

CHAPTER NO. 623.

SENATE BILL NO. 384

INTRODUCED BY BOYLAN, HAZELBAKER, GRAHAM, CONROY, C. SMITH

IN THE SENATE

February 6, 1979	Introduced and referred to Committee on Taxation.
February 7, 1979	Fiscal note requested.
February 9, 1979	Fiscal note returned.
March 10, 1979	Committee recommend bill do pass as amended. Report adopted.
March 13, 1979	Printed and placed on members' desks.
March 14, 1979	Second reading, pass consideration.
March 15, 1979	On motion taken from second reading and rereferred to Committee on Taxation.
March 24, 1979	Committee recommend bill do pass as amended. Report adopted.
March 26, 1979	Printed and placed on members' desks.
March 27, 1979	Second reading, do pass. On motion rules suspended. Bill placed on Calendar for third reading this day. Third reading, passed. Transmitted to second house.

IN THE HOUSE

March 28, 1979	Introduced and referred to Committee on Taxation.
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April 17, 1979

Committee recommend bill be concurred in as amended.
Report adopted.

April 18, 1979

Second reading, concurred in.

Third reading, concurred in as amended.

IN THE SENATE

April 19, 1979

Returned from second house.
Concurred in as amended.

On motion rules suspended. Bill referred to second reading for consideration this day.

Second reading, amendments adopted.

On motion rules suspended. Bill placed on Calendar for third reading this day.

Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 384
 2 INTRODUCED BY *Douglas Naphthali Johnson Conroy*
 3 *C. Smith*

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 15-30-131, MCA, TO ALLOW NONRESIDENT TAXPAYERS TO DEDUCT
 6 EITHER THOSE DEDUCTIONS RELATING TO THE PRODUCTION OF
 7 MONTANA INCOME OR A PRORATED AMOUNT OF THE DEDUCTIONS
 8 ALLOWED UNDER SECTION 15-30-121, MCA, WHICHEVER IS GREATER."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 15-30-131, MCA, is amended to read:
 12 "15-30-131. Nonresident and temporary resident
 13 taxpayers -- adjusted--gross--income deductions. (1) In the
 14 case of a taxpayer other than a resident of this state,
 15 adjusted-gross-income-includes-the-entire-amount-of-adjusted
 16 gross--income--from--sources-within-this-state-but-shall-not
 17 include-income-from-annuities--interest--on--bank--deposits,
 18 interest--on--bonds--notes--or--other--interest-bearing
 19 obligations--or--dividends-on-stock-of-corporations--except-to
 20 the-extent-to-which-the-same-shall-be-a-part-of-income--from
 21 any-business--trade--profession--or--occupation-carried-on-in
 22 this--state--Adjusted-gross-income-from-sources-within-and
 23 without-this-state-shall-be-allocated-and-apportioned--under
 24 rates--prescribed--by-the-departments the deductions allowed
 25 in computing net income are limited to the greater of those

1 directly relating to the production of Montana income or a
 2 prorated amount of those allowed under 15-30-121. Deductions
 3 allowed under 15-30-121 apply only to earned income and must
 4 be prorated according to the ratio that the taxpayer's
 5 Montana adjusted gross income bears to his federal adjusted
 6 gross income.

7 (2) In-the-case-of-a-taxpayer-other-than-a-resident-of
 8 this-state--the-deductions-allowed-in-computing--net--income
 9 shall--be--restricted--to--those-directly-connected-with-the
 10 production-of-Montana-income. A temporary resident shall be
 11 allowed those deductions allowed a resident to the extent
 12 that such deductions were actually incurred or expended in
 13 the state of Montana during the course of his residency."

14 Section 2. Applicability. This act applies to taxable
 15 years beginning after December 31, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 261-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 1979, there is hereby submitted a Fiscal Note for SENATE House Bill 384 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 bill amends section 15-30-131, to allow nonresident taxpayers to deduct either those deductions relating to the production of Montana income or a prorated amount of the deductions allowed under section 15-030-121, MCA, whichever is greater.

ASSUMPTIONS

- a) The Department of Revenue forecast of individual income tax receipts for the 80-81 biennium is the basis for comparison.
- b) Under the proposed law the average amount of the itemized deductions claimed by 25,000 non-resident filers will be increased by between \$1,200 and \$1,500.
- c) The average effective tax rate is 5.59%.

FISCAL IMPACT

	FY 80	FY 81
<u>Individual Income Tax Collections</u>		
under current law	\$154.268 M	\$169.790 M
under proposed law	\$152.172 - \$152.591 M	\$167.694 - \$168.113 M
Estimated Decrease	(\$ 1.677 - \$ 2.096 M)	(\$ 1.677 - \$ 2.096 M)

FUND INFORMATION

General Fund

under current law	\$ 98.732 M	\$108.666 M
under proposed law	\$ 97.390 - \$ 97.658 M	\$107.324 - \$107.592 M
Estimated Decrease	(\$ 1.074 - \$ 1.342 M)	(\$ 1.074 - \$ 1.342 M)

Earmarked Fund

under current law	\$ 38.567 M	\$ 42.447 M
under proposed law	\$ 38.043 - \$ 38.148 M	\$ 41.924 - \$ 42.029 M
Estimated Decrease	\$ 0.419 - \$ 0.524 M	\$ 0.418 - \$ 0.523 M

Sinking Fund*

under current law	\$ 16.969 M	\$ 18.677 M
under proposed law	\$ 16.739 - \$ 16.785 M	\$ 18.446 - \$ 18.492 M
Estimated Decrease	\$ 0.184 - \$ 0.230 M	\$ 0.185 - \$ 0.231 M

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

Richard D. Drury Jr.
BUDGET DIRECTOR

Office of Budget and Program Planning
Date: 2/9/79

STATE OF MONTANA

REQUEST NO. 261-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 1979, there is hereby submitted a Fiscal Note for ~~SENATE~~ ^{SENATE} ~~House~~ ^{House} Bill 384 pursuant to Chapter 53, Session Laws - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Department of Administration, Budget Bureau, to members of the Legislative Assembly upon request.

Page 2

LONG-RANGE EFFECTS

Loss of \$2 million per year.

TECHNICAL NOTE

a) Revenues to the indicated Earmarked Revenue Account are used to support the Public School Foundation Program. Therefore, any decrease in revenues to that program may necessitate additional support from other sources.

PREPARED BY DEPARTMENT OF REVENUE

CHIEF, BUDGET BUREAU
Department of Administration
Date: _____

STATE OF MONTANA

REQUEST NO. 261-79 amended

FISCAL NOTE

Form BD-15

In compliance with a written request received March 14, 1979, there is hereby submitted a Fiscal Note for Senate Bill 384 (2nd 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 bill amends section 15-30-131, to allow nonresident taxpayers to deduct either those deductions relating to the production of Montana income or a prorated amount of the deductions allowed under section 15-30-121, MCA, whichever is greater.

ASSUMPTIONS

- a) The Department of Revenue forecast of individual income tax receipts for the 80-81 biennium is the basis for comparison.
- b) Under the proposed law the average amount of the itemized deductions claimed by 25,000 non-resident filers will be increased by between \$1,200 and \$1,500.
- c) The average effective tax rate is 5.50%.

FISCAL IMPACT

	FY 80	FY 81
Individual Income Tax Collections		
under current law	\$154.268 M	\$169.790 M
under proposed law	<u>\$152.172 - \$152.591 M</u>	<u>\$167.694 - \$168.113 M</u>
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FUND INFORMATION

General Fund

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under current law	\$ 38.567 M	\$ 42.447 M
under proposed law	<u>\$ 38.043 - \$ 38.148 M</u>	<u>\$ 41.924 - \$ 42.029 M</u>
Estimated Decrease	<u>(\$ 0.419 - \$ 0.524 M)</u>	<u>(\$ 0.418 - \$ 0.523 M)</u>

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under current law	\$ 16.969 M	\$ 18.677 M
under proposed law	<u>\$ 16.739 - \$ 16.785 M</u>	<u>\$ 18.446 - \$ 18.492 M</u>
Estimated Decrease	<u>(\$ 0.184 - \$ 0.230 M)</u>	<u>(\$ 0.185 - \$ 0.231 M)</u>

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

Richard L. Tracy for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3/17/77

STATE OF MONTANA

REQUEST NO. 261-79 amen

FISCAL NOTE

Form BD-15

In compliance with a written request received March 14, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 384 (2nd 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.

PAGE 2

LONG-RANGE EFFECTS

Loss of \$2 million per year.

TECHNICAL NOTE

- a) Revenues to the indicated Earmarked Revenue Account are used to support the Public School Foundation Program. Therefore, any decrease in revenues to that program may necessitate additional support from other sources.
- b) This Fiscal Note is identical to the original fiscal note for SB 384. The amendments to SB 384 which were present on that version of the bill marked "Second Reading" would probably result in a slight increase in income tax receipts from the amount which would obtain from administration of the "Introduced Bill", however, it is not possible to estimate this difference with any precision. It should also be noted that the amendments would also necessitate an increase in expenditures for data processing, tax forms and instructions which may offset a small increase in revenue.

(Prepared by the Department of Revenue)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

Approved by Committee
on Taxation

1 AMOUNT OF ADJUSTED GROSS INCOME FROM SOURCES WITHIN THIS
2 STATE BUT SHALL NOT INCLUDE INCOME FROM ANNUITIES, INTEREST
3 ON BANK DEPOSITS, INTEREST ON BONDS, NOTES, OR OTHER
4 INTEREST-BEARING OBLIGATIONS, OR DIVIDENDS ON STOCK OF
5 CORPORATIONS EXCEPT TO THE EXTENT TO WHICH THE SAME SHALL BE
6 A PART OF INCOME FROM ANY BUSINESS, TRADE, PROFESSION, OR
7 OCCUPATION CARRIED ON IN THIS STATE. ADJUSTED GROSS INCOME
8 FROM SOURCES WITHIN AND WITHOUT THIS STATE SHALL BE
9 ALLOCATED AND APPORTIONED UNDER RULES PRESCRIBED BY THE
10 DEPARTMENT. THE DEDUCTIONS ALLOWED IN COMPUTING NET INCOME
11 ARE LIMITED TO THE GREATER OF THOSE DIRECTLY RELATING TO THE
12 PRODUCTION OF MONTANA INCOME OR A PRORATED AMOUNT OF THOSE
13 ALLOWED UNDER 15-30-121. DEDUCTIONS ALLOWED UNDER 15-30-121
14 APPLY ONLY TO EARNED INCOME AND MUST BE PRORATED ACCORDING
15 TO THE RATIO THAT THE TAXPAYER'S MONTANA ADJUSTED GROSS
16 EARNED INCOME BEARS TO HIS FEDERAL ADJUSTED GROSS EARNED
17 INCOME.
18 (2) IN THE CASE OF A TAXPAYER OTHER THAN A RESIDENT OF
19 THIS STATE THE DEDUCTIONS ALLOWED IN COMPUTING NET INCOME
20 SHALL BE RESTRICTED TO THOSE DIRECTLY CONNECTED WITH THE
21 PRODUCTION OF MONTANA INCOME. A TEMPORARY RESIDENT SHALL BE
22 ALLOWED THOSE DEDUCTIONS ALLOWED A RESIDENT TO THE EXTENT
23 THAT SUCH DEDUCTIONS WERE ACTUALLY INCURRED OR EXPENDED IN
24 THE STATE OF MONTANA DURING THE COURSE OF HIS RESIDENCY.
25 (3) FOR THE PURPOSES OF THIS SECTION, "EARNED INCOME"

1 SHALL BE DEFINED AS THE SAME TERM IS DEFINED IN SECTION 43
2 OF THE INTERNAL REVENUE CODE, OR AS THAT SECTION MAY
3 SUBSEQUENTLY BE AMENDED."

4 Section 2. Applicability. This act applies to taxable
5 years beginning after December 31, 1978.

-End-

Approved by Committee
on Taxation

1 the state of Montana during the course of his residency.
2 (3) FOR THE PURPOSES OF THIS SECTION, "EARNED INCOME"
3 SHALL BE DEFINED AS THE SAME TERM IS DEFINED IN SECTION 43
4 OF THE INTERNAL REVENUE CODE, OR AS THAT SECTION MAY
5 SUBSEQUENTLY BE AMENDED.
6 Section 2. Applicability. This act applies to taxable
7 years beginning after December 31, 1978.

-End-

1

SENATE BILL NO. 384

2

INTRODUCED BY BOYLAN, HAZELBAKER, GRAHAM, CONROY, C. SMITH

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 15-30-131, MCA, TO ALLOW NONRESIDENT TAXPAYERS TO DEDUCT
6 EITHER THOSE DEDUCTIONS RELATING TO THE PRODUCTION OF
7 MONTANA INCOME OR A PRORATED AMOUNT OF THE DEDUCTIONS
8 ALLOWED UNDER SECTION 15-30-121, MCA, WHICHEVER IS GREATER."

9

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

11 Section 1. Section 15-30-131, MCA, is amended to read:

12 "15-30-131. Nonresident and temporary resident
13 taxpayers -- adjusted-gross-income ADJUSTED GROSS INCOME--
14 deductions. (1) In the case of a taxpayer other than a
15 resident of this state WHO RECEIVES NO CREDIT FOR HIS
16 MONTANA INCOME TAX FROM THE INCOME TAXES PAID IN THE STATE
17 OF HIS RESIDENCE, adjusted-gross-income--includes--the--entire
18 amount--of--adjusted-gross-income--from--sources--within--this
19 state--but--shall--not--include--income--from--annuities--interest
20 on--bank--deposits--interest--on--bonds--notes--or--other
21 interest-bearing--obligations--or--dividends--on--stock--of
22 corporations--except--to--the--extent--to--which--the--same--shall--be
23 a--part--of--income--from--any--business--trade--profession--or
24 occupation--carried--on--in--this--state--Adjusted-gross-income
25 from--sources--within--and--without--this--state--shall--be

1 allocated--and--apportioned--under--rules--prescribed--by--the
2 department--the ADJUSTED GROSS INCOME INCLUDES THE ENTIRE
3 AMOUNT OF ADJUSTED GROSS INCOME FROM SOURCES WITHIN THIS
4 STATE BUT SHALL NOT INCLUDE INCOME FROM ANNUITIES, INTEREST
5 ON BANK DEPOSITS, INTEREST ON BONDS, NOTES, OR OTHER
6 INTEREST-BEARING OBLIGATIONS, OR DIVIDENDS ON STOCK OF
7 CORPORATIONS EXCEPT TO THE EXTENT TO WHICH THE SAME SHALL BE
8 A PART OF INCOME FROM ANY BUSINESS, TRADE, PROFESSION, OR
9 OCCUPATION CARRIED ON IN THIS STATE. ADJUSTED GROSS INCOME
10 FROM SOURCES WITHIN AND WITHOUT THIS STATE SHALL BE
11 ALLOCATED AND APPORTIONED UNDER RULES PRESCRIBED BY THE
12 DEPARTMENT. THE deductions allowed in computing net income
13 are limited to the greater of those directly relating to the
14 production of Montana income or a prorated amount of those
15 allowed under 15-30-121. Deductions allowed under 15-30-121
16 apply only to earned income and must be prorated according
17 to the ratio that the taxpayer's Montana adjusted-gross
18 EARNED income bears to his federal adjusted gross EARNED
19 income.
20 (2) In the case of a taxpayer other than a resident of
21 this state--the deductions allowed in computing net income
22 shall be restricted to those directly connected with the
23 production of Montana income. A temporary resident shall be
24 allowed those deductions allowed a resident to the extent
25 that such deductions were actually incurred or expended in

1 the state of Montana during the course of his residency.
2 131 FOR THE PURPOSES OF THIS SECTION, "EARNED INCOME"
3 SHALL BE DEFINED AS THE SAME TERM IS DEFINED IN SECTION 53
4 OF THE INTERNAL REVENUE CODE, OR AS THAT SECTION MAY
5 SUBSEQUENTLY BE AMENDED."

6 Section 2. Applicability. This act applies to taxable
7 years beginning after December 31, 1978.

-End-

SENATE BILL NO. 384

INTRODUCED BY BOYLAN, HAZELBAKER, GRAHAM, CONROY, C. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 15-30-131, MCA, TO ALLOW NONRESIDENT TAXPAYERS WHO RESIDE IN A STATE THAT DOES NOT IMPOSE A TAX ON THE INCOME OF NATURAL PERSONS RESIDING IN THAT STATE TO DEDUCT EITHER THOSE DEDUCTIONS RELATING TO THE PRODUCTION OF MONTANA INCOME OR A PRORATED AMOUNT OF THE DEDUCTIONS ALLOWED UNDER SECTION 15-30-121, MCA, WHICHEVER IS GREATER."

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

Section 1. Section 15-30-131, MCA, is amended to read:

"15-30-131. Nonresident and temporary resident taxpayers -- adjusted-gross-income ADJUSTED GROSS INCOME -- deductions. (1) In the case of a taxpayer other than a resident of this state WHO RECEIVES NO EXCISE FOR HIS MONTANA INCOME TAX FROM THE INCOME TAXES PAID IN THE STATE OF HIS RESIDENCE, adjusted-gross-income includes the entire amount of adjusted-gross-income from sources within this state--but shall not include income from annuities, interest on--bank--deposits,--interest--on--bonds,--notes,--or--other interest-bearing--obligations,--or--dividends--on--stock--of corporations--except--to--the--extent--to--which--the--same--shall--be a part of income from any business,--trade,--profession,--or

occupation--carried--on--in--this--state--Adjusted--gross--income from--sources--within--and--without--this--state--shall--be allocated--and--apportioned--under--rules--prescribed--by--the department. the ADJUSTED GROSS INCOME INCLUDES THE ENTIRE AMOUNT OF ADJUSTED GROSS INCOME FROM SOURCES WITHIN THIS STATE BUT SHALL NOT INCLUDE INCOME FROM ANNUITIES, INTEREST ON BANK DEPOSITS, INTEREST ON BONDS, NOTES, OR OTHER INTEREST-BEARING OBLIGATIONS, OR DIVIDENDS ON STOCK OF CORPORATIONS EXCEPT TO THE EXTENT TO WHICH THE SAME SHALL BE A PART OF INCOME FROM ANY BUSINESS, TRADE, PROFESSION, OR OCCUPATION CARRIED ON IN THIS STATE. ADJUSTED GROSS INCOME FROM SOURCES WITHIN AND WITHOUT THIS STATE SHALL BE ALLOCATED AND APPORTIONED UNDER RULES PRESCRIBED BY THE DEPARTMENT. the deductions--allowed--in--computing--net--income are limited to the greater of those directly relating to the production of Montana income or a prorated amount of those allowed under 15-30-121. Deductions allowed under 15-30-121 apply only to earned income and must be prorated according to the ratio that the taxpayer's Montana adjusted gross EARNED income bears to his federal adjusted gross EARNED income.

(2) IN THE CASE OF A TAXPAYER OTHER THAN A RESIDENT OF THIS STATE WHO IS A RESIDENT OF A STATE THAT IMPOSES A TAX ON THE INCOME OF NATURAL PERSONS RESIDING WITHIN THAT STATE, THE DEDUCTIONS ALLOWED IN COMPUTING NET INCOME ARE

1 RESTRICTED TO THOSE DIRECTLY CONNECTED WITH THE PRODUCTION
2 OF MONTANA INCOME.

3 (3) IN THE CASE OF A TAXPAYER OTHER THAN A RESIDENT OF
4 THIS STATE WHO IS A RESIDENT OF A STATE THAT DOES NOT IMPOSE
5 A TAX ON THE INCOME OF NATURAL PERSONS RESIDING WITHIN THAT
6 STATE, THE DEDUCTIONS ALLOWED IN COMPUTING NET INCOME ARE
7 RESTRICTED TO THE GREATER OF THOSE DIRECTLY RELATING TO THE
8 PRODUCTION OF MONTANA INCOME OR A PRORATED AMOUNT OF THOSE
9 ALLOWED UNDER 15-30-121. FOR THE PURPOSES OF THIS
10 SUBSECTION, DEDUCTIONS ALLOWED UNDER 15-30-121 APPLY ONLY TO
11 EARNED INCOME AND MUST BE PRORATED ACCORDING TO THE RATIO
12 THAT THE TAXPAYER'S MONTANA EARNED INCOME BEARS TO HIS
13 FEDERAL EARNED INCOME.

14 (2)(4) IN THE CASE OF A TAXPAYER OTHER THAN A RESIDENT
15 OF THIS STATE, THE DEDUCTIONS ALLOWED IN COMPUTING NET
16 INCOME SHALL BE RESTRICTED TO THOSE DIRECTLY CONNECTED WITH
17 THE PRODUCTION OF MONTANA INCOME. A TEMPORARY RESIDENT SHALL
18 BE ALLOWED THOSE DEDUCTIONS ALLOWED A RESIDENT TO THE EXTENT
19 THAT SUCH DEDUCTIONS WERE ACTUALLY INCURRED OR EXPENDED IN
20 THE STATE OF MONTANA DURING THE COURSE OF HIS RESIDENCY.

21 (2)(5) FOR THE PURPOSES OF THIS SECTION, "EARNED
22 INCOME" SHALL BE DEFINED AS THE SAME TERM IS DEFINED IN
23 SECTION 43 OF THE INTERNAL REVENUE CODE, OR AS THAT SECTION
24 MAY SUBSEQUENTLY BE AMENDED.

25 Section 2. Applicability. This act applies to taxable

1 years beginning after December 31, 1978.

-End-

HOUSE OF REPRESENTATIVES
APRIL 16, 1979

COMMITTEE ON TAXATION amendments to Senate Bill No. 384, third reading copy, as follows:

1. Title, line 5,

Following: "TAXPAYERS"

Insert: "WHO RESIDE IN A STATE THAT DOES NOT IMPOSE A TAX ON THE INCOME OF NATURAL PERSONS RESIDING IN THAT STATE"

2. Page 1, lines 15 through 17,

Following: "state"

Strike: Remainder of line 15 through "RESIDENCE" on line 17,

3. Page 2, lines 12 through 19,

Following: "DEPARTMENT,"

Strike: Remainder of lines 12 through 19 in their entirety.

4. Page 2,

Following: line 19,

Insert: "(2) In the case of a taxpayer other than a resident of this state who is a resident of a state that imposes a tax on the income of natural persons residing within that state, the deductions allowed in computing net income are restricted to those directly connected with the production of Montana income.

(3) In the case of a taxpayer other than a resident of this state who is a resident of a state that does not impose a tax on the income of natural persons residing within that state, the deductions allowed in computing net income are restricted to the greater of those directly relating to the production of Montana income or a prorated amount of those allowed under 15-30-121. For the purposes of this subsection, deductions allowed under 15-30-121 apply only to earned income and must be prorated according to the ratio that the taxpayer's Montana earned income bears to his federal earned income."

Renumber: Subsequent subsections.

AND AS AMENDED
BE CONCURRED IN