respect to that mobile home--to the-date-it-is-moved. 21 (4) The provisions of subsection (3)(b) of--this 22 23 section-shall do not apply whenever a person moves a mobile 24 home:

25 (a) from a point without to a point within the state;

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(b) between places of business of dealers within or
 without the state:

3 (c) from the place of business of a dealer to a point
4 within or without the state.\*

5 Section 18. Section 15-24-302. MCA, is amended to 6 read:

7 "15-24-302. Collection procedure. All property 8 mentioned in fthe-preceding-section-1 15-24-301 shell-be is 9 assessed at the same value as property of like kind and 10 character, and the assessment, levy, and collection of the tax shall--be is governed by the provisions of 15-8-408; 11 12 15-16-111 through 15-16-115; 15-16-404; chapter 17, part 9; 13 and 15-24-202(1); as amended, except livestock taxation 14 which is governed by part 9 of this chapter. 81-7-104. and 15 Title 81, chapter 7, part 2.\*

16 Section 19. Section 15-24-1001, MCA, is amended to 17 read:

18 "15-24-1001. Custom combiner's tax -- collection --19 distribution -- not transferable. (1) In lieu of the taxes 20 required by 15-24-301. motor vehicle license fees and gross 21 vehicle weight fees, overwidth and overheight permits. Title 22 61, a nonresident engaged in the business of custom 23 combining who brings equipment into the state shall pay a 24 fee of \$40 per unit for a period beginning July 1 and ending 25 October 31. A unit shall include:

(a) onc truck suitable for hauling grain;
 (b) one header trailer or one combine trailer; and
 (c) pickup trucks and all other equipment, except
 combines, used by p nonresident and brought into the state

as part of his business of custom combining.

6 (2) The fee required by this section shall must be collected by the department of highways. Upon payment of the 7 fee, the department of highways shall must provide an 8 9 identifying device to be displayed on each truck, header 10 trailer, or combine trailer and other equipment used by the 11 nonresident in his business of custom combining in the state, which device shall-be is valid for a period beginning 12 13 July 1 and ending October 31.

(3) All fees collected under this section shall must be distributed not later than December 1 immediately following the period of license as follows: 62 1/2% to the county general fund in the county in which the permittee declares the greatest amount of time will be spent J operate, 37 1/2% to the earmarked revenue fund for the department of highways.

(4) The identifying devices and fee paid for each unit
 shall is not be transferable from one vehicle to another or
 transferable on the sale or change of ownership.

24 (5) Any owner or operator of any equipment included is
 25 the unit definition in subsection (2) (11) of this section

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who violates any provision of this section is guilty of a
 misdemeanor and shall--be-punished <u>punishable</u> by a fine of
 not more than \$300 or by a sentence of not more than 60 days
 in the county jail, or both.

Section 20. Section 15-30-201, MCA, is amended to
 read:

7 "15-30-201. Definitions. When used in 15-30-201
8 through 15-30-209, the following definitions apply:

9 (1) "Agricultural labor" includes all services 10 performed on a farm or ranch in connection with cultivating 11 the soil or in connection with raising or harvesting any 12 agricultural or horticultural commodity, including the 13 raising, shearing, feeding, caring for, training, and 14 management of livestock, bees, poultry, and fur-bearing 15 animals and wildlife.

(2) "Employee" includes an officer, employee, or
elected public official of the United States, the state of
Montana, or any political subdivision thereof or any agency
or instrumentality of any one or more of the foregoing. The
term "employee" also includes an officer of a corporation.

(3) "Employer" means the person for whom an individual
performs or performed any service, of whatever nature, as
the employee of such person; except that if the person for
whom the individual performs or performed the service does
not have control of the payment of the wages for such

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1 service: the term "employer" means the person having control

2 of the payment of such wages.

3 t4t--\*Payrott--period\*-means--a--period--for--which--a
 4 payment-of-wages-ts-ordinarity-made-to-the-employee--by--his

## 5 emptoyers

6 (5)(4) "Wages" means all remuneration (other than fees
7 paid to a public official) for services performed by an
8 employee for his employer, including the cash value of all
9 remuneration paid in any medium other than cash, except that
10 such term shall not include remuneration paid:

(a) for active service as a member of the armed forces
 of the United States;

13 (b) for agricultural labor as defined in subsection 14 (1);

15 (c) for domestic service in a private home, a local
16 college club, or local chapter of a college fraternity or
17 sorority;

(d) for casual labor not in the course of the 18 employer's trade or business performed in any calendar 19 20 quarter by an employee unless the cash remuneration paid for such service is \$50 or more and such service is performed by 21 22 an individual who is regularly employed by such employer to perform such service. For purposes of this subsection 23 (d), an individual shall-be-deemed is considered to be 24 regularly employed by an employer during a calendar guarter 25

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2 (i) on each of some 24 days during such quarter such
3 individual performs for such employer for some portion of
4 the day service not in the course of the omployer's trade or
5 business;

6 (ii) such individual was regularly employed (as
7 determined under subsection (5)(4)(4)(i)) by such employer
8 in the performance of such service during the preceding
9 calendar guarter;

(e) for services by a citizen or resident of the
 United States for a foreign government or an international
 organization;

(f) for services performed by a duly ordained.
commissioned, or licensed minister of a church in the
exercise of his ministry or by a member of a religious order
in the exercise of duties required by such order;

(g) (i) for services performed by an individual under
the age of 18 in the delivery or distribution of newspapers
or shopping news, not including delivery or distribution to
any point for subsequent delivery or distribution; or

(ii) for survices performed by an individual in and at the time of the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of

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such price over the amount at which the newspapers or
 magazines are charged to him: whether or not he is
 guaranteed a minimum amount of compensation for such service
 or is entitled to be credited with the unsold newspapers or
 magazines turned back:

6 (h) for services not in the course of the employer's 7 trade or business to the extent paid in any medium other 8 than cash when such payments are in the form of lodgings or 9 meals and such services are received by the employee at the 10 request of and for the convenience of the employer;

(i) to or for an employee as a payment for or a
 contribution toward the cost of any group plan or program
 which benefits the employee, including but not limited to
 life insurance, hospitalization insurance for the employee
 or dependents, and employees' club activities."

16 Section 21. Section 15-30-221, MCA+ is amended to 17 read:

19 #15-30-221. Withholding on payments to nonresidents exception. (1) Every person, firm, corporation, association, 19 partnership, or fiduciary doing business in or having income 20 in the state of Montana, including the state of Montana, its 21 agencies and instrumentalities, counties, cities, towns, 22 23 school districts, and municipal corporations of every kind, which knowingly makes payments of any kind to any 24 nonresident of the state of Montana for services performed 25

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1 within the state of Montana other than those described 2 payments\_excepted in 15-30-201 and-15-30-202 151 141 or for casual sales of property, either real or personal, located з within the state of Montana, or any prizes or winnings 4 5 payable from or within the state of Montana or hiring or 6 having a contract with any nonresident of a temporary nature 7 to be carried out within the state of Montana shall deduct 8 from such payment or payments an amount, to be set by the 9 department, not to exceed 3% of such payment which shall be 10 transmitted by him to the department as partial payment of such nonresident's income tax. 11

12 (2) Upon finding that reports and information in 13 addition to that now required by law or regulation should be 14 filed in order to insure the collection of Montana state 15 income tax on payment to nonresidents for leases, rentals, 16 or royalties derived from property located within the state 17 of Montana, the department may adopt rules requiring the 18 filing of such reports and information.

19 (3) If, upon notice to a nonresident taxpayer and 20 hearing, the department finds that withholding should be 21 made on payments to the taxpayer for leases, rentals, or 22 royalties derived from property located within the state of 23 Montana in order to insure the collection of Montana state 24 income tax, it may order withholding on such payments in an 25 amount equal to the tax liability of the nonresident

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1 taxpayer. Such order shall-be is binding upon all 2 withholding agents, as hereinafter described, who shall receive a copy thereof by mail or otherwise until such agent 3 shall-receive receives a copy of an order of the department 4 terminating such withholding as to the nonresident taxpayer. 5 ٨ (4) Payments made for livestock or agricultural 7 products raised or grown outside Montana and sold at a market within this state shall-not-be are not subject to 8 withholding under this section." 9

10 Section 22+ Section 15-31-202+ MCA+ is amended to 11 read:

12 #15-31-202. Election by small business corporation.
13 (1) Except as provided in subsection (6), any small business
14 corporation may elect. in accordance with the provisions of
15 this section, not to be subject to the taxes imposed by this
16 chapter. Such election shall be valid only if consented to
17 by all persons who are shareholders in such corporation. The
18 election is effective:

19 (a) on the first day of the first taxable year for 20 which such election is effective, if such election is made 21 on or before such first day; or

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

23 election is made after such first day.

24 (2) If a small business corporation makes an election25 under subsection (1), then:

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1 (a) with respect to the taxable years of the 2 corporation for which such election is in effect, such 3 corporation shall is not be subject to the taxes imposed by 4 this chapter and, with respect to such taxable years and all 5 succeeding taxable years, the provisions of this part shall 6 apply to such corporation; and

7 (b) with respect to the taxable years of a shareholder 8 of such corporation in which or with which the taxable years 9 of the corporation for which such election is in effect end+ 10 the provisions of this part shall apply to such shareholder. 11 and with respect to such taxable years and all succeeding 12 taxable years, the provisions of this part shall apply to 13 such shareholder.

14 (3) An election under subsect(on (1) may be made by a 15 small business corporation for any taxable year at any time 16 during the first month of such taxable year or at any time 17 during the month preceding such first month. Such election 18 shall must be made in such-monner-os accordance with rules 19 prescribed by the department of revenue-shall-prescribe-by 20 regulations.

(4) An election under subsection (1) shall--be is
effective for the taxable year of the corporation for which
it is made and for all succeeding taxable years of the
corporation unless it is terminated, with respect to any
such taxable year, under subsection (5).

(5) (a) (i) An election under subsection (1) made by a 1 small business corporation shell-terminate terminates if any 2 person who was not a shareholder in such corporation at the 3 time of the initial election under subsection (1) 6 subsequently becomes a shareholder in such corporation and 5 affirmatively refuses tin such--manner-as accordance\_with ь rules prescribed by the department shall-by-rules-prescribe; 7 to consent to such election on or before the 60th day on 8 9 which ne acquires the stock. (ii) If the person acquiring the stock is the estate of

(ii) If the person acquiring the stock is the estate of
a decedent, the period under subsection (5)(a)(i) for
affirmatively refusing to consent to the election shall
expire expires on the 60th day after whichever of the
following is the earlier:

15 (A) the day on which the executor or administrator of
16 the estate qualifies; or

17 (B) the last day of the taxable year of the 18 corporation. in which the decedent died.

(iii) Any termination of an election under subsection
(5)(a)(i) by reason of the affirmative refusal of any person
to consent to such election shall-be is effective for the
taxable year of the corporation in which such person becomes
a shareholder in the corporation and for all succeeding
taxable years of the corporation.

25 (b) An election under subsection (1) made by a small

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business corporation may be revoked by it for any taxable year after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shaft-be is effective:

7 (i) for the taxable year in which made, if made before
3 the close of the first month of such taxable year;

9 (ii) for the taxable year following the taxable year in 10 which made, if made after the close of such first month, and 11 for all succeeding taxable years of the corporation. Such 12 revocation shelf must be made in such-manner-res accordance 13 with\_rules\_prescribed\_by the department-shall-prescribe-by 14 regulations.

(c) An election under subsection (1) made by a small business corporation shall--terminate terminates if the corporation ceases to meet the definition of a small business corporation at any time after election is effective under subsection (1).

(d) Such termination shall-be is 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.

24 (6) If a small business corporation has made an25 election under subsection (1) and if such election has been

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1 terminated or revoked under subsection (5), such corporation fand any successor corporation +-shall is not be eligible to 2 ٦. make an election under subsection (1) for any taxable year 4 prior to its fifth taxable year which begins after the first taxable year for which such termination or revocation is 5 effective unless the department consents to such election. 6 7 (7) This election shall is not be effective unless the corporate net income or loss of such electing corporation 8 9 shall--have--been is included in the stockholders' adjusted gross income as such-is defined in 15-30-111. 10 11 (8) Every electing corporation shell-be is required to 12 pay the minimum fee of \$10 required by f84-1581-15-31-204." 13 Section 23. Section 15-31-521, MCA, is amended to read: 14 #15-31-521. Closing agreements. (1) The director of 15 16 revenue or any person authorized in writing by him is 17 authorized to enter into an agreement with any person taxpayer relating to the liability of such person taxpayer 18 in respect to the tax imposed by this chapter for any 19

20 taxable period.

(2) Any such agreement shall--be is final and
 conclusive, and except upon a showing of fraud or
 malfeasance or misrepresentation of a material fact:

24 (a) the case may not be reopened as to matters agreed25 upon or the agreement modified by any officer+ employee+ or

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#### 1 agent of this state; and

2 (b) in any suit, action, or proceeding under such 3 agreement or any determination, assessment, collection, 4 payment, abatement, refund, or credit made in accordance 5 therewith, the agreement may not be annulled, modified, set aside, or disregarded." 6

7 Section 24. Section 15-31-601. MCA, is amended to 8 read:

9 "15-31-601. Centra) reporting system for identification of corporations. It shall be is the duty of 10 11 the department of revenue to establish a central reporting 12 system to assist in the identification of corporations, 13 foreign and domestic, which transact business within the state of Montana and/or are subject to taxation by the state 14 15 of Montana-pursuant-to-the-provisions-of-ffitte-041.\*

16 Section 25. Section 15-31-605. MCA, is amended to 17 read:

18 #15-31-605. List of corporations compiled by 19 department of revenue. The department of revenue shall 20 compile a list of all corporations, foreign and domestic, 21 subject to taxation by the state of Montana under-the--terms 22 of--ffitte--841 to be filed in the central reporting system. 23 Said The list shall must contain the following information: 24 (1) the name of the corporation:

25 (2) the principal office of the corporation;

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(3) the name and address of the registered applie of 1 2 the corporation in Montana;

(4) whether the corporation filed such reports, 3 returns, and other information pursuant to the terms of this 4 5 chapter.\*

Section 26. Section 15-32-108, MCA, is amended to ъ 7 read:

#15-32-108. Extension of existing classifications. Any а 9 classification of property under the provisions of 15-32-103 section 3. Chapter 548. Laws of 1975, that existed prior to 10 11 the--effective-date-of-this-act <u>lanuary\_ls\_1977</u>, approved by 12 the department of revenue before April 19, 1977, shall continue in effect until December 31, 1992. On January 1, 13 14 1983. the taxable percentage of such property shall be determined under chapter 6, part 1, or that part as it may 15 16 be recodified or amended."

Section 27. Section 15-36-109, MCA, is amended to 17 18 read:

19 #15-36-109. Penalty for violations. Any--violation Violation of any of the provisions of this part shall--be 20 deemed is a misdemeanor and shall-be-punished punishable by 21 22 a fine of not exceeding \$1,000 or by imprisonment in the county jail for not exceeding 6 months or by both such fine 23 Z4 and imprisonment."

25 Section 28. Section 15-51-111, MCA, is amended to

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read: 1 "15-51-111. Procedure to compute tax in absence of 2 3 statement. If any person fails, neglects, or refuses to file any statement required by 15-51-101 within the time therein 4 required, the department of revenue shall, after such time ς has expired, proceed to inform itself as best it may 6 regarding the number of KWH produced by such person in this 7 state during such quarter and compute the amount of taxes 8 due to the state from such person for such quarter and add 9 the penalty and interest as required by 15+51+103. The 10 department shall mail to the person required to file a 11 quarterly report and pay such tax a letter setting forth the 12 amount of tax+ penalty+ and interest due+ and the letter 13 shall must further contain a statement that if payment is 14 not made within such time, a lien may be filed. Upon receipt 15 of the letter, the person shall remit to the department the 16 full amount of tax, penalty, and interest within 15 days. 17 The 10% penalty may be waived by the department if 18 reasonable cause for failure and neglect to file the 19 statement required by 15-51-113 15-51-101 is provided to the 20 decartment." 21

22 Section 29. Section 15-55-107. MCA, is amended to 23 read:

24 #15-55-107. Actions to recover delinquent taxes and 25 penalties -- additional taxes. (1) If the taxes and

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penalties provided for in this chapter to be paid by the 1 2 railroad company on the property of such freight line company remain unpaid more than 90 days from the due date, 3 4 the department shall cause an action to be brought to recover the amount of such delinquent taxes and penalties in 5 ĸ the district court of any county within the state of Montana 7 in which service can be had on the railroad company which is liable for the payment of such taxes or penalties or in 8 which the property of such delinguent railroad company can 9 be seized under attachment or garnishment proceedings in the 10 manner prescribed by law. 11

(2) In the event the state tax appeal board, under its 12 13 authority to raise or lower the rate of the taxes which would be payable on the cars of such freight line company if 14 taxed upon an ad valorem basis, shall finds, after a hearing 15 16 as herein provided, find taxes due from any such freight 17 line company in excess of the 5% 5\_1/2% of all gross revenue 18 in this state which is required to be paid by the railroad 19 companies, such additional tax as so determined shall-be is 20 due and payable by the freight line company upon which the 21 assessment is made, and if such tax shall--remains 22 unpaid for more than 90 days after notification of such 23 assessment by the state tax appeal board, the board shall cause an action to be brought to recover the amount of such 24 25 additional tax in the district court of any county within

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1 the state of Montana in which service can be had on the 2 freight line company liable for the tax or in which the 3 property of such delinquent freight line company can be 4 seized under attachment or garnishment proceedings in the 5 manner prescribed by law."

6 Section 30. Section 15-70-20%, MCA, is amended to 7 read:

8 \*15-70-208. Examination of records. (1) The department 9 of revenue or its authorized representative is hereby empowered to examine the books: papers, records, and 10 equipment of any casoline distributor or any person dealing 11 12 ing transporting, or storing gasoline as defined in this part and to investigate the character of the disposition 13 which any person makes of such gasoline in order to 14 ascertain and determine whether all excise license taxes due 15 16 hereunder are being properly reported and paid. If such 17 books, papers, records, and equipment are not maintained in 18 this state at the time of demand, they shell must be 19 furnished to the department for review or such dealer shall 20 must bear the reasonable cost of examination by an agent 21 authorized or designated by the department at the place 22 where such books or records are keptys provided Howevers the 23 taxpayer shell is not be liable for such costs for a period 24 exceeding 1 week or for such longer period as he may consent 25 to in writing unless the result of such examination is the 1 payment of a tax deficiency.

2 {2} The records, receipts, and invoices and any other 3 pertinent papers supporting sales of every distributor or 4 any person dealing in, transporting, or storing gasoline 5 shall must be open and subject to inspection by the 6 department or any of its employees or assistants during 7 pusiness hours in order to ascertain the amount of license 8 tax due."

9 Section 31. Section 20-9-115. MCA. is amended to read: 10 "20-9-115. Notice of preliminary budget filing and final budget meeting. ftt Between July 10 and July 20 of 11 each year, the clerk of each district shall publish notice 12 one time in the official newspaper of the county stating 13 that the preliminary budget for the district for the school 14 fiscal year just beginning, as prepared and adopted by the 15 16 trustees, is on file in his office and open to inspection by 17 all taxpayers. The notice shall also state that the trustees 19 will meet at 10 a.m. on the fourth Monday in July for i ... purpose of considering and adopting the final budget of the 19 district, that the meeting of the trustees may be continued 20 from day to day until the final adoption of the district's 21 budget, and that any taxpayer in the district may appear at 22 23 such meeting and be heard for or against any part of the 24 budget.

#### 25 f2j--Notice--given--under--this---section---meets---she

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1	requirement-for-notice-contained-in-15-18-283*"
Z	<u>NEW_SECTION</u> Section 32. Rulemaking authority. The
3	department of revenue may adopt rules necessary for the
4	taxation of property under Echapter 35 of Title 153.
5	Section 33. Codification. Section 33 32 is intended to
6	he codified as an integral part of Title 15+ chapter 35+ and
7	the provisions of Title 15, chapter 35, apply to section 33
8	32.
9	Section 34. Repealer. Sections 84-510 and 84-6210.
10	R.C.M. 1947, are repealed.
11	Section 35. Repealer. Sections 15-23-509, 15-24-401,
12	and 15-51-105, MCA, are repealed.

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1	STATEMENT OF INTENT RE: HB 181
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4	It is the intent of the Legislature that the rulemaking
5	authority in existence at the present time exercised by the
6	Department of Revenue shall not be enlarged by the passage
7	of this bill.
5

1 HOUSE BILL NO. 181 2 INTRODUCED BY MARKS 3 BY REQUEST OF THE CODE COMMISSIONER 4 A BILL OR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 6 CLARIFY THE LAWS RELATING TO TAXATION: REPEALING SECTIONS 7 84-510, 84-6210, R.C.M. 1947, AND SECTIONS 15-23-509. 15-24-401. AND 15-51-105. MCA.\* B 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 15-1-105. MCA. is amended to read: 12 \*15-1-105. Fines and forfeitures to county. Except for 13 the forfeiture described in 15-8-706(2), all fines, 14 forfeitures, and penalties incurred by a violation of any of the provisions of this-title the state tax laws must be paid 15 into the treasury for the use of the county where the person 16 against whom the recovery is had resides." 17 18 Section 2. Section 15-1-401, MCA, is amended to read: 19 "15-1-401. Payment of license fees under protest --20 action to recover. (1) Whenever any license fee or tax is 21 demanded of any person for the use and benefit of the state 22 of Montana and the same is deemed considered unlawful by the 23 person from whom the same is demanded, such person may pay the same, or so much thereof as may be deemed considered 24 25 unin-ful, under written protest, specifying the grounds of

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protest, to the state agency or officer responsible for
 collecting the <u>license fee or</u> tax.

(2) The person paying or his legal representatives 3 4 representative may bring an action in a court of competent jurisdiction against the state agency or officer responsible 5 6 for collecting the license fag or tax to recover the same, without interest. Any action instituted to recover any 7 8 license fee or tax paid under protest shell must be φ. commenced and summons and copy of complaint served within 60 10 days after the date of payment thereof to the state agency 11 or officer responsible for collecting the license fee or 12 tax. If such action be-finally is decided adversely to the 13 state, the state treasurer shall, upon receiving a copy of the final judgment in said such action, refund such license 14 fee or tax to the person in whose favor such judgment is 15 rendered." 16 Section 3. Section 15-6-113, MCA, is amended to read: 17

18 #15-6-113. Class twelve property -- description --19 taxable percentage. (1) Class twelve property includes:

- 20 (a) boats and all watercraft;
- 21 (b) aircraft;
- 22 (c) motorcycles; and

23 (d) large farm machinery valued in the official-guide
 24 tractors <u>Official Guide Tractors</u> and form--implements Earm
 25 Equipment and in department valuation schedules.

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(2) Class twelve property is taxed at 11% of its
 market value."
 Section 4. Section 15-6-117. MCA, is amended to read:
 "15-6-117. Class sixteen property -- description -- taxable percentage. (1) Class sixteen property includes:

6 (a) business inventories as defined in this section;7 and

8 (b) mobile machines, valued as other heavy
 9 construction equipment is valued, used in new industries as
 10 defined in class eighteen.

(2) Mobile machines used in new industry are subject
 to the conditions imposed in class eighteen for other
 property used in new industries.

14 (3) "Business inventories" includes goods intended for 15 sale or lease in the ordinary course of business and raw 16 materials and work in progress with respect to such goods. 17 Business inventories shall do not include goods leased or 18 rented or mobile homes held by a dealer or distributor as 19 part of his stock-in-trade.

(4) The market value of business inventories, for
property tax purposes, is the cost or present value;
whichever is lower, to the person subject to the inventory
tax.

24 (5) Class sixteen property is taxed at 4.2% of market 25 value.<sup>m</sup>

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Section 5. Section 15-7-215. MCA, is amended to read:
 \*15-7-215. Violation a misdemeanor. Any person who
 violates any provision of this faction part shall-be is guilty
 of a misdemeanor.\*

5 Section 6. Section 15+10-203. MCA. is amended to read: 6 \*15-10-203. Increase of tax revenue -- advertising 7 notice of intention required. No taxing authority shall may budget an increased amount of ad valorem tax revenue 8 9 exclusive of revenue from ad valorem taxation on properties appearing for the first time on the assessment roll unless 10 11 it advertises gives notice of its intention to do so at the same time and in the same manner that it edvertises gives 12 13 notice of its intention-to-fix hearing on its preliminary 14 budget for the forthcoming fiscal year."

15 Section 7. Section 15-10-204, MCA, is amended to read: 16 \*15-10-204. Resolution or ordinance for increase over 17 certified millage. No millage in excess of the department of revenue's certified millage shall may be levied until . 18 resolution or ordinance has-been is approved by the 19 20 governing board of the taxing authority, which resolution or 21 ordinance must be approved by said the taxing authority 22 according to the following procedure:

23 (1) The taxing authority shall edvertise <u>publish</u>
 24 <u>notice of</u> its intent to exceed the department's certified
 25 millage in <u>e-newspaper-of-general-circulation-in-the-countyy</u>

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1 es--provided--in--15-10-203 the same manner that it gives 2 notice of hearings on its preliminary budget for the forthcoming\_fiscal\_year. The advertisement notice shall 3 must state that the taxing authority will meet on a day, at 4 a time and place fixed in the edvertisement notice, which 5 shall must be approximately 7 days after the day that the 6 advertisement notice is published, for the purpose of 7 hearing comments regarding the proposed increase and to R explain the reasons for the proposed increase. The meeting 9 may coincide with the meeting on the tentative budget as 10 required by law. 11

12 (2) After the public hearing has been held in 13 accordance with the above procedures, the taxing authority 14 may adopt a resolution or ordinance levying a millage rate in excess of the certified millage. If the resolution or 15 16 ordinance adopting said such millage rate is not approved on the day of the public hearing, the day, time, and place at 17 which the resolution or ordinance will be scheduled for 18 consideration and approval by the taxing authority must be 19 announced at the public hearing. If the resolution or 20 ordinance is to be considered at a day and time that is more 21 than 2 weeks from the public hearing, the taxing authority 22 must again advertise publish notice in the same manner as 23 24 provided in 15-18-203-and subsection (1)-of-this-section.

25 +3+--Public--notice--given--and-public-hearings-heid-in

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compliance-with-the-reguirements-of--fitle--28y--chapter--9y 1 2 part--ty--in-setting-school-budgets-satisfy-the-requirements 3 contained-in-this-section\*" 4 Section 8. Section 15-10-207, MCA, is amended to read: #15-10-207. Additional millage increase 5 readvertising--and--revoting <u>new\_notice\_required</u>. If after 6 the initial millage-vote notice provided for in 15-10-203 7 the taxing authority determines that it requires a greater R Q. millage or fails to act in the specified period, it shell readvertise must give notice anew under 15-10-203 and revote 10 11 proceed as required in 15-10-203-and 15-10-204.\* 12 Section 9. Section 15-10-208, MCA, is amended to read: #15-10-208. Increase over legal maximum not authorized 13 -- reductions permitted. Nothing contained in this section 14 15 nart shall may serve to extend or authorize any millage in excess of the maximum millage permitted by law or prevent 16 the reduction of millage." 17 18 Section 10. Section 15-17-303, MCA, is amended to 19 read: 20 #15-17-303. Assignment of rights of county. (1) At any 21 time after any parcel of land has been bid in upon by the

county as the purchaser thereof for taxes as provided in

15-17-207, the same not having been redeemed, the county

treasurer shall assign all the right of the county therein

acquired at such sale to any person who shall-pay pays the

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1 amount for which the same was bid in, with interest upon the original tax at the rate of 2/3 of 1% per month and the 2 3 amount of all subsequent delinquent taxes, penalties, costs, and interest as provided by law upon the same from time to 4 5 time when such tax became delinguent. He The county treasurer shall execute to such person a certificate for 6 7 such parcel, which may be substantially in the following я form:

9 "Is ..... the treasurer of the county of ..... state of Montana, do hereby certify that at the sale of lands 10 pursuant to the tax assessment for the year 19++ in the 11 12 county of .... and which sale was held on the .... day of 13 ..... 19.... for the purpose of liquidating said assessment. 14 the following described parcel of land, situate in said the 15 county of ...., state of Montana, to wit: (insert 16 description) was duly offered for sale; that there was no purchaser in good faith for the same as provided by law and 17 no person or purchaser offered to take the same and pay the 18 19 taxes, cost, and charges due as aforesaid. Accordingly, the 20 whole amount of the property assessed and described as above 21 was struck off to the county of .... as purchaser thereof for the sum of ...., and the same still remaining 22 **Z**3 unredeemed, and on this day .... having paid into the 24 treasury of seid such county the amount for which the same was bid in together with all subsequent delinquent taxes, 25

1 penalties, costs, and interest amounting in all to .... 2 dollars;

3 Now, therefore, in consideration thereof and pursuant to the statute in .uch case made and provided, I do hereby 4 5 assign and set over all the right, title, and interest of 6 the county of ..... state of Montana, acquired in said such 7 lands under and by virtue of said the sale to the-said ..... 8 his heirs and assigns forever, together with all the rights, 9 powers, and privileges of the said county of .... to take steps to receive a deed thereof or receive payment in case 10 11 of a redemption; subject, however, to redemption as provided 12 by law-

Witness my hand and official seal of office this ....
day of ..... 19...

..... (County Treasurer)"

16 (2) In-cose If the certificate hereinabove described 17 in\_subsection\_(1) shall-by-accident-become becomes lost by 18 accident or destroyed by the assignee, then-in-such-an-eve 19 the county treasurer shall issue a duplicate certificate to 20 the assignee after the said county treasurer is convinced 21 that the certificate has been lost or destroyed and after 22 the assignee has made an affidavit to that effect.

23 (3) The provisions of this section shall apply to any
 24 seles sale of land for which a treasurer's deed shall was
 25 not issued by March 5, 1917, here-actually-issuedy

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regardless-of-whecher-the-sole-shall-have-been-made--st--sny date--heretoforer-as-well-as-to-future-soles-for-recovery-of taxes; and the holder of any such certificate shall therefore--have described in subsection (1) has the same rights; powers; and privileges with regard to securing a deed us any purchaser of lands land at tax sole may now have.

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8 (4) As to any fands <u>land</u> received by the county in 9 exchange, the same may be sold or leased the same as might 10 have been done with the lands exchanged.<sup>m</sup>

11 Section 11. Section 15-18-305, MCA, is amended to 12 read:

\*15-18-305. Defense to action -- redemption of 13 14 parcels. Any defendant may appear in the action within the time provided by law for appearances in civil actions, may 15 set up any defense to the action he may have, and may 16 therein question the legality, validity, or the sufficiency 17 of any act had in connection with the assessment or sale of 13 the land. Any defendant to the action may make redemption of 19 20 the lands from the tax sale by paying the total amount of delinguent taxes and penalties which plaintiff has paid. 21 with interest thereon at 8% a year from date of payment, 22 23 together with costs of the action. Upon such payment, a 24 certificate of redemption shall must be issued by the county 25 treasurer to the defendant so paying, and thereupon the

action shall must be dismissed. Whenever a defendant desires 1 to redeem from a tax sale and pay all subsequent taxes upon 2 3 any lot, piece, or parcel of real estate which a-person such 4 defendant owns or holds a mortgage or other lien against or 5 has any interest in. the county treasurer of the county in which such real estate is situated shall permit such 6 redemption and payment. In case the real estate has been 7 assessed against any other property and is a liep thereon. R 9 then the county treasurer shall compute and apportion the tax that should have properly been assessed against the real 10 estate sought to be redeemed and upon which the taxes are 11 12 sought to be paid, the same as if the property had been separately assessed. Any personal property tax which is a 13 14 lien upon such real estate shall gust be likewise computed 15 and apportioned on the same percentage basis as the tax 16 assessed against the real estate is apportioned."

17 \_ Section 12. Section 15-23-806, MCA, is amended to 18 read:

19 "15-23-806. Lien of tax. The tax or penalty on gross 20 proceeds is a lien upon the mine from which the metal is 21 extracted and is a prior lien upon all owned or leased 22 personal property and improvements used in extracting the 23 ore or metal. The tax shall be collected in the manner 24 provided under--15-16-101--through---15-16-105+---15-16-503 25 through--15-16-505+-parts-2v-3v-and-6-of-chapter-16t-parts-1

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1 through-3-of-chapter-171-and-chapter in\_chapters\_161\_171\_and
2 18 of this title."

3 Section 13. Section 15-23-807, MCA, is amended to
4 read:

5 "15-23-807. Assessment and-collection procedures. The
6 gross proceeds of metal mines shall be assessed and--taxes
7 thereon--collected under the provisions of 15-23-101 through
8 15-23-107."

9 Section 14. Section 15-24-104, MCA, is amended to 10 read:

11 #15-24-104. Situs in state of proportionally 12 registered fleets. (1) For the purposes of this section 13 parts att--vehicles any vehicle previously registered or 14 which registration has been-applied-for had application for 15 registration\_made under the provisions of 61-3-711 through 61-3-733 are is hereby declared to have a situs in the state 16 17 for the purposes of taxation.

18 {2} The department or its designated agent shall
 19 collect the personal property taxes prescribed herein."

20 Section 15. Section 15-24-202, MCA, is amended to 21 read:

22 \*15-24-202. Tax-paid sticker -- display required. (1) 23 The owner of a mobile home or housetrailer which is not 24 taxed as an improvement. as improvements are defined in 25 15-1-101. shall pay the personal property tax in two

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L payments, except as provided in 15-24-206(2). The first 2 payment is due within 30 days from the date of the notice of 3 taxes due. The second payment is due no later than September 30 of the year in which the property is assessed. The 4 department of revenue shall issue tax-paid stickers to the 5 ٨ county treasurers. The treasurers shall issue the stickers 7 to the owners of mobile homes and housetrailers if the taxes 8 are paid in full. An owner shall then display the sticker, 9 which shall must be visible from the exterior of the mobile 10 home or housetrailer. No mobile home movement permit 11 provided for in 15-24-206 may be issued unless the taxes 12 have been paid in full to the county treasurer.

13 +2+--The-owner-of-a-housetrailer-must--display--on--the 14 back--of--his-housetrailer-or-in-another-conspicuous-place-a 15 property-tex-paid-sticker--prescribed--by---the--division--of 16 motor--vehiclesy--department--of-justicey-The-division-shall 17 produce-the-stickers-for-each--countys--The--stickers--shall contain-the-identifying-number-of-the-county-and-consecuti. 18 19 numbers--storting--with--the--number--i--in-each-county--The 20 sticker-shail-be-issued-by-the-county-treasurer-at-the--time 21 of-payment-of-property-taxes-The-sticker-shall-be-displayed 22 from--15-days-after-the-due-date-for-personal-property-taxes 23 of-1-year-to-the-due-date-for-personal-property-taxes-of-the 24 next-years" 25 Section 16. Section 15-24-203, MCA, is amended to

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1 read:

2 "15-24-203. Housetrailer---tex <u>Tax</u> receipt -- when 3 production required. If stopped on a highway or at a state 4 vehicle weight station by a state highway patrolman or state 5 vehicle weight station attendant, a person transporting a 6 <u>mobilehoue\_or</u> housetrailer must produce, if requested, the 7 property-tax-paid receipt or a duplicate issued by the 8 county treasurer where the vehicle was taxed."

9 Section 17. Section 15-24-206, MCA, is amended to 10 read:

#15-24-206. Declaration of destination on imported 11 mobile homes -- display -- tax receipt -- exemptions. (1) 12 13 whoever brings a mobile home into the state shall immediately upon arrival in the state execute a written 14 declaration, verified under oath, stating the destination of 15 the mobile home and such other information as the department 16 of revenue shall may require and shall deliver the original 17 of the declaration to whoever whomever is on duty at the 18 nearest port of entry station, state vehicle weight station. 19 or such other place and person as the department may 20 prescribe. He shall also immediately upon arrival in the 21 state affix a copy of the declaration to the mobile home at 22 a conspicuous place. 23

(2) The treasurer shall issue the mobile home movement
 declaration provided for in this section to a person

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1 required by this section to execute it, in such quantities 2 as he requests to a maximum of 100. The treasurer shall issue such additional quantities of the declaration to a з 4 maximum of 100 as the person requests at the discretion of the county treasurer upon receipt from the person of the 5 previously issued declarations properly executed. In any 6 7 event executed declarations must be delivered to the 8 treasurer within 30 days from their issue-

9 (3) Whoever moves a mobile home from a point within
10 the state to another point within or without the state shall
11 first:

12 (a) execute the declaration provided for in subsection 13 (1) of this section, deliver the original of it to the 14 treasurer of the county in which the move originates or to 15 such other person as the department shall may prescribe, and 16 affix a copy of it to in a conspicuous place on the mobile 17 home to be moved-at-a-conspicuous-place;

(b) obtain from the county treasurer of the county in which the move originates a receipt showing payment in full of property taxes due with respect to that mobile home--to the-dete-it-is-moved.

22 (4) The provisions of subsection (3)(b) of--this
23 section-shall do not apply whenever a person moves a mobile
24 home:

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(a) from a point without to a point within the state;

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(b) between places of business of dealers within or
 without the state;

3 (c) from the place of business of a dealer to a point
4 within or without the state."

5 Section 18. Section 15-24-302, MCA, is amended to 6 read:

7 "15-24-302. Collection procedure. A11 property 8 mentioned in fthe-preceding-section-15-24-301 shall--be is 9 assessed at the same value as property of like kind and 10 character, and the assessment, levy, and collection of the 11 tax shall--be is governed by the provisions of 15-8-408: 15-16-111 through 15-16-115; 15-16-404; chapter 17, part 9; 12 13 and 15-24-202(1); as amended, except livestock taxation which is governed by part 9 of this chapter. 81-7-104. and 14 15 Title 81, chapter 7, part 2."

16 Section 19. Section 15-24-1001, MCA, is amended to 17 read:

18 #15-24-1001. Custom combiner's tax -- collection --19 distribution --- not transferable. (1) In lieu of the taxes 20 required by 15-24-301, motor vehicle license fees and gross 21 vehicle weight fees, overwidth and overheight permits, fitle 61, a nonresident engaged in the business of custom 22 combining who brings equipment into the state shall pay a 23 24 fee of \$40 per unit for a period beginning July 1 and ending 25 October 31. A unit shall include:

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(a) one truck suitable for hauling grain;
(b) one header trailer or one combine trailer; and

3 (c) pickup trucks and all other equipment, except
4 combines, used by \_ nonresident and brought into the state
5 as part of his business of custom combining.

6 (2) The fee required by this section shall must be 7 collected by the department of highways. Upon payment of the 8 fee, the department of highways shall must provide an 9 identifying device to be displayed on each truck, header trailer, or combine trailer and other equipment used by the 10 nonresident in his business of custom combining in the 11 state, which device shall-be is valid for a period beginning 12 13 July 1 and ending October 31.

14 (3) All fees collected under this section shall must 15 be distributed not later than December 1 immediately 16 following the period of license as follows: 62 1/2% to the 17 county general fund in the county in which the permittee 18 declares the greatest amount of time will be spent J 19 operate, 37 1/2% to the earmarked revenue fund for the 20 department of highways.

(4) The identifying devices and fee paid for each unit
 shell is not be transferable from one vehicle to another or
 transferable on the sale or change of ownership.

24 (5) Any owner or operator of any equipment included in
 25 the unit definition in subsection (2) (1) of this section

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who violates any provision of this section is guilty of a
 misdemeanor and shall--be-punished <u>punishable</u> by a fine of
 not more than \$300 or by a sentence of not more than 60 days
 in the county jail, or both."

5 Section 20. Section 15-30-201. MCA, is amended to 6 read:

7 "15-30-201. Definitions. When used in 15-30-201
8 through 15-30-209, the following definitions apply:

9 (1) "Agricultural labor" includes all services 10 performed on a farm or ranch in connection with cultivating 11 the soil or in connection with raising or harvesting any 12 agricultural or horticultural commodity, including the 13 raising, shearing, feeding, caring for, training, and 14 management of livestock, bees, poultry, and fur-bearing 15 animals and wildlife.

(2) "Employee" includes an officer, employee, or 16 17 elected public official of the United States, the state of Montana, or any political subdivision thereof or any agency 13 or instrumentality of any one or more of the foregoing. The 19 term "employee" also includes an officer of a corporation. 20 (3) "Employer" means the person for whom an individual 21 performs or performed any service, of whatever nature, as 22 23 the employee of such person; except that if the person for whom the individual performs or performed the service does 24 25 not have control of the payment of the wages for such

service, the term "employer" means the person having control 1 2 of the payment of such wages. f41--\*Payroll--period\*--means--e--period--fer--which--e 3 payment-of-wages-is-ordinarily-made-to-the-amployee--by--his 4 5 employers 6 +5+(5) "Wages" means all remuneration (other than fees 7 paid to a public official) for services performed by an employee for his employer, including the cash value of all 8 9 remuneration paid in any medium other than cash, except that such term shall not include remuneration paid: 10 (a) for active service as a member of the armed forces 11 of the United States; 12 13 (b) for agricultural labor as defined in subsection (1);14 15 (c) for domestic service in a private home, a local 16 college club, or local chapter of a college fraternity or sorority; 17 (d) for casual labor not in the course of the 18 19 employer's trade or business performed in any calendar 20 quarter by an employee unless the cash remuneration paid for such service is \$50 or more and such service is performed by 21 an individual who is regularly employed by such employer to 22 23 perform such service. For purposes of this subsection 24 +5+(4)(d), an individual shall-be-deemed is considered to be 25 regularly employed by an employer during a calendar guarter

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1 only if:

2 (i) on each of some 24 days during such quarter such
3 individual parforms for such employer for some portion of
4 the day service not in the course of the employer's trade or
5 business;

6 (ii) such individual was regularly employed (as
7 determined under subsection (5)(4)(d)(i)) by such employer
8 in the performance of such service during the preceding
9 calendar quarter;

10 (e) for services by a citizen or resident of the
 11 United States for a foreign government or an international
 12 organization;

13 (f) for services performed by a duly ordained.
14 commissioned, or licensed minister of a church in the
15 exercise of his ministry or by a member of a religious order
16 in the exercise of duties required by such order;

17 (9) (i) for services performed by an individual under 18 the age of 18 in the delivery or distribution of newspapers 19 or shopping news, not including delivery or distribution to 20 any point for subsequent delivery or distribution; or

(ii) for services performed by an individual in and at the time of the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of

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such price over the amount at which the newspapers or
 magazines are charged to him, whether or not he is
 guaranteed a minimum amount of compensation for such service
 or is entitled to be credited with the unsold newspapers or
 magazines turned back;

6 (h) for services not in the course of the employer's
7 trade or business to the extent paid in any medium other
8 than cash when such payments are in the form of lodgings or
9 meals and such services are received by the employee at the
10 request of and for the convenience of the employer;

11 (i) to or for an employee as a payment for or a 12 contribution toward the cost of any group plan or program 13 which benefits the employee, including but not limited to 14 life insurance, hospitalization insurance for the employee 15 or dependents, and employees' club activities."

16 Section 21. Section 15-30-221, MCA, is amended to 17 read:

18 \*15-30-221. Withholding on payments to nonresidents -19 exception. (1) Every person, firm, corporation, association, 20 partnership, or fiduciary doing business in or having income 21 in the state of Montana, including the state of Montana, its 22 agencies and instrumentalities, counties, cities, towns, 23 school districts, and municipal corporations of every kind, which knowingly makes payments of any kind to any 24 nonresident of the state of Montana for services performed 25

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within the state of Montana other than those described 1 2 Dayments\_excented in 15-30-201 end-15-30-202 f51 [4] or for casual sales of property, either real or personal, located 3 within the state of Montana, or any prizes or winnings 4 κ. payable from or within the state of Hontana or hiring or 6 having a contract with any nonresident of a temporary nature to be carried out within the state of Montana shall deduct 7 8 from such payment or payments an amount, to be set by the department, not to exceed 3% of such payment which shall be 9 transmitted by him to the department as partial payment of 10 11 such nonresident's income tax.

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12 (2) Upon finding that reports and information in 13 addition to that now required by law or regulation should be 14 filed in order to insure the collection of Montana state 15 income tax on payment to nonresidents for leases, rentals, 16 or royalties derived from property located within the state 17 of Montana, the department may adopt rules requiring the 18 filing of such reports and information.

19 (3) If, upon notice to a nonresident taxpayer and 20 hearing, the department finds that withholding should be 21 made on payments to the taxpayer for leases, rentals, or 22 royalties derived from property located within the state of 23 Montana in order to insure the collection of Montana state 24 income tax, it may order withholding on such payments in an 25 amount equal to the tax liability of the nonresident

taxpayer. Such order <del>shall-be <u>is</u> binding upon all</del> 1 5 withholding agents, as hereinafter described, who shall 3 receive a copy thereof by mail or otherwise until such agent 4 shall-receive receives a copy of an order of the department terminating such withholding as to the nonresident taxpayer. 5 6 (4) Payments made for livestock or agricultural 7 products raised or grown outside Montana and sold at a market within this state shall-not-be arg\_not subject to 8 9 withholding under this section."

10 Section 22+ Section 15-31-202+ MCA+ is amended to 11 read:

12 "15-31-202. Election by small business corporation.
13 (1) Except as provided in subsection (6), any small business
14 corporation may elect. in accordance with the provisions of
15 this section, not to be subject to the taxes imposed by this
16 chapter. Such election shall be valid only if consented to
17 by all persons who are shareholders in such corporation. The
18 election is effective:

19 (a) on the first day of the first taxable year for
20 which such election is effective, if such election is made
21 on or before such first day; or

22 (b) on the day on which the election is made, if the 23 election is made after such first day.

24 (2) If a small business corporation makes an election25 under subsection (1)+ then:

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1 (a) with respect to the taxable years of the 2 corporation for which such election is in effect, such 3 corporation shall is not be subject to the taxes imposed by 4 this chapter and, with respect to such taxable years and all 5 succeeding taxable years, the provisions of this part shall 6 apply to such corporation; and

7 (b) with respect to the taxable years of a shareholder 8 of such corporation in which or with which the taxable years 9 of the corporation for which such election is in effect end 10 the provisions of this part shall apply to such shareholder, 11 and with respect to such taxable years and all succeeding 12 taxable years, the provisions of this part shall apply to 13 such shareholder.

14 (3) An election under subsection (1) may be made by a 15 small business corporation for any taxable year at any time 16 during the first month of such taxable year or at any time 17 during the month preceding such first month. Such election 18 shoff must be made in such-monner-os accordance with rules 19 prescribed by the department of revenue-shaff-prescribe-by 20 regulations.

(4) An election under subsection (1) shall--be is
effective for the taxable year of the corporation for which
it is made and for all succeeding taxable years of the
corporation unless it is terminated, with respect to any
such taxable year, under subsection (5).

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1 (5) (a) (i) An election under subsection (1) made by a 2 small business corporation shall-terminate terminates if any 3 person who was not a shareholder in such corporation at the 4 time of the .nitial election under subsection (1) 5 subsequently becomes a shareholder in such corporation and 6 affirmatively refuses tin such--manner-as accordance with 7 rules\_prescribed\_by the department shell-by-rules-prescribet to consent to such election on or before the 60th day on 8 9 which he acquires the stock.

(ii) If the person acquiring the stock is the estate of
a decedent, the period under subsection (5)(a)(i) for
affirmatively refusing to consent to the election shall
expire expires on the 60th day after whichever of the
following is the earlier:

15 (A) the day on which the executor or administrator of16 the estate qualifies; or

17 (B) the last day of the taxable year of the
18 corporation, in which the decedent died.

(iii) Any termination of an election under subsection
(5)(a)(i) by reason of the affirmative refusal of any person
to consent to such election shall-be is effective for the
taxable year of the corporation in which such person becomes
a shareholder in the corporation and for all succeeding
taxable years of the corporation.

25 (b) An election under subsection (1) made by a small

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1 within the state of Montana other than those described 2 payments\_excepted in 15-30-201 and-15-30-202 (51 (4) or for casual sales of property, either real or personal, located 3 within the state of Montana, or any prizes or winnings 4 5 payable from or within the state of Hontana or hiring or 6 having a contract with any nonresident of a temporary nature 7 to be carried out within the state of Montana shall deduct from such payment or payments an amount, to be set by the 8 9 department, not to exceed 3% of such payment which shall be 10 transmitted by him to the department as partial payment of 11 such nonresident's income tax.

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12 (2) Upon finding that reports and information in 13 addition to that now required by law or regulation should be 14 filed in order to insure the collection of Montana state 15 income tax on payment to nonresidents for leases, rentals, 16 or royalties derived from property located within the state 17 of Montana, the department may adopt rules requiring the 18 filing of such reports and information.

19 (3) If, upon notice to a nonresident taxpayer and 20 hearing, the department finds that withholding should be 21 made on payments to the taxpayer for leases, rentals, or 22 royalties derived from property located within the state of 23 Montana in order to insure the collection of Montana state 24 income tax, it may order withholding on such payments in an 25 amount equal to the tax liability of the nonresident HB 0181/02

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1 taxpayer. Such order shell--be is binding upon all withholding agents, as hereinafter described, who shall 2 receive a copy thereof by mail or otherwise until such agent 3 shall-receive receives a copy of an order of the department 4 5 terminating such withholding as to the nonresident taxpayer. (4) Payments made for livestock or agricultural 6 products raised or grown outside Montana and sold at a 7 8 market within this state shall-not-be are not subject to 9 withholding under this section." 10 Section 22. Section 15-31-202, HCA, is amended to 11 read: 12 \*15-31-202. Election by small business corporation. (1) Except as provided in subsection (6), any small business 13 corporation may elect, in accordance with the provisions of 14 this section, not to be subject to the taxes imposed by this 15 chapter. Such election shall be valid only if consented to 16 by all persons who are shareholders in such corporation. The 17 18 election is effective: 19 (a) on the first day of the first taxable year for which such election is effective, if such election is made 20 21 on or before such first day; or

(b) on the day on which the election is made, if the
election is made after such first day.

24 (2) If a small business corporation makes an election25 under subsection (1), then:

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1 (a) with respect to the taxable years of the 2 corporation for which such election is in effect, such 3 corporation shall is not be subject to the taxes imposed by 4 this chapter and, with respect to such taxable years and all 5 succeeding taxable years, the provisions of this part shall 6 apply to such corporation; and

7 (b) with respect to the taxable years of a shareholder 8 of such corporation in which or with which the taxable years 9 of the corporation for which such election is in effect end 10 the provisions of this part shall apply to such shareholder, 11 and with respect to such taxable years and all succeeding 12 taxable years, the provisions of this part shall apply to 13 such shareholder.

14 (3) An election under subsection (1) may be made by a 15 small business corporation for any taxable year at any time 16 during the first month of such taxable year or at any time 17 during the month preceding such first month. Such election 18 sholl must be made in such-monner-es accordance, with rules 19 prescribed by the department of revenue-shall-prescribe-by 20 regulations.

(4) An election under subsection (1) shall--be is
effective for the taxable year of the corporation for which
it is made and for all succeeding taxable years of the
corporation unless it is terminated, with respect to any
such taxable year, under subsection (5).

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1 (5) (a) (i) An election under subsection (1) made by a 2 small business corporation shall-terminates if any 3 person who was not a shareholder in such corporation at the 4 time of the .nitial election under subsection (1) 5 subsequently becomes a shareholder in such corporation and 6 affirmatively refuses tin such--manner-as accordance with 7 rules prescribed by the department shell-by-rules-prescribe; 8 to consent to such election on ar before the 60th day on 9 which he acquires the stock.

(ii) If the person acquiring the stock is the estate of
a decedent, the period under subsection (5)(a)(i) for
affirmatively refusing to consent to the election shall
expire expires on the 60th day after whichever of the
following is the earlier:

15 (A) the day on which the executor or administrator of
16 the estate qualifies; or

17 (B) the last day of the taxable year of the 18 corporation; in which the decedent died.

19 (iii) Any termination of an election under subsection 20 (5)(a)(i) by reason of the affirmative refusal of any person 21 to consent to such election shall-be is effective for the 22 taxable year of the corporation in which such person becomes 23 a shareholder in the corporation and for all succeeding 24 taxable years of the corporation.

25 (b) An election under subsection (1) made by a small

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business corporation may be revoked by it for any taxable year after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall-be is effective:

7 (i) for the taxable year in which made, if made before
8 the close of the first month of such taxable year;

(ii) for the taxable year following the taxable year in
which made, if made after the close of such first month, and
for all succeeding taxable years of the corporation. Such
revocation shall must be made in such-manner-as accordance
with\_rules\_prescribed\_by the department-shall-prescribe-by
reoutations.

15 (c) An election under subsection (1) made by a small 16 business corporation shall--terminate terminates if the 17 corporation ceases to meet the definition of a small 18 business corporation at any time after election is effective 19 under subsection (1).

20 (d) Such termination shall--be is effective for the
21 taxable year of the corporation in which the corporation
22 ceases to be a small business corporation and for all
23 succeeding taxable years of the corporation.

24 (6) If a small business corporation has made an
25 election under subsection (1) and if such election has been

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terminated or revoked under subsection (5), such corporation 1 2 tand any successor corporation t-shall is not be eligible to make an election under subsection (1) for any taxable year 3 prior to its fifth taxable year which begins after the first 4 5 taxable year for which such termination or revocation is effective unless the department consents to such election. 6 7 (7) This election shall is not be effective unless the corporate net income or loss of such electing corporation 8 9 shall--have--been is included in the stockholders' adjusted gross income as such-is defined in 15-30-111. 10

{8) Every electing corporation shelf-be is required to
 pay the minimum fee of \$10 required by £64-15013 15=31=204."
 Section 23. Section 15-31-521. MCA. is amended to
 read:

15 "15-31-521. Closing agreements. (1) The director of 16 revenue or any person authorized in writing by him is 17 authorized to enter into an agreement with any person 18 <u>taxpayer</u> relating to the liability of such person <u>taxpayer</u> 19 in respect to the tax imposed by this chapter for any 20 taxable period.

(2) Any such agreement shall-be is final and
 conclusive, and except upon a showing of fraud or

23 malfeasance or misrepresentation of a material fact:

24 (a) the case may not be reopened as to matters agreed
25 upon or the agreement modified by any officer, employee, or

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1 agent of this state; and

(b) in any suit, action, or proceeding under such
agreement or any determination, assessment, collection,
payment, abatement, refund, or credit made in accordance
therewith, the agreement may not be annulled, modified, set
aside, or disregarded.<sup>m</sup>

7 Section 24. Section 15-31-601. MCA. is amended to
8 read:

9 #15-31-601. Central reporting system for 10 identification of corporations. It shall-be is the duty of 11 the department of revenue to establish a central reporting 12 system to assist in the identification of corporations, foreign and domestic, which transact business within the 13 state of Montana and/or are subject to taxation by the state 14 15 of Montana-pursuant-to-the-provisions-of-fitte-841.\*

16 Section 25. Section 15-31-605. MCA, is amended to 17 read:

18 "15-31-605. List of corporations compiled by 19 department of revenue. The department of revenue shall compile a list of all corporations, foreign and domestic, 20 subject to taxation by the state of Montana under-the--terms 21 22 of--ffitle--841 to be filed in the central reporting system. Said The list shall must contain the following information: 23 24 (1) the name of the corporation;

25 (2) the principal office of the corporation;

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(3) the name and address of the registered agent of the corporation in Montana;

3 (4) whether the corporation filed such reports.
4 returns, and other information pursuant to the terms of this
5 chapter.

6 Section 26. Section 15-32-108. MCA, is amended to 7 read:

#15-32-108. Extension of existing classifications. Any 8 9 classification of property under the provisions of 15-32-103 10 section 3. Chapter 548. Laws of 1975. that existed prior to 11 the--effective-date-of-this-ect <u>January 1, 1977</u>, approved by 12 the department of revenue before April 19, 1977, shall 13 continue in effect until December 31, 1982. On January 1. 1983, the taxable percentage of such property shall be 14 determined under chapter 6. part 1. or that part as it may 15 16 be recodified or amended."

17 Section 27. Section 15-36-109, MCA, is amended to 18 read:

19 "15-36-109. Penalty for violations. Any--violetion 20 <u>Violation</u> of any of the provisions of this part shall--be 21 deemed is a misdemeanor and shall-be-punished <u>punishable</u> by 22 a fine of not exceeding \$1,000 or by imprisonment in the 23 county jail for not exceeding 6 months or by both such fine 24 and imprisonment."

25 Section 28. Section 15-51-111, MCA, is amended to

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1 read:

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"15-51-111. Procedure to compute tax in absence of 2 3 statement. If any person fails, neglects, or refuses to file any statement required by 15-51-101 within the time therein 4 required, the department of revenue shall, after such time 5 has expired, proceed to inform itself as best it may 6 7 regarding the number of KWH produced by such person in this state during such quarter and compute the amount of taxes 8 Ģ due to the state from such person for such quarter and add the penalty and interest as required by 15-51-103. The 10 department shall mail to the person required to file a 11 quarterly report and pay such tax a letter setting forth the 12 amount of tax, penalty, and interest due, and the letter 13 shall must further contain a statement that if payment is 14 not made within such time, a lien may be filed. Upon receipt 15 16 of the letter, the person shall remit to the department the 17 full amount of tax, penalty, and interest within 15 days. 18 The 10% penalty may be waived by the department if reasonable cause for failure and neglect to file the 19 statement required by 15-51-113 15-51-101 is provided to the 20 21 department."

22 Section 29. Section 15-55-107. MCA, is amended to 23 read:

24 "15-55-107. Actions to recover delinquent taxes and
25 penalties -- additional taxes. (1) If the taxes and

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penalties provided for in this chapter to be paid by the 1 2 railroad company on the property of such freight line company remain unpaid more than 90 days from the due date, 3 the department shall cause an action to be brought to 4 5 recover the amount of such delinquent taxes and penalties in 6 the district court of any county within the state of Montana 7 in which service can be had on the railroad company which is 8 liable for the payment of such taxes or penalties or in 9 which the property of such delinquent railroad company can 10 be seized under attachment or garnishment proceedings in the 11 manner prescribed by law.

12 (2) In the event the state tax appeal board, under its 13 authority to raise or lower the rate of the taxes which 14 would be payable on the cars of such freight line company if 15 taxed upon an ad valorem basis, shall finds, after a hearing 16 as herein provided, find taxes due from any such freight 17 line company in excess of the 5% 5 1/2% of all gross revenue in this state which is required to be paid by the railroad 19 19 companies, such additional tax as so determined shall-be is 20 due and payable by the freight line company upon which the 21 assessment is made, and if such tax shell-remains 22 unpaid for more than 90 days after notification of such assessment by the state tax appeal board, the board shall 23 24 cause an action to be brought to recover the amount of such 25 additional tax in the district court of any county within

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1 the state of Montana in which service can be had on the 2 freight line company liable for the tax or in which the 3 property of such delinquent freight line company can be 4 seized under attachment or garnishment proceedings in the 5 manner prescribed by law."

6 Section 30. Section 15-70-208, MCA+ is emended to 7 read:

8 "15-70-208. Examination of records. (1) The department 9 of revenue or its authorized representative is hereby 10 empowered to examine the books, papers, records, and 11 equipment of any gasoline distributor or any person dealing 12 in, transporting, or storing gasoline as defined in this 13 part and to investigate the character of the disposition 14 which any person makes of such, gasoline in order to 15 ascertain and determine whether all excise license taxes due 16 hereunder are being properly reported and paid. If such 17 books, papers, records, and equipment are not maintained in 16 this state at the time of demand, they shall must be 19 furnished to the department for review or such dealer shall 20 must bear the reasonable cost of examination by an agent authorized or designated by the department at the place 21 22 where such books or records are keptys provided Howevers the 23 taxpayer shall is not be liable for such costs for a period 24 exceeding 1 week or for such longer period as he may consent 25 to in writing unless the result of such examination is the

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1 payment of a tax deficiency.

2 (2) The records, receipts, and invoices and any other
3 pertinent papers supporting sales of every distributor or
4 any person dealing in, transporting, or storing gasoline
5 shell must be open and subject to inspection by the
6 department or any of its employees or assistants during
7 pusiness hours in order to ascertain the amount of license
8 tax due."

9 Section 31. Section 20-9-115, MCA, is amended to read: 10 #20-9-115. Notice of preliminary budget filing and final budget meeting. (1) Between July 10 and July 20 of 11 12 each year, the clerk of each district shall publish notice 13 one time in the official newspaper of the county stating 14 that the preliminary budget for the district for the school fiscal year just beginning, as prepared and adopted by the 15 16 trustees, is on file in his office and open to inspection by 17 all taxpayers. The notice shall also state that the trustees 19 will meet at 10 a.m. on the fourth Monday in July for t. purpose of considering and adopting the final budget of the 19 20 district, that the meeting of the trustees may be continued 21 from day to day until the final adoption of the district's budget, and that any taxpayer in the district may appear at 22 23 such meeting and be heard for or against any part of the 24 budget.

25 t2}--Notice--qiven--under--this---section---meets---the

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# HB 0191/02 -

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1	requirement-for-motice-contained-in-15-10-203*"
2	<u>NEW_SECTION</u> . Section 32. Rulemaking authority. The
3	department of revenue may adopt rules necessary for the
4	taxation of property under Echapter 35 of Title 153.
5	Section 33. Codification. Section 33 32 is intended to
6	be codified as an integral part of Title 15, chapter 35, and
7	the provisions of Title 15, chapter 35, apply to section 33
R	32.
9	Section 34. Repealer. Sections 84-510 and 84-6210.
10	R.C.M. 1947, are repealed.
11	Section 35. Repealer. Sections 15-23-509, 15-24-401.
12	and 15-51-105, MCA, are repeated.

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-End-

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STATEMENT OF INTENT RE: HB 181
It is the intent of the Legislature that the rulemaking
authority in existence at the present time exercised by the
Department of Revenue shall not be enlarged by the passage
of this bill.

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HE 181

HOUSE BILL NO. 181 1 2 INTRODUCED BY MARKS BY REQUEST OF THE CODE COMMISSIONER ٦ 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 CLARIFY THE LAWS RELATING TO TAXATION; REPEALING SECTIONS 6 7 84-510, 84-6210, R.C.M. 1947, AND SECTIONS 15-23-509, 15-24-401. AND 15-51-105. MCA.\* 8 9 AF IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 15-1-105, MCA, is amended to read: 12 #15-1-105. Fines and forfeitures to county. Except for the forfeiture described in 15-8-706(2), all fines, 13 forfeitures, and penalties incurred by a violation of any of 14 the provisions of this-title the state tax laws must be paid 15 16 into the treasury for the use of the county where the person against whom the recovery is had resides." 17 18 Section 2. Section 15-1-401, MCA, is amended to read: #15-1-401. Payment of license fees under protest --19 20 action to recover. (1) Whenever any license fee or tax is 21 demanded of any person for the use and benefit of the state 22 of Montana and the same is deemed considered unlawful by the 23 person from whom the same is demanded, such person may pay the same, or so much thereof as may be deemed considered 24 unlawful, under written protest, specifying the grounds of 25

protest, to the state agency or officer responsible for
 collecting the <u>license fee or</u> tax.

(2) The person paying or his legal representatives 3 representative may bring an action in a court of competent 5 jurisdiction against the state agency or officer responsible ٨ for collecting the license fee or tax to recover the same, without interest. Any action instituted to recover any 7 A license fee or tax paid under protest shall must be 9 commenced and summons and copy of complaint served within 60 10 days after the date of payment thereof to the state agency 11 or officer responsible for collecting the license fee or tax. If such action be-finally is decided adversely to the 12 13 state, the state treasurer shall, upon receiving a copy of 14 the final judgment in said such action, refund such license 15 fee or tax to the person in whose favor such judgment is 16 rendered." 17 Section 3. Section 15-6-113, MCA, is amended to read:

18 "15-6-113. Class twelve property -- description --

- 19 taxable percentage. (1) Class twelve property includes:
- 20 (a) boats and all watercraft;
- 21 (b) aircraft;
- 22 (c) motorcycles; and
- 23 (d) large farm machinery valued in the official-guide

24 'treeters Official Guide Tractors and form--implements Farm

25 Equipment and in department valuation schedules.

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REFERENCE BILL

1 {2} Class twelve property is taxed at 112 of its market value." 2 Section 4. Section 15-6-117, MCA, is amended to read: 3 \*15-6-117. Class sixteen property -- description --4 5 taxable percentage. (1) Class sixteen property includes: 6 (a) business inventories as defined in this section; 7 and 8 (b) mobile machines. valued as other heavy construction equipment is valued, used in new industries as 9 10 defined in class eighteen. (2) Mobile machines used in new industry are subject 11 to the conditions imposed in class eighteen for other 12 13 property used in new industries. (3) "Business inventories" includes goods intended for 14 15 sale or lease in the ordinary course of business and raw materials and work in progress with respect to such goods. 16 Business inventories shall do not include goods leased or 17 18 rented or mobile homes held by a dealer or distributor as 19 part of his stock-in-trade. 20 (4) The market value of business inventories, for 21 property tax purposes, is the cost or present values 22 whichever is lowers to the person subject to the inventory 23 tax.

24 (5) Class sixteen property is taxed at 4.2% of market 25 value." Section 5. Section 15-7-215. HCA: is amended to read:
 "15-7-215. Violation a misdemeanor. Any person who
 violates any provision of this <u>fact</u>] <u>part</u> shall-be <u>is</u> guilty
 of a misdemeanor."

5 Section 6. Section 15-10-203. MCA. is amended to read: #15-10-203. Increase of tax revenue -- advertising 6 notice of intention required. No taxing authority shall may 7 budget an increased amount of ad valorem tax revenue 8 e. exclusive of revenue from ad valorem taxation on properties 10 appearing for the first time on the assessment roll unless 11 it edvertises gives notice of its intention to do so at the 12 same time and in the same manner that it advertises gives 13 notice of its intention-to-fix hearing on its preliminary 14 budget for the forthcoming fiscal year.\*

15 Section 7. Section 15-10-204, MCA, is amended to read: 16 #15-10-204. Resolution or ordinance for increase over 17 certified millage. No millage in excess of the department of revenue's certified millage shell may be levied until a 18 19 resolution or ordinance hes--been is approved by the 20 governing board of the taxing authority, which resolution or 21 ordinance must be approved by said the taxing authority 22 according to the following procedure:

(1) The taxing authority shall advertise <u>publish</u>
 <u>notice of</u> its intent to exceed the department's certified
 millage in <u>e-newspaper-of-general-circulation-in-the-county</u>

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1 es--provided--in--15-10-203 the same manner that it gives 2 notice of hearings on its preliminary budget for the 3 forthcoming\_fiscal\_year. The edvertisement notice shall must state that the taxing authority will meet on a day, at 4 5 a time and place fixed in the advertisement notice, which shell must be approximately 7 days after the day that the 6 7 advertisement notice is published, for the purpose of hearing comments regarding the proposed increase and to 8 9 explain the reasons for the proposed increase. The meeting 10 may coincide with the meeting on the tentative budget as 11 required by law.

12 (2) After the public hearing has been held in 13 accordance with the above procedures, the taxing authority 14 may adopt a resolution or ordinance levying a millage rate in excess of the certified millage. If the resolution or 15 ordinance adopting said such millage rate is not approved on 16 the day of the public hearing, the day, time, and place at 17 which the resolution or ordinance will be scheduled for 18 19 consideration and approval by the taxing authority must be 20 announced at the public hearing. If the resolution or 21 ordinance is to be considered at a day and time that is more 22 than 2 weeks from the public hearing, the taxing authority 23 must again advertise gublish notice in the same manner as provided in 15-10-203-and subsection (1)-of-this-section. 24

25 **t3t--Public--notice--given--and-public-hearings-held-in** 

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1	compliance-with-the-requirements-ofTitle20+chopter9+
Z	portivin-setting-school-budgets-satisfy-the-requirements
3	contoined-in-this-section."
4	Section 8. Section 15-10-207, MCA, is amended to read:
5	#15~10-207。 Additional millage increase
6	readvertisingandrevoting <u>new_notice_required</u> . If <del>v</del> after
7	the initial <b>millage-vote <u>notice</u> provided for</b> in 15-10-203
8	the taxing authority determines that it requires a greater
9	millage or fails to act in the specified period, it shall
10	readvertise <u>must_give_aptice_anew_under_15-10-203</u> and revote
11	proceed as required in <del>15-10-203</del> -and 15-10-204."
12	Section 9. Section 15-10-208, MCA, is amended to read:
13	#15-10-208. Increase over legal maximum not authorized
14	reductions permitted. Nothing contained in this section
15	<u>part</u> shell may serve to extend or authorize any millage in
16	excess of the maximum millage permitted by law or prevent
17	the reduction of millage."
18	Section 10. Section 15-17-303, MCA, is amended to
19	read:
20	"15-17-303. Assignment of rights of county. (1) At any
21	time after any parcel of land has been bid in upon by the
22	county as the purchaser thereof for taxes as provided in
23	15-17-207+ the same not having been redeemed+ the county
24'	treasurer shall assign all the right of the county therein
25	acquired at such sale to any person who shall-pay pays the

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1 amount for which the same was bid in, with interest upon the 2 original tax at the rate of 2/3 of 1% per month and the 3 amount of all subsequent delinguent taxes, penalties, costs, and interest as provided by law upon the same from time to 4 5 time when such tax became delinquent. He The county 6 treasurer shall execute to such person a certificate for 7 such parcel, which may be substantially in the following 8 form:

9 "Is ..... the treasurer of the county of ..... state of 10 Montana, do hereby certify that at the sale of lands 11 pursuant to the tax assessment for the year 19... in the county of .... and which sale was held on the .... day of 12 13 ..... 19... for the purpose of liquidating said assessment. 14 the following described parcel of land, situate in said the 15 county of ...., state of Montana, to wit: (insert 16 description) was duly offered for sale; that there was no 17 purchaser in good faith for the same as provided by law and 18 no person or purchaser offered to take the same and pay the taxes, cost, and charges due as aforesaid. Accordingly, the 19 20 whole amount of the property assessed and described as above 21 was struck off to the county of .... as purchaser thereof 22 for the sum of ...., and the same still remaining 23 unredeemed, and on this day .... having paid into the 24 treasury of said such county the amount for which the same 25 was bid in, together with all subsequent delinguent taxes, HB 0181/03

1 penalties, costs, and interest amounting in all to ....
2 dollars:

3 Now, therefore, in consideration thereof and pursuant to the statute in such case made and provided; I do hereby 4 5 assign and set over all the right, title, and interest of 6 the county of ...., state of Montana, acquired in said such 7 lands under and by virtue of said the sale to the said ..... 8 his heirs and assigns forever, together with all the rights, 9 powers, and privileges of the said county of .... to take 10 steps to receive a deed thereof or receive payment in case 11 of a redemption; subject, however, to redemption as provided 12 by law.

Witness my hand and official seal of office this ....
day of ..... 19....

15 ..... (County Treasurer)" 16 (2) In-case If the certificate hereinabove described 17 in\_subsection\_(1) shall-by-accident-become becomes lost by 18 accident or destroyed by the assignee. then-in-such-an-event 19 the county treasurer shall issue a duplicate certificate to 20 the assignee after the said county treasurer is convinced that the certificate has been lost or destroyed and after 21 22 the assignee has made an affidavit to that effect. 23

23 (3) The provisions of this section shaft apply to any
24 sales sale of land for which a treasurer's deed shaft was
25 not issued by March 5, 1917, have--actuality--issuedy

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regardless-of-whether-the-sale-shall-have-been-made--at--any date--heretoforey-as-well-as-to-future-sales-for-recovery-of taxest and the holder of any such certificate shall therefore--have described in subsection [1] has the same rights, powers, and privileges with regard to securing a deed as any purchaser of lands land at tax sale may now have.

3 (4) As to any tends land received by the county in
9 exchange, the same may be sold or leased the same as might
10 have been done with the lands exchanged."

Section 11. Section 15-18-305, MCA, is amended to read:

"15-18-305. Defense to action -- redemption of 13 14 parcels. Any defendant may appear in the action within the 15 time provided by law for appearances in civil actions, may 16 set up any defense to the action he may have, and may 17 therein guestion the legality, validity, or the sufficiency 18 of any act had in connection with the assessment or sale of the land. Any defendant to the action may make redemption of 19 the lands from the tax sale by paying the total amount of 20 delinquent taxes and penalties which plaintiff has paid, 21 22 with interest thereon at 8% a year from date of payment, 23 together with costs of the action. Upon such payment, a 24 certificate of redemption shall must be issued by the county 25 treasurer to the defendant so paying, and thereupon the

1 action shaff must be dismissed. Whenever a defendant desires 2 to redeem from a tax sale and pay all subsequent taxes upon 3 any lot, piece, or parcel of real estate which a-person such 4 defendant owns or holds a mortgage or other lien against or 5 has any interest in, the county treasurer of the county in . which such real estate is situated shall permit such 7 redemption and payment. In case the real estate has been 8 assessed against any other property and is a lien thereon. 9 then the county treasurer shall compute and apportion the 10 tax that should have properly been assessed against the real 11 estate sought to be redeemed and upon which the taxes are sought to be paid, the same as if the property had been 12 13 separately assessed. Any personal property tax which is a 14 lien upon such real estate shall must be likewise computed 15 and apportioned on the same percentage basis as the tax 16 assessed against the real estate is apportioned."

17 Section 12. Section 15-23-806, MCA, is amended to 18 read:

19 "15-23-806. Lien of tax. The tax or penalty on gross 20 proceeds is a lien upon the mine from which the metal is 21 extracted and is <u>a</u> prior lien upon all owned or leased 22 personal property and improvements used in extracting the 23 ore or metal. The tax shall be collected in the manner 24 provided under-15-16-181--through--15-16-185t---15-16-583 25 through--15-16-585t-parts-2y-3y-and-6-of-chapter-16t-parts-1

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1 through-3-of-chopter-t7;-ond-chopter in\_chapters\_l6x\_lIx\_and
2 18 of this title."

3 Section 13. Section 15-23-807. MCA. is amended to 4 read:

\*15-23-807. Assessment and-collection procedures. The
gross proceeds of metal mines shall be assessed and-taxes
thereon-collected under the provisions of 15-23-101 through
15-23-107.\*\*

9 Section 14. Section 15-24-104, MCA, is amended to 10 read:

11 \*15-24-104. Situs in state of proportionally 12 registered fleets. (1) For the purposes of this section 13 part, all--vehicles any vehicle previously registered or 14 which registration has been-applied-for had application for registration made under the provisions of 61-3-711 through 15 16 61-3-733 are is hereby declared to have a situs in the state 17 for the purposes of taxation.

18 (2) The department or its designated agent shall 19 collect the personal property taxes prescribed herein."

20 Section 15. Section 15-24-202, MCA, is amended to 21 read:

22 "15-24-202. Tax-paid sticker -- display required. ftp 23 The owner of a mobile home or housetrailer which is not 24 taxed as an improvement. as improvements are defined in 25 15-1-101. shall pay the personal property tax in two

1 payments, except as provided in 15-24-206(2). The first 2 payment is due within 30 days from the date of the notice of 3 taxes due. The second payment is due no later than September 30 of the year in which the property is assessed. The 4 5 department of revenue shall issue tax-paid stickers to the 6 county treasurers. The treasurers shall issue the stickers to the owners of mobile homes and housetrailers if the taxes 7 . are paid in full. An owner shall then display the sticker, which shall must be visible from the exterior of the mobile Q. 10 home or housetrailer. No mobile home movement permit 11 provided for in 15-24-206 may be issued unless the taxes 12 have been paid in full to the county treasurer. 13 t2;--The-owner-of-a-housetraiter-must--display--on--the 14 back--of--his-housetrailer-or-in-another-conspicuous-place-a

15 property-tax-paid-sticker--prescribed--by--the--division--of

16 motor--vehiclesv--department--of-justices-The-division-shall
17 produce-the-stickers-for-each--countys--The--stickers--shall

18 contain-the-identifying-number-of-the-county-and-consecutive

19 numbers--storting--with--the--humber--i--in-each-countys-The

20 sticker-shall-be-issued-by-the-county-treasurer-st-the--time

21 of-payment-of-property-taxesu-The-sticker-shall-be-displayed

22 from--15-days-after-the-due-date-for-personal-property-taxes

23 of-1-year-to-the-due-dote-for-personal-property-taxes-of-the

24 next-years\*

25 Section 16. Section 15-24-203, MCA, is amended to

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l read:

2 "15-24-203. Housetrailer---tex Iax receipt -- when 3 production required. If stopped on a highway or at a state 4 vehicle weight station by a state highway patrolman or state 5 vehicle weight station attendant, a person transporting a 6 <u>mobilehome\_or</u> housetrailer must produce. if requested, the 7 property-tax-paid receipt or a duplicate issued by the 8 county treasurer where the vehicle was taxed."

9 Section 17. Section 15-24-206, MCA, is amended to 10 read:

11 "15-24-206. Declaration of destination on imported mobile homes -- display -- tax receipt -- exemptions. (1) 12 Whoever brings a mobile home into the state shall 13 immediately upon arrival in the state execute a written 14 15 declaration, verified under oath, stating the destination of the mobile home and such other information as the department 16 17 of revenue sholl may require and shall deliver the original 18 of the declaration to whoever whomever is on duty at the nearest port of entry station, state vehicle weight station, 19 20 or such other place and person as the department may 21 prescribe. He shall also immediately upon arrival in the 22 state affix a copy of the declaration to the mobile home at 23 a conspicuous place.

24 (2) The treasurer shall issue the mobile home movement
 25 declaration provided for in this section to a person

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required by this section to execute it, in such quantities as he requests to a maximum of 100. The treasurer shall issue such additional quantities of the declaration to a maximum of 100 as the person requests at the discretion of the county treasurer upon receipt from the person of the previously issued declarations properly executed. In any event executed declarations must be delivered to the treasurer within 30 days from their issue. (3) Whoever moves a mobile home from a point within

9 (3) Whoever moves a mobile home from a point within 10 the state to another point within or without the state shall 11 first:

12 (a) execute the declaration provided for in subsection 13 (1) of this section, deliver the original of it to the 14 treasurer of the county in which the move originates or to 15 such other person as the department shaff may prescribe, and 16 affix a copy of it to in a conspicuous place on the mobile 17 home to be moved-at-a-conspicuous-place;

(b) obtain from the county treasurer of the county in
which the move originates a receipt showing payment in full
of property taxes due with respect to that mobile home--to
the-dete-it-is-moved.
(4) The provisions of subsection (3)(b) of--this

23 section-shell do not apply whenever a person moves a mobile 24' home:

25 (a) from a point without to a point within the state;

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(b) between places of business of dealers within or
 without the state;

3 (c) from the place of business of a dealer to a point
4 within or without the state.

5 Section 18. Section 15-24-302. MCA. is amended to 6 read:

7 #15-24-302. Collection procedure. All property mentioned in Ethe-proceding-section] 15-24-301 shall--be is 8 assessed at the same value as property of like kind and Q. 10 character, and the assessment, levy, and collection of the 11 tax shall-be is governed by the provisions of 15-8-408; 15-16-111 through 15-16-115; 15-16-404; chapter 17, part 9; 12 13 and 15-24-202(1); as amended, except livestock taxation 14 which is governed by part 9 of this chapter. \$1-7-104. and 15 Title 81, chapter 7, part 2.\*

16 Section 19. Section 15-24-1001. MCA. is amended to 17 read:

18 "15-24-1001. Custom combiner's tax -- collection --19 distribution -- not transferable. (1) In lieu of the taxes 20 required by 15-24-301, motor vehicle license fees and gross 21 vehicle weight fees, overwidth and overheight permits, Title 22 61, a nonresident engaged in the business of custom 23 combining who brings equipment into the state shall pay a 24 fee of \$40 per unit for a period beginning July 1 and ending October 31. A unit shall include: 25

(a) one truck suitable for hauling grain;
 (b) one header trailer or one combine trailer; and

3 (c) pickup trucks and all other equipment. except
4 combines. used by a nonresident and brought into the state
5 as part of his business of custom combining.

6 (2) The fee required by this section shall must be 7 collected by the department of highways. Upon payment of the . fee, the department of highways shall must provide an 9 identifying device to be displayed on each truck, header 10 trailer, or combine trailer and other equipment used by the 11 nonresident in his business of custom combining in the state, which device shell-be is valid for a period beginning 12 13 July 1 and ending October 31.

14 (3) All fees collected under this section shall must 15 be distributed not later than December 1 immediately 16 following the period of license as follows: 62 1/2% to the 17 county general fund in the county in which the permittee 18 declares the greatest amount of time will be spent to 19 operate: 37 1/2% to the earmarked revenue fund for the 20 department of highways.

21 (4) The identifying devices and fee paid for each unit
22 shall is not be transferable from one vehicle to another or
23 transferable on the sale or change of ownership.

24 (5) Any owner or operator of any equipment included in
 25 the unit definition in subsection (2) (11) of this section

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1 who violates any provision of this section is guilty of a 2 misdemeanor and shaft--be-punished <u>punishable</u> by a fine of 3 not more than \$300 or by a sentence of not more than 60 days 4 in the county jail, or both."

5 Section 20. Section 15-30-201, MCA, is amended to 6 read:

7 \*15-30-201. Definitions. When used in 15-30-201
8 through 15-30-209. the following definitions apply:

9 (1) "Agricultural labor" includes all services 10 performed on a farm or ranch in connection with cultivating 11 the soil or in connection with raising or harvesting any 12 agricultural or horticultural commodity, including the 13 raising, shearing, feeding, caring for, training, and 14 management of livestock, bees, poultry, and fur-bearing 15 animals and wildlife.

(2) "Employee" includes an officer, employee, or 16 17 elected public official of the United States, the state of Montana, or any political subdivision thereof or any agency 18 19 or instrumentality of any one or more of the foregoing. The 20 term "employee" also includes an officer of a corporation. 21 (3) "Employer" means the person for whom an individual 22 performs or performed any service, of whatever nature, as 23 the employee of such person; except that if the person for 24 whom the individual performs or performed the service does 25 not have control of the payment of the wages for such service, the term "employer" means the person having control of the payment of such wages. t++--=Payro++--period=-means--a--period--for--which--a payment-of-weges-is-ordinarily-made-to-the-employee--by--his emptoyers (5)(4) "Wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include remuneration paid: (a) for active service as a member of the armed forces of the United States: (b) for agricultural labor as defined in subsection (1);(c) for domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority; (d) for casual labor not in the course of the employer's trade or business performed in any calendar quarter by an employee unless the cash remuneration paid for such service is \$50 or more and such service is performed by

22 an individual who is regularly employed by such employer to

23 perform such service. For purposes of this subsection

24/ (5)141(d), an individual shall-be-deemed is considered to be

25 regularly employed by an employer during a calendar guarter

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1 only if:

2 (i) on each of some 24 days during such quarter such
3 individual performs for such employer for some portion of
4 the day service not in the course of the employer's trade or
5 business;

6 (ii) such individual was regularly employed (as
7 determined under subsection <u>151(4)(d)(i)</u>) by such employer
8 in the performance of such service during the preceding
9 calendar quarter;

(e) for services by a citizen or resident of the
 United States for a foreign government or an international
 organization;

13 (f) for services performed by a duly ordained.
14 commissioned, or licensed minister of a church in the
15 exercise of his ministry or by a member of a religious order
16 in the exercise of duties required by such order;

17 (g) (i) for services performed by an individual under
18 the age of 18 in the delivery or distribution of newspapers
19 or shopping news, not including delivery or distribution to
20 any point for subsequent delivery or distribution; or

21 (ii) for services performed by an individual in and at 22 the time of the sale of newspapers or magazines to ultimate 23 consumers under an arrangement under which the newspapers or 24 magazines are to be sold by him at a fixed price, his 25 compensation being based on the retention of the excess of such price over the amount at which the newspapers or
 magazines are charged to him, whether or not he is
 guaranteed a minimum amount of compensation for such service
 or is entitled to be credited with the unsold newspapers or
 magazines turned back;

6 (h) for services not in the course of the employer's
7 trade or business to the extent paid in any medium other
8 than cash when such payments are in the form of lodgings or
9 meals and such services are received by the employee at the
10 request of and for the convenience of the employer;

(i) to or for an employee as a payment for or a
 contribution toward the cost of any group plan or program
 which benefits the employee, including but not limited to
 life insurance, hospitalization insurance for the employee
 or dependents, and employees' club activities."

16 Section 21. Section 15-30-221, MCA, is amended to 17 read:

18 #15-30-221. Withholding on payments to nonresidents -exception. (1) Every person. firm. corporation. association. 19 20 partnership. or fiduciary doing business in or having income 21 in the state of Montana, including the state of Montana, its 22 agencies and instrumentalities, counties, cities, towns, 23 school districts, and municipal corporations of every kind, 24 which knowingly makes payments of any kind to any 25 nonresident of the state of Montana for services performed

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within the state of Montana other than those <del>described</del> 1 2 payments excepted in 15-30-201 and-15-30-202 151 (4) or for casual sales of property, either real or personal, located 3 within the state of Montana, or any prizes or winnings 4 payable from or within the state of Montana or hiring or 5 6 having a contract with any nonresident of a temporary nature 7 to be carried out within the state of Montana shall deduct 8 from such payment or payments an amount, to be set by the 9 department, not to exceed 3% of such payment which shall be 10 transmitted by him to the department as partial payment of 11 such nonresident's income tax.

12 (2) Upon finding that reports and information in addition to that now required by law or regulation should be 13 filed in order to insure the collection of Montana state 14 15 income tax on payment to nonresidents for leases, rentals, or royalties derived from property located within the state 16 17 of Montana, the department may adopt rules requiring the 18 filing of such reports and information.

19 (3) If, upon notice to a nonresident taxpayer and hearing, the department finds that withholding should be 20 21 made on payments to the taxpayer for leases, rentals, or royalties derived from property located within the state of 22 23 Montana in order to insure the collection of Montana state 24 income tax, it may order withholding on such payments in an 25 amount equal to the tax liability of the nonresident

taxpayer. Such order shell--be is binding upon all 1 2 withholding agents, as hereinafter described, who shall 3 receive a copy thereof by mail or otherwise until such agent shall-receive receives a copy of an order of the department 4 terminating such withholding as to the nonresident taxpayer. 5 (4) Payments made for livestock or agricultural ٨ 7 products raised or grown outside Montana and sold at a A market within this state shall-not-be are not subject to 9 withholding under this section." 10 Section 22. Section 15-31-202. MCA. is amended to read: 11 #15-31-202. Election by small business corporation. 12 (1) Except as provided in subsection (6), any small business 13 corporation may elect, in accordance with the provisions of 14 15 this section, not to be subject to the taxes imposed by this chapter. Such election shall be valid only if consented to 16 by all persons who are shareholders in such corporation. The 17 18 election is effective: 19 (a) on the first day of the first taxable year for 20 which such election is effective, if such election is made 21 on or before such first day; or (b) on the day on which the election is made, if the 22

23 election is made after such first day.

24 (2) If a small business corporation makes an election 25 under subsection (1)+ then:

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1 (a) with respect to the taxable years of the 2 corporation for which such election is in effect, such 3 corporation shell is not be subject to the taxes imposed by 4 this chapter and, with respect to such taxable years and all 5 succeeding taxable years, the provisions of this part shell 6 apply to such corporation; and

7 (b) with respect to the taxable years of a shareholder 8 of such corporation in which or with which the taxable years 9 of the corporation for which such election is in effect end. 10 the provisions of this part shell apply to such shareholder. 11 and with respect to such taxable years and all succeeding 12 taxable years. the provisions of this part shell apply to 13 such shareholder.

14 (3) An election under subsection (1) may be made by a 15 small business corporation for any taxable year at any time 16 during the first month of such taxable year or at any time 17 during the month preceding such first month. Such election 18 shell must be made in such-menner-es accordance with rules 19 prescribed by the department of revenue-shell-prescribe-by 20 regulations.

(4) An election under subsection (1) shall--be is
effective for the taxable year of the corporation for which
it is made and for all succeeding taxable years of the
corporation unless it is terminated, with respect to any
such taxable year, under subsection (5).

1 (5) (a) (i) An election under subsection (1) made by a 2 small business corporation shall-terminate terminates if any 3 person who was not a shareholder in such corporation at the 4 time of the initial election under subsection (1) 5 subsequently becomes a shareholder in such corporation and affirmatively refuses tin such--monner-as accordance\_with 6 7 rules prescribed by the department shall-by-rules-prescribe; 8 to consent to such election on or before the 60th day on 9 which he acquires the stock.

10 (ii) If the person acquiring the stock is the estate of 11 a decedent, the period under subsection (5)(a)(i) for 12 affirmatively refusing to consent to the election shall 13 expire suppression the 60th day after whichever of the 14 following is the earlier:

15 (A) the day on which the executor or administrator of16 the estate qualifies; or

17 (B) the last day of the taxable year of the18 corporation. in which the decedent died.

19 (iii) Any termination of an election under subsection 20 (5)(a)(i) by reason of the affirmative refusal of any person 21 to consent to such election shell-be is effective for the 22 taxable year of the corporation in which such person becomes 23 a shareholder in the corporation and for all succeeding 24 taxable years of the corporation.

25 (b) An election under subsection (1) made by a small

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business corporation may be revoked by it for any taxable year after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall-be is effective:

for the taxable year in which made, if made before
the close of the first month of such taxable year;

9 (ii) for the taxable year following the taxable year in 10 which made, if made after the close of such first month, and 11 for all succeeding taxable years of the corporation. Such 12 revocation shall must be made in such-monner-as accordance 13 with\_rules\_prescribed\_by the department-shall-prescribe-by 14 regulations.

15 (c) An election under subsection (1) made by a small 16 business corporation shall--terminate terminates if the 17 corporation ceases to meet the definition of a small 18 business corporation at any time after election is effective 19 under subsection (1).

20 {d} Such termination shell--be is effective for the 21 taxable year of the corporation in which the corporation 22 ceases to be a small business corporation and for all 23 succeeding taxable years of the corporation.

24 (6) If a small business corporation has made an
25 election under subsection (1) and if such election has been

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make an election under subsection [1] for any taxable year 3 prior to its fifth taxable year which begins after the first 4 taxable year for which such termination or revocation is 5 6 effective unless the department consents to such election. 7 (7) This election shall is not be effective unless the 8 corporate net income or loss of such electing corporation 9 shall--have--been is included in the stockholders' adjusted 10 cross income as such-is defined in 15-30-111. 11 (8) Every electing corporation shell-be is required to 12 pay the minimum fee of \$10 required by F84-15811 15-31-204.\*\* Section 23. Section 15-31-521. MCA. is amended to 13 14 read: 15 \*15-31-521. Closing agreements. (1) The director of 16 revenue or any person authorized in writing by him is

terminated or revoked under subsection (5), such corporation

fand any successor corporation;-shall is not be eligible to

17 authorized to enter into an agreement with any person 18 <u>taxpayer</u> relating to the liability of such person <u>taxpayer</u> 19 in respect to the tax imposed by this chapter for any 20 taxable period.

(2) Any such agreement shall-be is final and
 conclusive, and except upon a showing of fraud or
 malfeasance or misrepresentation of a material fact:

24 (a) the case may not be reopened as to matters agreed25 upon or the agreement modified by any officer, employee, or

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1 agent of this state; and

(b) in any suit, action, or proceeding under such
agreement or any, determination, assessment, collection,
payment, abatement, refund, or credit made in accordance
therewith, the agreement may not be annulled, modified, set
aside, or disregarded.<sup>m</sup>

7 Section 24. Section 15-31-601, MCA, is amended to 8 read:

9 \*15-31-601. Central reporting for system 10 identification of corporations. It shell-be is the duty of 11 the department of revenue to establish a central reporting 12 system to assist in the identification of corporations. foreign and domestic, which transact business within the 13 14 state of Montana and/or are subject to taxation by the state of Montana-pursuant-to-the-provisions-of-fittle-84]." 15

16 Section 25. Section 15-31-605, MCA, is amended to 17 read:

"15-31-605. List of 18 corporations compiled by 19 department of revenue. The department of revenue shall compile a list of all corporations, foreign and domestic, 20 21 subject to taxation by the state of Montana under-the--terms of--ffitte--641 to be filed in the central reporting system. 22 23 Said The list shall must contain the following information: 24 (1) the name of the corporation;

25 (2) the principal office of the corporation;

(3) the name and address of the registered agent of
 the corporation in Montana;

3 (4) whether the corporation filed such reports,
4 returns, and other information pursuant to the terms of this
5 chapter."

6 Section 26. Section 15-32-108, MCA, is amended to 7 read:

8 \*15-32-108. Extension of existing classifications. Any 9 classification of property under the provisions of 15-32-103 section 3. Chapter 548. Laws of 1975. that existed prior to 10 the--effective-data-of-this-act lanuary 1: 1977, approved by 11 12 the department of revenue before April 19, 1977, shall 13 continue in effect until December 31, 1982. On January 1, 1983, the taxable percentage of such property shall be 14 determined under chapter 6, part 1, or that part as it may 15 16 be recodified or amended."

17 Section 27. Section 15-36-109, MCA, is amended to 18 read:

19 "15-36-109. Penalty for violations. Any--violation 20 <u>Violation</u> of any of the provisions of this part shall--be 21 deemed <u>is</u> a misdemeanor and shall-be-punished <u>punishable</u> by 22 a fine of not exceeding \$1,000 or by imprisonment in the 23 county jail for not exceeding 6 months or by both such fine 24 and imprisonment."

25 Section 28. Section 15-51-111. MCA, is amended to

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1 read:

\*15-51-111. Procedure to compute tax in absence of 2 3 statement. If any person fails, neglects, or refuses to file any statement required by 15-51-101 within the time therein 4 5 required, the department of revenue shall, after such time has expired, proceed to inform itself as best it may 6 regarding the number of KWH produced by such person in this 7 8 state during such quarter and compute the amount of taxes due to the state from such person for such quarter and add 9 10 the penalty and interest as required by 15-51-103. The 11 department shall mail to the person required to file a 12 guarterly report and pay such tax a letter setting forth the amount of tax, penalty, and interest due, and the letter 13 14 shall must further contain a statement that if payment is not made within such time, a lien may be filed. Upon receipt 15 of the letter, the person shall remit to the department the 16 17 full amount of tax, penalty, and interest within 15 days. 18 The 10% penalty may be waived by the department if reasonable cause for failure and neglect to file the 19 ZO statement required by 15-51-113 15-51-101 is provided to the 21 department."

22 Section 29. Section 15-55-107. MCA, is amended to 23 read:

24 "15-55-107. Actions to recover delinquent taxes and 25 penalties -- additional taxes. (1) If the taxes and

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1 penalties provided for in this chapter to be paid by the 2 railroad company on the property of such freight line 3 company remain unpaid more than 90 days from the due date. 4 the department shall cause an action to be brought to 5 recover the amount of such delinguent taxes and penalties in 6 the district court of any county within the state of Montana 7 in which service can be had on the railroad company which is 8 liable for the payment of such taxes or penalties or in 9 which the property of such delinguent railroad company can be seized under attachment or garnishment proceedings in the 10 11 manner prescribed by law. (2) In the event the state tax appeal board, under its 12 authority to raise or lower the rate of the taxes which

13 14 would be payable on the cars of such freight line company if 15 taxed upon an ad valorem basis, shall finds, after a hearing as herein provided. Find taxes due from any such freight 16 17 line company in excess of the 5% 5\_1/2% of all gross revenue in this state which is required to be paid by the railroad 18 companies, such additional tax as so determined shall-be is 19 due and payable by the freight line company upon which the 20 21 assessment is made, and if such tax shall--remains 22 unpaid for more than 90 days after notification of such 23 assessment by the state tax appeal board, the board shall 24' cause an action to be brought to recover the amount of such 25 additional tax in the district court of any county within

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1 the state of Montana in which service can be had on the 2 freight line company liable for the tax or in which the 3 property of such delinquent freight line company can be 4 seized under attachment or garnishment proceedings in the 5 manner prescribed by law."

6 Section 30. Section 15-70-208, MCA, is amended to 7 read:

8 "15-70-208. Examination of records. (1) The department 9 of revenue or its authorized representative is hereby 10 encovered to examine the books, papers, records, and 11 equipment of any gasoline distributor or any person dealing ing transporting, or storing gasoline as defined in this 12 13 part and to investigate the character of the disposition 14 which any person makes of such gasoline in order to 15 ascertain and determine whether all excise license taxes due hereunder are being properly reported and paid. If such 16 17 books, papers, records, and equipment are not maintained in this state at the time of demand, they shell must be 18 19 furnished to the department for review or such dealer shall 20 must bear the reasonable cost of examination by an agent 21 authorized or designated by the department at the place where such books or records are keptys provided Howevers the 22 taxpayer shall is not be liable for such costs for a period 23 24 exceeding 1 week or for such longer period as he may consent 25 to in writing unless the result of such examination is the

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1 payment of a tax deficiency.

2 (2) The records, receipts, and invoices and any other
3 pertinent papers supporting sales of every distributor or
4 any person dealing in, transporting, or storing gasoline
5 shall must be open and subject to inspection by the
6 department or any of its employees or assistants during
7 business hours in order to ascertain the amount of license
8 tax due."

9 Section 31. Section 20-9-115, MCA, is amended to read: "20-9-115. Notice of preliminary budget filing and 10 final budget meeting. (1) Between July 10 and July 20 of 11 12 each year, the clerk of each district shall publish notice 13 one time in the official newspaper of the county stating that the preliminary budget for the district for the school 14 15 fiscal year just beginning, as prepared and adopted by the 16 trustees, is on file in his office and open to inspection by 17 all taxpavers. The notice shall also state that the trustees 18 will meet at 10 a.m. on the fourth Monday in July for the purpose of considering and adopting the final budget of the 19 20 district, that the meeting of the trustees may be continued 21 from day to day until the final adoption of the district's 22 budget, and that any taxpayer in the district may appear at 23 such meeting and be heard for or against any part of the 24 budget. 25 t2j--Notice--aiven--under--this---section---meets---the

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1	requirement-for-notice-contoined-in-15-18-203#
2	<u>NEW_SECTION</u> . Section 32. Rulemaking authority. The
3	department of revenue may adopt rules necessary for the
4	taxation of property under Echapter 35 of Title 153.
5	Section 33. Codification. Section 33 32 is intended to
6	be codified as an integral part of Title 15, chapter 35, and
۲	the provisions of Title 15+ chapter 35+ apply to section 33
8	32.
9	Section 34. Repeater. Sections 84-510 and 84-6210,
10	R.C.M. 1947, are repealed.
11	Section 35. Repealer. Sections 15-23-509, 15-24-401,
12	and 15-51-105, MCA, are repealed.
	-End-

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