

HOUSE BILL 429

IN THE HOUSE

January 27, 1979	Introduced and referred to Committee on Taxation.
March 24, 1979	Committee recommend bill, as amended.
March 26, 1979	Printed and placed on members' desks.
	Second reading, do pass.
March 27, 1979	Considered correctly engrossed. Third reading, passed.

IN THE SENATE

March 27, 1979	Introduced and referred to Committee on Taxation.
April 20, 1979	Died in Committee.

1 *House* BILL NO. 429 *Conroy*  
 2 INTRODUCED BY *Director Meyer*  
 3 *Edison Roth-Thomson*  
 4 *Smith Seen Stipault* *Jerson Burnett*  
*Donner* 11/10/01

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE  
 5 OWNERSHIP OF AGRICULTURAL LAND BY REQUIRING CERTAIN PERSONS,  
 6 BUSINESSES, AND CORPORATIONS TO REPORT OWNERSHIP OF INTEREST  
 7 IN AGRICULTURAL LAND AND BY DISALLOWING DEDUCTIONS FROM  
 8 INCOME TAX AND CORPORATION LICENSE TAX LIABILITY FOR CERTAIN  
 9 FARM-RELATED EXPENSES CLAIMED BY THESE PERSONS, BUSINESSES,  
 10 OR CORPORATIONS; AMENDING SECTIONS 15-30-101, 15-30-121, AND  
 11 80-1-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 14 NEW SECTION. Section 1. Definitions. As used in  
 15 [sections 2 and 3], the following definitions apply:

- 16 (1) "Agricultural land" means land meeting the
- 17 qualifications imposed in 15-7-202(1)(a).
- 18 (2) "Director" means the director of the department of
- 19 agriculture.
- 20 (3) "Foreign business" means any business entity
- 21 including but not limited to corporations, partnerships, and
- 22 associations in which a controlling interest is owned by
- 23 aliens.
- 24 (4) "Nonresident alien" means any person who is not a
- 25 citizen of the United States and who is not a resident of

1 the United States or of some state, territory, trusteeship,  
 2 or protectorate of the United States.

- 3 (5) "Qualifying individual" means any person who:
- 4 (a) is required under 15-30-142 to file an individual
- 5 income tax return;
- 6 (b) has had an average annual gross income, as shown
- 7 on his tax returns, exceeding \$1 million during the
- 8 preceding 3 years; and
- 9 (c) earned less than 50% of this income during the
- 10 3-year period from the sale of raw agricultural products.

11 (6) "Qualifying corporation" means any corporation  
 12 that:

- 13 (a) is required under 15-31-101 to pay corporation
- 14 license tax;
- 15 (b) had an average annual gross income exceeding \$1
- 16 million, as shown on its tax returns, during the preceding 3
- 17 years; and
- 18 (c) received less than 50% of this income during the
- 19 3-year period from the sale of raw agricultural products.

20 NEW SECTION. Section 2. Reporting by certain owners  
 21 of agricultural land required. (1) Any nonresident alien,  
 22 foreign business, qualifying corporation, or qualifying  
 23 individual that acquires or transfers any interest, other  
 24 than a security interest, in agricultural land or who holds  
 25 an interest, other than a security interest, in agricultural

1 land on [the effective date of this act] must file a report  
2 with the director not later than 60 days after the date of  
3 such acquisition or transfer.

4 (2) The report must be on a form provided by the  
5 department and must contain:

6 (a) the legal name and address of the owner of  
7 interest;

8 (b) the citizenship of any owner who is an individual;

9 (c) the nature of the legal entity holding the  
10 interest if the owner is a business or corporation, the  
11 country in which it was created, and the principal place of  
12 business;

13 (d) the type of interest in agricultural land that the  
14 owner acquired or transferred;

15 (e) a legal description of the agricultural land  
16 acquired or transferred;

17 (f) the purchase price paid or any other consideration  
18 given for the interest or the legal name, address, and  
19 citizenship of the person to whom the interest is  
20 transferred; and

21 (g) such other information as the director may  
22 consider necessary.

23 (3) Any person who holds or acquires an interest,  
24 other than a security interest, in agricultural land and who  
25 subsequently becomes a nonresident alien must submit a

1 report, as provided in subsection (2), to the director not  
2 later than 60 days after he becomes a nonresident alien.

3 (4) Any nonresident alien, foreign business,  
4 qualifying corporation, or qualifying individual who holds  
5 or acquires any interest, other than a security interest, in  
6 nonagricultural land that subsequently is assessed as  
7 agricultural land must submit a report, as provided in  
8 subsection (2), to the director not later than 60 days after  
9 the land is reclassified as agricultural land.

10 NEW SECTION. Section 3. Penalty for failure to file  
11 report. Any nonresident alien, foreign business, qualifying  
12 corporation, or qualifying individual refusing to file the  
13 report as required in [section 1] is guilty of a misdemeanor  
14 and upon conviction shall be fined not less than \$100 and  
15 not more than a sum equal to 25% of the market value of his  
16 interest in agricultural land on the day the report was due.

17 Section 4. Section 80-1-102, MCA, is amended to read  
18 "80-1-102. Duties of department. The department shall:

19 (1) encourage and promote the interests of  
20 agriculture, including horticulture and apiculture, and all  
21 other allied industries;

22 (2) collect and publish statistics relating to the  
23 production and marketing of crops and other agricultural  
24 products so far as the information may be of value to the  
25 agricultural and allied interests of the state;

1 (3) assist, encourage, and promote the organization of  
2 farmers' institutes, horticultural and agricultural  
3 societies, the holding of fairs, livestock shows, or other  
4 exhibits of the products of agriculture;

5 (4) adopt standards for open and closed receptacles  
6 for farm products and standards for the grade and other  
7 classification of farm products;

8 (5) cooperate with producers and consumers in devising  
9 and maintaining economical and efficient systems of  
10 distribution and aid in the reduction of waste and expense  
11 incidental to marketing;

12 (6) have the authority to maintain a market news  
13 service, including information as to crops, freight rates,  
14 commission rates, and other matters as may be of service to  
15 producers and consumers, and act as a clearinghouse for  
16 information of value to producers and consumers;

17 (7) gather and diffuse information concerning the  
18 supply, demand, prevailing prices, and commercial movement  
19 of farm products;

20 (8) investigate the practices and methods of factors,  
21 commission merchants, and others who receive, solicit, buy,  
22 sell, handle on commission or otherwise, or deal in grain,  
23 vegetables, or other farm products, so that distribution of  
24 the commodities is accomplished efficiently, economically,  
25 and without hardship, waste, or fraud;

1 (9) cooperate with Montana state university, the  
2 agricultural experiment station, and the federal government  
3 for the betterment of the agricultural industries of the  
4 state, the improvement of rural life, and promotion of  
5 equality of opportunity for the farmers of the state;

6 (10) take and hold in the name of the state of Montana  
7 property, real and personal, acquired by gifts,  
8 subscriptions, donations, and bequests;

9 (11) sell and dispose of personal property owned by it  
10 in a manner the department may provide, when in the judgment  
11 of the department the sale or disposal best promotes the  
12 purposes for which the department is established;

13 (12) contract in respect to any matter within the scope  
14 of its authority;

15 ~~(13) gather reports of and compile data on ownership of~~  
16 ~~agricultural land by nonresident aliens, foreign businesses,~~  
17 ~~qualifying corporations, and qualifying individuals; and~~

18 ~~(13)(14) enforce this title and all other laws for the~~  
19 ~~protection and regulation of agriculture."~~

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

21 "15-30-101. Definitions. For the purpose of this  
22 chapter, unless otherwise required by the context, the  
23 following definitions apply:

24 (1) "Department" means the department of revenue.

25 (2) "Dividend" means any distribution made by a

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

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

11 ~~(4) "Foreign business" means any business entity~~  
12 ~~including but not limited to corporations, partnerships, and~~  
13 ~~associations in which a controlling interest is owned by~~  
14 ~~aliens.~~

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

18 ~~(5)(b) "Information agents" include all individuals,~~  
19 ~~corporations, associations, and partnerships, in whatever~~  
20 ~~capacity acting, including lessees or mortgagors of real or~~  
21 ~~personal property, fiduciaries, employers, and all officers~~  
22 ~~and employees of the state or of any municipal corporation~~  
23 ~~or political subdivision of the state, having the control,~~  
24 ~~receipt, custody, disposal, or payment of interest, rent,~~  
25 ~~salaries, wages, premiums, annuities, compensations,~~

1 remunerations, emoluments, or other fixed or determinable  
2 annual or periodical gains, profits, and income with respect  
3 to which any person or fiduciary is taxable under this  
4 chapter.

5 ~~(6)(7) "Net income" means the adjusted gross income of~~  
6 ~~a taxpayer less the deductions allowed by this chapter.~~

7 ~~(8) "Nonresident alien" means any person who is not a~~  
8 ~~citizen of the United States and who is not a resident of~~  
9 ~~the United States or of some state, territory, trusteeship,~~  
10 ~~or protectorate of the United States.~~

11 ~~(7)(9) "Paid", for the purposes of the deductions and~~  
12 ~~credits under this chapter, means paid or accrued or paid or~~  
13 ~~incurred, and the terms "paid or incurred" and "paid or~~  
14 ~~accrued" shall be construed according to the method of~~  
15 ~~accounting upon the basis of which the taxable income is~~  
16 ~~computed under this chapter.~~

17 ~~(10) "Qualifying individual" means any person who:~~  
18 ~~(a) is required to file an individual income tax~~  
19 ~~return under 15-30-142;~~

20 ~~(b) has had an average annual gross income, as shown~~  
21 ~~on his tax returns, exceeding \$1 million during the~~  
22 ~~preceding 3 years; and~~

23 ~~(c) earned less than 50% of this income during this~~  
24 ~~3-year period from the sale of raw agricultural products.~~

25 ~~(8)(11) "Received", for the purpose of computation of~~

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

5 ~~†9†~~ 121 "Resident" applies only to natural persons and  
 6 includes, for the purpose of determining liability to the  
 7 tax imposed by this chapter with reference to the income of  
 8 any taxable year, any person domiciled in the state of  
 9 Montana and any other person who maintains a permanent place  
 10 of abode within the state even though temporarily absent  
 11 from the state and has not established a residence  
 12 elsewhere.

13 ~~†10†~~ 131 "Taxable income" means the adjusted gross  
 14 income of a taxpayer less the deductions and exemptions  
 15 provided for in this chapter.

16 ~~†11†~~ 141 "Taxable year" means the taxpayer's taxable  
 17 year for federal income tax purposes.

18 ~~†12†~~ 151 "Taxpayer" includes any person or fiduciary,  
 19 resident or nonresident, subject to a tax imposed by this  
 20 chapter and does not include corporations."

21 Section 6. Section 15-30-121, MCA, is amended to read:  
 22 "15-30-121. Deductions allowed in computing net  
 23 income. In computing net income, there are allowed as  
 24 deductions:

25 (1) the items referred to in sections 161 and 211 of

1 the Internal Revenue Code of 1954, or as sections 161 and  
 2 211 shall be labeled or amended, subject to the following  
 3 exceptions which are not deductible:

4 (a) items provided for in 15-30-123;  
 5 (b) state income tax paid;  
 6 ~~(c) expenses generated directly or indirectly as a~~  
 7 ~~result of the growing or production of any raw agricultural~~  
 8 ~~product, claimed by:~~

9 ~~(i) a qualifying individual;~~  
 10 ~~(ii) a nonresident alien; or~~  
 11 ~~(iii) a foreign business;~~  
 12 (2) federal income tax paid within the taxable year;  
 13 (3) child and dependent care expenses determined in

14 accordance with the provisions of section 214 of the  
 15 Internal Revenue Code of 1954 that were in effect for the  
 16 taxable year that began January 1, 1974;

17 (4) that portion of an energy-related investment  
 18 allowed as a deduction under 15-32-103."

19 NEW SECTION. Section 7. Certain farm-related items  
 20 not deductible. (1) Deductions under 15-31-114 generated  
 21 directly or indirectly as a result of the growing or  
 22 production of any raw agricultural product may not be  
 23 claimed by a foreign business or qualified corporation.

24 (2) (a) "Foreign business" means any business entity  
 25 including but not limited to corporations, partnerships, and

1 associations in which a controlling interest is owned by  
2 aliens.

3 (b) "Qualifying corporation" means any corporation  
4 that:

5 (i) is required under 15-31-101 to pay corporation  
6 license tax;

7 (ii) had an average annual gross income, as shown on  
8 its tax returns, exceeding \$1 million during the preceding 3  
9 years; and

10 (iii) received less than 50% of this income during this  
11 3-year period from the sale of raw agricultural products.

12 Section 8. Severability. If a part of this act is  
13 invalid, all valid parts that are severable from the invalid  
14 part remain in effect. If a part of this act is invalid in  
15 one or more of its applications, the part remains in effect  
16 in all valid applications that are severable from the  
17 invalid applications.

18 Section 9. Effective date. This act is effective on  
19 passage and approval and applies to taxable years beginning  
20 after December 31, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 175-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 1979, there is hereby submitted a Fiscal Note for HB 429 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 regulates the ownership of agricultural land by requiring certain persons, businesses, and corporations to report ownership of interest in agricultural land and by disallowing deductions from income tax and corporation license tax liability for certain farm-related expenses claimed by these persons; and provides an effective date.

ASSUMPTIONS:

1. Any non resident alien presently owning Montana Agricultural land will not sell it during the next bi-annum.
2. Any foreign business presently owning Montana agricultural land will not sell it during the next bi-annum.
3. With the citizen's concern about foreign ownership of Montana agricultural land, probably no more than two sales of agricultural land will be sold to foreign businesses or non-resident aliens in the next bi-annum.
4. Under new Section 2 registration is only required after acquisition or transfer.

FISCAL IMPACT:

The Department of Agriculture will incur administrative costs of approximately \$3,000 per year. This additional cost must be funded from the State General Fund.

*Richard L. Franey for*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/2/79



Approved by Committee  
on Taxation

HOUSE BILL NO. 429

INTRODUCED BY SIVERTSEN, MEYER, JOHNSTON, MARKS,  
CONROY, ELLISON, ROTH, HURWITZ, IVERSON, SMITH,  
LIEN, STAIGMILLER, BURNETT, DONALDSON, THOFT

A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE OWNERSHIP OF AGRICULTURAL LAND BY REQUIRING CERTAIN PERSONS, BUSINESSES, AND CORPORATIONS TO REPORT OWNERSHIP OF INTEREST IN AGRICULTURAL LAND AND BY DISALLOWING DEDUCTIONS FROM INCOME TAX AND CORPORATION LICENSE TAX LIABILITY FOR CERTAIN FARM-RELATED EXPENSES AND CAPITAL GAINS CLAIMED BY THESE PERSONS, BUSINESSES, OR CORPORATIONS; AMENDING SECTIONS 15-30-101, 15-30-121, AND 80-1-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Definitions. As used in [sections 2 and 3], the following definitions apply:

(1) "Agricultural land" means land meeting the qualifications imposed in 15-7-202(1)(a). THE TERM DOES NOT INCLUDE LAND FOR WHICH A MINING PERMIT HAS BEEN ISSUED BY THE DEPARTMENT OF STATE LANDS OR FOR WHICH A RECLAMATION BOND IS IN EFFECT.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

~~(2)~~ "Director" means the director of the department

of agriculture.

~~(3)~~ "Foreign business" means any business entity including but not limited to corporations, partnerships, and associations in which a controlling interest is owned by aliens.

~~(4)~~ "Nonresident alien" means any person who is not a citizen of the United States and who is not a resident of the United States or of some state, territory, trusteeship, or protectorate of the United States.

~~(5)~~ "Qualifying individual" means any person who:

(a) is required under 15-30-142 to file an individual income tax return;

(b) has had an average annual gross income, as shown on his tax returns, exceeding ~~\$2-million~~ \$500,000 during the preceding 3 years; and

(c) earned less than 50% of this income during the 3-year period from the sale of raw agricultural products.

~~(6)~~ "Qualifying corporation" means any corporation that:

(a) is required under 15-31-101 to pay corporation license tax;

(b) had an average annual gross income exceeding ~~\$2-million~~ \$500,000, as shown on its tax returns, during the preceding 3 years; and

(c) received less than 50% of this income during the

1 3-year period from the sale of raw agricultural products.  
 2 **NEW SECTION.** Section 2. Reporting by certain owners  
 3 of agricultural land required. (1) Any nonresident alien,  
 4 foreign business, qualifying corporation, or qualifying  
 5 individual that acquires or transfers any interest, other  
 6 than a security interest, in agricultural land or who holds  
 7 an interest, other than a security interest, in agricultural  
 8 land on [the effective date of this act] must file a report  
 9 with the director not later than 60 days after the date of  
 10 such acquisition or transfer.  
 11 (2) The report must be on a form provided by the  
 12 department and must contain:  
 13 (a) the legal name and address of the owner of  
 14 interest;  
 15 (b) the citizenship of any owner who is an individual;  
 16 (c) the nature of the legal entity holding the  
 17 interest if the owner is a business or corporation, the  
 18 country in which it was created, and the principal place of  
 19 business;  
 20 (d) the type of interest in agricultural land that the  
 21 owner acquired or transferred;  
 22 (e) a legal description of the agricultural land  
 23 acquired or transferred;  
 24 (f) the purchase price paid or any other consideration  
 25 given for the interest or the legal name, address, and

1 citizenship of the person to whom the interest is  
 2 transferred; and  
 3 (g) such other information as the director may  
 4 consider necessary.  
 5 (3) Any person who holds or acquires an interest,  
 6 other than a security interest, in agricultural land and who  
 7 subsequently becomes a nonresident alien must submit a  
 8 report, as provided in subsection (2), to the director not  
 9 later than 60 days after he becomes a nonresident alien.  
 10 (4) Any nonresident alien, foreign business,  
 11 qualifying corporation, or qualifying individual who holds  
 12 or acquires any interest, other than a security interest, in  
 13 nonagricultural land that subsequently is assessed as  
 14 agricultural land must submit a report, as provided in  
 15 subsection (2), to the director not later than 60 days after  
 16 the land is reclassified as agricultural land.  
 17 **NEW SECTION.** Section 3. Penalty for failure to file  
 18 report. Any nonresident alien, foreign business, qualifying  
 19 corporation, or qualifying individual refusing to file the  
 20 report as required in [section 1] is guilty of a misdemeanor  
 21 and upon conviction shall be fined not less than \$100 and  
 22 not more than a sum equal to 25% of the market value of his  
 23 interest in agricultural land on the day the report was due.  
 24 Section 4. Section 80-1-102, MCA, is amended to read:  
 25 \*80-1-102. Duties of department. The department shall:

1 (1) encourage and promote the interests of  
2 agriculture, including horticulture and apiculture, and all  
3 other allied industries;

4 (2) collect and publish statistics relating to the  
5 production and marketing of crops and other agricultural  
6 products so far as the information may be of value to the  
7 agricultural and allied interests of the state;

8 (3) assist, encourage, and promote the organization of  
9 farmers' institutes, horticultural and agricultural  
10 societies, the holding of fairs, livestock shows, or other  
11 exhibits of the products of agriculture;

12 (4) adopt standards for open and closed receptacles  
13 for farm products and standards for the grade and other  
14 classification of farm products;

15 (5) cooperate with producers and consumers in devising  
16 and maintaining economical and efficient systems of  
17 distribution and aid in the reduction of waste and expense  
18 incidental to marketing;

19 (6) have the authority to maintain a market news  
20 service, including information as to crops, freight rates,  
21 commission rates, and other matters as may be of service to  
22 producers and consumers, and act as a clearinghouse for  
23 information of value to producers and consumers;

24 (7) gather and diffuse information concerning the  
25 supply, demand, prevailing prices, and commercial movement

1 of farm products;

2 (8) investigate the practices and methods of factors,  
3 commission merchants, and others who receive, solicit, buy,  
4 sell, handle on commission or otherwise, or deal in grain,  
5 vegetables, or other farm products, so that distribution of  
6 the commodities is accomplished efficiently, economically,  
7 and without hardship, waste, or fraud;

8 (9) cooperate with Montana state university, the  
9 agricultural experiment station, and the federal government  
10 for the betterment of the agricultural industries of the  
11 state, the improvement of rural life, and promotion of  
12 equality of opportunity for the farmers of the state;

13 (10) take and hold in the name of the state of Montana  
14 property, real and personal, acquired by gifts,  
15 subscriptions, donations, and bequests;

16 (11) sell and dispose of personal property owned by it  
17 in a manner the department may provide, when in the judgment  
18 of the department the sale or disposal best promotes the  
19 purposes for which the department is established;

20 (12) contract in respect to any matter within the scope  
21 of its authority;

22 ~~(13) gather reports of and compile data on ownership of~~  
23 ~~agricultural land by nonresident aliens, foreign businesses,~~  
24 ~~qualifying corporations, and qualifying individuals; and~~

25 ~~(13)(14) enforce this title and all other laws for the~~

1 protection and regulation of agriculture."

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

3 "15-30-101. Definitions. For the purpose of this  
4 chapter, unless otherwise required by the context, the  
5 following definitions apply:

6 (1) "Department" means the department of revenue.

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

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

18 ~~(4) "Foreign business" means any business entity~~  
19 ~~including but not limited to corporations, partnerships, and~~  
20 ~~associations in which a controlling interest is owned by~~  
21 ~~aliens.~~

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

25 ~~(6) "Information agents" include all individuals,~~

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

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

14 ~~(8) "Nonresident alien" means any person who is not a~~  
15 ~~citizen of the United States and who is not a resident of~~  
16 ~~the United States or of some state, territory, trusteeship,~~  
17 ~~or protectorate of the United States.~~

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

24 ~~(10) "Qualifying individual" means any person who:~~  
25 ~~(a) is required to file an individual income tax~~

1 return under 15-30-142:

2 (b) has had an average annual gross income, as shown  
 3 on his tax returns, exceeding \$1 million during the  
 4 preceding 3 years; and

5 (c) earned less than 50% of this income during this  
 6 3-year period from the sale of raw agricultural products.

7 ~~(8)~~(11) "Received", for the purpose of computation of  
 8 taxable income under this chapter, means received or accrued  
 9 and the term "received or accrued" shall be construed  
 10 according to the method of accounting upon the basis of  
 11 which the taxable income is computed under this chapter.

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

20 ~~(10)~~(13) "Taxable income" means the adjusted gross  
 21 income of a taxpayer less the deductions and exemptions  
 22 provided for in this chapter.

23 ~~(11)~~(14) "Taxable year" means the taxpayer's taxable  
 24 year for federal income tax purposes.

25 ~~(12)~~(15) "Taxpayer" includes any person or fiduciary,

1 resident or nonresident, subject to a tax imposed by this  
 2 chapter and does not include corporations."

3 Section 6. Section 15-30-121, MCA, is amended to read:  
 4 "15-30-121. Deductions allowed in computing net  
 5 income. In computing net income, there are allowed as  
 6 deductions:

7 (1) the items referred to in sections 161 and 211 of  
 8 the Internal Revenue Code of 1954, or as sections 161 and  
 9 211 shall be labeled or amended, subject to the following  
 10 exceptions which are not deductible:

11 (a) items provided for in 15-30-123;

12 (b) state income tax paid;

13 ~~(c) expenses generated directly or indirectly as a~~  
 14 ~~result of the growing or production of any raw agricultural~~  
 15 ~~product, claimed by:~~

16 ~~(i) a qualifying individual;~~

17 ~~(ii) a nonresident alien; or~~

18 ~~(iii) a foreign business;~~

19 ~~(D) THE DEDUCTION FOR NET CAPITAL GAIN ALLOWED UNDER~~  
 20 ~~SECTION 1202 OF THE INTERNAL REVENUE CODE, AS AMENDED,~~  
 21 ~~CLAIMED BY:~~

22 ~~(1) A QUALIFIED INDIVIDUAL;~~

23 ~~(II) A NONRESIDENT ALIEN; OR~~

24 ~~(III) A FOREIGN BUSINESS;~~

25 (2) federal income tax paid within the taxable year;

1 (3) child and dependent care expenses determined in  
2 accordance with the provisions of section 214 of the  
3 Internal Revenue Code of 1954 that were in effect for the  
4 taxable year that began January 1, 1974;

5 (4) that portion of an energy-related investment  
6 allowed as a deduction under 15-32-103."

7 ~~NEW SECTION.~~ Section 7. Certain farm-related items  
8 not deductible. (1) Deductions under 15-31-114 generated  
9 directly or indirectly as a result of the growing or  
10 production of any raw agricultural product may not be  
11 claimed by a foreign business or qualified corporation.

12 (2) (a) "Foreign business" means any business entity  
13 including but not limited to corporations, partnerships, and  
14 associations in which a controlling interest is owned by  
15 aliens.

16 (b) "Qualifying corporation" means any corporation  
17 that:

18 (i) is required under 15-31-101 to pay corporation  
19 license tax;

20 (ii) had an average annual gross income, as shown on  
21 its tax returns, exceeding \$1 million during the preceding 3  
22 years; and

23 (iii) received less than 50% of this income during this  
24 3-year period from the sale of raw agricultural products.

25 Section 8. Severability. If a part of this act is

1 invalid, all valid parts that are severable from the invalid  
2 part remain in effect. If a part of this act is invalid in  
3 one or more of its applications, the part remains in effect  
4 in all valid applications that are severable from the  
5 invalid applications.

6 Section 9. Effective date. This act is effective on  
7 passage and approval and applies to taxable years beginning  
8 after December 31, 1978.

-End-

## HOUSE BILL NO. 429

INTRODUCED BY SIVERTSEN, MEYER, JOHNSTON, MARKS,  
CONROY, ELLISON, ROTH, HURWITZ, IVERSON, SMITH,  
LIEN, STAIGMILLER, BURNETT, DONALDSON, THOFT

A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE OWNERSHIP OF AGRICULTURAL LAND BY REQUIRING CERTAIN PERSONS, BUSINESSES, AND CORPORATIONS TO REPORT OWNERSHIP OF INTEREST IN AGRICULTURAL LAND AND BY DISALLOWING DEDUCTIONS FROM INCOME TAX AND CORPORATION LICENSE TAX LIABILITY FOR CERTAIN FARM-RELATED EXPENSES ~~AND CAPITAL GAINS~~ CLAIMED BY THESE PERSONS, BUSINESSES, OR CORPORATIONS; AMENDING SECTIONS 15-30-101, 15-30-121, AND 80-1-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Definitions. As used in [sections 2 and 3], the following definitions apply:

(1) "Agricultural land" means land meeting the qualifications imposed in 15-7-202(1)(a). ~~THE TERM DOES NOT INCLUDE LAND FOR WHICH A MINING PERMIT HAS BEEN ISSUED BY THE DEPARTMENT OF STATE LANDS OR FOR WHICH A RECLAMATION BOND IS IN EFFECT.~~

~~(2) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.~~

~~(2)(3) "Director" means the director of the department~~

of agriculture.

~~(3)(4)~~ "Foreign business" means any business entity including but not limited to corporations, partnerships, and associations in which a controlling interest is owned by aliens.

~~(4)(5)~~ "Nonresident alien" means any person who is not a citizen of the United States and who is not a resident of the United States or of some state, territory, trusteeship, or protectorate of the United States.

~~(5)(6)~~ "Qualifying individual" means any person who:

(a) is required under 15-30-142 to file an individual income tax return;

(b) has had an average annual gross income, as shown on his tax returns, exceeding ~~\$1-million~~ \$500,000 during the preceding 3 years; and

(c) earned less than 50% of this income during the 3-year period from the sale of raw agricultural products.

~~(6)(7)~~ "Qualifying corporation" means any corporation that:

(a) is required under 15-31-101 to pay corporation license tax;

(b) had an average annual gross income exceeding ~~\$1-million~~ \$500,000, as shown on its tax returns, during the preceding 3 years; and

(c) received less than 50% of this income during the

1 3-year period from the sale of raw agricultural products.  
 2 NEW SECTION. Section 2. Reporting by certain owners  
 3 of agricultural land required. (1) Any nonresident alien,  
 4 foreign business, qualifying corporation, or qualifying  
 5 individual that acquires or transfers any interest, other  
 6 than a security interest, in agricultural land or who holds  
 7 an interest, other than a security interest, in agricultural  
 8 land on [the effective date of this act] must file a report  
 9 with the director not later than 60 days after the date of  
 10 such acquisition or transfer.  
 11 (2) The report must be on a form provided by the  
 12 department and must contain:  
 13 (a) the legal name and address of the owner of  
 14 interest;  
 15 (b) the citizenship of any owner who is an individual;  
 16 (c) the nature of the legal entity holding the  
 17 interest if the owner is a business or corporation, the  
 18 country in which it was created, and the principal place of  
 19 business;  
 20 (d) the type of interest in agricultural land that the  
 21 owner acquired or transferred;  
 22 (e) a legal description of the agricultural land  
 23 acquired or transferred;  
 24 (f) the purchase price paid or any other consideration  
 25 given for the interest or the legal name, address, and

1 citizenship of the person to whom the interest is  
 2 transferred; and  
 3 (g) such other information as the director may  
 4 consider necessary.  
 5 (3) Any person who holds or acquires an interest,  
 6 other than a security interest, in agricultural land and who  
 7 subsequently becomes a nonresident alien must submit a  
 8 report, as provided in subsection (2), to the director not  
 9 later than 60 days after he becomes a nonresident alien.  
 10 (4) Any nonresident alien, foreign business,  
 11 qualifying corporation, or qualifying individual who holds  
 12 or acquires any interest, other than a security interest, in  
 13 nonagricultural land that subsequently is assessed as  
 14 agricultural land must submit a report, as provided in  
 15 subsection (2), to the director not later than 60 days after  
 16 the land is reclassified as agricultural land.  
 17 NEW SECTION. Section 3. Penalty for failure to file  
 18 report. Any nonresident alien, foreign business, qualifying  
 19 corporation, or qualifying individual refusing to file the  
 20 report as required in [section 1] is guilty of a misdemeanor  
 21 and upon conviction shall be fined not less than \$100 and  
 22 not more than a sum equal to 25% of the market value of his  
 23 interest in agricultural land on the day the report was due.  
 24 Section 4. Section 80-1-102, MCA, is amended to read:  
 25 "80-1-102. Duties of department. The department shall:



1 (1) encourage and promote the interests of  
2 agriculture, including horticulture and apiculture, and all  
3 other allied industries;

4 (2) collect and publish statistics relating to the  
5 production and marketing of crops and other agricultural  
6 products so far as the information may be of value to the  
7 agricultural and allied interests of the state;

8 (3) assist, encourage, and promote the organization of  
9 farmers' institutes, horticultural and agricultural  
10 societies, the holding of fairs, livestock shows, or other  
11 exhibits of the products of agriculture;

12 (4) adopt standards for open and closed receptacles  
13 for farm products and standards for the grade and other  
14 classification of farm products;

15 (5) cooperate with producers and consumers in devising  
16 and maintaining economical and efficient systems of  
17 distribution and aid in the reduction of waste and expense  
18 incidental to marketing;

19 (6) have the authority to maintain a market news  
20 service, including information as to crops, freight rates,  
21 commission rates, and other matters as may be of service to  
22 producers and consumers, and act as a clearinghouse for  
23 information of value to producers and consumers;

24 (7) gather and diffuse information concerning the  
25 supply, demand, prevailing prices, and commercial movement

1 of farm products;

2 (8) investigate the practices and methods of factors,  
3 commission merchants, and others who receive, solicit, buy,  
4 sell, handle on commission or otherwise, or deal in grain,  
5 vegetables, or other farm products, so that distribution of  
6 the commodities is accomplished efficiently, economically,  
7 and without hardship, waste, or fraud;

8 (9) cooperate with Montana state university, the  
9 agricultural experiment station, and the federal government  
10 for the betterment of the agricultural industries of the  
11 state, the improvement of rural life, and promotion of  
12 equality of opportunity for the farmers of the state;

13 (10) take and hold in the name of the state of Montana  
14 property, real and personal, acquired by gifts,  
15 subscriptions, donations, and bequests;

16 (11) sell and dispose of personal property owned by it  
17 in a manner the department may provide, when in the judgment  
18 of the department the sale or disposal best promotes the  
19 purposes for which the department is established;

20 (12) contract in respect to any matter within the scope  
21 of its authority;

22 ~~(13) gather reports of and compile data on ownership of~~  
23 ~~agricultural land by nonresident aliens, foreign businesses,~~  
24 ~~qualifying corporations, and qualifying individuals; and~~

25 ~~(13)(14) enforce this title and all other laws for the~~

1 protection and regulation of agriculture."

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

3 "15-30-101. Definitions. For the purpose of this  
4 chapter, unless otherwise required by the context, the  
5 following definitions apply:

6 (1) "Department" means the department of revenue.

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

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

18 ~~(4) "Foreign business" means any business entity~~  
19 ~~including but not limited to corporations, partnerships, and~~  
20 ~~associations in which a controlling interest is owned by~~  
21 ~~aliens.~~

22 ~~(4)(5)~~ "Foreign country" or "foreign government" means  
23 any jurisdiction other than the one embraced within the  
24 United States, its territories and possessions.

25 ~~(5)(6)~~ "Information agents" include all individuals,

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

12 ~~(6)(7)~~ "Net income" means the adjusted gross income of  
13 a taxpayer less the deductions allowed by this chapter.

14 ~~(8) "Nonresident alien" means any person who is not a~~  
15 ~~citizen of the United States and who is not a resident of~~  
16 ~~the United States or of some state, territory, trusteeship,~~  
17 ~~or protectorate of the United States.~~

18 ~~(7)(9)~~ "Paid", for the purposes of the deductions and  
19 credits under this chapter, means paid or accrued or paid or  
20 incurred, and the terms "paid or incurred" and "paid or  
21 accrued" shall be construed according to the method of  
22 accounting upon the basis of which the taxable income is  
23 computed under this chapter.

24 ~~(10) "Qualifying individual" means any person who:~~  
25 ~~(a) is required to file an individual income tax~~

1 return under 15-30-142:

2 (b) has had an average annual gross income, as shown  
 3 on his tax returns, exceeding \$1 million during the  
 4 preceding 3 years; and

5 (c) earned less than 50% of this income during this  
 6 3-year period from the sale of raw agricultural products.

7 ~~†8†~~111 "Received", for the purpose of computation of  
 8 taxable income under this chapter, means received or accrued  
 9 and the term "received or accrued" shall be construed  
 10 according to the method of accounting upon the basis of  
 11 which the taxable income is computed under this chapter.

12 ~~†9†~~121 "Resident" applies only to natural persons and  
 13 includes, for the purpose of determining liability to the  
 14 tax imposed by this chapter with reference to the income of  
 15 any taxable year, any person domiciled in the state of  
 16 Montana and any other person who maintains a permanent place  
 17 of abode within the state even though temporarily absent  
 18 from the state and has not established a residence  
 19 elsewhere.

20 ~~†10†~~131 "Taxable income" means the adjusted gross  
 21 income of a taxpayer less the deductions and exemptions  
 22 provided for in this chapter.

23 ~~†11†~~141 "Taxable year" means the taxpayer's taxable  
 24 year for federal income tax purposes.

25 ~~†12†~~151 "Taxpayer" includes any person or fiduciary,

1 resident or nonresident, subject to a tax imposed by this  
 2 chapter and does not include corporations."

3 Section 6. Section 15-30-121, MCA, is amended to read:  
 4 "15-30-121. Deductions allowed in computing net  
 5 income. In computing net income, there are allowed as  
 6 deductions:

7 (1) the items referred to in sections 161 and 211 of  
 8 the Internal Revenue Code of 1954, or as sections 161 and  
 9 211 shall be labeled or amended, subject to the following  
 10 exceptions which are not deductible:

- 11 (a) items provided for in 15-30-123;
- 12 (b) state income tax paid;

13 ~~(c) expenses generated directly or indirectly as a~~  
 14 ~~result of the growing or production of any raw agricultural~~  
 15 ~~product, claimed by:~~

- 16 ~~(i) a qualifying individual;~~
- 17 ~~(ii) a nonresident alien; or~~
- 18 ~~(iii) a foreign business;~~

19 ~~(D) THE DEDUCTION FOR NET CAPITAL GAIN ALLOWED UNDER~~  
 20 ~~SECTION 1202 OF THE INTERNAL REVENUE CODE, AS AMENDED,~~  
 21 ~~CLAIMED BY:~~

- 22 ~~(I) A QUALIFIED INDIVIDUAL;~~
- 23 ~~(II) A NONRESIDENT ALIEN; OR~~
- 24 ~~(III) A FOREIGN BUSINESS;~~

25 (2) federal income tax paid within the taxable year;

1 (3) child and dependent care expenses determined in  
2 accordance with the provisions of section 214 of the  
3 Internal Revenue Code of 1954 that were in effect for the  
4 taxable year that began January 1, 1974;

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6 allowed as a deduction under 15-32-103."

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22 years; and

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25 Section 8. Severability. If a part of this act is

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2 part remain in effect. If a part of this act is invalid in  
3 one or more of its applications, the part remains in effect  
4 in all valid applications that are severable from the  
5 invalid applications.

6 Section 9. Effective date. This act is effective on  
7 passage and approval and applies to taxable years beginning  
8 after December 31, 1978.

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