HOUSE BILL NO. 303

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE INCOME TAX STRUCTURE BY REQUIRING THAT THE TAX BRACKETS, EXEMPTIONS, STANDARD DEDUCTIONS, AND MINIMUM FILING REQUIREMENTS BE ADJUSTED ANNUALLY FOR INFLATION; AMENDING SECTIONS 15-30-101, 15-30-103, 15-30-112, 15-30-122, AND 15-30-142, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

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

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

(a) the tax brackets established in 15-30-103 in effect on January 1, 1978;

(b) the exemptions contained in 15-30-112 in effect on January 1, 1978;

(c) the maximum standard deduction provided in 15-30-122 in effect on January 1, 1978.

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

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

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

~~(3)~~(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(4)~~(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(7) "Inflation factor" means a percentage determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, 1979.

~~(5)~~(8) "Information agents" include all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers

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INTRODUCED BILL

and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

~~(6)~~(9) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(7)~~(10) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(8)~~(11) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(9)~~(12) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of

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

~~(10)~~(13) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(11)~~(14) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(12)~~(15) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

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

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

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

~~(2)~~(b) on the next $1,000 of taxable income or any part thereof, 3%;

~~(3)~~(c) on the next $2,000 of taxable income or any

part thereof, 4%;

~~(4)~~(d) on the next $2,000 of taxable income or any part thereof, 5%;

~~(5)~~(e) on the next $2,000 of taxable income or any part thereof, 6%;

~~(6)~~(f) on the next $2,000 of taxable income or any part thereof, 7%;

~~(7)~~(g) on the next $4,000 of taxable income or any part thereof, 8%;

~~(8)~~(h) on the next $6,000 of taxable income or any part thereof, 9%;

~~(9)~~(i) on the next $15,000 of taxable income or any part thereof, 10%;

~~(10)~~(j) on any taxable income in excess of $35,000 or any part thereof, 11%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that taxable year and round the product to the nearest $100. The resulting adjusted brackets are effective for that taxable year and shall be used as the basis for imposition of the tax in subsection (1) of this section."

Section 3. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) In the case of an individual, the exemptions provided by this section and

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adjusted under the procedure established in subsection (7) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer if he is blind at the close of his taxable

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year.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $650; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

(7) By November 1 of each year, the department shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest $1. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."

Section 4. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) In the case of a resident individual, a standard deduction equal to 10% of adjusted gross income shall be allowed if elected by the taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum standard deduction shall be $500, as adjusted under the provisions of subsection (2), except in the case of a single joint return of husband and wife the maximum standard deduction shall be $1,000 as adjusted under the provisions of subsection (2). The standard deduction shall not be allowed to either the husband or the wife if the tax of one

of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death.

(2) By November 1 of each year, the department shall multiply the maximum standard deduction for single returns and joint returns by the inflation factor for that taxable year and round the product to the nearest $10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."

Section 5. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than $720, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than $1,445, as adjusted under the provisions of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by $650, as adjusted under the provisions of 15-30-112(7), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

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

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

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

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for that taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return."

NEW SECTION. Section 6. Adjusted base year structure to appear on tax forms. Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year.

Section 7. Effective date. This act is effective on passage and approval and applies to taxable years beginning after December 31, 1978.

-End-

HB 303

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. 86-79

Form BD-15

In compliance with a written request received January 23, 19 79, there is hereby submitted a Fiscal Note for House Bill 303 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

This proposed bill revises the income tax structure by requiring that the tax brackets, exemptions, standard deductions, and minimum filing requirements be adjusted annually for inflation and provides an effective date.

ASSUMPTIONS

a)

time	June 1978	June 1979	June 1980	June 1981
CPI	195.3	211.5	224.8	238.1

b) Under continuation of the present law, the income elasticity of income tax revenue will be between 1.25 and 1.5 over the 80-81 biennium (i.e., a 1% increase in total income will lead to a 1.25% to 1.5% increase in income tax receipts).

c) It is assumed that the proposed law will eliminate increases in income tax revenue associated with inflation.

d) The Department of Revenue forecast of individual income tax collections is assumed to be the basis for comparison.

e) 85% of income tax receipts in FY(t) are attributable to liabilities incurred in CY(t-1), and 15% of income tax receipts in FY(t) are attributable to liabilities incurred in CY(t).

FISCAL IMPACT

	FY 80	FY 81
Individual Income Tax Receipts		
under current law	$ 154.268 M	$ 169.790 M
under proposed law	152.292 to 152.622 M	155.368 to 157.771 M
Estimated Decrease	($ 1.646 to 1.976 M)	($ 12.019 to 14.422 M)

FUND INFORMATION

	FY 80	FY 81
General Fund		
under current law	$ 98.732 M	$ 108.666 M
under proposed law	97.467 to 97.678 M	99.436 to 100.973 M
Estimated Decrease	($ 1.054 to 1.265 M)	($ 7.693 to 9.230 M)
Earmarked Revenue Fund		
under current law	$ 38.567 M	$ 42.447 M
under proposed law	38.073 to 38.156 M	38.842 to 39.443 M
Estimated Decrease	($ 0.411 to 0.494 M)	($ 3.004 to 3.605 M)

CONTINUED ON PAGE 2

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: ____________

STATE OF MONTANA

REQUEST NO. 86-79

FISCAL NOTE

Form BD 15

In compliance with a written request received January 23, 19 79, there is hereby submitted a Fiscal Note for House Bill 303 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

FUND INFORMATION (Cont.)

	FY 80	FY 81
Sinking Fund*		
under current law	$ 16.969 M	$ 18.677 M
under proposed law	$ 16.752 to 16.788 M	$ 17.090 to 17.355
Estimated Decrease	($ 0.181 to 0.217 M)	($ 1.322 to 1.587 M)

*A portion of this account may be transferred to the general fund as long-range bond excess.

EFFECT ON LOCAL GOVERNMENTS

See Technical Note

LONG-RANGE EFFECTS

Under the proposed law individual income tax collections would keep pace with the "real" rate of growth (or decline) of income in the state. Therefore, given the historic 6% average inflation rate and the 10% average income growth, income tax receipts would only grow by about 4%; however, during periods of high inflation or depressed economic conditions, income tax receipts may decline.

TECHNICAL NOTE

It should be noted that receipts to the indicated Earmarked Revenue Fund are used to support the Public School Foundation Program. Therefore, any decrease in income to that account may necessitate additional support from other sources.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Dunbar

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/30/79

STATE OF MONTANA

REQUEST NO. 86-79 Revised

FISCAL NOTE

Form BD-15

In compliance with a written request received February 8, 19 79, there is hereby submitted a Fiscal Note for House Bill 303 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

This proposed bill revises the income tax structure by requiring that the tax brackets, exemptions, standard deductions, and minimum filing requirements be adjusted annually for inflation and provides an effective date.

ASSUMPTIONS

a)

time	June 1978	June 1979	June 1980	June 1981
CPI	195.3	211.5	224.8	238.1

b) Under continuation of the present law, the income elasticity of income tax revenue will be between 1.25 and 1.5 over the 80-81 biennium (i.e., a 1% increase in total income will lead to a 1.25% to 1.5% increase in income tax receipts)

c) It is assumed that the proposed law will eliminate certain increases in income tax revenue associated with inflation (e.g., increases attributable to devaluation of fixed deductions and exemptions, and increases attributable to "bracket-shift" effects of inflation).

d) The Department of Revenue forecast of individual income tax collections is assumed to be the basis for comparison.

e) 80% of income tax receipts in FY(t) are attributable to liabilities incurred in CY(t-1), and 20% of income receipts in FY(t) are attributable to liabilities incurred in CY(t).

FISCAL IMPACT

	FY 80	FY 81
Individual Income Tax Collections		
under current law	\$154.268 M	\$169.790 M
under proposed law	\$153.390 M to \$153.829 M	\$163.969 M to \$166.881 M
Estimated Decrease	(\$ 0.439 M to \$ 0.878 M)	(\$ 2.909 M to \$ 5.821 M)

(Continued on page 2)

Richard L. Franey for
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 4/9/79

STATE OF MONTANA

REQUEST NO. 86-79 Revised

FISCAL NOTE

Form BD 15

In compliance with a written request received February 8, 19 79, there is hereby submitted a Fiscal Note for Hosue Bill 303 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

FUND INFORMATION

	FY 80	FY 81
General Fund		
under current law	$ 98.732 M	$108.666 M
under proposed law	$ 98.170 M to $ 98.451 M	$104.940 M to $106.804 M
Estimated Decrease	($ 0.281 M to $ 0.562 M)	($ 1.862 M to $ 3.726 M)
Earmarked Revenue Fund		
under current law	$ 38.567 M	$ 42.447 M
under proposed law	$ 38.347 M to $ 38.457 M	$ 40.992 M to $ 41.720 M
Estimated Decrease	($ 0.110 M to $ 0.220 M)	($ 0.727 M to $ 1.455 M)
Sinking Fund*		
under current law	$ 16.969 M	$ 18.677 M
under proposed law	$ 16.873 M to $ 16.921 M	$ 18.037 M to $ 18.357 M
Estimated Decrease	($ 0.048 M to $ 0.096 M)	($ 0.320 M to $ 0.640 M)

*A portion of this account may be transferred to the general fund as long-range bond excess.

EFFECT ON LOCAL GOVERNMENTS

See Technical Note (b)

LONG-RANGE EFFECTS

Income tax receipts will increase from one year to the next whenever the "real" rate of growth (i.e., rate of growth adjusted for inflation) is greater than the rate of inflation divided by the negative of the income elasticity of income tax revenue (e.g., with 6% inflation, receipts will increase as long as the economy does not decline by more than about 4% after adjusting for inflation).

TECHNICAL NOTES

a) This revision of the original fiscal note was necessitated by the discovery that fiscal note 86-79 overestimated the effect of HB 303 by adjusting taxes to 1979 levels.
b) It should be noted that receipts to the indicated Earmarked Revenue Fund are used to support the Public School Foundation Program. Therefore, any increase in income to that account may necessitate additional support from other sources.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date:

PREPARED BY DEPARTMENT OF REVENUE

STATE OF MONTANA

REQUEST NO. 86-79 Amended

FISCAL NOTE

Form BD-15

In compliance with a written request received April 2, 19 79, there is hereby submitted a Fiscal Note for Amended House Bill 303 (Third Reading Version) pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

FUND INFORMATION (Cont.)

	FY80	FY81
Earmarked Revenue Fund		
under current law	$ 38.567 M	$ 42.447 M
under proposed law	$ 38.567 M	$ 42.219 M to $ 42.333 M
Estimated Decrease	($ 0 M)	($ 0.114 M to $ 0.228 M)
Sinking Fund*		
under current law	$ 16.969 M	$ 18.677 M
under proposed law	$ 16.969 M	$ 18.577 M to $ 18.627 M
Estimated Decrease	($ 0 M)	($ 0.050 M to $ 0.100 M)

*A portion of this account may be transferred to the general fund as long-range bond excess.

LONG-RANGE EFFECTS

Income tax receipts will increase from one year to the next whenever the "real" rate of growth (i.e., rate of growth adjusted for inflation) is greater than the rate of inflation divided by the negative of the income elasticity of income tax revenue (e.g., with 6% inflation, receipts will increase as long as the economy does not decline by more than about 4% after adjusting for inflation). Assuming continuation of estimated economic trends in the 1981 Biennium in the 1983 Biennium it is likely that income tax collections will be decreased $4 to $5 million below the current law level in FY1982. This decrease would increase in FY1983.

TECHNICAL NOTE

It should be noted that receipts to the indicated Earmarked Revenue Fund are used to support the Public School Foundation Program. Therefore, any decrease in income to that account may necessitate additional support from other sources.

(Prepared by the Department of Revenue)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date:

STATE OF MONTANA

REQUEST NO. 86-79 Amended

FISCAL NOTE

Form BD-15

In compliance with a written request received April 2, 19 79, there is hereby submitted a Fiscal Note for Amended House Bill 303 (Third Reading Version) pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

This proposed bill would revise the income tax structure by requiring that the tax brackets, exemptions, standard deductions, and minimum filing requirements be adjusted annually for inflation, and providing a delayed applicability date.

ASSUMPTIONS

a)

time	June 1980	June 1981
CPI	224.8	238.1

b) Under continuation of the present law, the income elasticity of income tax revenue will be between 1.25 and 1.5 over the 80-81 biennium (i.e., a 1% increase in total income will lead to a 1.25% to 1.5% increase in income tax receipts)

c) It is assumed that the proposed law will eliminate certain increases in income tax revenue associated with inflation (e.g., increases attributable to devaluation of fixed deductions and exemptions, and increases attributable to "bracket-shift" effects of inflation).

d) The Department of Revenue forecast of individual income tax collections is assumed to be the basis for comparison.

e) 80% of income tax receipts in FY (t) are attributable to liabilities incurred in CY (t-1), and 20% of income receipts in FY (t) are attributable to liabilities incurred in CY (t).

FISCAL IMPACT

	FY80	FY81
Individual Income Tax Collections		
under current law	$154.268 M	$169.790 M
under proposed law	$154.268 M	$168.877 M to $169.334 M
Estimated Decrease	($ 0)	($ 0.456 M to $ 0.913 M)

FUND INFORMATION

	FY80	FY81
General Fund		
under current law	$ 98.732 M	$108.666 M
under proposed law	98.732 M	$108.081 M to $108.374 M
Estimated Decrease	($ 0)	($ 0.292 M to $ 0.585 M)

BUDGET DIRECTOR Richard L. [illegible] for

Office of Budget and Program Planning

Date: 4/4/79

Continued on Page 2

Approved by Committee
on Taxation

HOUSE BILL NO. 303

INTRODUCED BY NORDTVEDT, ROSKIE, FABREGA, UHDE, RAMIREZ, LENSINK, KESSLER, ROSENTHAL, FAGG, GOODOVER, TEAGUE, TURNAGE, SIVERTSEN, SCULLY, IVERSON, MATHERS, BOYLAN, HAFFERMAN, RYAN, THIESSEN, HAZELBAKER, GALT, VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE INCOME TAX STRUCTURE BY REQUIRING THAT THE TAX BRACKETS, EXEMPTIONS, STANDARD DEDUCTIONS, AND MINIMUM FILING REQUIREMENTS BE ADJUSTED ANNUALLY FOR INFLATION; AMENDING SECTIONS 15-30-101, 15-30-103, 15-30-112, 15-30-122, AND 15-30-142, MCA; AND PROVIDING ~~AN EFFECTIVE~~ A DELAYED APPLICABILITY DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

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

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

(a) the tax brackets established in 15-30-103 in effect on January 1, ~~1978~~ 1980;

(b) the exemptions contained in 15-30-112 in effect on January 1, ~~1978~~ 1980;

(c) the maximum standard deduction provided in 15-30-122 in effect on January 1, ~~1978~~ 1980.

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

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

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

~~(3)~~(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(4)~~(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(7) "Inflation factor" means a percentage NUMBER determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, ~~1979~~ 1980.

SECOND READING

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

~~(6)~~(9) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(7)~~(10) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(8)~~(11) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

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

~~(10)~~(13) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(11)~~(14) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(12)~~(15) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

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

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

~~(1)~~(a) on the first $1,000 of taxable income or any

part thereof, 2%;

~~(2)~~(b) on the next $1,000 of taxable income or any part thereof, 3%;

~~(3)~~(c) on the next $2,000 of taxable income or any part thereof, 4%;

~~(4)~~(d) on the next $2,000 of taxable income or any part thereof, 5%;

~~(5)~~(e) on the next $2,000 of taxable income or any part thereof, 6%;

~~(6)~~(f) on the next $2,000 of taxable income or any part thereof, 7%;

~~(7)~~(g) on the next $4,000 of taxable income or any part thereof, 8%;

~~(8)~~(h) on the next $6,000 of taxable income or any part thereof, 9%;

~~(9)~~(i) on the next $15,000 of taxable income or any part thereof, 10%;

~~(10)~~(j) on any taxable income in excess of $35,000 or any part thereof, 11%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that taxable year and round the product to the nearest $100. The resulting adjusted brackets are effective for that taxable year and shall be used as the basis for imposition of the tax in subsection (1) of this

section."

Section 3. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) In the case of an individual, the exemptions provided by this section and adjusted under the procedure established in subsection (7) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross

income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for each

dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $650; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited

agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

(7)__By__November__1_of_each_year,_the_department_shall multiply_all_the_exemptions_provided_in_this_section_by__the inflation_factor_for_that_taxable_year_and_round_the_product to_the_nearest_~~$1~~ $10._The_resulting_adjusted_exemptions_are effective__for__that__taxable__year__and__shall__be__used_in calculating_the_tax_imposed_in_15-30-103."

Section 4. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) In the case of a resident individual, a standard deduction equal to 10% of adjusted gross income shall be allowed if elected by the taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum standard deduction shall be $500, as_adjusted_under_the provisions_of_subsection_(2), except in the case of a single

joint return of husband and wife the maximum standard deduction shall be $1,000 as_adjusted_under_the_provisions of_subsection_(2). The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death.

(2)__By__November__1_of_each_year,_the_department_shall multiply_the_maximum_standard_deduction_for__single__returns and__joint__returns_by_the_inflation_factor_for_that_taxable year_and_round_the_product_to_the_nearest_$10._The_resulting adjusted_exemptions_are_effective_for_that_taxable_year__and shall__be_used_in_calculating_the_tax_imposed_in_15-30-103."

Section 5. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than $720,_as_adjusted_under_the_provisions__of subsection__(7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than $1,445,_as_adjusted_under_the_provisions

of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by $650, as adjusted under the provisions of 15-30-112(7), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

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

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

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

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the

additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for that taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return."

NEW SECTION. Section 6. Adjusted base year structure to appear on tax forms. Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year.

Section 7. ~~Effective--date~~ APPLICABILITY. This act ~~is effective-on-passage-and-approval--and~~ applies to taxable years beginning after December 31, ~~1978~~ 1980.

-End-

HOUSE BILL NO. 303

INTRODUCED BY NORDTVEDT, ROSKIE, FABREGA, UHDE, RAMIREZ, LENSINK, KESSLER, ROSENTHAL, FAGG, GOODOVER, TEAGUE, TURNAGE, SIVERTSEN, SCULLY, IVERSON, MATHERS, BOYLAN, HAFFERMAN, RYAN, THIESSEN, HAZELBAKER, GALT, VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE INCOME TAX STRUCTURE BY REQUIRING THAT THE TAX BRACKETS, EXEMPTIONS, STANDARD DEDUCTIONS, AND MINIMUM FILING REQUIREMENTS BE ADJUSTED ANNUALLY FOR INFLATION; AMENDING SECTIONS 15-30-101, 15-30-103, 15-30-112, 15-30-122, AND 15-30-142, MCA; AND PROVIDING ~~AN--EFFECTIVE~~ A DELAYED APPLICABILITY DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

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

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

(a) the tax brackets established in 15-30-103 in effect on January 1, ~~1978~~ 1980;

(b) the exemptions contained in 15-30-112 in effect on January 1, ~~1978~~ 1980;

(c) the maximum standard deduction provided in 15-30-122 in effect on January 1, ~~1978~~ 1980.

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

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

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

~~(3)~~(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(4)~~(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(7) "Inflation factor" means a ~~percentage~~ NUMBER determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, ~~1979~~ 1980.

THIRD READING

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

~~(6)~~(9) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(7)~~(10) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(8)~~(11) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

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

~~(10)~~(13) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(11)~~(14) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(12)~~(15) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

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

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

~~(1)~~(a) on the first $1,000 of taxable income or any

part thereof, 2%;

~~(2)~~(b) on the next $1,000 of taxable income or any part thereof, 3%;

~~(3)~~(c) on the next $2,000 of taxable income or any part thereof, 4%;

~~(4)~~(d) on the next $2,000 of taxable income or any part thereof, 5%;

~~(5)~~(e) on the next $2,000 of taxable income or any part thereof, 6%;

~~(6)~~(f) on the next $2,000 of taxable income or any part thereof, 7%;

~~(7)~~(g) on the next $4,000 of taxable income or any part thereof, 8%;

~~(8)~~(h) on the next $6,000 of taxable income or any part thereof, 9%;

~~(9)~~(i) on the next $15,000 of taxable income or any part thereof, 10%;

~~(10)~~(j) on any taxable income in excess of $35,000 or any part thereof, 11%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that taxable year and round the product to the nearest $100. The resulting adjusted brackets are effective for that taxable year and shall be used as the basis for imposition of the tax in subsection (1) of this

section."

Section 3. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) In the case of an individual, the exemptions provided by this section and adjusted under the procedure established in subsection (7) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross

income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for each

dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $650; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited

agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

(7) By November 1 of each year, the department shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest ~~$1~~ $10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."

Section 4. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) In the case of a resident individual, a standard deduction equal to 10% of adjusted gross income shall be allowed if elected by the taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum standard deduction shall be $500, as adjusted under the provisions of subsection (2), except in the case of a single

joint return of husband and wife the maximum standard deduction shall be $1,000 as adjusted under the provisions of subsection (2). The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death.

(2) By November 1 of each year, the department shall multiply the maximum standard deduction for single returns and joint returns by the inflation factor for that taxable year and round the product to the nearest $10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."

Section 5. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than $720, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than $1,445, as adjusted under the provisions

of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by $650, as adjusted under the provisions of 15-30-112(7), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

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

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

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

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the

additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for that taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return."

NEW SECTION. Section 6. Adjusted base year structure to appear on tax forms. Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year.

Section 7. ~~Effective--date~~ APPLICABILITY. This act ~~is effective-on-passage-and-approval--and~~ applies to taxable years beginning after December 31, ~~1978~~ 1980.

-End-

HOUSE BILL NO. 303

INTRODUCED BY NORDTVEDT, ROSKIE, FABREGA, UHDE, RAMIREZ, LENSINK, KESSLER, ROSENTHAL, FAGG, GOODOVER, TEAGUE, TURNAGE, SIVERTSEN, SCULLY, IVERSON, MATHERS, BOYLAN, HAFFERMAN, RYAN, THIESSEN, HAZELBAKER, GALT, VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE INCOME TAX STRUCTURE BY REQUIRING THAT THE TAX BRACKETS, EXEMPTIONS, STANDARD DEDUCTIONS, AND MINIMUM FILING REQUIREMENTS BE ADJUSTED ANNUALLY FOR INFLATION; AMENDING SECTIONS 15-30-101, 15-30-103, 15-30-112, 15-30-122, AND 15-30-142, MCA; AND PROVIDING ~~AN--EFFECTIVE~~ A DELAYED APPLICABILITY DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

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

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

(a) the tax brackets established in 15-30-103 in effect on January 1, ~~1978~~ 1980;

(b) the exemptions contained in 15-30-112 in effect on January 1, ~~1978~~ 1980;

(c) the maximum standard deduction provided in 15-30-122 in effect on January 1, ~~1978~~ 1980.

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

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

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

~~(3)~~(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(4)~~(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(7) "Inflation factor" means a ~~percentage~~ NUMBER determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, ~~1979~~ 1980.

REFERENCE BILL

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

~~(6)~~(9) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(7)~~(10) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(8)~~(11) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

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

~~(10)~~(13) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(11)~~(14) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(12)~~(15) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

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

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

~~(1)~~(a) on the first $1,000 of taxable income or any

part thereof, 2%;

~~(2)~~(b) on the next $1,000 of taxable income or any part thereof, 3%;

~~(3)~~(c) on the next $2,000 of taxable income or any part thereof, 4%;

~~(4)~~(d) on the next $2,000 of taxable income or any part thereof, 5%;

~~(5)~~(e) on the next $2,000 of taxable income or any part thereof, 6%;

~~(6)~~(f) on the next $2,000 of taxable income or any part thereof, 7%;

~~(7)~~(g) on the next $4,000 of taxable income or any part thereof, 8%;

~~(8)~~(h) on the next $6,000 of taxable income or any part thereof, 9%;

~~(9)~~(i) on the next $15,000 of taxable income or any part thereof, 10%;

~~(10)~~(j) on any taxable income in excess of $35,000 or any part thereof, 11%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that taxable year and round the product to the nearest $100. The resulting adjusted brackets are effective for that taxable year and shall be used as the basis for imposition of the tax in subsection (1) of this

section."

Section 3. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) In the case of an individual, the exemptions provided by this section and adjusted under the procedure established in subsection (7) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross

income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of $650 shall be allowed for taxable years beginning after December 31, 1973, for each

dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $650; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited

agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

(7) By November 1 of each year, the department shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest ~~$1~~ $10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."

Section 4. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) In the case of a resident individual, a standard deduction equal to 10% of adjusted gross income shall be allowed if elected by the taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum standard deduction shall be $500, as adjusted under the provisions of subsection (2), except in the case of a single

joint return of husband and wife the maximum standard deduction shall be $1,000 as adjusted under the provisions of subsection (2). The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death.

(2) By November 1 of each year, the department shall multiply the maximum standard deduction for single returns and joint returns by the inflation factor for that taxable year and round the product to the nearest $10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."

Section 5. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than $720, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than $1,445, as adjusted under the provisions

of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by $650, as adjusted under the provisions of 15-30-112(7), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

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

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

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

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the

additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for that taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return."

NEW SECTION. Section 6. Adjusted base year structure to appear on tax forms. Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year.

Section 7. ~~Effective--date~~ APPLICABILITY. This act ~~is effective-on-passage-and-approval--and~~ applies to taxable years beginning after December 31, ~~1978~~ 1980.

-End-

State of Montana
Office of The Governor
Helena 59601

THOMAS L. JUDGE
GOVERNOR

May 14, 1979

The Honorable William Mathers
President of the Senate
State Capitol
Helena, Montana 59601

The Honorable Harold Gerke
Speaker of the House
State Capitol
Helena, Montana 59601

Dear President Mathers and Speaker Gerke:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill No. 303, "AN ACT TO REVISE THE INCOME TAX STRUCTURE BY REQUIRING THAT THE TAX BRACKETS, EXEMPTIONS, STANDARD DEDUCTIONS, AND MINIMUM FILING REQUIREMENTS BE ADJUSTED ANNUALLY FOR INFLATION; AMENDING SECTIONS 15-30-101, 15-30-103, 15-30-112, 15-30-122, AND 15-30-142, MCA; AND PROVIDING A DELAYED APPLICABILITY DATE."

House Bill 303 is a bill designed to control the effects of inflation upon Montana's income tax structure. While the goal of this bill is praiseworthy, its application to Montana's tax structure causes serious problems with both revenues for state government and compatibility with other bills enacted during the legislative session.

During its passage through the legislative process, the fiscal impact of House Bill 303 for the 1980-81 biennium was estimated to be a $900,000 loss in revenue. The estimate was based on the $650 personal exemption which has been part of Montana tax law for many years. Subsequently, the compromise tax relief package embodied in House Bill 925 was passed, raising the personal exemption to $800. The changes which House Bill 925 makes in our tax system are now in effect. This means that, if House Bill 303 were to become law, increases in the personal exemption will be based on at least $800 rather than $650 which causes a substantial increase in the fiscal impact. It is estimated that the loss in revenue from House Bill 303, as compounded by the effect of House Bill 925 would be $2 million during the 80-81 biennium. The order in which the two bills passed strongly suggests that the hidden fiscal impact resulting from the compounding of the two relief measures is well beyond what members of the legislature contemplated.

House Bill 925 passed during the session provides that any surplus revenues which become available to the state during this biennium will be returned to the taxpayer by raising the personal exemption. This is a far more simple and direct form of tax relief than the complex formula provided in House Bill 303. The complex compliance burdens imposed on taxpayers by our voluntary reporting system are already quite heavy. I am hesitant to impose the additional complexities of House Bill 303 upon Montana's taxpayers when similar results can be obtained by simple adjustments to the amount of the personal exemption similar to those achieved by House Bill 925.

In addition, I am concerned that the concept contained in House Bill 303 is an unsubstantiated concept in its practical application to a state's income tax structure. Although it is in existence in four states, its history has not been established to the point that a consensus is available as to whether the concept is good or bad. I am hesitant to see the State of Montana embark upon an uncharted course of taxation during these times of economic fluctuation.

I note that House Bill No. 303 will not be effective until the tax year beginning in 1981. Therefore, Montanans will not receive any tax relief under this bill until the next Legislature is in session. At that time the Legislature will have the benefit of the experience of the other states who are now experimenting with this concept and will have a better understanding of the prevailing economic conditions of Montana at that time.

For these reasons, I veto House Bill No. 303.

Sincerely,

Thomas L. Judge

THOMAS L. JUDGE
Governor

cc: The Honorable Frank Murray