

CHAPTER NO. 581

HOUSE BILL NO. 181
INTRODUCED BY MARKS
BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 16, 1979	Introduced and referred to Committee on Taxation.
February 13, 1979	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.
February 20, 1979	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.

IN THE HOUSE

April 5, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
---------------	---

1 HOUSE BILL NO. 181
 2 INTRODUCED BY Neuber
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 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
 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."

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 ~~deemed~~ considered
 25 unlawful, under written protest, specifying the grounds of

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

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
 6 for collecting the license fee or tax to recover the same,
 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
 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
 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 tractors Official Guide Tractors and ~~farm~~ implements Farm
 25 Equipment and in department valuation schedules.

1 (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:

4 "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.

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.

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

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

1 Section 5. Section 15-7-215, MCA, is amended to read:

2 "15-7-215. Violation a misdemeanor. Any person who
3 violates any provision of this ~~part shall be~~ is guilty
4 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
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
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
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
21 ordinance must be approved by ~~said~~ the taxing authority
22 according to the following procedure:

23 (1) The taxing authority shall ~~advertise~~ publish
24 notice of its intent to exceed the department's certified
25 millage in ~~a newspaper of general circulation in the county~~

1 ~~as 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 advertisement notice shall
 4 must state that the taxing authority will meet on a day, at
 5 a time and place fixed in the advertisement notice, which
 6 shall must be approximately 7 days after the day that the
 7 advertisement notice is published, for the purpose of
 8 hearing comments regarding the proposed increase and to
 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
 15 in excess of the certified millage. If the resolution or
 16 ordinance adopting ~~and such~~ millage rate is not approved on
 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
 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~~ publish notice in the same manner as
 24 provided in ~~15-10-203 and~~ subsection (1) ~~of this section.~~

25 ~~{3} Public notice given and public hearings held in~~

1 ~~compliance with the requirements of Title 20, chapter 9,~~
 2 ~~part iv in setting school budgets satisfy the requirements~~
 3 ~~contained in this section."~~

4 Section 8. Section 15-10-207, MCA, is amended to read:
 5 "15-10-207. Additional millage increase --
 6 ~~readvertising and revoting~~ new notice required. If after
 7 the initial millage vote notice provided for 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 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 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

HB 181

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 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 "I, ~~.....~~, 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
 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
 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 ~~said~~ such county the amount for which the same
 25 was bid ~~in~~, together with all subsequent delinquent taxes,

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

3 Now, therefore, in consideration thereof and pursuant
 4 to the statute in such case made and provided, I do hereby
 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.

13 Witness my hand and official seal of office this ~~....~~
 14 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-on-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.

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

1 ~~regardless of whether the sale shall have been made at any~~
 2 ~~date heretofore, as well as to future sales for recovery of~~
 3 ~~taxes~~ and the holder of any such certificate shall
 4 therefore have described in subsection (1) has the same
 5 rights, powers, and privileges with regard to securing a
 6 deed as any purchaser of ~~lands~~ land at tax sale may now
 7 have.

8 (4) As to any ~~lands~~ 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."

11 Section 11. Section 15-18-305, MCA, is amended to
 12 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
 16 set up any defense to the action he may have, and may
 17 therein question the legality, validity, or the sufficiency
 18 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 delinquent 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 must be issued by the county
 25 treasurer to the defendant so paying, and thereupon the

1 action shall 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
 6 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
 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
 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 and 15-16-503~~
 25 ~~through 15-16-505, parts 2, 3, and 6 of chapter 16, parts 1~~

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:

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 ~~part, all--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. ~~(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

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
4 30 of the year in which the property is assessed. The
5 department of revenue shall issue tax-paid stickers to the
6 county treasurers. The treasurers shall issue the stickers
7 to the owners of mobile homes and housetrailer 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 tax paid sticker prescribed by the division of~~
16 ~~motor vehicles, department of justice. The division shall~~
17 ~~produce the stickers for each county. The stickers shall~~
18 ~~contain the identifying number of the county and consecutive~~
19 ~~numbers starting with the number 1 in each county. 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 year."~~

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

1 read:

2 "15-24-203. ~~Housetrailer~~ tax 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 ~~mobilehome or~~ 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
12 mobile homes -- display -- tax receipt -- exemptions. (1)
13 Whoever brings a mobile home into the state shall
14 immediately upon arrival in the state execute a written
15 declaration, verified under oath, stating the destination of
16 the mobile home and such other information as the department
17 of revenue ~~shall~~ may require and shall deliver the original
18 of the declaration to ~~whoever~~ ~~whoever~~ is on duty at the
19 nearest port of entry station, state vehicle weight station,
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

1 required by this section to execute it, in such quantities
2 as he requests to a maximum of 100. The treasurer shall
3 issue such additional quantities of the declaration to a
4 maximum of 100 as the person requests at the discretion of
5 the county treasurer upon receipt from the person of the
6 previously issued declarations properly executed. In any
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~~;

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;

HB 181

1 (b) between places of business of dealers within or
2 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 ~~[the 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;
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:

1 (a) one truck suitable for hauling grain;

2 (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
8 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
12 state, which device ~~shall--be~~ is valid for a period beginning
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)~~ (1) of this section

1 who violates any provision of this section is guilty of a
 2 misdemeanor and ~~shall be punished~~ punishable 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.

16 (2) "Employee" includes an officer, employee, or
 17 elected public official of the United States, the state of
 18 Montana, or any political subdivision thereof or any agency
 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

1 service, the term "employer" means the person having control
 2 of the payment of such wages.

3 ~~(4) "Payroll period" means a period for which a~~
 4 ~~payment of wages is ordinarily made to the employee by his~~
 5 ~~employer.~~

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:

11 (a) for active service as a member of the armed forces
 12 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;

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
 24 ~~(5)(4)(d)~~, an individual ~~shall be deemed~~ is considered to be
 25 regularly employed by an employer during a calendar quarter

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 ~~(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 (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

1 such price over the amount at which the newspapers or
2 magazines are charged to him, whether or not he is
3 guaranteed a minimum amount of compensation for such service
4 or is entitled to be credited with the unsold newspapers or
5 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,
24 which knowingly makes payments of any kind to any
25 nonresident of the state of Montana for services performed

1 within the state of Montana other than those described
 2 ~~payments excepted~~ in 15-30-201 and ~~15-30-202 (5)~~ or for
 3 casual sales of property, either real or personal, located
 4 within the state of Montana, or any prizes or winnings
 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
 11 such nonresident's income tax.

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 ~~shall be~~ is binding upon all
 2 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
 5 terminating such withholding as to the nonresident taxpayer.

6 (4) Payments made for livestock or agricultural
 7 products raised or grown outside Montana and sold at a
 8 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
 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 election
 25 under subsection (1), then:

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 ~~shall~~ must be made in ~~such-manner-as accordance with rules~~
19 prescribed by the department of revenue-~~shall-prescribe-by~~
20 regulations.

21 (4) An election under subsection (1) ~~shall--be~~ is
22 effective for the taxable year of the corporation for which
23 it is made and for all succeeding taxable years of the
24 corporation unless it is terminated, with respect to any
25 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
6 affirmatively refuses ~~in such--manner-as~~ accordance with
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~~ expires on the 60th day after whichever of the
14 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

1 business corporation may be revoked by it for any taxable
 2 year after the first taxable year for which the election is
 3 effective. An election may be revoked only if all persons
 4 who are shareholders in the corporation on the day on which
 5 the revocation is made consent to the revocation. A
 6 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~~ must be made in ~~such manner--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 ~~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

1 terminated or revoked under subsection (5), such corporation
 2 ~~(and any successor corporation)--shall is~~ not be eligible to
 3 make an election under subsection (1) for any taxable year
 4 prior to its fifth taxable year which begins after the first
 5 taxable year for which such termination or revocation is
 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 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 ~~[84-1501]~~ 15-31-204."

13 Section 23. Section 15-31-521, MCA, 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
 20 taxable period.

21 (2) Any such agreement ~~shall--be~~ is final and
 22 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

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
6 aside, or disregarded."

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,
13 foreign and domestic, which transact business within the
14 state of Montana and ~~or~~ are subject to taxation by the state
15 of Montana ~~pursuant to the provisions of [Title 04]."~~

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 [Title 04]~~ 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;

1 (3) the name and address of the registered agent of
2 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 ~~15-32-108~~
10 ~~section 3, Chapter 548, Laws of 1975,~~ that existed prior to
11 ~~the effective date of this act January 1, 1977,~~ approved by
12 the department of revenue before April 19, 1977, shall
13 continue in effect until December 31, 1982. On January 1,
14 1983, the taxable percentage of such property shall be
15 determined under chapter 6, part 1, or that part as it may
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 Violation of any of the provisions of this part ~~shall be~~
21 ~~deemed~~ is a misdemeanor and ~~shall be punished~~ punishable 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

1 read:

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

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 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
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 ~~remeth~~ 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

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
 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
 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 kept, ~~provided~~ however, 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

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:

10 "20-9-115. Notice of preliminary budget filing and
 11 final budget meeting. ~~{1}~~ Between July 10 and July 20 of
 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
 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 taxpayers. The notice shall also state that the trustees
 18 will meet at 10 a.m. on the fourth Monday in July for the
 19 purpose of considering and adopting the final budget of the
 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 ~~{2}~~ Notice given under this section meets the

1 ~~requirement-for-notice-contained-in-15-10-203.~~"

2 NEW SECTION. Section 32. Rulemaking authority. The
3 department of revenue may adopt rules necessary for the
4 taxation of property under [chapter 35 of Title 15].

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,
11 and 15-51-105, MCA, are repealed.

-End-

HOUSE BILL NO. 181 Approved by Committee
INTRODUCED BY MARKS on Taxation

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."

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

Section 1. Section 15-1-105, MCA, is amended to read:

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

Section 2. Section 15-1-401, MCA, is amended to read:

"15-1-401. Payment of license fees under protest -- action to recover. (1) Whenever any license fee or tax is demanded of any person for the use and benefit of the state of Montana and the same is deemed considered unlawful by the person from whom the same is demanded, such person may pay the same, or so much thereof as may be deemed considered unlawful, under written protest, specifying the grounds of

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

(2) The person paying or his legal representatives representative may bring an action in a court of competent jurisdiction against the state agency or officer responsible for collecting the license fee or tax to recover the same, without interest. Any action instituted to recover any license fee or tax paid under protest ~~shall~~ must be commenced and summons and copy of complaint served within 60 days after the date of payment thereof to the state agency or officer responsible for collecting the license fee or tax. If such action ~~be finally~~ is decided adversely to the state, the state treasurer shall, upon receiving a copy of the final judgment in ~~said~~ such action, refund such license fee or tax to the person in whose favor such judgment is rendered."

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

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

- (a) boats and all watercraft;
- (b) aircraft;
- (c) motorcycles; and
- (d) large farm machinery valued in the ~~official~~ Official Guide Tractors and farm implements Farm Equipment and in department valuation schedules.

1 (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:
4 "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.

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.

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

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

1 Section 5. Section 15-7-215, MCA, is amended to read:

2 "15-7-215. Violation a misdemeanor. Any person who
3 violates any provision of this ~~part~~ part ~~shall be~~ is guilty
4 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
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~~ 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
18 revenue's certified millage ~~shall~~ may be levied until
19 resolution or ordinance ~~has--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:

23 (1) The taxing authority shall ~~advertise~~ publish
24 notice of its intent to exceed the department's certified
25 millage in a newspaper of general circulation in the county

1 ~~as 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 advertisement notice shall
 4 must state that the taxing authority will meet on a day, at
 5 a time and place fixed in the advertisement notice, which
 6 shall must be approximately 7 days after the day that the
 7 advertisement notice is published, for the purpose of
 8 hearing comments regarding the proposed increase and to
 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
 15 in excess of the certified millage. If the resolution or
 16 ordinance adopting ~~said~~ such millage rate is not approved on
 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
 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 publish notice in the same manner as
 24 provided in ~~15-10-203 and subsection (1) of this section.~~

25 ~~{3}--Public--notice--given--and--public--hearings--held--in~~

1 ~~compliance with the requirements of Title 20, chapter 9,~~
 2 ~~part 1, in setting school budgets satisfy the requirements~~
 3 ~~contained in this section."~~

4 Section 8. Section 15-10-207, MCA, is amended to read:
 5 "15-10-207. Additional millage increase --
 6 ~~re-advertising--and--revoting~~ new notice required. If, after
 7 the initial millage-vote notice provided for 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 re-advertise must give notice anew under 15-10-203 and revoke
 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 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 the

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 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 "I,, 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
 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
 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 said ~~such~~ county the amount for which the same
 25 was bid in, together with all subsequent delinquent taxes,

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

3 Now, therefore, in consideration thereof and pursuant
 4 to the statute in such case made and provided, I do hereby
 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.

13 Witness my hand and official seal of office this
 14 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-cases as
 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 ~~not~~
 25 not ~~issued~~ by March 5, 1917, have--actually--issued

1 regardless of whether the sale shall have been made at any
 2 date heretofore, as well as to future sales for recovery of
 3 taxes, and the holder of any such certificate shall
 4 therefore have described in subsection (1) has the same
 5 rights, powers, and privileges with regard to securing a
 6 deed as any purchaser of lands land at tax sale may now
 7 have.

8 (4) As to any lands 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."

11 Section 11. Section 15-18-305, MCA, is amended to
 12 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
 16 set up any defense to the action he may have, and may
 17 therein question the legality, validity, or the sufficiency
 18 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 delinquent 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 must be issued by the county
 25 treasurer to the defendant so paying, and thereupon the

1 action shall 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
 6 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
 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
 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-2+3+and-6-of-chapter-16+parts-1

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:

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 ~~part, all--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. ~~††~~
 23 The owner of a mobile home or house trailer 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
 4 30 of the year in which the property is assessed. The
 5 department of revenue shall issue tax-paid stickers to the
 6 county treasurers. The treasurers shall issue the stickers
 7 to the owners of mobile homes and house trailers 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 house trailer. 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-house-trailer-must--display-on--the~~
 14 ~~back--of--his-house-trailer-or-in-another-conspicuous-place-a~~
 15 ~~property-tax-paid-sticker--prescribed--by--the--division--of~~
 16 ~~motor--vehicles--department--of--justice--The-division-shall~~
 17 ~~produce-the-stickers-for-each--county--The--stickers--sh~~
 18 ~~contain-the-identifying-number-of-the-county-and-consecutive~~
 19 ~~numbers--starting--with--the--number--i--in-each-county--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-th~~
 24 ~~next-year"~~

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

1 read:

2 "15-24-203. ~~Housetraiter~~---tax tax 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 ~~mobile home or~~ mobile home or 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
12 mobile homes -- display -- tax receipt -- exemptions. (1)
13 whoever brings a mobile home into the state shall
14 immediately upon arrival in the state execute a written
15 declaration, verified under oath, stating the destination of
16 the mobile home and such other information as the department
17 of revenue ~~shall~~ may require and shall deliver the original
18 of the declaration to ~~whoever~~ whomever is on duty at the
19 nearest port of entry station, state vehicle weight station,
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

1 required by this section to execute it, in such quantities
2 as he requests to a maximum of 100. The treasurer shall
3 issue such additional quantities of the declaration to a
4 maximum of 100 as the person requests at the discretion of
5 the county treasurer upon receipt from the person of the
6 previously issued declarations properly executed. In any
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~~;

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;

1 (b) between places of business of dealers within or
2 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 ~~[the 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;
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, overweight 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:

1 (a) one truck suitable for hauling grain;

2 (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
8 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
12 state, which device shall be is valid for a period beginning
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)~~ (1) of this section

1 who violates any provision of this section is guilty of a
 2 misdemeanor and ~~shall be punished~~ punishable 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.

16 (2) "Employee" includes an officer, employee, or
 17 elected public official of the United States, the state of
 18 Montana, or any political subdivision thereof or any agency
 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

1 service, the term "employer" means the person having control
 2 of the payment of such wages.

3 ~~(4) "Payroll period" means a period for which a~~
 4 ~~payment of wages is ordinarily made to the employee by his~~
 5 ~~employer.~~

6 ~~(5) "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:~~

11 (a) for active service as a member of the armed forces
 12 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;

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
 24 ~~(5)(4)(d)~~, an individual shall be deemed is considered to be
 25 regularly employed by an employer during a calendar quarter

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 ~~(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 (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

1 such price over the amount at which the newspapers or
2 magazines are charged to him, whether or not he is
3 guaranteed a minimum amount of compensation for such service
4 or is entitled to be credited with the unsold newspapers or
5 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,
24 which knowingly makes payments of any kind to any
25 nonresident of the state of Montana for services performed

1 within the state of Montana other than those described
 2 ~~payments excepted~~ in 15-30-201 and ~~15-30-202~~ ~~15~~ ~~14~~ or for
 3 casual sales of property, either real or personal, located
 4 within the state of Montana, or any prizes or winnings
 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
 11 such nonresident's income tax.

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 ~~shall--be~~ ~~is~~ binding upon all
 2 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
 5 terminating such withholding as to the nonresident taxpayer.

6 (4) Payments made for livestock or agricultural
 7 products raised or grown outside Montana and sold at a
 8 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
 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 election
 25 under subsection (1), then:

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 ~~shall~~ must be made in ~~such-manner-as~~ accordance-with rules
 19 prescribed-by the department of revenue ~~shall-prescribe-by~~
 20 regulations.

21 (4) An election under subsection (1) ~~shall--be~~ is
 22 effective for the taxable year of the corporation for which
 23 it is made and for all succeeding taxable years of the
 24 corporation unless it is terminated, with respect to any
 25 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
 6 affirmatively refuses ~~(in such-manner-as~~ accordance-with
 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 expires on the 60th day after whichever of the
 14 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

1 business corporation may be revoked by it for any taxable
 2 year after the first taxable year for which the election is
 3 effective. An election may be revoked only if all persons
 4 who are shareholders in the corporation on the day on which
 5 the revocation is made consent to the revocation. A
 6 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--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 ~~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

1 terminated or revoked under subsection (5), such corporation
 2 ~~and any successor corporation--shall~~ is not be eligible to
 3 make an election under subsection (1) for any taxable year
 4 prior to its fifth taxable year which begins after the first
 5 taxable year for which such termination or revocation is
 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 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 ~~[84-1501]~~ 15-31-204."

13 Section 23. Section 15-31-521, MCA, 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
 20 taxable period.

21 (2) Any such agreement ~~shall--be~~ is final and
 22 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

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
6 aside, or disregarded."

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,
13 foreign and domestic, which transact business within the
14 state of Montana and/or are subject to taxation by the state
15 of Montana pursuant to the provisions of ~~[[title-84]]~~."

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 ~~[[title-84]]~~ 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;

1 (3) the name and address of the registered agent of
2 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~~
10 ~~section 3, Chapter 548, Laws of 1975,~~ that existed prior to
11 ~~the effective date of this act January 1, 1977,~~ approved by
12 the department of revenue before April 19, 1977, shall
13 continue in effect until December 31, 1992. On January 1,
14 1983, the taxable percentage of such property shall be
15 determined under chapter 6, part 1, or that part as it may
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 ~~Violation~~ of any of the provisions of this part shall ~~be~~
21 ~~deemed is~~ a misdemeanor and shall be punished ~~punishable~~
22 by 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

1 read:

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

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 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 find, after a hearing
 16 as herein provided, find taxes due from any such freight
 17 line company in excess of the 5% ~~2.1/2%~~ 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 ~~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

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
 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
 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 kept, ~~provided however,~~ 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

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:

10 "20-9-115. Notice of preliminary budget filing and
 11 final budget meeting. ~~It~~ Between July 10 and July 20 of
 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
 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 taxpayers. The notice shall also state that the trustees
 18 will meet at 10 a.m. on the fourth Monday in July for the
 19 purpose of considering and adopting the final budget of the
 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 ~~(2)--Notice--given--under--this--section--meets--the~~

1 ~~requirement-for-notice-contained-in-15-10-203.~~"

2 ~~NEW_SECTION.~~ Section 32. Rulemaking authority. The
3 department of revenue may adopt rules necessary for the
4 taxation of property under ~~[chapter 35 of Title 15].~~

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~~
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.

-End-

1
2
3
4
5
6
7

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.

1 HOUSE BILL NO. 181

2 INTRODUCED BY MARKS

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL OR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO TAXATION; REPEALING SECTIONS
7 84-510, 84-6210, R.C.M. 1947, AND SECTIONS 15-23-509,
8 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."

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 deemed ~~considered~~
25 ~~unlawful~~, under written protest, specifying the grounds of

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

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
6 for collecting the license fee or tax to recover the same,
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
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
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 tractors Official Guide Tractors and ~~farm~~-implements Farm
25 Equipment and in department valuation schedules.

1 (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:
4 "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.

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.

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

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

1 Section 5. Section 15-7-215, MCA, is amended to read:

2 "15-7-215. Violation a misdemeanor. Any person who
3 violates any provision of this ~~part~~ ~~shall~~ ~~be~~ ~~is~~ guilty
4 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~~
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
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
18 revenue's certified millage shall ~~may~~ be levied until
19 resolution or ordinance ~~has--been~~ ~~is~~ approved by the
20 governing board of the taxing authority, which resolution or
21 ordinance must be approved by ~~and~~ ~~the~~ taxing authority
22 according to the following procedure:

23 (1) The taxing authority shall advertise publish
24 notice of its intent to exceed the department's certified
25 millage in ~~a newspaper of general circulation in the county~~

1 ~~as 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 advertisement notice shall~~
 4 ~~must state that the taxing authority will meet on a day, at~~
 5 ~~a time and place fixed in the advertisement notice, which~~
 6 ~~shall must be approximately 7 days after the day that the~~
 7 ~~advertisement notice is published, for the purpose of~~
 8 ~~hearing comments regarding the proposed increase and to~~
 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
 15 in excess of the certified millage. If the resolution or
 16 ordinance adopting said ~~such~~ millage rate is not approved on
 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
 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~~ publish notice in the same manner as
 24 provided in ~~15-10-203 and subsection (1) of this section.~~

25 ~~(3) Public notice given and public hearings held in~~

1 ~~compliance with the requirements of Title 20, Chapter 9,~~
 2 ~~part 1, in setting school budgets satisfy the requirements~~
 3 ~~contained in this section."~~

4 Section 8. Section 15-10-207, MCA, is amended to read:
 5 "15-10-207. Additional millage increase --
 6 ~~re-advertising and revoting~~ new notice required. If, after
 7 the initial ~~millage-vote~~ notice provided for 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 re-advertise must give notice anew under 15-10-203 and re-vote
 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 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 the

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 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 "I,, 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
 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
 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 said such county the amount for which the same
 25 was bid in, together with all subsequent delinquent taxes,

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

3 Now, therefore, in consideration thereof and pursuant
 4 to the statute in such case made and provided, I do hereby
 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.

13 Witness my hand and official seal of office this
 14 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
 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~~ was
 25 not issued by March 5, 1917, ~~have actually issued~~

1 regardless of whether the sale shall have been made at any
 2 date heretofore, as well as to future sales for recovery of
 3 taxes; and the holder of any such certificate shall
 4 therefore have described in subsection (1) has the same
 5 rights, powers, and privileges with regard to securing a
 6 deed as any purchaser of lands land at tax sale may now
 7 have.

8 (4) As to any lands 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."

11 Section 11. Section 15-18-305, MCA, is amended to
 12 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
 16 set up any defense to the action he may have, and may
 17 therein question the legality, validity, or the sufficiency
 18 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 delinquent 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 must be issued by the county
 25 treasurer to the defendant so paying, and thereupon the

1 action shall 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
 6 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
 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
 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 2, 3, and 6 of chapter 16~~ ~~parts 1~~

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:

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 ~~part, all 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. ~~††~~
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
4 30 of the year in which the property is assessed. The
5 department of revenue shall issue tax-paid stickers to the
6 county treasurers. The treasurers shall issue the stickers
7 to the owners of mobile homes and housetrailer 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 ~~††--The owner of a housetrailer 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 vehicles department of justice. The division shall~~
17 ~~produce the stickers for each county. The stickers shall~~
18 ~~contain the identifying number of the county and consecuti-~~
19 ~~ve numbers starting with the number 1 in each county. 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 year."~~

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

1 read:

2 "15-24-203. ~~Housetrailler~~---tax tax 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 ~~mobilehome~~ or 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
12 mobile homes -- display -- tax receipt -- exemptions. (1)
13 whoever brings a mobile home into the state shall
14 immediately upon arrival in the state execute a written
15 declaration, verified under oath, stating the destination of
16 the mobile home and such other information as the department
17 of revenue ~~shall~~ may require and shall deliver the original
18 of the declaration to ~~whoever~~ whomever is on duty at the
19 nearest port of entry station, state vehicle weight station,
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

1 required by this section to execute it, in such quantities
2 as he requests to a maximum of 100. The treasurer shall
3 issue such additional quantities of the declaration to a
4 maximum of 100 as the person requests at the discretion of
5 the county treasurer upon receipt from the person of the
6 previously issued declarations properly executed. In any
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~~;

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;

1 (b) between places of business of dealers within or
2 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 ~~[the 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;
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:

1 (a) one truck suitable for hauling grain;

2 (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
10 trailer, or combine trailer and other equipment used by the
11 nonresident in his business of custom combining in the
12 state, which device shall ~~be~~ is valid for a period beginning
13 July 1 and ending October 31.

14 (3) All fees collected under this section shall ~~must~~ be
15 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)~~ (1) of this section

1 who violates any provision of this section is guilty of a
 2 misdemeanor and ~~shall be punished~~ punishable 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.

16 (2) "Employee" includes an officer, employee, or
 17 elected public official of the United States, the state of
 18 Montana, or any political subdivision thereof or any agency
 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

1 service, the term "employer" means the person having control
 2 of the payment of such wages.

3 ~~(4) "Payroll period" means a period for which a~~
 4 ~~payment of wages is ordinarily made to the employee by his~~
 5 ~~employers~~

6 ~~(5)(a)~~ "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:

11 (a) for active service as a member of the armed forces
 12 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;

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
 24 ~~(5)(a)(d)~~, an individual ~~shall be deemed~~ is considered to be
 25 regularly employed by an employer during a calendar quarter

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 ~~(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 (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

1 such price over the amount at which the newspapers or
2 magazines are charged to him, whether or not he is
3 guaranteed a minimum amount of compensation for such service
4 or is entitled to be credited with the unsold newspapers or
5 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,
24 which knowingly makes payments of any kind to any
25 nonresident of the state of Montana for services performed

1 within the state of Montana other than those described
 2 ~~payments excepted~~ in 15-30-201 and ~~15-30-202~~ ~~151~~ (4) or for
 3 casual sales of property, either real or personal, located
 4 within the state of Montana, or any prizes or winnings
 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
 11 such nonresident's income tax.

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 ~~shall--be~~ is binding upon all
 2 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
 5 terminating such withholding as to the nonresident taxpayer.

6 (4) Payments made for livestock or agricultural
 7 products raised or grown outside Montana and sold at a
 8 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
 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 election
 25 under subsection (1), then:

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 ~~shall~~ must be made in ~~such-manner-as accordance with rules~~
 19 prescribed by the department of revenue ~~shall-prescribe-by~~
 20 regulations.

21 (4) An election under subsection (1) ~~shall--be is~~
 22 effective for the taxable year of the corporation for which
 23 it is made and for all succeeding taxable years of the
 24 corporation unless it is terminated, with respect to any
 25 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
 6 affirmatively refuses ~~in such--manner-as accordance with~~
 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 expires~~ on the 60th day after whichever of the
 14 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

1 within the state of Montana other than those described
 2 ~~payments excepted~~ in 15-30-201 and ~~15-30-202 (5) (4)~~ or for
 3 casual sales of property, either real or personal, located
 4 within the state of Montana, or any prizes or winnings
 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
 11 such nonresident's income tax.

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 ~~shall~~ ~~be~~ is binding upon all
 2 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
 5 terminating such withholding as to the nonresident taxpayer.

6 (4) Payments made for livestock or agricultural
 7 products raised or grown outside Montana and sold at a
 8 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
 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 election
 25 under subsection (1), then:

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 ~~shall~~ must be made in such-manner-as accordance with rules
 19 prescribed by the department of revenue-~~shall~~-prescribe-by
 20 regulations.

21 (4) An election under subsection (1) ~~shall--be~~ is
 22 effective for the taxable year of the corporation for which
 23 it is made and for all succeeding taxable years of the
 24 corporation unless it is terminated, with respect to any
 25 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
 6 affirmatively refuses ~~in such--manner-as~~ accordance with
 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~~ expires on the 60th day after whichever of the
 14 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

1 business corporation may be revoked by it for any taxable
 2 year after the first taxable year for which the election is
 3 effective. An election may be revoked only if all persons
 4 who are shareholders in the corporation on the day on which
 5 the revocation is made consent to the revocation. A
 6 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--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 ~~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 (e) If a small business corporation has made an
 25 election under subsection (1) and if such election has been

1 terminated or revoked under subsection (5), such corporation
 2 ~~(and any successor corporation) shall~~ is not be eligible to
 3 make an election under subsection (1) for any taxable year
 4 prior to its fifth taxable year which begins after the first
 5 taxable year for which such termination or revocation is
 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 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 ~~{04-1501}~~ 15-31-204."

13 Section 23. Section 15-31-521, MCA, 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
 20 taxable period.

21 (2) Any such agreement ~~shall--be~~ is final and
 22 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

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
6 aside, or disregarded."

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,
13 foreign and domestic, which transact business within the
14 state of Montana and ~~for~~ are subject to taxation by the state
15 of Montana ~~pursuant to the provisions of [Title 84].~~"

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 [Title 84]~~ to be filed in the central reporting system.
23 ~~Said list shall~~ ~~must~~ contain the following information:

24 (1) the name of the corporation;

25 (2) the principal office of the corporation;

1 (3) the name and address of the registered agent of
2 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 ~~15-32-108~~
10 ~~section 3, Chapter 548, Laws of 1975,~~ that existed prior to
11 ~~the effective date of this act January 1, 1977,~~ approved by
12 the department of revenue before April 19, 1977, shall
13 continue in effect until December 31, 1982. On January 1,
14 1983, the taxable percentage of such property shall be
15 determined under chapter 6, part 1, or that part as it may
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 ~~Violation~~ of any of the provisions of this part shall ~~be~~
21 ~~deemed is~~ a misdemeanor and shall ~~be punished~~ ~~punishable~~ 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

1 read:

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

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 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
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 ~~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

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
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
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 kept, provided HOWEVER, 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

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:

10 "20-9-115. Notice of preliminary budget filing and
11 final budget meeting. ~~††~~ Between July 10 and July 20 of
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
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 taxpayers. The notice shall also state that the trustees
18 will meet at 10 a.m. on the fourth Monday in July for the
19 purpose of considering and adopting the final budget of the
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 ~~††--Notice--given--under--this--section--meets--the~~

1 requirement-for-notice-contained-in-15-18-203."

2 NEW SECTION. Section 32. Rulemaking authority. The
3 department of revenue may adopt rules necessary for the
4 taxation of property under [chapter 35 of Title 15].

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~~
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.

-End-

1 STATEMENT OF INTENT RE: HB 181

2

3

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.

HB 181

1 HOUSE BILL NO. 181

2 INTRODUCED BY MARKS

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO TAXATION; REPEALING SECTIONS
7 84-510, 84-6210, R.C.M. 1947, AND SECTIONS 15-23-509,
8 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."

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 deemed considered
25 unlawful, under written protest, specifying the grounds of

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

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
6 for collecting the license fee or tax to recover the same,
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
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
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 tractors Official Guide Tractors and farm implements Farm
25 Equipment and in department valuation schedules.

1 (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:
4 "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.

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.

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

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

1 Section 5. Section 15-7-215, MCA, is amended to read:

2 "15-7-215. Violation a misdemeanor. Any person who
3 violates any provision of this ~~act~~ ~~part~~ shall be guilty
4 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~~
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
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
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
21 ordinance must be approved by said ~~the~~ taxing authority
22 according to the following procedure:

23 (1) The taxing authority shall ~~advertise~~ publish
24 notice of its intent to exceed the department's certified
25 millage in ~~a newspaper of general circulation in the county~~

1 ~~as 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 advertisement notice shall
 4 must state that the taxing authority will meet on a day, at
 5 a time and place fixed in the advertisement notice, which
 6 shall must be approximately 7 days after the day that the
 7 advertisement notice is published, for the purpose of
 8 hearing comments regarding the proposed increase and to
 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
 15 in excess of the certified millage. If the resolution or
 16 ordinance adopting ~~said~~ such millage rate is not approved on
 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
 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 publish notice in the same manner as
 24 provided in ~~15-10-203 and~~ subsection (1) ~~of this section.~~

25 ~~{3} Public notice given and public hearings held in~~

1 ~~compliance with the requirements of title 20, chapter 9,~~
 2 ~~part 17 in setting school budgets satisfy the requirements~~
 3 ~~contained in this section."~~

4 Section 8. Section 15-10-207, MCA, is amended to read:
 5 "15-10-207. Additional millage increase --
 6 ~~readvertising and revoting~~ new notice required. If, after
 7 the initial ~~millage-vote~~ notice provided for 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 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 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~~ pay the

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 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 "I,, 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
 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
 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 said ~~such~~ county the amount for which the same
 25 was bid in, together with all subsequent delinquent taxes,

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

3 Now, therefore, in consideration thereof and pursuant
 4 to the statute in such case made and provided, I do hereby
 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.

13 Witness my hand and official seal of office this
 14 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
 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~~ ~~was~~
 25 not ~~issued~~ by March 5, 1917, ~~have--actually--issued~~

1 ~~regardless of whether the sale shall have been made at any~~
 2 ~~date heretofore as well as to future sales for recovery of~~
 3 ~~taxes and the holder of any such certificate shall~~
 4 ~~therefore have described in subsection (1) has the same~~
 5 ~~rights, powers, and privileges with regard to securing a~~
 6 ~~deed as any purchaser of lands land at tax sale may now~~
 7 ~~have.~~

8 (4) As to any lands 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."

11 Section 11. Section 15-18-305, MCA, is amended to
 12 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
 16 set up any defense to the action he may have, and may
 17 therein question the legality, validity, or the sufficiency
 18 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 delinquent 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 ~~must~~ be issued by the county
 25 treasurer to the defendant so paying, and thereupon the

1 action shall ~~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
 6 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
 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
 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 ~~15-16-181 through 15-16-185 and 15-16-503~~
 25 ~~through 15-16-505 parts 2, 3 and 6 of chapter 16 parts 1~~

1 through ~~3 of chapter 17 and chapter 16, 17, 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 ~~part, all 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. (1)
23 The owner of a mobile home or house trailer 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
4 30 of the year in which the property is assessed. The
5 department of revenue shall issue tax-paid stickers to the
6 county treasurers. The treasurers shall issue the stickers
7 to the owners of mobile homes and house trailers 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 house trailer. 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 house trailer must display on the~~
14 ~~back of his house trailer or in another conspicuous place a~~
15 ~~property tax paid sticker prescribed by the division of~~
16 ~~motor vehicles department of justice. The division shall~~
17 ~~produce the stickers for each county. The stickers shall~~
18 ~~contain the identifying number of the county and consecutive~~
19 ~~numbers starting with the number 1 in each county. 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 year.~~"

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

1 read:

2 "15-24-203. ~~Housetrailer~~---tax tax 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 ~~mobilehome~~ or 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
12 mobile homes -- display -- tax receipt -- exemptions. (1)
13 Whoever brings a mobile home into the state shall
14 immediately upon arrival in the state execute a written
15 declaration, verified under oath, stating the destination of
16 the mobile home and such other information as the department
17 of revenue ~~shall~~ may require and shall deliver the original
18 of the declaration to ~~whoever~~ ~~whoever~~ is on duty at the
19 nearest port of entry station, state vehicle weight station,
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

1 required by this section to execute it, in such quantities
2 as he requests to a maximum of 100. The treasurer shall
3 issue such additional quantities of the declaration to a
4 maximum of 100 as the person requests at the discretion of
5 the county treasurer upon receipt from the person of the
6 previously issued declarations properly executed. In any
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~~;

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;

1 (b) between places of business of dealers within or
2 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 ~~[the 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;
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, overweight 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:

1 (a) one truck suitable for hauling grain;

2 (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~~ must be
7 collected by the department of highways. Upon payment of the
8 fee, the department of highways shall ~~must~~ 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
12 state, which device shall ~~be~~ is valid for a period beginning
13 July 1 and ending October 31.

14 (3) All fees collected under this section shall ~~must~~ 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~~ 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)~~ (1) of this section

1 who violates any provision of this section is guilty of a
 2 misdemeanor and ~~shall be punished~~ punishable 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.

16 (2) "Employee" includes an officer, employee, or
 17 elected public official of the United States, the state of
 18 Montana, or any political subdivision thereof or any agency
 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

1 service, the term "employer" means the person having control
 2 of the payment of such wages.

3 ~~(4) "Payroll period" means a period for which a~~
 4 ~~payment of wages is ordinarily made to the employee by his~~
 5 ~~employer.~~

6 ~~(5)(1) "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:~~

11 (a) for active service as a member of the armed forces
 12 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;

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
 24 ~~(5)(1)(d), an individual shall be deemed~~ is considered to be
 25 regularly employed by an employer during a calendar quarter

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 ~~(5)(41)(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 (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

1 such price over the amount at which the newspapers or
2 magazines are charged to him, whether or not he is
3 guaranteed a minimum amount of compensation for such service
4 or is entitled to be credited with the unsold newspapers or
5 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,
24 which knowingly makes payments of any kind to any
25 nonresident of the state of Montana for services performed

1 within the state of Montana other than those described
 2 ~~payments excepted~~ in 15-30-201 ~~and 15-30-202 (5) (4)~~ or for
 3 casual sales of property, either real or personal, located
 4 within the state of Montana, or any prizes or winnings
 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
 11 such nonresident's income tax.

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 ~~shall~~ is binding upon all
 2 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
 5 terminating such withholding as to the nonresident taxpayer.

6 (4) Payments made for livestock or agricultural
 7 products raised or grown outside Montana and sold at a
 8 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
 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 election
 25 under subsection (1), then:

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 ~~shall~~ must be made in such-manner-as accordance with rules
 19 prescribed by the department of revenue-~~shall~~-prescribe-by
 20 regulations.

21 (4) An election under subsection (1) ~~shall~~--be is
 22 effective for the taxable year of the corporation for which
 23 it is made and for all succeeding taxable years of the
 24 corporation unless it is terminated, with respect to any
 25 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
 6 affirmatively refuses ~~in such--manner-as~~ accordance with
 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~~ expires on the 60th day after whichever of the
 14 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

1 business corporation may be revoked by it for any taxable
 2 year after the first taxable year for which the election is
 3 effective. An election may be revoked only if all persons
 4 who are shareholders in the corporation on the day on which
 5 the revocation is made consent to the revocation. A
 6 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--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~~ terminate 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

1 terminated or revoked under subsection (5), such corporation
 2 ~~and any successor corporation) shall is~~ not be eligible to
 3 make an election under subsection (1) for any taxable year
 4 prior to its fifth taxable year which begins after the first
 5 taxable year for which such termination or revocation is
 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 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 ~~[84-1581]~~ 15-31-204.
 13 Section 23. Section 15-31-521, MCA, 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
 20 taxable period.

21 (2) Any such agreement shall ~~be~~ is final and
 22 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

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
6 aside, or disregarded."

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,
13 foreign and domestic, which transact business within the
14 state of Montana and/or are subject to taxation by the state
15 of Montana pursuant to the provisions of ~~[[title-04]].~~"

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 ~~[[title-04]]~~ 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;

1 (3) the name and address of the registered agent of
2 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~~
10 ~~section 3, Chapter 548, Laws of 1975,~~ that existed prior to
11 ~~the effective date of this act January 1, 1977,~~ approved by
12 the department of revenue before April 19, 1977, shall
13 continue in effect until December 31, 1982. On January 1,
14 1983, the taxable percentage of such property shall be
15 determined under chapter 6, part 1, or that part as it may
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 ~~violation~~ of any of the provisions of this part shall ~~be~~
21 ~~deemed~~ is a misdemeanor and shall be punished ~~punishable~~
22 by 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

1 read:

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

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 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
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
24 cause an action to be brought to recover the amount of such
25 additional tax in the district court of any county within

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
 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
 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 kept, provided however, 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

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:

10 "20-9-115. Notice of preliminary budget filing and
 11 final budget meeting. ~~{}~~ Between July 10 and July 20 of
 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
 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 taxpayers. The notice shall also state that the trustees
 18 will meet at 10 a.m. on the fourth Monday in July for the
 19 purpose of considering and adopting the final budget of the
 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 ~~{}~~--Notice--given--under--this---section---meets---the

1 ~~requirement-for-notice-contained-in-15-16-203.~~

2 NEW SECTION. Section 32. Rulemaking authority. The
3 department of revenue may adopt rules necessary for the
4 taxation of property under [chapter 35 of Title 15].

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~~
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.

-End-