HOUSE BILL NO. 250

INTRODUCED BY NORDTVEDT, MARKS, FAGG, SPILKER, KITSELMAN, SALES, CURTISS, BURNETT, KEYSER, HANNAH, SIVERTSEN, FEDA, ASAY, LUND, TURNAGE, STEPHENS, E. SMITH, GOODOVER, WINSLOW, COZZENS, ANDREASON, JENSEN, SEIFERT, SWITZER, MATSKO, PHILLIPS, SCHULTZ, BRIGGS, WALLIN, ERNST, MOORE, D. O'HARA, HURWITZ, KROPP, FABREGA, GOULD, UNDERDAL, HARP, DONALDSON, DEVLIN, HANSON, MEYER, J. RYAN, BERTELSEN, VINGER, IVERSON, ELLIOTT, C. SMITH

IN THE HOUSE

January 15, 1981	Introduced and referred to Committee on Taxation.
	On motion by chief sponsor, Senator Elliott, Representatives C. Smith, Kropp, Keyser, Fabrega, Gould, Underdal, Seifert, Harp, Sales, Donaldson, Devlin, Switzer, Hanson, Meyer, Matsko, J. Ryan, Sivertsen, Jensen, Burnett, Asay, Hannah, Winslow, D. O'Hara, Kitselman, Feda, Iverson, Bertelsen, Spilker, Fagg, Vinger, Schultz, Wallin were added as authors to the prefiled bill.
January 20, 1981	Fiscal note requested.
January 28, 1981	Committee recommend bill do pass as amended. Report adopted.
January 29, 1981	Bill printed and placed on members' desks.
January 30, 1981	Second reading, do pass.
January 31, 1981	Correctly engrossed.
February 2, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 3, 1981	Introduced and referred to Committee on Taxation.
February 13, 1981	Committee recommend bill be concurred in. Report adopted.
February 16, 1981	Motion pass consideration.
February 17, 1981	Second reading, concurred in.
February 20, 1981	Passed consideration on third reading until February 24, 1981. Motion adopted.
February 24, 1981	Third reading, concurred in. Yeas, 45; Nays, 5.

IN THE HOUSE

February 24, 1981	Returned from Senate. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

Moore Hurwitz D. O'Hara Curtiss Sales Burnett

HOUSE BILL NO. 250

INTRODUCED BY Marks FAGG SPILKER Kitselman Smith Stephens Seifert Aaron W Andreason

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REDUCE PERSONAL INCOME TAX LIABILITY AND TO ADJUST THE AMOUNT OF EXEMPTION DEDUCTION BECAUSE OF A STATE BUDGET EXCESS; AMENDING SECTIONS 3, 4, AND 5 OF INITIATIVE NO. 86 AND SECTION 9, CHAPTER 698, LAWS OF 1979."

Phillips Schultz

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

Section 1. Section 3 of Initiative No. 86 is amended to read:

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

"15-30-112. Exemptions. (1) Except as provided in subsections (7) and (8), in the case of an individual, the exemptions provided by subsections (2) through (6) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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

INTRODUCED BILL

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(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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than ~~$800~~ $1,000; 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) For taxable years beginning after December 31, 1978, and before January 1, 1981, the amount allowed as a deduction in subsections (2) through (6) shall be adjusted as provided under section 9, Chapter 698, Laws of 1979.

(8) For taxable years beginning after December 31, 1980, the department, by November 1 of each year, shall multiply all the exemptions provided in this section unadjusted by subsection (7) 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 2. Section 4 of Initiative No. 86 is amended to read:

"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 ~~15%~~ 20% 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 ~~$1,000~~ $1,500, 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 ~~$2,000~~ $3,000, 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 deductions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.""

Section 3. Section 5 of Initiative No. 86 is amended to read:

"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 ~~$940~~ $1,250, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income

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for the taxable year of more than ~~$1,000~~ $2,500, 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 ~~$800~~ $1,000, as adjusted under the provisions of 15-30-112(7) and (8), 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 the 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.""

Section 4. Section 9, Chapter 698, Laws of 1979 is amended to read:

"Section 9. Deductions for exemptions in 1979 and 1980. ~~(1)~~ The exemption amounts allowed in 15-30-112 are increased for taxable years beginning after December 31, 1978, and before January 1, 1980, by $50 ~~for each $2.5 million by which the general fund balance, as certified by the director of the department of administration to the director of the department of revenue, exceeds $14 million as of June 30, 1979~~ and for taxable years beginning after December 31, 1979, and before January 1, 1981, by $250.

~~(2) The exemption amounts allowed in 15-30-112 are increased for taxable years beginning after December 31,~~

~~1979, and before January 1, 1981, by $50 for each $2.6 million by which the general fund balance, as certified by the director of the department of administration to the director of the department of revenue, exceeds $13 million as of June 30, 1980."~~

-End-

HB 250

STATE OF MONTANA

REQUEST NO. 136-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 81, there is hereby submitted a Fiscal Note for HOUSE BILL 250 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

An act to generally reduce personal income tax liability and to adjust the amount of exemption deduction because of a state budget excess.

ASSUMPTONS

1. The Department of Revenue forecast of individual income tax receipts for the 82-83 biennium is the basis for comparison.
2. The base personal exemption allowance is $800.

FISCAL IMPACT

	FY 82	FY 83
Individual Income Tax Collections		
Under current law	$161.556 M	$167.993 M
Under proposed law	148.574 M	153.548 M
Estimated Decrease	($ 12.982 M)	($ 14.445 M)
FUND INFORMATION		
General Fund		
Under current law	$103.396 M	$107.516 M
Under proposed law	95.087 M	98.271 M
Estimated Decrease	($ 8.308 M)	($ 9.245 M)
Earmarked Revenue Fund		
Under current law	$ 40.389 M	$ 41.998 M
Under proposed law	37.144 M	38.387 M
Estimated Decrease	($ 3.246 M)	($ 3.611 M)
Sinking Fund *		
Under current law	$ 17.771 M	$ 18.479 M
Under proposed law	16.343 M	16.890 M
Estimated Decrease	($ 1.428 M)	($ 1.589 M)

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

EFFECT ON LOCAL GOVERNMENT

Revenues to the indicated earmarked revenue account are used to support the School Foundation Program. Therefore, any decrease in revenue to that program may necessitate additional support from other sources.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-23-81

PREPARED BY THE DEPARTMENT OF REVENUE

Approved by Committee
on Taxation

HOUSE BILL NO. 250

INTRODUCED BY NORDTVEDT, MARKS, FAGG, SPILKER, KITSELMAN, SALES, CURTISS, BURNETT, KEYSER, HANNAH, SIVERTSEN, FEDA, ASAY, LUND, TURNAGE, STEPHENS, E. SMITH, GOODOVER, WINSLOW, COZZENS, ANDREASON, JENSEN, SEIFERT, SWITZER, MATSKO, PHILLIPS, SCHULTZ, BRIGGS, WALLIN, ERNST, MOORE, O'HARA, HURWITZ, KROPP, FABREGA, GOULD, UNDERDAL, HARP, DONALDSON, DEVLIN, HANSON, MEYER, RYAN, BERTELSEN, VINGER IVERSON, ELLIOTT, C. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REDUCE PERSONAL INCOME TAX LIABILITY AND TO ADJUST THE AMOUNT OF EXEMPTION DEDUCTION BECAUSE OF A STATE BUDGET EXCESS; AMENDING SECTIONS 1, 3, 4, AND 5 OF INITIATIVE NO. 86 AND SECTION 9, CHAPTER 698, LAWS OF 1979; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

SECTION 1. SECTION 1 OF INITIATIVE NO. 86 IS AMENDED TO READ:

"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, BUT UNADJUSTED BY SUBSECTION (2), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR;

(b) the exemptions contained in 15-30-112, BUT UNADJUSTED BY SUBSECTIONS (7) AND (8), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR;

(c) the maximum standard deduction provided in 15-30-122, BUT UNADJUSTED BY SUBSECTION (2), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR.

(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,

SECOND READING

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.

~~(5)~~ (7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a 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, 1980.

~~(6)~~ (9) "Information agents" includes 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.

~~(7)~~ (10) "Knowingly" is as defined in 45-2-101.

~~(8)~~ (11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(9)~~ (12) "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.

~~(10)~~ (13) "Purposely" is as defined in 45-2-101.

~~(11)~~ (14) "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.

~~(12)~~ (15) "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.

~~(13)~~(16) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(14)~~(17) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(15)~~(18) "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 3 of Initiative No. 86 is amended to read:

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

"15-30-112. Exemptions. (1) Except as provided in subsections (7) and (8), in the case of an individual, the exemptions provided by subsections (2) through (6) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~\$800~~ \$1,000 shall be allowed for taxable years beginning after December 31, 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than ~~\$800~~ \$1,000; 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) For taxable years beginning after December 31, 1978, and before January 1, 1981, the amount allowed as a deduction in subsections (2) through (6) shall be adjusted as provided under section 9, Chapter 698, Laws of 1979 AS AMENDED BY THIS ACT.

(8) For taxable years beginning after December 31, 1980, the department, by November 1 of each year, shall multiply all the exemptions provided in this section unadjusted by subsection (7) 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 3. Section 4 of Initiative No. 86 is amended to read:

"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 ~~15%~~ 20% 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 ~~$1,000~~ $1,500, 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 ~~$2,000~~ $3,000, 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 deductions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.""

Section 4. Section 5 of Initiative No. 86 is amended to read:

"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 ~~$940~~ $1,250, 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 ~~$1,000~~ $2,500, 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 ~~$800~~ $1,000, as adjusted under the provisions of 15-30-112(7) and (8), 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 the 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.""

Section 5. Section 9, Chapter 698, Laws of 1979 is amended to read:

"Section 9. Deductions for exemptions in 1979 and 1980. ~~(1)~~ The exemption amounts allowed in 15-30-112 are increased for taxable years beginning after December 31, 1978, and before January 1, 1980, by $50 ~~for--each--$2.5 million--by--which-the-general-fund-balance,-as-certified-by the-director-of-the--department--of--administration--to--the director--of--the-department-of-revenue,-exceeds-$14-million as-of-June-30,-1979~~ and for taxable years beginning after December 31, 1979, and before January 1, 1981, by $250.

~~(2)--The--exemption--amounts--allowed--in-15-30-112-are~~

~~increased-for-taxable-years--beginning--after--December--31, 1979,--and--before--January--1,--1981,--by-$50-for-each-$2.8 million-by-which-the-general-fund-balance,-as--certified--by the--director--of--the--department--of-administration-to-the director-of-the-department-of-revenue,-exceeds--$13--million as-of-June-30,-1980.~~"

SECTION 6. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

HOUSE BILL NO. 250

INTRODUCED BY NORDTVEDT, MARKS, FAGG, SPILKER, KITSELMAN, SALES, CURTISS, BURNETT, KEYSER, HANNAH, SIVERTSEN, FEDA, ASAY, LUND, TURNAGE, STEPHENS, E. SMITH, GOODOVER, WINSLOW, COZZENS, ANDREASON, JENSEN, SEIFERT, SWITZER, MATSKO, PHILLIPS, SCHULTZ, BRIGGS, HALLIN, ERNST, MOORE, O'HARA, HURWITZ, KROPP, FABREGA, GOULD, UNDERDAL, HARP, DONALDSON, DEVLIN, HANSON, MEYER, RYAN, BERTELSEN, VINGER IVERSON, ELLIOTT, C. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REDUCE PERSONAL INCOME TAX LIABILITY AND TO ADJUST THE AMOUNT OF EXEMPTION DEDUCTION BECAUSE OF A STATE BUDGET EXCESS; AMENDING SECTIONS 1, 3, 4, AND 5 OF INITIATIVE NO. 86 AND SECTION 9, CHAPTER 698, LAWS OF 1979; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

SECTION 1. SECTION 1 OF INITIATIVE NO. 86 IS AMENDED TO READ:

"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, BUT UNADJUSTED BY SUBSECTION (2), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR;

(b) the exemptions contained in 15-30-112, BUT UNADJUSTED BY SUBSECTIONS (7) AND (8), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR;

(c) the maximum standard deduction provided in 15-30-122, BUT UNADJUSTED BY SUBSECTION (2), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR.

(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,

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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.

~~(5)~~(7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a 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, 1980.

~~(6)~~(9) "Information agents" includes 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.

~~(7)~~(10) "Knowingly" is as defined in 45-2-101.

~~(8)~~(11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(9)~~(12) "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.

~~(10)~~(13) "Purposely" is as defined in 45-2-101.

~~(11)~~(14) "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.

~~(12)~~(15) "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.

~~(13)~~(16) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(14)~~(17) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(15)~~(18) "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 3 of Initiative No. 86 is amended to read:

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

"15-30-112. Exemptions. (1) Except as provided in subsections (7) and (8), in the case of an individual, the exemptions provided by subsections (2) through (6) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than ~~$800~~ $1,000; 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) For taxable years beginning after December 31, 1978, and before January 1, 1981, the amount allowed as a deduction in subsections (2) through (6) shall be adjusted as provided under section 9, Chapter 698, Laws of 1979 AS AMENDED BY THIS ACT.

(8) For taxable years beginning after December 31, 1980, the department, by November 1 of each year, shall multiply all the exemptions provided in this section unadjusted by subsection (7) 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 3. Section 4 of Initiative No. 86 is amended to read:

"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 ~~15%~~ 20% 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 ~~$1,000~~ $1,500, 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 ~~$2,000~~ $3,000, 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 deductions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.""

Section 4. Section 5 of Initiative No. 86 is amended to read:

"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 ~~$940~~ $1,250, 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 ~~$1,000~~ $2,500, 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 ~~$800~~ $1,000, as adjusted under the provisions of 15-30-112(7) and (8), 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 the 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.""

Section 5. Section 9, Chapter 698, Laws of 1979 is amended to read:

"Section 9. Deductions for exemptions in 1979 and 1980. ~~(1)~~ The exemption amounts allowed in 15-30-112 are increased for taxable years beginning after December 31, 1978, and before January 1, 1980, by $50 ~~for each $2.5 million by which the general fund balance, as certified by the director of the department of administration to the director of the department of revenue, exceeds $14 million as of June 30, 1979~~ and for taxable years beginning after December 31, 1979, and before January 1, 1981, by $250.

~~(2) The exemption amounts allowed in 15-30-112 are increased for taxable years beginning after December 31, 1979, and before January 1, 1981, by $50 for each $2.8 million by which the general fund balance, as certified by the director of the department of administration to the director of the department of revenue, exceeds $13 million as of June 30, 1980.~~"

SECTION 6. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

HOUSE BILL NO. 250

INTRODUCED BY NORDTVEDT, MARKS, FAGG, SPILKER, KITSELMAN, SALES, CURTISS, BURNETT, KEYSER, HANNAH, SIVERTSEN, FEDA, ASAY, LUND, TURNAGE, STEPHENS, E. SMITH, GOODOVER, WINSLOW, COZZENS, ANDREASON, JENSEN, SEIFERT, SWITZER, MATSKO, PHILLIPS, SCHULTZ, BRIGGS, WALLIN, ERNST, MOORE, O'HARA, HURWITZ, KROPP, FABREGA, GOULD, UNDERDAL, HARP, DONALDSON, DEVLIN, HANSON, MEYER, RYAN, BERTELSEN, VINGER IVERSON, ELLIOTT, C. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REDUCE PERSONAL INCOME TAX LIABILITY AND TO ADJUST THE AMOUNT OF EXEMPTION DEDUCTION BECAUSE OF A STATE BUDGET EXCESS; AMENDING SECTIONS 1, 3, 4, AND 5 OF INITIATIVE NO. 86 AND SECTION 9, CHAPTER 698, LAWS OF 1979; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

SECTION 1. SECTION 1 OF INITIATIVE NO. 86 IS AMENDED TO READ:

"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, BUT UNADJUSTED BY SUBSECTION (2), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR;

(b) the exemptions contained in 15-30-112, BUT UNADJUSTED BY SUBSECTIONS (7) AND (8), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR;

(c) the maximum standard deduction provided in 15-30-122, BUT UNADJUSTED BY SUBSECTION (2), in effect on ~~January 1, 1980~~ JUNE 30 OF THE TAXABLE YEAR.

(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,

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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.

~~(5)~~(7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a 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, 1980.

~~(6)~~(9) "Information agents" includes 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.

~~(7)~~(10) "Knowingly" is as defined in 45-2-101.

~~(8)~~(11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(9)~~(12) "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.

~~(10)~~(13) "Purposely" is as defined in 45-2-101.

~~(11)~~(14) "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.

~~(12)~~(15) "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.

~~(13)~~(16) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(14)~~(17) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(15)~~(18) "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 3 of Initiative No. 86 is amended to read:

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

"15-30-112. Exemptions. (1) Except as provided in subsections (7) and (8), in the case of an individual, the exemptions provided by subsections (2) through (6) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, 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 ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than ~~$800~~ $1,000; 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) For taxable years beginning after December 31, 1978, and before January 1, 1981, the amount allowed as a deduction in subsections (2) through (6) shall be adjusted as provided under section 9, Chapter 698, Laws of 1979 AS AMENDED BY THIS ACT.

(8) For taxable years beginning after December 31, 1980, the department, by November 1 of each year, shall multiply all the exemptions provided in this section unadjusted by subsection (7) 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 3. Section 4 of Initiative No. 86 is amended to read:

"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 ~~15%~~ 20% 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 ~~$1,000~~ $1,500, 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 ~~$2,000~~ $3,000, 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 deductions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.""

Section 4. Section 5 of Initiative No. 86 is amended to read:

"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 ~~$940~~ $1,250, 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 ~~$1,800~~ $2,500, 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 ~~$800~~ $1,000, as adjusted under the provisions of 15-30-112(7) and (8), 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 the 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.""

Section 5. Section 9, Chapter 698, Laws of 1979 is amended to read:

"Section 9. Deductions for exemptions in 1979 and 1980. ~~(1)~~ The exemption amounts allowed in 15-30-112 are increased for taxable years beginning after December 31, 1978, and before January 1, 1980, by $50 ~~for--each--$2.5 million--by--which-the-general-fund-balance,-as-certified-by the-director-of-the--department--of--administration--to--the director--of--the-department-of-revenue,-exceeds-$14-million as-of-June-30,-1979~~ and for taxable years beginning after December 31, 1979, and before January 1, 1981, by $250.

~~(2)--The--exemption--amounts--allowed--in-15-30-112-are~~

~~increased-for-taxable-years--beginning--after--December--31, 1979,--and--before--January--1,--1981,--by-$50-for-each-$2.8 million-by-which-the-general-fund-balance,-as--certified--by the--director--of--the--department--of-administration-to-the director-of-the-department-of-revenue,-exceeds--$13--million as-of-June-30,-1980.~~"

SECTION 6. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

State of Montana
Office of the Governor
Helena 59620

TED SCHWINDEN
GOVERNOR

March 2, 1981

The Honorable Jean Turnage
President, Montana State Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Marks
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Turnage and Speaker Marks:

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. 250, "AN ACT TO GENERALLY REDUCE PERSONAL INCOME TAX LIABILITY AND TO ADJUST THE AMOUNT OF EXEMPTION DEDUCTION BECAUSE OF A STATE BUDGET EXCESS; AMENDING SECTIONS 1, 3, 4, and 5 of INITIATIVE NO. 86 AND SECTION 9, CHAPTER 698, LAWS of 1979; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

The Executive Budget submitted on January 12 incorporated my pledge to provide reductions of $109 million to Montana taxpayers who need relief the most --- the elderly, the middle and low income citizens, and the owners of personal vehicles. I intend to stand by that commitment.

The sponsor of HB 250 wrote me last week relative to the importance of "fiscal discipline" in state government. I have long recognized the need for fiscal discipline in and out of state government --- it characterizes my form of management, motivated my candidacy for the office of governor and is a top priority of this administration.

The Legislature, too, must demonstrate its commitment to "fiscal discipline" by establishing, and sharing with my office and the people of Montana, responsible revenue estimates and spending levels for state government. Those amounts, which taken together represent the state budget, have not been made public by the Republican leadership. To the contrary, appropriations already approved by the legislative subcommittees, added to the cost of the Foundation Program initiated and supported by the House majority, <u>exceed my biennial general fund budget recommendations by at least $40 million --- and enactment of HB 250 would cost an additional $24 million!</u>

I am deeply disappointed that the Republican leadership has rushed this legislation to my desk. Why? Because approval of significant tax reductions prior to agreement on revenue estimates and spending levels repudiates the doctrine of "fiscal discipline" advanced by Rep. Nordtvedt.

Last December we mutually pledged cooperation, and the first half of the 47th session has been remarkably, and rewardingly, free of confrontation and partisan rhetoric. Montana and Montanans are better off for that. That spirit of cooperation is now threatened in the very area where it is most vital --- the state budget process. Despite repeated pleas, the Republican leadership has failed to provide a balanced budget package for public examination. I had hoped, and expected, that the tax proposals submitted by the governor would be accorded equal consideration in the legislative process. But look at the record.

	Governor's Proposals	Legislative Action
SB 337	Property tax relief for the elderly	None!
SB 355	Flat-fee vehicle licensing	None!
SB 356	Oil severance tax increase	None!
HB 559	Removal of surtax for 90% of Montana taxpayers	None!
HB 614	Amendments to tax indexing	None!
HB 757	School Foundation program	None!

On February 20, I respectfully requested the Republican leadership to defer action on HB 250 until we had a better idea of appropriation levels, and a clearer understanding of the impacts on Montana of the federal budget President Reagan will send to Congress on March 10. Announced federal cuts in Medicaid funding alone could cost the state $10 million or more.

The unwillingness of the leadership to cooperate in budget matters speaks not of "fiscal discipline," but of partisan politics. The enactment of major tax legislation in advance of agreement on a balanced budget is unacceptable fiscally, however advantageous politically.

No governor is insensitive to the political consequences of his actions --- particularly when he is placed in the awkward position of rejecting partisan legislation mislabeled as "tax relief." Political sensitivity, however, must always give way to political responsibility.

I am vetoing HB 250 and returning it to the legislature, knowing full well that action will return the personal exemption level to $1,250. Responsible consideration of HB 614 can address that issue. The political game has been played, now let us sit down together and take a hard look at Montana's budget picture. Fiscal cooperation has worked well in session after session --- it will work just as well in 1981.

Olive branches are impressive gestures, but gestures do not create balanced budgets --- cooperation and hard work do. I am ready and anxious to begin.

Sincerely,

Ted Schwinden

TED SCHWINDEN
Governor