SENATE BILL NO. 100

INTRODUCED BY GRAHAM

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 11, 1983	Introduced and referred to Committee on State Administration.
January 22, 1983	Committee recommend bill do pass as amended. Report adopted.
January 24, 1983	Bill printed and placed on members' desks.
	Second reading, do pass.
January 25, 1983	Correctly engrossed.
January 27, 1983	Third reading, passed. Ayes, 47; Noes, 0. Transmitted to House.
IN THE HOUSE	
January 28, 1983	Introduced and referred to Committee on State Administration.
Pebruary 19, 1983	Committee recommend bill be concurred in. Report adopted.
March 2, 1983	Second reading, concurred in.
March 3, 1983	Third reading, concurred in.

IN THE SENATE

March 4, 1983

Returned to Senate.

Sent to enrolling.

Reported correctly enrolled.

1983 Legislature Code Commissioner Bill - Summary

SenateBill No. 100

AN ACT TO GENERALLY REVISE THE LAWS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401, 7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114, 13-27-105, 15-17-305, 15-24-922, 15-31-114, 15-31-509, 15-57-109, 19-6-203, 19-7-202, 22-1-218, 46-30-301, MCA; AMENDING SECTION 4, CHAPTER 520, LAWS OF 1981 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SUCH AMENDMENT; AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND 15-31-542, MCA.

Section 1. 2-15-401. Deletes subsection (13) requiring the secretary of state to report changes of names to the legislative council for publication in the session laws. Under 27-31-205, by 1979 amendment, such name changes are reported to the legislative council directly by clerks of district courts. Senate Bill 46 proposes to repeal 27-31-205 so that this requirement will be totally obsolete.

Section 2. 7-2-2709. The section provides that the governor by election proclamation is to set a date for county consolidation or abandonment elections. The 1979 revision of election laws eliminated the governor's election proclamation. Amendment would delete reference to an election proclamation, replacing it with a joint resolution of the boards of county commissioners of all the counties affected by a consolidation or abandonment.

Section 3. $\frac{7-3-219}{122}$. This section was enacted in 1975 with the idea that HB $\frac{1}{122}$, 1977, would pass and provide, in Title 7, some election procedures. Delete "as provided in this title" twice in section -- there are no such provisions in Title 7. Only relevant election procedures are in Title 13.

Section 4. 7-3-314. See section 3.

Section 5. 7-3-413. See section 3.

Section 6. 7-3-513. See section 3.

Section 7. 7-21-2114. There is no state examiner -- his duties relating to local government are now a responsibility of the department of administration.

Section 8. 13-27-105. The effective date of constitutional amendments is $July\ 1$ following passage under Article XIV, sections 8 and 9, Montana constitution.

Section 9. 15-17-305. Inserted "of county commissioners" after "board" because 15-17-101(3) defines board as state tax

appeal board and the reference in this section is to the board of county commissioners.

Section 10. 15-24-922. The "various boards herein named" were consolidated under the board of livestock during executive reorganization.

Section 11. 15-31-114. Subsection (2)(b)(ii)(C) was declared unconstitutional because of retroactive application against persons who had complied with the current law in computing losses in the year they occurred, but later being held accountable for taxes on those prior years because of recent changes in tax law. First Federal Savings and Loan Assoc. v. Department of Revenue, M, P2d., 39 St. Rep. 1802 (1982). (Note: As of October 29, 1982, First Federal Savings and Loan Assoc. v. Department of Revenue, supra, may come up for rehearing before the Montana Supreme Court. This amendment may have to be changed if a different decision is made upon rehearing.)

Section 12. 15-31-509. Section 15-31-542 was held to have been repealed in St. v. King Colony Ranch, 137 M. 145, 350 P2d. 841 (1960), by a later enactment. Section 15-31-542 was also held not to have been reenacted by inclusion of the internal reference in this section after the date of the King Colony case because its inclusion was made without any legislative indication that reenactment was ever contemplated. Caterpillar Tractor Co. v. Department of Revenue, ____ M ____, ___ P2d. ____, 39 St. Rep. 1245 (1982).

Section 15-31-544 was added to this section because it is a general statute of limitation affecting the whole chapter. Section 15-31-544 was enacted in 1981 and should have been referenced in this section.

Section 13. 15-31-526. Caterpillar Tractor Co. v. Department of Revenue, M, P2d., 39 St. Rep. 1245 (1982) was involved with limitations dates for actions in the collections of corporate taxes. This section is amended to clarify that an action by the attorney general is governed by the same limitations that apply to the department of revenue.

Section 14. 15-57-109. Between 1977 and 1979 this section provided that \$5.00 of the license money was to go to funding administration of unfair trade practices laws contained in Title 30, chapter 14, part 2. The final sentence of the section was probably helpful during that time to specify departmental responsibilities.

Section 15. 19-6-203. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-6-101(1).

Section 16. 19-7-202. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-7-101(1).

- Section 17. $\underline{22-1-218}$. Section 2-15-401(13) at one time exempted the secretary of state from provisions regarding libraries in the publication of session laws. The legislative council now publishes the session laws.
- Section 18. <u>46-30-301</u>. Typographical error. Reads "his" in the Uniform Criminal Extradition Act.
- Section 19. Section 4, Ch. 520, L. 1981. Chapter 520, L. 1981, accomplished two purposes: It revised and clarified provisions on small business investment and raised the small business investment credit from 20% to 30%. The revision and clarification provisions should be permanent law -- only the increase in the small business investment credit should be temporary. If sec. 4, Ch. 520, L. 1981, was to operate on the total bill needless confusion would arise from the termination of the clarification provisions. The amendment would keep the termination provisions applicable to the percentage increase but would make the general revisions part of permanent law. This section, under the coordination instruction in section 20, would not affect any 1983 amendments on the percentage rate. This section would become effective upon passage and approval and apply as of January 1, 1983 to ensure that there is no gap in the effectiveness and applicability of the clarification provisions.
- Section 20. <u>Coordination instruction</u>. See explanation for section 19.
- Section 21. Effective date. See explanation for section 19.

Section 22. Repealer.

- A. 2-15-1627. The board of massage therapists was terminated under the sunset provisions of 2-8-103 in 1981. This section, establishing the board, was not repealed during the 1981 session.
- B. 7-13-2249. Proclamation of elections for county water and/or sewer districts. There are no longer proclamations of elections.
- C. 15-31-542. Repealed by a later enactment. See explanation for section 12.

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Senate BILL NO. 100 1 2 INTRODUCED BY... 3

BY REQUEST OF THE CODE COMMISSIONER

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO GOVERNMENT: AMENDING SECTIONS 2-15-401. 7 7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114, 13-27-105, 15-17-305, 15-24-922, 15-31-114, 15-31-509, 9 15-31-526. 15-57-109, 19-6-203, 19-7-202, 22-1-218, 10 46-30-301, MCA; AMENDING SECTION 4, CHAPTER 520, LAWS OF 1981, AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SUCH 11 1,2 AMENDMENT; AND REPEALING SECTIONS 2-15-1627. 7-13-2249. AND 13 15-31-542, MCA.*

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

16 Section 1. Section 2-15-401, MCA, is amended to read: 17 *2-15-401. Duties of secretary of state. In addition 18 to the duties prescribed by the constitution, it is the duty 19 of the secretary of state to:

- (1) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform such other duties as may be devolved upon him by resolution of the two houses or either of them:
- 24 (2) keep a register of and attest the official acts of 25 the governor, including all appointments made by him, with

date of commission and names of appointees and predecessors; 1

- (3) affix the great seal, with his attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required:
 - (4) record in proper books all conveyances made to the state and all articles of incorporation filed in his office;
- 7 (5) take and file in his office receipts for all books 8 distributed by him and direct the county clerk of each 9 county to do the same:
- 10 (6) certify to the governor the names of those persons 11 who have received at any election the highest number of 12 votes for any office, the incumbent of which is commissioned 13 by the governor:
 - (7) furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in his office;
 - (8) keep a fee book in which must be entered all fees. commissions, and compensation of whatever nature or kind by him earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which book must be verified annually by his affidavit entered therein;
 - (9) file in his office descriptions of seals in use by the different state officers; INTRODUCED BILL

- (10) discharge the duties of member of the board of examiners and of the board of land commissioners and all other duties required of him by law;
- 4 (11) report to the governor as prescribed in 2-7-102;

- 5 (12) register marks as provided in Title 30, chapter 6 13, part 3;
 - (†3)-report--onnually--to--the--legislative-council-all
 changes--of--names--received--pursuant--to---27-31-205---for
 publication-in-the-Laws-of-Montana;
 - (±4)(13) report annually to the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;
- 13 (+5)(14) keep a register of all applications for pardon
 14 or for commutation of any sentence, with a list of the
 15 official signatures and recommendations in favor of each
 16 application.**
 - Section 2. Section 7-2-2709, MCA, is amended to read:

 "7-2-2709. Special election on question of abandonment
 and consolidation. (1) (a) Upon-receipt-of-a-certified-copy
 Within 14 days after transmittal of the resolution provided
 for in 7-2-2707, the-governor-shally-within-18-days
 thereaftery-issue-his-proclamation-calling-a-special
 election-in the boards of county commissioners of the county
 in which the petition referred to in the resolution was
 filed and in of each county designated in the resolution as

- a county to which any of the territory of the county, if abandoned and abolished, shall would be attached and made a part, shall, in a joint meeting and by joint resolution of such boards, call a special election in all affected counties.
- (b) The proclemation joint resolution shall fix a day for holding the election in such counties, which shall be not less than 90 days or more than 120 days after the date of the governor*s-proclemation joint resolution calling the same, provided—that—if if a general election will be held in the counties not less than 90 days or more than 120 days after the date of such-proclemation, the resolution provided for in 7-2-2707, the joint resolution shall direct that the question be submitted to the registered electors of the counties at the general election. The proclemation joint resolution shall be filed in the office of the secretary of state, and copies thereof shall be transmitted by—the—governor to the election administrator of each of the counties in which the election is to be held.
 - (2) At the election there shall be submitted:
- (a) to the registered electors of the county in which
 the petition was filed, the question of whether or not the
 county shall be abandoned and abolished and its territory
 attached to and made a part of the county designated and

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- (b) to the registered electors of each county named and designated in the resolution as a county to which a part of the territory of the county proposed to be abandoned and abolished shall be attached and made a part if the county shall be so abandoned and abolished, the question of whether or not the part of the territory of the county, if abandoned and abolished, described in the resolution shall be attached to and become a part of the county.*
- Section 3. Section 7-3-219, MCA, is amended to read:

 "7-3-219. Type of election. Local government elections
 shall be conducted on a:
 - (1) partisan basis as-provided-in-this-title; or
 - (2) nonpartisan basis as-provided-in-this-title."
- 15 Section 4. Section 7-3-314. MCA: is amended to read:
- 16 "7-3-314. Type of election. Local government elections
- 17 shall be conducted on a:

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- (1) partisan basis os-provided-in-this-title; or
- 19 (2) nonpartisan basis as-provided-in-this-title.*
- 20 Section 5. Section 7-3-413, MCA, is amended to read:
- 21 "7-3-413. Type of election. Local government elections
- 22 shall be conducted on a:
- 23 (1) partisan basis os-provided-in-this-title; or
- 24 (2) nonpartisan basis as-provided-in-this-title.**
- 25 Section 6. Section 7-3-513, MCA, is amended to read:

- 1 #7-3-513. Type of election. Local government elections
 2 shall be conducted on a:
- 3 (1) partisan basis os-provided-in-this-title; or
 - (2) nonpartisan basis os-provided-in-this-title."
- 6 "7-21-2114. Investigation of possible licensing
 7 violations. It shall be the duty of the board of county
 8 commissioners or the state---examiner department of

Section 7. Section 7-21-2114. MCA: is amended to read:

- administration, when examining the treasurer's report, to
 investigate if any persons are doing business in the county
- 11 without a license or if the amount of the license is
- 12 sufficient. In either event the treasurer shall be
- 13 officially notified.
- 14 Section 8. Section 13-27-105, MCA, is amended to read:
- 15 "13-27-105. Effective date of initiative and
- 16 referendum issues. (1) Unless the petition placing an
- 17 initiative issue on the ballot states otherwise, an
- 18 Initiative issue. other than a constitutional amendment.
- 19 approved by the people is effective on October 1 following
- 20 approval. However, if the issue delegates rulemaking
- 21 authority, it is effective no sooner than October 1
- 22 following approval.
- 23 (2) Unless-the-legislature-provides--otherwisey-a A
- 24 constitutional amendment proposed by initiative or by the
- 25 legislature and approved by the people is effective on

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(3) Unless specifically provided by the legislature in an act referred by it to the people or until suspended by a petition signed by at least 15% of the qualified electors in a majority of the legislative representative districts, an act referred to the people is in effect as provided by law until it is approved or rejected at the election. An act that is rejected is repealed effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred to the people that was in effect at the time of the election and is approved by the people remains in effect. An act that was suspended by a petition and is approved by the people is effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred by the legislature that contains an effective date following the election becomes. effective on that date if approved by the people. An act that provides no effective date and whose substantive provisions were delayed by the legislature pending approval at an election and that is approved is effective October 1 following the election."

Section 9. Section 15-17-305, MCA, is amended to read:

**15-17-305. No sale unless directed by county

commissioners. In case an assessment is made under 15-17-304

and the lands are not redeemed from a previous sale had

under part 2, as provided by law, no sale must be had under
the assessment authorized by 15-17-304 unless directed by
the board of county commissioners.

4 Section 10. Section 15-24-922. MCA, is amended to read:

#15-24-922. Department to prescribe levy. The department of revenue is hereby empowered and it is made its duty to annually prescribe the levy to be made against livestock of all classes for the purpose above indicated, and the various—boards—herein—named—sholl—have board of livestock has the right to recommend to said department the amount of such levy.

14 read:

15 **15-31-114.* Deductions allowed in computing income. In

16 computing the net income, the following deductions shall be

Section 11. Section 15-31-114, MCA, is amended to

17 allowed from the gross income received by such corporation
18 within the year from all sources:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property

title or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Nontana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

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(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(b) (i) There shall be allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of this subsection. The net

loss carryovers to such taxable period plus the net 3 operating loss carrybacks to such taxable period. The term "net operating loss" means the excess of the deductions 5 allowed by this section, 15-31-114, over the gross income, with the modifications specified In (ii) of this subsection. 7 If for any taxable period beginning after December 31, 1970, В a net operating loss is sustained, such loss shall be a net 9 operating loss carryback to each of the three taxable 10 periods preceding the taxable period of such loss and shall 11 be a net operating loss carryover to each of the five 12 taxable periods following the taxable period of such loss. A 13 net operating loss for any taxable period ending after 14 December 31, 1975, in addition to being a net operating loss 15 carryback to each of the three preceding taxable periods, 16 shall be a net operating loss carryover to each of the seven 17 taxable periods following the taxable period of such loss. 18 The portion of such loss which shall be carried to each of 19 the other taxable years shall be the excess, if any, of the 20 amount of such loss over the sum of the net income for each 21 of the prior taxable periods to which such loss was carried. 22 For purposes of the preceding sentence, the net income for 23 such prior taxable period shall be computed with the 24 modifications specified in (ii)(B) of this subsection and by 25 determining the amount of the net operating loss deduction

operating loss deduction is the aggregate of net operating

without regard to the net operating loss for the loss period or any taxable period thereafter, and the net income so computed shall not be considered to be less than zero.

- (ii) The modifications referred to in (i) of this subsection shall be as follows:
 - (A) No net operating loss deduction shall be allowed.
- (8) The deduction for depletion shall not exceed the amount which would be allowable if computed under the cost method.

to --- Any-net-operating-loss-carried-over-to-any-taxable years-beginning-ofter-December-31y-1978y-must-be--calculated under--the--provisions--of--this--section--effective-for-the taxable-year-for-which-the-return-claiming-the-net-operating loss-carryover-is-filed*

- (iii) A net operating loss deduction shall be allowed only with regard to losses attributable to the business carried on within the state of Montana.
- (iv) In the case of a merger of corporations, the surviving corporation shall not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger. In the case of a consolidation of corporations, the new corporate entity shall not be allowed a deduction for net operating losses sustained by the consolidated corporations prior to the date of consolidation.

(v) Notwithstanding the provisions of 15-31-531.

interest shall not be paid with respect to a refund of tax resulting from a net operating loss carryback or carryover.

(vi) The net operating loss deduction shall not be allowed with respect to taxable periods which ended on or before December 31, 1970, but shall be allowed only with respect to taxable periods beginning on or after January 1, 1971.

(3) In the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements; such reasonable allowance to be determined according to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for corporation license tax purposes shall be the same as the elections made for federal income tax purposes.

(4) The amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived; but no interest shall be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from such property or business would be taxable under this part.

- (5) (a) Taxes paid within the year except the following:
 - (i) Taxes imposed by this part.

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- (ii) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.
- (iii) Taxes on or according to or measured by net income or profits imposed by authority of the government of the United States.
- 9 (iv) Taxes imposed by any other state or country upon 10 or measured by net income or profits.
 - (b) Taxes deductible under this part shall be construed to include taxes imposed by any county, school district, or municipality of this state.
 - (6) Light vehicle license fees, as provided by 61-3-532, paid within the year.
- 16 (7) That portion of an energy-related investment 17 allowed as a deduction under 15-32-103.
 - (8) (a) Except as provided in subsection (b).

 charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, as amended.
 - (b) The public service commission shall not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.
- 25 Section 12. Section 15-31-509, MCA, is amended to

1 read:

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#15-31-509. Periods of limitation. (1) Except as 2 3 otherwise provided in this section and in 15-31-542 15-31-544, no deficiency shall be assessed or collected with respect to the year for which a return is filed unless the 5 notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the 7 purposes of this section, a return filed before the last day prescribed for filing shall be considered as filed on such last day. Where, before the expiration of the period 10 11 prescribed for assessment of the tax, the taxpayer consents in writing to an assessment after the time, the tax may be 12 13 assessed at any time prior to the expiration of the period 14 agreed upon. The limitations prescribed for giving notice of 15 a proposed assessment of additional tax shall not apply 16 when:

- (a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of federal tax, provided the suspension of the limitation set forth. In this section shall last:
- 21 (i) only so long as the suspension of the federal 22 statute of limitation; or
- 23 (ii) until 1 year after any federal changes have become 24 final or any amended federal return is filed as a result of 25 such suspension of the federal statute, whichever is the

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1 latest in time; or

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- 2 (b) a taxpayer has failed to file a report of changes
 3 in federal taxable income or an amended return as required
 4 by 15-31-506 until 5 years after the federal changes become
 5 final or the amended federal return was filed, whichever the
 6 case may be.
 - (2) No refund or credit shall be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) of this section to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed in the event no claim is filed shall automatically be so extended.**
- 21 Section 13. Section 15-31-526, MCA, is amended to 22 read:
- 23 #15-31-526. Action by attorney general. Action may be 24 brought at-any-time by the attorney general of the state at 25 the instance of the department, in the name of the state; to

- recover the amount of any taxes, penalties, and interest due
 under this chapter.**
- 3 Section 14. Section 15-57-109. MCA, is amended to read:
 - money. The department of revenue may employ such clerical and field assistance as necessary to carry out and administer the provisions of this chapter. All money collected under the provisions of this chapter shall be paid into the state treasury and credited to the general fund. Administration—of—fitle—38y—chapter—14y—part-2y-is—the responsibility—of—the—department—of—commerce=
 - Section 15. Section 19-6-203, MCA, is amended to read:

 *19-6-203. Administrative expenses. (1) The expense of
 the administration of this chapter, exclusive of the payment
 of retirement allowances and other benefits, may be paid
 from the fund account.
- 18 (2) Before July 15 of each year, the board may compute
 19 the administrative costs for the immediately preceding
 20 fiscal year and transfer that amount from the fund account
 21 to the public employees retirement system account in the
 22 agency fund.**
- 23 Section 16. Section 19-7-202, MCA, is amended to read: 24 "19-7-202. Expenses of administration. (1) The expense 25 of the administration of this chapter, exclusive of the

- payment of retirement allowances and other benefits, may be paid from the fund account.
- (2) Before July 15 of each year, the board may compute the administrative costs for the immediately preceding fiscal year and transfer that amount from the fund account to the public employees' retirement system account in the agency fund."
- 8 Section 17. Section 22-1-218, MCA: is amended to read:
 9 #22-1-218. Exemptions. This part does not apply to
 10 officers of or affect the duties concerning publications
 11 distributed by:
- 12 (1) the state law library;

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- 13 (2)--the--secretary--of--state--in--connection-with-his
 14 duties-under-2-15-401(13);
- 15 (3+12) the code commissioner in connection with his
 16 duties under Title 1+ chapter 11, as amended; and
- 17 (4)(2) the legislative council in connection with its
 18 duties under 5-11-203, as amended.
- 19 Section 18. Section 46-30-301, MCA, is amended to 20 read:
- 21 #46-30-301. Arrest of accused without warrant. The
 22 arrest of a person may be lawfully made also by any peace
 23 officer or a private person without a warrant upon
 24 reasonable information that the accused stands charged in
 25 the courts of a state with a crime punishable by death or

- 1 imprisonment for a term exceeding 1 year. When so arrested,
- 2 the accused must be taken before a judge or magistrate with
- 3 all practicable speed and complaint must be made against him
- 4 under oath setting forth the ground for the arrest as in
- 5 46-30-227. Thereafter this his answer shall be heard as If
- 6 he had been arrested on a warrant
- 7 Section 19. Section 4. Chapter 520, Laws of 1981, is
- 8 amended to read:
- 9 *Section 4. Applicability. This The Increase to 30%
- 10 for the small business investment credit in 15:30-162(2)(a)
- 11 and 15=31=123(4)(a) in this act. is applicable only to
- 12 taxable years beginning after December 31, 1980, and before
- 13 January 1, 1983."
- 14 NEW SECTION. Section 20. Coordination instruction. If
- 15 any act passed by the 48th legislature conflicts with the
- 16 provisions of section 19 of this act by amendment of
- 17 sections 15-30-162(2)(a), 15-31-123(4)(a), MCA, or section
- 18 4, chapter 520, Laws of 1981, the provisions of the other
- 19 act shall prevail over section 19 of this act and any
- 20 amendment or amendatory effect on those sections by section
- 21 19 of this act is void and of no effect to the extent of any
- 22 conflict.
- 23 NEW SECTION. Section 21. Effective date. Sections 19
- 24 and 20 are effective on passage and approval and apply as of
- 25 January 1, 1983.

1 NEW SECTION. Section 22. Repealer.

Sections

2 2-15-1627, 7-13-2249, and 15-31-542, MCA, are repealed.

-End-

LC 128

1983 Legislature Code Commissioner Bill - Summary

SenateBill No. 100

AN ACT TO GENERALLY REVISE THE LAWS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401, 7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114, 13-27-105, 15-17-305, 15-24-922, 15-31-114, 15-31-509, 15-57-109, 19-6-203, 19-7-202, 22-1-218, 46-30-301, MCA; AMENDING SECTION 4, CHAPTER 520, LAWS OF 1981 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SUCH AMENDMENT; AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND 15-31-542, MCA.

Section 1. 2-15-401. Deletes subsection (13) requiring the secretary of state to report changes of names to the legislative council for publication in the session laws. Under 27-31-205, by 1979 amendment, such name changes are reported to the legislative council directly by clerks of district courts. Senate Bill 46 proposes to repeal 27-31-205 so that this requirement will be totally obsolete.

Section 2. 7-2-2709. The section provides that the governor by election proclamation is to set a date for county consolidation or abandonment elections. The 1979 revision of election laws eliminated the governor's election proclamation. Amendment would delete reference to an election proclamation, replacing it with a joint resolution of the boards of county commissioners of all the counties affected by a consolidation or abandonment.

Section 3. 7-3-219. This section was enacted in 1975 with the idea that HB $\overline{122}$, 1977, would pass and provide, in Title 7, some election procedures. Delete "as provided in this title" twice in section -- there are no such provisions in Title 7. Only relevant election procedures are in Title 13.

Section 4. 7-3-314. See section 3.

Section 5. 7-3-413. See section 3.

Section 6. 7-3-513. See section 3.

Section 7. 7-21-2114. There is no state examiner -- his duties relating to local government are now a responsibility of the department of administration.

Section 8. 13-27-105. The effective date of constitutional amendments is July 1 following passage under Article XIV, sections 8 and 9, Montana constitution.

Section 9. 15-17-305. Inserted "of county commissioners" after "board" because 15-17-101(3) defines board as state tax

appeal board and the reference in this section is to the board of county commissioners.

Section 10. $\frac{15-24-922}{100}$. The "various boards herein named" were consolidated under the board of livestock during executive reorganization.

Section 11. 15-31-114. Subsection (2)(b)(ii)(C) was declared unconstitutional because of retroactive application against persons who had complied with the current law in computing losses in the year they occurred, but later being held accountable for taxes on those prior years because of recent changes in tax law. First Federal Savings and Loan Assoc. v. Department of Revenue, M , P2d. , 39 St. Rep. 1802 (1982). (Note: As of October 29, 1982, First Federal Savings and Loan Assoc. v. Department of Revenue, supra, may come up for rehearing before the Montana Supreme Court. This amendment may have to be changed if a different decision is made upon rehearing.)

Section 12. 15-31-509. Section 15-31-542 was held to have been repealed in St. v. King Colony Ranch, 137 M. 145, 350 P2d. 841 (1960), by a later enactment. Section 15-31-542 was also held not to have been reenacted by inclusion of the internal reference in this section after the date of the King Colony case because its inclusion was made without any legislative indication that reenactment was ever contemplated. Caterpillar Tractor Co. v. Department of Revenue, M, P2d., 39 St. Rep. 1245 (1982).

Section 15-31-544 was added to this section because it is a general statute of limitation affecting the whole chapter. Section 15-31-544 was enacted in 1981 and should have been referenced in this section.

Section 13. 15-31-526. Caterpillar Tractor Co. v. Department of Revenue, M, P2d., 39 St. Rep. 1245 (1982) was involved with limitations dates for actions in the collections of corporate taxes. This section is amended to clarify that an action by the attorney general is governed by the same limitations that apply to the department of revenue.

Section 14. 15-57-109. Between 1977 and 1979 this section provided that \$5.00 of the license money was to go to funding administration of unfair trade practices laws contained in Title 30, chapter 14, part 2. The final sentence of the section was probably helpful during that time to specify departmental responsibilities.

Section 15. 19-6-203. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-6-101(1).

Section 16. 19-7-202. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-7-101(1).

- Section 17. 22-1-218. Section 2-15-401(13) at one time exempted the secretary of state from provisions regarding libraries in the publication of session laws. The legislative council now publishes the session laws.
- Section 18. 46-30-301. Typographical error. Reads "his" in the Uniform Criminal Extradition Act.
- Section 19. Section 4, Ch. 520, L. 1981. Chapter 520, L. 1981, accomplished two purposes: It revised and clarified provisions on small business investment and raised the small business investment credit from 20% to 30%. The revision and clarification provisions should be permanent law -- only the increase in the small business investment credit should be temporary. If sec. 4, Ch. 520, L. 1981, was to operate on the total bill needless confusion would arise from the termination of the clarification provisions. The amendment would keep the termination provisions applicable to the percentage increase but would make the general revisions part of permanent law. section, under the coordination instruction in section 20, would not affect any 1983 amendments on the percentage rate. This section would become effective upon passage and approval and apply as of January 1, 1983 to ensure that there is no gap in the effectiveness and applicability of the clarification provisions.
- Section 20. <u>Coordination instruction</u>. See explanation for section 19.
- Section 21. <u>Effective date.</u> See explanation for section 19.

Section 22. Repealer.

- A. 2-15-1627. The board of massage therapists was terminated under the sunset provisions of 2-8-103 in 1981. This section, establishing the board, was not repealed during the 1981 session.
- B. 7-13-2249. Proclamation of elections for county water and/or sewer districts. There are no longer proclamations of elections.
- C. 15-31-542. Repealed by a later enactment. See explanation for section 12.

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24 25 entered therein;

the different state officers;

48th Legislature

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Approved by Committee on State Administration

2	INTRODUCED BY GRAHAM
3	BY REQUEST OF THE CODE COMMISSIONER
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6	LAWS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401,
7	7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114,
8	13-27-105, 15-17-305, 15-24-922, 15-31-114, 15-31-509,
9	15-31-526, 15-57-109, 19-6-203, 19-7-202, 22-1-218,
10	46-30-301, MCA; AMENDING-SECTION-4CHAPTER520,LAWSOF
11	1981ANDPROVIDINGANIMMEDIATE-EFFECTIVE-DATE-FOR-SUCH
12	AMENDMENT; AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND
13	15-31-542, MCA.*
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15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MUNTANA:
16	Section 1. Section 2-15-401, MCA, is amended to read:
17	<pre>"2-15-401. Duties of secretary of state. In addition</pre>
18	to the duties prescribed by the constitution, it is the duty
19	of the secretary of state to:
20	(1) attend at every session of the legislature for the
21	purpose of receiving bills and resolutions and to perform
22	such other duties as may be devolved upon him by resolution
23	of the two houses or either of them;
24	(2) keep a register of and attest the official acts of
25	the governor, including all appointments made by him, with

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2	(3) affix the great seal, with his attestation, to
3	commissions, pardons, and other public instruments to which
4	the official signature of the governor is required;
5	(4) record in proper books all conveyances made to the
6	state and all articles of incorporation filed in his office;
7	(5) take and file in his office receipts for all books
8	distributed by him and direct the county clerk of each
9	county to do the same;
10	(6) certify to the governor the names of those persons
11	who have received at any election the highest number of
12	votes for any office, the incumbent of which is commissioned
13	by the governor;
14	(7) furnish, on demand, to any person paying the fees
15	therefor, a certified copy of all or any part of any law-
16	record, or other instrument filed, deposited, or recorded in
17	his office;
18	(8) keep a fee book in which must be entered all fees,
19	commissions, and compensation of whatever nature or kind by
20	him earned, collected, or charged, with the date, name of

date of commission and names of appointees and predecessors;

payer, paid or unpaid, and the nature of the service in each

case, which book must be verified annually by his affidavit

(9) file in his office descriptions of seals in use by

(10)	discha	orge	the	duti	es of	member	of	the	board	l of
examiners	and of	the	board	i of	land	commiss:	one	ers	and	a11
other dut	ies red	uire	d of t	iim b	y law;					

- (11) report to the governor as prescribed in 2-7-102;
- (12) register marks as provided in Title 30, chapter 13, part 3;
 - (13)-report--annually--to--the--legislative-council-all changes--of--names--received--pursuant--to---27-31-205---for publication-in-the-Laws-of-Montanot

(15)(14) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application."

Section 2. Section 7-2-2709, MCA, is amended to read:

"7-2-2709. Special election on question of abandonment
and consolidation. (1) (a) Upon receipt of acceptified copy

Within 14 days after transmittal of the resolution provided
for in 7-2-2707, the governor shally within 10 days

thereaftery issue his proclamation calling a special
election in the boards of county commissioners of the county
in which the petition referred to in the resolution was
filed and in of each county designated in the resolution as

a county to which any of the territory of the county, if

abandoned and abolished, shall would be attached and made a

part, shall, in a joint meeting and by loint resolution of

such boards, call a special election in all affected

counties.

- (b) The proclemation joint resolution shall fix a day for holding the election in such counties, which shall be not less than 90 days or more than 120 days after the date of the governor's proclemation joint resolution calling the samey, provided—that if If a general election will be held in the counties not less than 90 days or more than 120 days after the date of such proclemationy—the governory—in—the proclemationy the resolution provided for in T=2=2707s—the joint resolution shall direct that the question be submitted to the registered electors of the counties at the general election. The proclemation joint resolution shall be filed in the office of the secretary of state, and copies thereof shall be transmitted by—the—governor to the election administrator of each of the counties in which the election is to be held.
- (2) At the election there shall be submitted:
- 22 (a) to the registered electors of the county in which
 23 the petition was filed, the question of whether or not the
 24 county shall be abandoned and abolished and its territory
 25 attached to and made a part of the county designated and

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named for the purpose in the petition; and

- (b) to the registered electors of each county named and designated in the resolution as a county to which a part of the territory of the county proposed to be abandoned and abolished shall be attached and made a part if the county shall be so abandoned and abolished, the question of whether or not the part of the territory of the county, if abandoned and abolished, described in the resolution shall be attached to and become a part of the county."
- - (1) partisan basis as provided in this title; or
 - (2) nonpartisan basis as-provided-in-this-title."
- 15 Section 4. Section 7-3-314, MCA, is amended to read:
- 16 *7-3-314. Type of election. Local government elections
- 17 shall be conducted on a:

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- 18 (1) partisan basis as-provided-in-this-title; or
- 19 (2) nonpartisan basis os-provided-in-this-title-"
- 20 Section 5. Section 7-3-413, MCA, is amended to read:
- 21 *7-3-413. Type of election. Local government elections
- 22 shall be conducted on a:
- 23 (1) partisan basis as-provided in this title; or
- 24 (2) nonpartisan basis as-provided-in-this-title."
- 25 Section 6. Section 7-3-513. MCA. is amended to read:

- 1 "7-3-513. Type of election. Local government elections
 2 shall be conducted on a:
- 3 (1) partisan basis os-provided-in-this-title; or
- 4 (2) nonpartisan basis es-provided-in-this-title."

Section 7. Section 7-21-2114. MCA, is amended to read:

- 8 commissioners or the state---examiner department of
- 9 administration, when examining the treasurer's report, to
- 10 investigate if any persons are doing business in the county
- 11 without a license or if the amount of the license is
- 12 sufficient. In either event the treasurer shall be
- 13 officially notified.**
- 14 Section 8. Section 13-27-105, MCA, is amended to read:
- 15 "13-27-105. Effective date of initiative and
- 16 referendum issues. (1) Unless the petition placing an
- 17 initiative issue on the ballot states otherwise, an
- 18 initiative issue, other than a constitutional amendment.
- 19 approved by the people is effective on October 1 following
- 20 approval. However, if the issue delegates rulemaking
- 21 authority, it is effective no sooner than October 1
- 22 following approval.
- 23 (2) Unless—the—legislature—provides—otherwisey—a A
- 24 constitutional amendment proposed by initiative or by the
- 25 legislature and approved by the people is effective on

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(3) Unless specifically provided by the legislature in an act referred by it to the people or until suspended by a petition signed by at least 15% of the qualified electors in a majority of the legislative representative districts, an act referred to the people is in effect as provided by law until it is approved or rejected at the election. An act that is rejected is repealed effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred to the people that was in effect at the time of the election and is approved by the people remains in effect. An act that was suspended by a petition and is approved by the people is effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred by the legislature that contains an effective date following the election becomes effective on that date if approved by the people. An act that provides no effective date and whose substantive provisions were delayed by the legislature pending approval at an election and that is approved is effective October 1 following the election."

Section 9. Section 15-17-305, MCA, is amended to read:
#15-17-306. No sale unless directed by county
commissioners. In case an assessment is made under 15-17-304
and the lands are not redeemed from a previous sale had

1	under part 2, as provided by law, no sale must be had under
2	the assessment authorized by 15-17-304 unless directed by
3	the board of county commissioners."
4	Section 10. Section 15-24-922, MCA, is amended to
5	read:
6	#15-24-922. Department to prescribe levy. The
7	department of revenue is hereby empowered and it is made its
8	duty to annually prescribe the levy to be made against
9	livestock of all classes for the purpose above indicated.
10	and the variousboardshereinnamed-shall-have <u>qoard_qf</u>
11	livestock has the right to recommend to said department the
12	amount of such levy."
13	Sameian-11Section15-31-114yMCAy73amendedto
14	read+
15	#15-31-114wBedwettens-ettowedtncomputingtncome
16	Incomputing-the-net-incomey-the-following-deductions-shall
17	beallowedfromthegrossincomereceivedbysuch
18	corporation-within-the-year-from-all-sources*
19	(i)Alltheordinaryand-necessary-expenses-paid-or
20	incurred-during-the-taxableyearinthemaintenanceand
21	operationofitsbusinessandpropertiesyincluding
22	reasonable-allowanceforsalariesforpersonalservices
23	actuallyrenderedysubjecttothe-limitation-hereinafter
24	containedy-rentais-or-other-payments-required-to-be-madeas

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a--condition--to-the-continued-use-or-possession-of-property

to-which-the-corporation-has-not--taken--or--is--not--taking title--or--in--which-it-has-no-equity--No-deduction-shall-be allowed-for-salaries-paid-upon-which-the--recipient--thereof has--not--paid--Montana-state-income-taxs-providedy-howevery that-where-domestic-corporations-are-taxed-on-income-derived from--without--the--statey--salaries--of--officers--paid--in connection-with-securing-such-income-shall-be-deductibles

(2)--(a)-All--losses-actually-sustained-and-charged-off within--the--year--and--not--compensated--by--insurance---or otherwisey-including-a-reasonable-allowance-for-the-wear-and tear--and--obselescence--of--property--used--in-the-trade-or businessy-such-allowance-to-be-determined-according--to--the provisions--of--section--167-of-the-internal-Revenue-Code-in effect-with-respect-ta-the-taxable-years-All--elections--for depreciation--shall--be--the--same-as-the-elections-made-for federal-income-tox-purposesy-No-deduction-shall--be--allowed for--any--amount--paid--out--for--any--buildingsy--permanent improvementsy-or-betterments-made-to-increase-the--value--of any--property--or-estatey-and-no-deduction-shall-be-made-for any--amount--of-expense-of-restoring-property-or--making--good the-exhaustion-thereof-for-which-an-allowance-is-or-has-been made-

tb)--(i)-There--analT-be-allowed-as-a-deduction-for-the
taxable-period-a-net--operating--loss--deduction--determined
according--to--the--provisions--of--this-subsectiona-The-net

1	operating-loss-deduction-is-the-aggregate-ofnetoperating
2	losstarryoverstosuchtoxableperiodplusthenet
3	operating-loss-carrybacks-to-such-toxoble-periodTheterm
4	*netoperatingloss*meanstheexcess-of-the-deductions
5	allowed-by-this-section15-31-114y-over-thegrossincome:
6	with-the-modifications-specified-in-(ii)-of-this-subsections
7	if-for-any-taxable-period-beginning-after-Becember-3ly-1970
8	amet-operating-loss-is-sustainedy-such-loss-shall-pe-a-net
9	operating-losscarrybacktoeachofthethreetaxable
10	periodspreceding-the-taxable-period-of-such-loss-and-shall
11	be-a-net-operatinglosscarryovertoeachofthefive
12	taxable-periods-following-the-taxable-period-of-such-losss-A
13	netoperatinglossforanytaxableperiod-ending-after
14	December-3ly-1975y-in-addition-to-being-a-net-operating-loss
15	carryback-to-each-of-the-threeprecedingtaxableperiods:
16	shall-be-a-met-operating-less-carryover-to-each-of-the-seven
17	taxableperiodsfollowing-the-taxable-period-of-such-loss:
18	The-portion-of-such-loss-which-shall-be-corried-toeachof
19	theether-taxable-years-shall-be-the-excessy-if-anyy-of-the
20	amount-of-such-loss-ever-the-sum-of-the-net-income-foreach
21	of-the-prior-taxable-periods-to-which-such-luss-was-carriedw
22	Forpurposesof-the-preceding-sentencey-the-net-income-for
23	suchpriortexableperiodshallbecomputedwiththe
24	modifications-specified-in-(ii)(u)-of-this-subsection-and-by
25	determining-theamount-of-the-met-operating-loss-deduction

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1	without-regard-to-the-not-operating-loss-for-the-loss-period
2	of-any-taxable-period-thereafteryandthenetincomego
3	computed-shall-not-be-considered-to-be-less-than-zerow
4	fif)-Themodificationsreferredtointijof-this
5	subsection-shelt-be-es-foliars
6	<pre>fA}No-net-operating-loss-deduction-shall-beallowed≠</pre>
7	tB}Thedeductionfor-depletion-shall-not-exceed-the
8	amount-which-would-be-allowable-if-computed-underthecost
9	methods
0	f6}Any-net-operating-loss-carried-over-to-any-taxable
1	yearsbeginning-after-December-31y-1978y-must-be-calculated
2	under-the-provisionsofthissectioneffectiveforthe
3	taxable-year-for-which-the-return-claiming-the-net-operating
4	loss-corryover-is-fileds
.5	(iii)-Anetoperating-loss-deduction-shall-be-allowed
6	only-with-regard-tolosses— ottributoble tothebusiness
7	corried-on-within-the-state-of-Montane-
.8	fiv)-inthecoseofamergerof-corporationsy-the
9	aurviving-corporation-shall-not-be-allowed-anetoperating
0	lassdeductionfornetoperating-losses-sustained-by-the

merged-corporations-prior-to-the-date-of-mergers-in-the-case

of-a-consolidation-of-corporationsy-the-new-corporate-entity

shall-not-be-allowed-a-deduction-for--net--operating--losses

sustained-by-the-consolidated-corporations-prior-to-the-date

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interest-shall-mot-be-poid-with-respect-to-a-refund--of--tax 3 resulting--from-a-net-operating-loss-corryback-or-corryover* tvit-The-net-operating--loss--deduction--shall--not--be 4 allowed--with--respect--to-taxable-periods-which-ended-on-or before-December-31y-1970y-but-shall--be--allowed--only--with 6 7 respect--to-taxable-periods-beginning-on-or-after-dangery-ly 1971v 8 9 f3)--In-the-case-of-minesy-other-natural-depositsy--oil 10 and--qas--wellsy--and--timbery--a--resonable--allowance-for 11 depletion--and--for--depreciation--of---improvements;---such 12 responsible--slowence--to--be--determined--according--to-the 13 provisions-of-the-internal-Revenue-Eode-in--effect--for--the 14 taxable--years-All-elections-made-under-the-Internal-Revenue 15 Code-with-respect-to-capitalizing-or-expensing--exploration and--development--costs-and-intangible-drilling-expenses-for 16 17 corporation-license-tax-purposes-shall-be-the--same--as--the 18 elections-made-for-federal-income-tax-purposes: 19 t+}--The-amount-of-interest-paid-within-the-year-on-its 20 indebtedness--incurred-in-the-operation-of-the-business-from 21 which-its-income--is--derived;--but--no--interest--shell--be 22 allowed--as--o--deduction-if-paid-on-an-indebtedness-created

fv1--Netwithstending---the---provisions--of--15-31-531+

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-12-SB 100

for-the-purchasey-maintenancey-or-improvement-of-property-or

for-the-conduct-of-business--unless--the--income--from--such

property-or-business-would-be-taxoble-under-this-parts

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17 18

19 20 read:

1	(5)(a)-Faxespaidwithintheyearexceptthe
2	followingt
3	titTaxes-imposed-by-this-parts
4	<pre>f++;-Faxes-assessed-aga+nst-local-benef+tsofok+nd</pre>
5	tending-to-increase-the-value-of-the-property-ussessed.
6	{++++}-Faxesonoraccord+ngtoormeasured-by-net
7	income-or-profits-imposed-by-outhority-of-the-governmentof
8	the-United-States.
9	fiv)-Taxesimposedby-any-other-state-or-country-upon
10	or-measured-by-net-income-or-profits*
11	tb)faxesdeductibleunderthispartshallbe
12	construedtoincludetaxesimposed-by-any-countyschool
13	districts-or-municipality-of-this-states
14	t6}kightvehiclelicensefeesyasprovidedby
15	61-3-532paid-within-the-years
16	(7)Thatportionofanenergy-relatedinvestment
17	allowed-as-a-deduction-under-15-32-183*
18	<pre>f8}-{a}Exceptasprovidedinsubsectiontb)</pre>
19	charitablecontributionsandgiftsthatqualifyfor
20	deduction-under-section-170-of-the-Internal-Revenue-Code,-as
21	emended⊎
22	<pre>tb}The-public-service-commission-shall-notollowin</pre>
23	theratebaseof-a-regulated-corporation-the-inclusion-of
24	contributions-mode-under-this-subsection="
25	Section 11. Section 15-31-509, MCA, is amended to

2	#15-31-509. Periods of limitation. (1) Except as
3	otherwise provided in this section and in 15-31-54
4	15-31-544, no deficiency shall be assessed or collected with
5	respect to the year for which a return is filed unless the
6	notice of additional tax proposed to be assessed is mailed
7	within 5 years from the date the return was filed. For the
8	purposes of this section, a return filed before the last day
Ģ	prescribed for filing shall be considered as filed on such
ro	last day. Where, before the expiration of the period
11	prescribed for assessment of the tax; the taxpayer consents
12	in writing to an assessment after the time, the tax may be
13	assessed at any time prior to the expiration of the period
14	agreed upon. The limitations prescribed for giving notice of
15	a proposed assessment of additional tax shall not apply
16	when:

- (a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of federal tax, provided the suspension of the limitation set forth in this section small last:
- (i) only so long as the suspension of the federalstatute of limitation; or
- 23 (ii) until 1 year after any federal changes have become 24 final or any amended federal return is filed as a result of 25 such suspension of the federal statute, whichever is the

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- (b) a taxpayer has failed to file a report of changes in federal taxable income or an amended return as required by 15-31-506 until 5 years after the federal changes become final or the amended federal return was filed, whichever the case may be.
- (2) No refund or credit shall be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) of this section to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed in the event no claim is filed shall automatically be so extended."
- 21 Section 12. Section 15-31-526, MCA; is amended to 22 read:
- 23 "15-31-526. Action by attorney general. Action may be 24 brought at-any-time by the attorney general of the state at 25 the instance of the department, in the name of the state: to

recover the amount of any taxes, penalties, and interest due
under this chapter."

3 Section 13. Section 15-57-109, MCA, is amended to read:

"15-57-109. Employment of staff — disposal of license money. The department of revenue may employ such clarical and field assistance as necessary to carry out and administer the provisions of this chapter. All money collected under the provisions of this chapter shall be paid into the state treasury and credited to the general fund. Administration-of-Title-30y-chapter-14y-part-2y--is--the responsibility-of-the-department-of-commerces"

Section 14. Section 19-6-203, MCA, is amended to read:
#19-6-203. Administrative expenses. (1) The expense of
the administration of this chapter, exclusive of the payment
of retirement allowances and other benefits, may be paid
from the fund account.

- 18 (2) Before July 15 of each year, the board may compute
 19 the administrative costs for the immediately preceding
 20 fiscal year and transfer that amount from the fund account
 21 to the public employees* retirement system account in the
 22 agency fund.**
- 23 Section 15. Section 19-7-202, MCA, is amended to read: 24 "19-7-202. Expenses of administration. (1) The expense 25 of the administration of this chapter, exclusive of the

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payment of retirement allowances and other benefits, may be paid from the fund account.

- (2) Before July 15 of each year, the board may compute the administrative costs for the immediately preceding fiscal year and transfer that amount from the fund account to the public employees retirement system account in the agency fund.
- Section 16. Section 22-1-218, MCA; is amended to read:

 "22-1-218. Exemptions. This part does not apply to

 officers of or affect the duties concerning publications

 distributed by:
- 12 (1) the state law library;

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- 13 (2)--the-secretary-of--state--in--connection--with--his
 14 duties-under-2-15-401f13)*
- 15 (3)121 the code commissioner in connection with his
 16 duties under Title 1, chapter 11, as amended; and
- 17 (4)(3) the legislative council in connection with its
 18 duties under 5-11-203, as amended."
- 19 Section 17. Section 46-30-301, MCA, is amended to 20 read:
- 21 #46-30-301. Arrest of accused without warrant. The
 22 arrest of a person may be lawfully made also by any peace
 23 officer or a private person without a warrant upon
 24 reasonable information that the accused stands charged in
 25 the courts of a state with a crime punishable by death or

imprisonment for a term exceeding 1 year. When so arrested, the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in 46-30-227. Thereafter this answer shall be heard as if he had been arrested on a warrant.

Section-19w--Section--4y--Chapter-528y-Laws-of-1981w-is
amended-to-read:

#Section-iv--Applicability--This-<u>The-increase-to--30%</u>

for--the-small-business-investment-credit in-15-30-162(2)(a)

and:15-31-123(1)(a):in--this--acty--is--applicable--anly--to
taxable--years-beginning-after-December-31y-1980y-and-before
danuary-1y-1983**

NEW-SECTIONs -- Section - 20 -- Coordination -- -- instruction -- If-any-act-passed-by-the-48th-legislature-conflicts -- with-the provisions -- of -- section -- 19 -- of -- this -- act -- by -- amendment -- of section -- 15 -- 38 -- 162 (2) (a) y -- 15 -- 31 -- 123 (4) (a) y -- MCAy -- or -- section -- ty -- chapter -- 520 y -- Laws -- of -- 1981 y -- the -- provisions -- of -- the -- other act -- shall -- prevail -- over -- section -- 19 -- of -- this -- act -- and -- any amendment -- or -- amendatory -- effect -- an -- those -- sections -- by -- section -- 19 -- of -- this -- act -- is -- void -- and -- of -- no -- effect -- to -- the -- extent -- of -- any conflicts

NEW_SEETERN_--Section-21--Effective-dates--Sections-19
and-20-are-effective-on-passage-and-approval-and-apply-as-of
danuary-1-1983-

1 NEW_SECTION: Section 18. Repealer.

Sections

2 2-15-1627, 7-13-2249, and 15-31-542, MCA, are repeated.

-End-

LC 128

1983 Legislature Code Commissioner Bill - Summary

SenateBill No. 100

AN ACT TO GENERALLY REVISE THE LAWS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401, 7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114, 13-27-105, 15-17-305, 15-24-922, 15-31-114, 15-31-509, 15-57-109, 19-6-203, 19-7-202, 22-1-218, 46-30-301, MCA; AMENDING SECTION 4, CHAPTER 520, LAWS OF 1981 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SUCH AMENDMENT; AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND 15-31-542, MCA.

Section 1. 2-15-401. Deletes subsection (13) requiring the secretary of state to report changes of names to the legislative council for publication in the session laws. Under 27-31-205, by 1979 amendment, such name changes are reported to the legislative council directly by clerks of district courts. Senate Bill 46 proposes to repeal 27-31-205 so that this requirement will be totally obsolete.

Section 2. 7-2-2709. The section provides that the governor by election proclamation is to set a date for county consolidation or abandonment elections. The 1979 revision of election laws eliminated the governor's election proclamation. Amendment would delete reference to an election proclamation, replacing it with a joint resolution of the boards of county commissioners of all the counties affected by a consolidation or abandonment.

Section 3. 7-3-219. This section was enacted in 1975 with the idea that HB $\overline{122}$, 1977, would pass and provide, in Title 7, some election procedures. Delete "as provided in this title" twice in section -- there are no such provisions in Title 7. Only relevant election procedures are in Title 13.

Section 4. 7-3-314. See section 3.

Section 5. 7-3-413. See section 3.

Section 6. 7-3-513. See section 3.

Section 7. 7-21-2114. There is no state examiner -- his duties relating to local government are now a responsibility of the department of administration.

Section 8. 13-27-105. The effective date of constitutional amendments is July 1 following passage under Article XIV, sections 8 and 9, Montana constitution.

Section 9. 15-17-305. Inserted "of county commissioners" after "board" because 15-17-101(3) defines board as state tax

appeal board and the reference in this section is to the board of county commissioners.

Section 10. 15-24-922. The "various boards herein named" were consolidated under the board of livestock during executive reorganization.

15-31-114. Subsection (2)(b)(ii)(C) Section 11. declared unconstitutional because of retroactive application against persons who had complied with the current law in computing losses in the year they occurred, but later being held accountable for taxes on those prior years because of recent changes in tax law. First Federal Savings and Loan Assoc. v. Department of Revenue, M P2d. , 39 St. Rep. (1982).(Note: As of October 29, 1982, First Federal Savings and Loan Assoc. v. Department of Revenue, supra, may come for rehearing before the Montana Supreme Court. amendment may have to be changed if a different decision is made upon rehearing.)

Section 12. 15-31-509. Section 15-31-542 was held to have been repealed in St. v. King Colony Ranch, 137 M. 145, 350 P2d. 841 (1960), by a later enactment. Section 15-31-542 was also held not to have been reenacted by inclusion of the internal reference in this section after the date of the King Colony case because its inclusion was made without any legislative indication that reenactment was ever contemplated. Caterpillar Tractor Co. v. Department of Revenue, M, P2d., 39 St. Rep. 1245 (1982).

Section 15-31-544 was added to this section because it is a general statute of limitation affecting the whole chapter. Section 15-31-544 was enacted in 1981 and should have been referenced in this section.

Section 13. 15-31-526. Caterpillar Tractor Co. v. Department of Revenue, M, P2d., 39 St. Rep. 1245 (1982) was involved with limitations dates for actions in the collections of corporate taxes. This section is amended to clarify that an action by the attorney general is governed by the same limitations that apply to the department of revenue.

Section 14. 15-57-109. Between 1977 and 1979 this section provided that \$5.00 of the license money was to go to funding administration of unfair trade practices laws contained in Title 30, chapter 14, part 2. The final sentence of the section was probably helpful during that time to specify departmental responsibilities.

Section 15. 19-6-203. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-6-101(1).

Section 16. 19-7-202. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-7-101(1).

- Section 17. $\underline{22-1-218}$. Section 2-15-401(13) at one time exempted the secretary of state from provisions regarding libraries in the publication of session laws. The legislative council now publishes the session laws.
- Section 18. <u>46-30-301</u>. Typographical error. Reads "his" in the Uniform Criminal Extradition Act.
- Section 19. Section 4, Ch. 520, L. 1981. Chapter 520, L. 1981, accomplished two purposes: It revised and clarified provisions on small business investment and raised the small business investment credit from 20% to 30%. The revision and clarification provisions should be permanent law -- only the increase in the small business investment credit should be temporary. If sec. 4, Ch. 520, L. 1981, was to operate on the total bill needless confusion would arise from the termination of the clarification provisions. The amendment would keep the termination provisions applicable to the percentage increase but would make the general revisions part of permanent law. This section, under the coordination instruction in section 20, would not affect any 1983 amendments on the percentage rate. This section would become effective upon passage and approval and apply as of January 1, 1983 to ensure that there is no gap in the effectiveness and applicability of the clarification provisions.
- Section 20. <u>Coordination instruction</u>. See explanation for section 19.
- Section 21. <u>Effective date.</u> See explanation for section 19.

Section 22. Repealer.

- A. 2-15-1627. The board of massage therapists was terminated under the sunset provisions of 2-8-103 in 1981. This section, establishing the board, was not repealed during the 1981 session.
- B. 7-13-2249. Proclamation of elections for county water and/or sewer districts. There are no longer proclamations of elections.
- C. 15-31-542. Repealed by a later enactment. See explanation for section 12.

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2	INTRODUCED BY GRAHAM
3	BY REQUEST OF THE CODE COMMISSIONER
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5	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6	LANS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401,
7	7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114,
8	13-27-105, 15-17-305, 15-24-922, 15-31-114, 115-31-509,
9	15-31-526, 15-57-109, 19-6-203, 19-7-202, 22-1-218,
10	46-30-301+ MCA; AMENDING-SEGTION-4SHAFTER520LANSOF
11	1981ANDPROVIDINGANINMEDIATE-EFFECTIVE-DATE-FOR-SUCK
12	AMENDMENT+ AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND
13.	15-31-542, HCA."
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15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	Section 1. Section 2-15-401, MCA, is amended to read:
17	#2-15-401. Duties of secretary of state. In addition
18	to the duties prescribed by the constitution, it is the duty
19	of the secretary of state to:
20	(1) attend at every session of the legislature for the
21	purpose of receiving bills and resolutions and to perform
22	such other duties as may be devolved upon him by resolution
23	of the two houses or either of them;
24	(2) keep a register of and attest the official acts of

the governor, including all appointments made by him: with

SENATE BILL NO. 100

1	date of commission and names of appointers and predecessors;
2	(3) affix the great seal, with his attestation, to
3	commissions, pardons, and other public instruments to which
4	the official signature of the governor is required;
5	(4) record in proper books all conveyances made to the
6	state and all articles of incorporation filed in his office;
7	(5) take and file in his office receipts for all books
8	distributed by him and direct the county clerk of each
9	county to do the same;
10	(6) certify to the governor the names of those persons
11	who have received at any election the highest number of
12	votes for any office, the incumbent of which is commissioned
13	by the governor:
14	(7) furnish, on demand, to any person paying the fees
15	therefor: a certified copy of all:or any part of any law:
16	record, or other instrument filed, deposited, or recorded in
17	his office;
18	(8) keep a fee book in which must be entered all fees,
19	commissions, and compensation of whatever nature or kind by
20	him earned, collected, or charged, with the date, name of

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entered therein;

payer, paid or unpaid, and the nature of the service in each

case, which book must be verified annually by his affidavit

(9) file in his office descriptions of seals in use by

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- (11) report to the governor as prescribed in 2-7-102;
- (12) register marks as provided in Title 30, chapter 13, part 3;

{13}-report--annually--to-the-legislative-council-all changes-of-names-received-pursuant-to-27-31-205---for publication-in-the-Laws-of-Montanes

#141(13) report annually to the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

#151/1141 keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application.

Section 2. Section 7-2-2709, MCA, is amended to read: "7-2-2709. Special election on question of abandonment and consolidation. (1) (a) Upon-receipt-of-a-certified-copy Within 14 days after transmittal of the resolution provided in 7-2-2767, the governor shally within 10-days thereaftery--issue-his-proclemation--calling---s---special election in the boards of county commissioners of the county in which the petition referred to in the resolution was filed and in of each county designated in the resolution as

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a county to which any of the territory of the county, if abandoned and abolished, shall would be attached and made a part. shall. in a joint meeting and by joint resolution of such boards, call a special election in all affected counties.

- (b) The proclemation joint resolution shall fix a day for holding the election in such counties, which shall be not less than 90 days or more than 120 days after the date of the governoras-proclamation loint_resolution calling the sameva provided that if If a general election will be held in the counties not less than 90 days or more than 120 days after The date of such-preclemationy-the-governory-in-the proclamation, the resolution provided for in 7-2-2707a the ioint resolution shall direct that the question be submitted. to the registered electors of the counties at the general election. The precionation ioint resolution shall be filed in the office of the secretary of state, and copies thereof shall be transmitted by -- the -- governor to the election administrator of each of the counties in which the election is to be held-
- 21 (2) At the election there shall be submitted:
 - (a) to the registered electors of the county in which the petition was filed, the question of whether or not the county shall be abandoned and abolished and its territory attached to and made a part of the county designated and

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named	for	the	MILTONSA	in	the	petition:	and

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- (b) to the registered electors of each county named and designated in the resolution as a county to which a part of the territory of the county proposed to be abandoned and abolished shall be attached and made a part if the county shall be so abandoned and abolished, the question of whether or not the part of the territory of the county, if abandoned and abolished, described in the resolution shall be attached to and become a part of the county.
- Section 3. Section 7-3-219, NCAv is amended to read:

 "7-3-219. Type of election. Local government elections
 shall be conducted on a:
- (1) partisam basis as provided in this title; or
- 14 (2) nonpartisan basis as provided in this title.*

 15 Section 4. Section 7-3-314, MCA, is amended to read:

 16 "7-3-314. Type of election. Local government elections

 17 shall be conducted on a:
 - (1) partisan basis as provided in this title; or
 - (2) nonpartisan basis es-provided in this title."
- 20 Section 5. Section 7-3-413, MCA, is amended to read:
- 21 w7-3-413. Type of election. Local government elections
- 22 shall be conducted on a:
- 23 (1) partisan basis es-provided in this title; or
- 24 (2) nonpartisan basis as-provided in this title.*
- 25 Section 6. Section 7-3-513, MCA, is amended to read:

- 1 "7-3-513. Type of election. Local government elections
 2 shall be conducted on a:
 - (1) partism basis as-provided in-this-title; or
- (2) nonpartisan basis os provided in this title.
- 6 "7-21-2114. Investigation of possible licensing

Section 7. Section 7-21-2114. MCA. is amended to read:

- 7 violations. It shall be the duty of the board of county
- 7 violations. It shall be the duty of the board of county
- 8 commissioners or the state—exeminer department of
- 9 <u>administration</u>, when examining the treasurer's report, to
- 10 investigate if any persons are doing business in the county
- 11 without a license or if the amount of the license is
- 12 sufficient. In either event the treasurer shall be
- 13 officially notified."

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- 14 Section 8. Section 13-27-105, MCA, is amended to read:
- 15 *13-27-105. Effective date of initiative and
- 16 referendum issues. (1) Unless the petition placing an
- 17 initiative issue on the ballot states otherwise.
- 18 initiative issues other than a constitutional amendments
- 19 approved by the people is effective on October 1 following:
- 20 approval. However, if the Issue delegates rulemaking

authority, it is effective no sooner than October 1

- 22 following approval.
- 23 (2) Unless—the--legislature--provides--otherwisev-a A
- 24 constitutional amendment proposed by initiative or by the
 - 5 legislature and approved by the people is effective on

October July 1 following approval.

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(3) Unless specifically provided by the legislature in an act referred by it to the people or until suspended by a petition signed by at least 15% of the qualified electors in a majority of the legislative representative districts, an act referred to the people is in effect as provided by law until it is approved or rejected at the election. An act that is rejected is repealed effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred to the people that was in effect at the time of the election and is approved by the people remains in effect. An act that was suspended by a petition and is approved by the people is effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred by the legislature that contains an effective data following the election becomes effective on that date if approved by the people. An act that provides no effective date and whose substantive provisions were delayed by the legislature pending approval at an election and that is approved is effective October 1 following the election."

Section 9. Section 15-17-305, NCA, is amended to read:
#15-17-305. No sale unless directed by county
commissioners. In case an assessment is made under 15-17-304
and the lands are not redeemed from a previous sale had

1	under part 2, as provided by law, no sale must be had under
2	the assessment authorized by 15-17-304 unless directed by
3	the board <u>of county commissioners."</u>
4	Section 10. Section 15-24-922. MCA, is amended to
5	read:
6	*15-24-922. Department to prescribe levy. The
7	department of revenue is hereby empowered and it is made its
В	duty to annually prescribe the levy to be made against
9	livestock of all classes for the purpose above indicated
10	and the veriousboardshereinnamed-shall-have board of
11	<u>livestock has</u> the right to recommend to said department the
12	amount of such levy."
13	Section-11Section15-31-114yMEAyisamendedto
14	read+
15	#15-31-114Deductions-allowedincomputingincome:
16	Incomputing-the-net-incomer-the-following-deductions-shall
17	beallowedfromthegrossincomereceivedbysuch
18	corporation-within-the-year-from-all-sources+
19	fi)Alltheordinaryand-necessary-expenses-paid-or
20	incurred-during-the-texableyearinthemaintenanceand
21	operationofitsbusinessandpropertiesyincluding
22	reasonable-allowancaforsalariesforpersonalservices
23	actuallyrenderedysubjecttothe-limitation-hereinafter
24	containedy-rentais-or-other-payments-required-to-be-madeas

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a--condition--to-the-continued-use-or-possession-of-property

to-which-the-corporation-has-not--taken--or--is--not--taking title--or--in--which-it-has-no-equity--No-deduction-shall-be allowed-for-salaries-paid-upon-which-the--recipient--thereof has--not--paid--Hantana-state-income-taxs-provided-hoxevery that-where-domestic-corporations-are-taxed-on-income-derivad from--without--the--state---salaries--of--officers--paid--in connection-with-securing-such-income-shall-be-deductibles

{2}--{a}-All--losses-actually-sustained-and-charged-off
within--the--year--and--not--compensated--by--insurance---or
otherwise--including-a-reasonable-allowance-for-the-wear-and
tear--and--obsolescence--of--property--used--in-the-trade-or
businessy-such-allowance-to-be-determined-according--to--the
provisions--of--section--lof-of-the-internal-Revenue-Code-in
effect-with-respect-to-the-toxable-year-will--elections--for
depreciation--shall--be--the--same-as-the-elections-made-for
federal--income-tox-purposes--No-deduction-shall--be--allowed
for--any--amount--poid--out--for--any--buildingsy--permanent
improvements--or-betterments-made-to-increase-the---value--of
any--property--or-estatey-and-no-deduction-shall-be-made-for
any-amount-of-expense-of-restoring-property-or--making--good
the-exhaustion-thereof-for-which-an-allowance-is-or-has-been
mades

tb)--(i)-There--shall-be-allowed-as-a-deduction-for-the
taxable-period-a-net--operating--lass--deduction--determined
according--ta--the--provisions--af--this-subsections-The-net

1	eperating-ioss-deduction-is-the-aggregate-ofnetoperating
2	losstarryoverstosuchtaxableperiodplusthenet
3	operating-loss-corrybacks-to-such-toxoble-perioduTheterm
4	#netoperatingloss#meanstheexcess-of-the-deductions
5	allowed-by-this-sections-15-31-114y-over-thegrossincome
6	with-the-modifications-specified-in-(ii)-of-this-subsections
7	if-for-any-taxable-period-beginning-after-December-31y-1978v
8	anet-operating-loss-is-sustainedy-such-loss-shall-be-a-net
9	operating-losscarrybacktoeachofthethreetaxable
10	periodspreceding-the-taxable-period-of-such-loss-and-shall
11	be-a-net-operatinglosscarryovertoaschofthefive
12	taxable-periods-following-the-taxable-period-of-such-loss-A
13	netoperatinglossforanytaxableperiod-ending-after
14	December-31v-1975v-in-addition-to-being-a-net-operating-toss
15	carryback-to-each-of-the-threeprecedingtaxableperiods:
16	shall-be-s-not-operating-loss-corryover-to-each-of-the-seven
17	taxableperiodsfollowing-the-taxable-period-of-such-loss=
18	The-portion-of-such-loss-which-shall-be-carried-toeachof
19	theother-toxable-years-shall-be-the-excessy-if-anyy-of-the
20	amount-of-such-loss-over-the-sum-of-the-net-income-foreach
21	of-the-prior-taxable-periods-to-which-such-loss-was-carried
22	Forpurposesof-the-preceding-sentencey-the-net-income-for
.23	suchpriortaxableperiodshallbecomputedwiththe
24	modifications-specified-in-(ii)(b)-of-this-subsection-and-by
25	determiningthepmount-of-the-met-operating-loss-deduction

•	wrenede-regara-co-ene-new-operacrng-ross-ror-ene-rass-perrod
2	or-any-texable-period-thereafteryandthenetincomeso
3	computed-shaff-not-be-considered-to-pe-fess-than-zerov
4	fitt-Themodificationsreferredtoinfitof-this
5	subsection-shall-be-es-follows+
6	{A}No-net-operating-loss-deduction-shall-beellewed#
7	tBjThedeductionfor-depletion-shall-not-exceed-the
8	omount-which-would-be-allowable-if-computed-underthecost
9	methods
10	(6)Any-net-operating-lass-earried-over-to-any-taxable
11	yearsbeginning-after-December-31,-1978,-must-be-calculated
12	under-the-provisionsofthissectioneffectiveforthe
13	toxable-year-for-which-the-return-claiming-the-net-operating
14	loss-corryover-is-fileds
15	titij-knetoperating-loss-deduction-shall-be-allowed
16	only-with-regard-tolossesattributabletothebusiness
17	carried-on-within-the-state-of-Montanew
18	{iv}-inthecaseofamorgerof-corporationsy-the
19	surviving-corporation-shall-not-be-allowed-anetoperating
20	tossdeductionfornetoperating-tosses-sustained-by-the
21	merged-corporations-prior-to-the-date-of-mergers-In-the-case
22	of-a-consolidation-of-corporations,-the-new-corporate-entity
23	shall-not-be-silowed-a-deduction-formetoperatinglosses
24	sustained-by-the-consolidated-corporations-prior-to-the-date
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2	interest-shall-not-be-paid-with-respect-to-a-refundoftax
3	resultingfrom-a-net-operating-loss-corryback-or-corryover
4	(vi)-The-net-operatinglossdeductionshallnotbe
5	allowedwithrespectto-texable-periods-which-ended-on-or
6	before-December-31:-1970:-but-shallbeallowedonlywith
7	respectto-texable-periods-beginning-on-or-ofter-denuary-to
8	1971-
9	{3}in-the-cose-of-minesy-other-natural-depositsyojl
0	andgaswellsandtimbera-reasonablaallowance-for
1	depłetionandfordepreciationofimprovementm;such
2	reasonablaallowancetobedaterminedaccordingto-the
3	provisions-of-the-Internal-Revenue-Code-ineffectforthe
4	taxableyears-All-elections-made-under-the-internal-Revenue
5	Code-with-respect-to-copitalizing-orexpensingexploration
6	anddevelopmentcosts-end-intengible-drilling-expenses-for
7	corporation-license-tax-purposes-shall-be-thesameasthe
В	elections-made-for-federal-income-tex-purposesy
9	(4)The-amount-of-interest-paid-within-the-year-on-its
0	indebtednessincurred-in-the-operation-of-the-business-from
1	which-its-incomeisderived;butnointerestshallbe
2	a liowedasadeduction-if-paid-on-an-in debtedness-created
3	for-the-purchases-maintenances-or-improvement-of-property-or
4	for-the-conduct-of-businessunlesstheincomefromsuch
5	property-or-business-would-be-taxeble-under-this-partw

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. 1	(5)ta)-Taxespaidwithintheyearexceptthe
2	following+
3	(+)Taxes-imposed-by-this-parts
4	tiij-Taxes-assessed-against-local-benofitsofokind
5	tending-to-increase-the-value-of-the-property-assesseds
6	t+++-faxesonoraccordingtoormeasured-by-net
7	income-or-profits-imposed-by-authority-of-the-governmentof
8	the-United-States+
9	(+v)-Texesimposedby-ony-other-state-or-country-upon
10	or-messured-by-net-income-or-profits#
11	{b}Taxesdeductibleunderthispartshallbe
12	construedtoincludetaxesimposed-by-eny-countyy-school
13	districty-or-municipality-of-this-states
14	tottightvehicleticensefeesyasprovidedby
15	61-3-532,-paid-within-the-years
16	{
17	allowed-as-a-dedwetion-under-15-32-183#
18	{&}-{a}Exceptusprovidedinsubsection{b}v
19	eharitablecontributionsandgiftsthatqualifyfor
20	deduction-under-section-170-of-the-Internal-Revenue-Codey-as
21	amended ▼
22	(b)The-public-service-commission-shall-notallowin
23	theratebaseof-a-regulated-corporation-the-inclusion-of
24	contributions-made-under-this-subsection=
25	Section 11. Section 15-31-509, MCA, is amended to

1	read:
2	*15-31~509. Periods of limitation. (1) Except as
3	otherwise provided in this section and in 15-31-54
4	15-31-544, no deficiency shall be assessed or collected with
5	respect to the year for which a return is filed unless the
6	notice of additional tax proposed to be assessed is mailed
7	within 5 years from the date the return was filed. For the
8	purposes of this section, a return filed before the last day
ò	prescribed for filing shall be considered as filed on such
10	last day. Where, before the expiration of the period
11	prescribed for assessment of the tax; the taxpayer consent:
12	in writing to an assessment after the time, the tax may be
13	assessed at any time prior to the expiration of the period
14	agreed upon. The limitations prescribed for giving notice of
15	a proposed assessment of additional tax shall not apply
16	when:
17	(a) the taxpayer has by written agreement suspended

(a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of federal tax, provided the suspension of the limitation set forth in this section shall last:

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- 21 (i) only so long as the suspension of the federal 22 statute of limitation; or
- 23 (ii) until 1 year after any federal changes have become 24 final or any amended federal return is filed as a result of 25 such suspension of the federal statute, whichever is the

latest in time; or

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- (b) a taxpayer has failed to file a report of changes in federal taxable income or an amended return as required by 15-31-506 until 5 years after the federal changes become final or the amended federal return was filed, whichever the case may be.
- (2) No refund or credit shall be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) of this section to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed in the event no claim is filed shall automatically be so extended.
- Section 12. Section 15-31-526, MCA: is amended to read:
- #15-31-526. Action by attorney general. Action may be brought at-any-time by the attorney general of the state at the instance of the department, in the name of the state, to

1	recover the amount of any taxes, penalties, and interest de	ue
2	under this chapter.	

- 3 Section 13. Section 15-57-109, MCA, is amended to 4 read:
 - "15-57-109. Employment of staff -- disposal of license money. The department of revenue may employ such clerical and field assistance as necessary to carry out and administer the provisions of this chapter. All money collected under the provisions of this chapter shall be paid into the state treasury and credited to the general fund. Administration-of-fitle-38,--chapter-14,--part--2,--is--the responsibility-of-the-department-of-commerce."
 - Section 14. Section 19-6-203, MCA, is amended to read:
 #19-6-203. Administrative expenses. (1) The expense of
 the administration of this chapter, exclusive of the payment
 of retirement allowances and other benefits, may be paid
 from the fund account.
- 18 (2) Before July 15 of each year, the board may compute
 19 the administrative costs for the immediately preceding
 20 fiscal year and transfer that amount from the fund account
 21 to the public employees retirement system account in the
 22 agency fund.
- 23 Section 15. Section 19-7-202. MEA, is amended to read:
 24 **19-7-202. Expenses of administration. (1) The expense
 25 of the administration of this chapter, exclusive of the

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- payment of retirement allowances and other benefits, may be
 paid from the fund account.
- 3 (2) Before July 15 of each year, the board may compute
 4 the administrative costs for the immediately preceding
 5 fiscal year and transfer that amount from the fund account
 6 to the public employees' retirement system account in the
 7 agency fund.**
- 8 Section 16. Section 22-1-218, MCA, is amended to read:
 9 "22-1-218. Exemptions. This part does not apply to
 10 officers of or affect the duties concerning publications
 11 distributed by:
- 12 (1) the state law library;
- 13 (2)--the-secretary-of--state--in--connection--with--his
 14 duties-under-2-15-401f13++
- 15 (3)(2) the code commissioner in connection with his 16 duties under Title 1, chapter 11, as amended; and
- 17 the legislative council in connection with its
 18 duties under 5-11-203, as amended.
- 19 Section 17. Section 46-30-301. MCA: is amended to 20 read:
- 21 m46-30-301. Arrest of accused without warrant. The
 22 arrest of a person may be lawfully made also by any peace
 23 officer or a private person without a warrant upon
 24 reasonable information that the accused stands charged in
 25 the courts of a state with a crime punishable by death or

1	imprisonment for a term exceeding 1 year. When so arrested
2	the accused must be taken before a judge or magistrate with
3	all practicable speed and complaint must be made against him
4	under oath setting forth the ground for the arrest as in
5	46-30-227. Thereafter this his answer shall be heard as is
6	he had been arrested on a warrant."

- Section-19s--Section--4y--Chapter-528y-Laws-of-1981s-is
 amended-to-readt
- #Section-4--applicability--This-<u>Thatinerease:to:-30%</u>

 for:-the-small-business:invastment:credit::in-15:30:162(2)fat

 and:15:31:123(4)fat:in::this--act_--is--applicable--only--to
 taxable--years-beginning-after-Becomber-31y-1980y-and-before
 denuary-1y-1983**
- NEW-SEETIBNs--Section-20w--Goordination----instructionw

 If-any-act-passed-by-the-f8th-legislature-conflicts-with-the

 provisions--of--section--19--of--this--act--by--amendment-of

 sections-15-30-162(2)(a)v-15-31-123(4)(a)v-MCAv--or--section

 4v--chapter--528y--taws-of-1981y-the-provisions-of-the-other

 act-shall-prevail-over--section--19--of--this--act--and--ony

 omendment--or-amendatory-effect-on-those-sections-by-section

 19-of-this-act-is-void-and-of-no-effect-to-the-extent-of-any

 conflicts
- NEW_SECTIONy--Section-21--Effective-date--Sections-19

 and-20-are-effective-an-passage-and-approval-and-apply-as-of

 January-1-1983-

1 NEW_SECTION. Section 18. Repealer. Sections

2-15-1627, 7-13-2249, and 15-31-542, MCA, are repeated.

-End-

1983 Legislature Code Commissioner Bill - Summary

SenateBill No. 100

AN ACT TO GENERALLY REVISE THE LAWS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401, 7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114, 13-27-105, 15-17-305, 15-24-922, 15-31-114, 15-31-509, 15-57-109, 19-6-203, 19-7-202, 22-1-218, 46-30-301, MCA; AMENDING SECTION 4, CHAPTER 520, LAWS OF 1981 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR SUCH AMENDMENT; AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND 15-31-542, MCA.

Section 1. 2-15-401. Deletes subsection (13) requiring the secretary of state to report changes of names to the legislative council for publication in the session laws. Under 27-31-205, by 1979 amendment, such name changes are reported to the legislative council directly by clerks of district courts. Senate Bill 46 proposes to repeal 27-31-205 so that this requirement will be totally obsolete.

Section 2. 7-2-2709. The section provides that the governor by election proclamation is to set a date for county consolidation or abandonment elections. The 1979 revision of election laws eliminated the governor's election proclamation. Amendment would delete reference to an election proclamation, replacing it with a joint resolution of the boards of county commissioners of all the counties affected by a consolidation or abandonment.

Section 3. 7-3-219. This section was enacted in 1975 with the idea that HB $\overline{122}$, 1977, would pass and provide, in Title 7, some election procedures. Delete "as provided in this title" twice in section -- there are no such provisions in Title 7. Only relevant election procedures are in Title 13.

Section 4. 7-3-314. See section 3.

Section 5. 7-3-413. See section 3.

Section 6. 7-3-513. See section 3.

Section 7. 7-21-2114. There is no state examiner -- his duties relating to local government are now a responsibility of the department of administration.

Section 8. 13-27-105. The effective date of constitutional amendments is July 1 following passage under Article XIV, sections 8 and 9, Montana constitution.

Section 9. 15-17-305. Inserted "of county commissioners" after "board" because 15-17-101(3) defines board as state tax

- Please attach To SB 100 -

appeal board and the reference in this section is to the board of county commissioners.

Section 10. 15-24-922. The "various boards herein named" were consolidated under the board of livestock during executive reorganization.

Section 15-31-114. Subsection (2)(b)(ii)(C) was declared unconstitutional because of retroactive application against persons who had complied with the current law in computing losses in the year they occurred, but later being held accountable for taxes on those prior years because of recent changes in tax law. First Federal Savings and Loan Assoc. v. , 39 St. Rep. Department of Revenue, ____ M P2d. (1982). (Note: As of October 29, 1982, First Federal Savings and Loan Assoc. v. Department of Revenue, supra, may come up for rehearing before the Montana Supreme Court. amendment may have to be changed if a different decision is made upon rehearing.)

Section 15-31-544 was added to this section because it is a general statute of limitation affecting the whole chapter. Section 15-31-544 was enacted in 1981 and should have been referenced in this section.

Section 13. 15-31-526. Caterpillar Tractor Co. v. Department of Revenue, M, P2d., 39 St. Rep. 1245 (1982) was involved with limitations dates for actions in the collections of corporate taxes. This section is amended to clarify that an action by the attorney general is governed by the same limitations that apply to the department of revenue.

Section 14. 15-57-109. Between 1977 and 1979 this section provided that \$5.00 of the license money was to go to funding administration of unfair trade practices laws contained in Title 30, chapter 14, part 2. The final sentence of the section was probably helpful during that time to specify departmental responsibilities.

Section 15. 19-6-203. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-6-101(1).

Section 16. 19-7-202. The word "fund" amended into this section in 1981 was inaccurate and should have been "account", which is defined at 19-7-101(1).

- Section 17. 22-1-218. Section 2-15-401(13) at one time exempted the secretary of state from provisions regarding libraries in the publication of session laws. The legislative council now publishes the session laws.
- Section 18. $\underline{46-30-301}$. Typographical error. Reads "his" in the Uniform Criminal Extradition Act.
- Section 19. Section 4, Ch. 520, L. 1981. Chapter 520, L. 1981, accomplished two purposes: It revised and clarified provisions on small business investment and raised the small business investment credit from 20% to 30%. The revision and clarification provisions should be permanent law -- only the increase in the small business investment credit should be If sec. 4, Ch. 520, L. 1981, was to operate on the temporary. total bill needless confusion would arise from the termination of the clarification provisions. The amendment would keep the termination provisions applicable to the percentage increase but would make the general revisions part of permanent law. section, under the coordination instruction in section 20, would not affect any 1983 amendments on the percentage rate. section would become effective upon passage and approval and apply as of January 1, 1983 to ensure that there is no gap in the effectiveness and applicability of the clarification provisions.
- Section 20. <u>Coordination instruction</u>. See explanation for section 19.
- Section 21. Effective date. See explanation for section 19.

Section 22. Repealer.

- A. 2-15-1627. The board of massage therapists was terminated under the sunset provisions of 2-8-103 in 1981. This section, establishing the board, was not repealed during the 1981 session.
- B. 7-13-2249. Proclamation of elections for county water and/or sewer districts. There are no longer proclamations of elections.
- C. 15-31-542. Repealed by a later enactment. See explanation for section 12.

48th Legislature SB 0100/02

SB 0100/02

1	SENATE BILL NO. 100
2	INTRODUCED BY GRAHAM
3	BY REQUEST OF THE CODE COMMISSIONER
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6	LAWS RELATING TO GOVERNMENT; AMENDING SECTIONS 2-15-401.
7	7-2-2709, 7-3-219, 7-3-314, 7-3-413, 7-3-513, 7-21-2114,
В	13-27-105, 15-17-305, 15-24-922, 15-31-114, 15-31-509,
9	15-31-526, 15-57-109, 19-6-203, 19-7-202, 22-1-218,
10	46-30-301+ HCA; AMENDING-SECTION-49CHAPTER5209EAWSOF
11	1981yANDPROVIBINGANIMMEDIATE-EFFEETIVE-DATE-FOR-SUCH
12	AMENOMENT; AND REPEALING SECTIONS 2-15-1627, 7-13-2249, AND
13	15-31-542, MCA."
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15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	Section 1. Section 2-15-401, MCA, is amended to read:
17	*2-15-401. Duties of secretary of state. In addition
18	to the duties prescribed by the constitution, it is the duty
19	of the secretary of state to:
20	(1) attend at every session of the legislature for the
21	purnose of receiving bills and resolutions and to perform
22	such other duties as may be devolved upon him by resolution
23	of the two houses or either of them;
24	(2) keep a register of and attest the official acts of

the governor, including all appointments made by him, with

date of commission and names of appointees and predecessors;
(3) affix the great seal, with his attestation, to
commissions, pardons, and other public instruments to which
the official signature of the governor is required;
(4) record in proper books all conveyances made to the
state and all articles of incorporation filed in his office;
(5) take and file in his office receipts for all books
distributed by him and direct the county clerk of each
county to do the same;
(6) certify to the governor the names of those persons
who have received at any election the highest number of
votes for any office, the incumbent of which is commissioned
by the governor;
(7) furnish, on demand, to any person paying the fees
therefor, a certified copy of all or any part of any law,
record, or other instrument filed, deposited, or recorded in
his office;
(B) keep a fee book in which must be entered all fees,
commissions, and compensation of whatever nature or kind by
him parned, collected, or charged, with the date, name of
payer, paid or unpaid, and the nature of the service in each
case, which book must be verified annually by his affidavit
entered therein:

(9) file in his office descriptions of seals in use by

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the different state officers;

- (10) discharge the duties of member of the board of examiners and of the board of land commissioners and all other duties required of him by law;
- (11) report to the governor as prescribed in 2-7-102;
 (12) register marks as provided in Title 30, chapter
 - 13, part 3;

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- 7 (±3)-report--annually--to--the--legislotive-council-all
 8 changes--of--names--received--pursuant--to---27-31-285---for
 9 publication-in-the-bas-of-Montanat
 - that the legislative council all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;
 - t257(14) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application.**
 - Section 2. Section 7-2-2709, MCA, is amended to read:

 "7-2-2709. Special election on question of abandonment
 and consolidation. (1) (a) Upon-receipt-of-a-certified-copy
 Within 14 days after transmittal of the resolution provided
 for in 7-2-2707, the--governor--shally--within--10--days
 thereoftery---issue--his--proclamation--calling---a---special
 election-in the boards of county Commissioners of the county
 in which the petition referred to in the resolution was
 filed and in of each county designated in the resolution as

- a county to which any of the territory of the county, if abandoned and abolished, sholl would be attached and made a part. shall. in a joint meeting and by joint resolution of such boards. call a special election in all affected counties.
- (b) The proclemation joint_resolution shall fix a day for holding the election in such counties, which shall be not less than 90 days or more than 120 days after the date of the governor*s-proclemation joint_resolution calling the samer, provided—that—if If a general election will be held in the counties not less than 90 days or more than 120 days after the date of such-proclemationy—the-governory—in—the proclemationy the resolution provided for in 7-2-2701;—the joint_resolution shall direct that the question be submitted to the registered electors of the counties at the general election. The proclemation joint_resolution shall be filed in the office of the secretary of state, and copies thereof shall be transmitted by—the—governor to the election administrator of each of the counties in which the election is to be held.
 - (2) At the election there shall be submitted:
 - (a) to the registered electors of the county in which the petition was filed, the question of whether or not the county shall be abandoned and abolished and its territory attached to and made a part of the county designated and

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named for the purpose in the petition; and 1

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- (b) to the registered electors of each county named and designated in the resolution as a county to which a part of the territory of the county proposed to be abandoned and abolished shall be attached and made a part if the county shall be so abandoned and abolished, the question of whether or not the part of the territory of the county, if abandoned and abolished, described in the resolution shall be attached to and become a part of the county."
- Section 3. Section 7-3-219. MCA, is amended to read: 10 "7-3-219. Type of election- Local government elections 11 12 shall be conducted on a:
- 13 (1) partisan basis as-provided-in-this-title; or
 - (2) nonpartisan basis es-provided-in-this-title."
- 15 Section 4. Section 7-3-314, MCA, is amended to read:
- "7-3-314. Type of election, Local government elections 16 shall be conducted on a:
- (1) partisan basis as-provided-in-this-title; or 18
- 19 (2) nonpartisan basis as-provided-in-this-title."
- 20 Section 5. Section 7-3-413. MCA, is amended to read:
- 21 *7-3-413. Type of election. Local government elections
- 22 shall be conducted on a:
- (1) partisan basis as-provided-in-this-title; or 23
- (2) nonpartisan basis as-provided-in-this-title." 24
- Section 6. Section 7-3-513, MCA, is amended to read: 25

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Ł *7-3-513. Type of election. Local government elections shall be conducted on a:

- (1) partisan basis sa-provided-in-this-title; or
- (2) nonpartisan basis as-provided-in-this-title."
- Section 7. Section 7-21-2114, MCA, is amended to read: *7-21-2114. Investigation of possible licensing 7 violations. It shall be the duty of the board of county commissioners or the state---examiner department of administration, when examining the treasurer's report, to 10 investigate if any persons are doing business in the county without a license or if the amount of the license is 11 12 sufficient. In either event the treasurer shall be officially notified. 13
- 14 Section 8. Section 13-27-105, MCA, is amended to read: *13-27-105. Effective date of 15 initiative and referendum issues. (1) Unless the petition placing an 16 initiative issue on the ballot states otherwise, an 17 initiative issue: other than a constitutional amendment. 18 approved by the people is effective on October 1 following 19 approval. However, if the issue delegates rulemaking 20 authority, it is effective no sooner than October 1 22 following approval.
- 23 (2) Unless-the--legislature--provides--atherwisey-a & 24 constitutional amendment proposed by initiative or by the legislature and approved by the people is effective on 25

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Betaber July 1 following approval.

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(3) Unless specifically provided by the legislature in an act referred by it to the people or until suspended by a petition signed by at least 15% of the qualified electors in a majority of the legislative representative districts, an act referred to the people is in effect as provided by law until it is approved or rejected at the election. An act that is rejected is repealed effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred to the people that was in effect at the time of the election and is approved by the people remains in effect. An act that was suspended by a petition and is approved by the people is effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred by the legislature that contains an effective date following the election becomes effective on that date if approved by the people. An act that provides no effective date and whose substantive provisions were delayed by the legislature pending approval at an election and that is approved is effective October 1 following the election.

Section 9. Section 15-17-305, MCA, is amended to read:
#15+17-305. No sale unless directed by county
commissioners. In case an assessment is made under 15-17-304
and the lands are not redeemed from a previous sale had

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1	under part 2, as provided by law, no sale must be had under
2	the assessment authorized by 15-17-304 unless directed by
3	the board of county_commissioners."
4	Section 10. Section 15-24-922, MCA, is amended to
5	read:
6	#15-24-922. Department to prescribe levy. The
7	department of revenue is hereby empowered and it is made it:
8	duty to annually prescribe the levy to be made against
9	livestock of all classes for the purpose above indicated
10	and the variousboardshereinnamed-shall-have board of
11	livestock_bas the right to recommend to said department the
12	amount of such levy.*
13	Section-llwSectionl5-31-ll4vMEAvisemendedto
14	read+
15	#15-31-114Beductions-allowedincomputingincome
16	Incomputing-the-net-incomey-the-following-deductions-shall
17	beallowedfromthegrossincomereceivedbysuci
18	corporation-within-the-year-from-all-sources+
19	fi}Afftheordinaryand-necessary-expenses-paid-or
20	incurred-during-the-toxableyearinthemaintenanceand
21	operationofitsbusinessandpropertiesyincluding
22	reasonable-allowanceforsalariesforpersonalservice
23	actuallyrenderedysubjecttothe-limitation-heroinafter
24	containedy-rentals-or-other-payments-required-to-be-madeo

a--condition--to-the-continued-use-or-possession-of-property

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to-which-the-corporation-has-not--token--or--is--not--taking title--or--in--which-it-has-no-equity--No-deduction-shall-be allowed-for-salaries-paid-upon-which-the--recipient--thereof has--not--paid--Montana-state-income-tax;-providedy-howevery that-where-domestic-corporations-are-taxed-on-income-derived from--without--the--statey--salaries--of--afficers--paid--in connection-with-securing-such-income-shall-be-deductibles

thin-the-year-and-not-compensated-by-insurance-or otherwisey-including-a-reasonoble-allowance-for-the-wear-and tear-and-obsolescence-of-property-used-in-the-trode-or businessy-such-allowance-to-be-determined-according-to-the provisions-of-section-lift-of-the-Internal-Revenue-Gode-in effect-with-respect-to-the-toxable-year-All-elections-mode-for depreciation-shall-be-the-same-as-the-elections-mode-for federal-income-tax-purposes-No-deduction-shall-ba-nllowed for-any-amount-paid-out-for-any-buildingsy-permanent improvementsy-or-hetterments-made-to-increase-the-value-of any-amount-of-expense-of-restoring-property-or-making-good the-exhaustion-thereof-for-which-an-allowance-is-or-hos-been mode-

tb)--(i)-There--shall-be-sllowed-as-q-deduction-for-the
taxable-period-a-net--operating--loss--deduction--determined
according--to--the--provisions--of--this-subsection--The-net

operating-loss-deduction-is-the-aggregate-ofnetoperating
tosscarryoverstosuchtaxableperiodplusthenet
operating-loss-corrybacks-to-such-taxable-period=Theterm
#netoperatinglossmeanstheexcess-of-the-deductions
allowed-by-this-section,-15-31-114,-over-thegrossincomes
with-the-modifications-specified-in-(ii)-of-this-subsection
If-for-any-toxable-period-beginning-after-December-31y-1978;
anet-operating-loss-is-sustainedy-such-loss-shall-be-a-net
operating-losscarrybacktoeachofthethreetaxable
periodspreceding-the-taxable-period-of-such-loss-and-shall
be-a-net-operatinglosscarryovertoeachofthefive
taxable-periods-following-the-taxable-period-of-such-loss
net-roperatinglossforanytaxableperiod-ending-after
Becember-311975in-addition-to-being-a-net-operating-loss
corryback-to-each-of-the-threeprecedingtaxableperiods
shall-be-a-net-operating-lass-carryover-to-each-of-the-sever
taxableperiodsfollowing-the-taxable-period-of-such-loss:
The-portion-of-such-loss-which-shall-be-earried-toeachof
theother-taxable-years-shall-be-the-excessy-if-anyw-of-the
omount-of-such-loss-over-the-sum-of-the-net-income-foreach
of-the-prior-toxable-periods-to-which-such-loss-was-carried
forpurposesof-the-preceding-sentencey-the-net-income-for
suchpriortaxableperiodshellbecomputedwiththe
modifications-specified-in-fill(B)-of-this-subsection-and-by
determiningtheamount-of-the-net-operating-loss-deduction

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5	or-any-taxable-period-thereafteryandthenetincomeso
3	computed-shaff-not-be-considered-to-be-less-than-zerow
4	fittermodificationsreferredtoinfitof-this
5	**************************************
6	<pre>fh}Mo-net-operating-loss-deduction-shall-baallowedw</pre>
7	(B)Thedeductionfor-depletion-shall-not-exceed-the
8	amount-which-would-be-allowable-if-computed-underthecost
9	sethody
10	(C)Any-net-operating-loss-carried-over-to-any-taxable
11	yearsbeginning-after-December-31y-1978y-must-be-calculated
12	under-the-provisionsofthissectioneffectiveforthe
13	taxable-year-for-which-the-return-claiming-the-nat-operating
14	toss-carryover-is-filedv
15	fifij-Anetoperating-loss-deduction-shall-be-allowed
16	only-with-regard-tolossesattributabletothebusiness
17	corried-on-within-the-state-of-Montanav
18	fiv}-Inthecaseofamergerof-corporationsy-the
19	surviving-corporation-shall-not-be-allowed-anetaperating
20	lossdeductionformetoperating-losses-sustained-by-the
21	merged-corporations-prior-to-the-date-of-mergery-In-the-case
22	of-a-consolidation-of-corporationsy-the-new-corporate-entity
23	shall-not-be-allowed-m-deduction-fornetoperatinglosses
24	sustained-by-the-consolidated-corporations-prior-to-the-date

of-consolidations

1	(A)Hormicuscoudingcusbioxistousoi13-311
2	interest-shall-not-be-paid-with-respect-to-a-refundofta
3	resultingfrom-a-net-operating-loss-carryback-or-corryover
4	(vi)-The-net-operatinglossdeductionshallnotbo
5	allowedwithrespectto-taxable-periods-which-ended-on-on
6	before-Becember-31y-1978y-but-shollbeollowedonlywith
7	respectto-toxoble-periods-beginning-on-or-ofter-danuary-is
8	1971=
9	f3jin-the-case-of-minesy-other-natural-depositsyoi
10	andgaswellsyandtimberyareasonableallowance-fa
11	depletionandfordepreciationofimprovements:suci
12	reasonableallowancetobedeterminedaccordingto-th
13	provisions-of-the-Internal-Revenue-Code-ineffectforth
14	texebleyearw-All-elections-made-under-the-Internal-Revenue
15	Eode-with-respect-to-capitalizing-or-rexpensing-rexploration
16	anddevelopmentcosts-and-intongible-drilling-expenses-for
17	corporation-license-tox-purposes-shall-be-thesomeosthe
18	elections-made-for-federal-income-tax-purposes=
19	<pre>(4)The-amount-of-interest-paid-within-the-year-on-it:</pre>
20	indebtednessincurred-in-the-operation-of-the-business-from
21	which-its-incomeisderived;butnointerestshallb
22	allowedasadeduction-if-paid-on-an-indebtedness-create
22	f.c. th uschase picks paste c. improvement - of - prodest n

for-the-conduct-of-business--unless--the--income--from--such

property-or-business-would-be-taxable-under-this-party

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1	(5){a}-Taxespoidwithintheyearexceptthe
2	fellowing*
3	{+}Toxes-imposed-by-this-part=
4	+++>-Taxes-assessed-against-local-benefitsofakind
5	tending-to-increase-the-value-of-the-property-assessed*
6	(++++)-Taxesonoraccordingtoaracasured-by-net
7	income-or-profits-imposed-by-authority-of-the-governmentof
8	the-United-States=
9	fiv)-Taxesimposedby-any-other-state-or-country-upon
10	or-measured-by-net-income-or-profits.
11	<pre>fb</pre>
12	construedtoincludetexesimposed-by-any-countyschool
13	districtor-municipalicy-of-this-state:
14	f6+bightvehiclelicensefeesyosprovidedby
15	61-3-532-paid-within-the-year-
16	(7)Thotportionofanenergy-relatedinvestment
17	sttowed-as-o-deduction-under-15-32-103*
18	f8;-f8;Exceptesprovidedinsubsection(b)y
19	charitablecontributionsandgiftsthatqualifyfor
20	deduction-under-section-176-of-the-Internal-Revenue-Eodey-as
21	omended*
22	<pre>tb}The-public-service-commission-shall-notollowin</pre>
23	theratebaseof-a-regulated-corporation-the-inclusion-of
24	contributions-made-under-this-subsection+*
25	Section 11. Section 15-31-509, MCA, is amended to

2	"15-31-509. Periods of limitation. (1) Except as
3	otherwise provided in this section and in 15-31-542
4	15-31-544, no deficiency shall be assessed or collected with
5	respect to the year for which a return is filed unless the
6	notice of additional tax proposed to be assessed is mailed
7	within 5 years from the date the return was filed. For the
8	purposes of this section, a return filed before the last day
9	prescribed for filing shall be considered as filed on such
0	last day. Where, before the expiration of the period
11	prescribed for assessment of the tax, the taxpayer consents
12	in writing to an assessment after the time, the tax may be
L3	assessed at any time prior to the expiration of the period
L 4	agreed upon. The limitations prescribed for giving notice of
15	a proposed assessment of additional tax shall not apply
16	when:

read:

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tax, provided the suspension of the limitation set forth in
this section shall last:
(i) only so long as the suspension of the federal

statute of limitation; or

(a) the taxpayer has by written agreement suspended

the federal statute of limitations for collection of federal

23 (ii) until 1 year after any federal changes have become 24 final or any amended federal return is filed as a result of 25 such suspension of the federal statute, whichever is the SB 0100/02

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latest in time; or

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- (b) a taxpayer has failed to file a report of changes in federal taxable income or an amended return as required by 15-31-506 until 5 years after the federal changes become final or the amended federal return was filed, whichever the case may be.
- (2) No refund or credit shall be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires the later, unless before the expiration of such period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) of this section to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed in the event no claim is filed shall automatically be so extended.
- 21 Section 12. Section 15-31-526, MCA, is amended to 22 read:
- 23 #15-31-526. Action by attorney general. Action may be 24 brought at-any-time by the attorney general of the state at 25 the instance of the department, in the name of the state, to

recover the amount of any taxes, penalties, and interest due
under this chapter.

3 Section 13. Section 15-57-109; MCA, is amended to 4 read:

#15-57-109. Employment of staff — disposal of license money. The department of revenue may employ such clerical and field assistance as necessary to carry out and administer the provisions of this chapter. All money collected under the provisions of this chapter shall be paid into the state treasury and credited to the general fund. Administration-of-Title-30y--chapter-14y--part--2y--is--the responsibility-of-the-department-of-commerces*

Section 14. Section 19-6-203, MCA, is amended to read:
#19-6-203. Administrative expenses. (1) The expense of
the administration of this chapter, exclusive of the payment
of retirement allowances and other benefits, may be paid
from the fund account.

18 (2) Before July 15 of each year, the board may compute

19 the administrative costs for the immediately preceding

20 fiscal year and transfer that amount from the fund account

21 to the public employees retirement system account in the

22 agency fund.

23 Section 15. Section 19-7-202, MCA, is amended to read:
24 *19-7-202. Expenses of administration. (1) The expense
25 of the administration of this chapter, exclusive of the

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payment of retirement allowances and other benefits may be
paid from the fund account.

- (2) Before July 15 of each year, the board may compute the administrative costs for the immediately preceding fiscal year and transfer that amount from the fund account to the public employees' retirement system account in the agency fund."
- 8 Section 16. Section 22-1-218. MCA, is amended to read:
 9 "22-1-218. Exemptions. This part does not apply to
 10 officers of or affect the duties concerning publications
 11 distributed by:
- 12 (1) the state law library;

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- 13 (2)--the-secretary-of--state--in--connection--with--his
 14 duties-under-2-15-401t13ff
- 15 (3)(2) the code commissioner in connection with his
 16 duties under Title 1, chapter 11, as amended; and
- 17 (4)(3) the legislative council in connection with its
 18 duties under 5-11-203, as amended.**
- 19 Section 17. Section 46-30-301, MCA, is amended to 20 read:
 - #46-30-301. Arrest of accused without warrant. The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or

imprisonment for a term exceeding 1 year. When so arrested, the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in 46-30-227. Thereafter this his answer shall be heard as if he had been arrested on a warrant.

7 Section-19w--Section--4w--Chapter-528w-Laws-of-1981w-is
8 amended-to-read*

#Section-4--Applicability=-This-<u>The-increase_to==30%</u>

for=ths_amail:business=investment_credit_in_t5=38_t62f2tfal

and=15=3t=t63f4ifsl=in==this--acts--is--applicable--anty--to
texable--years-beginning-after-Becember-31y-1988y-and-before
donuary-ty-1983**

NEW_SECTION_---Section-28*--Coordination----instructions

if-any-act-passed-by-the-48th-legislature-conflicts-with-the

provisions--of--section--19--of--this--act--by--amendment-ofsections-15-38-162(2)(a)*-15-31-123(4)(a)*-MCA*--or--section

ty--chapter--528y--taws-of-1981*-the-provisions-of-the-atheract-shall-prevail-over--section--19--af--this--act--and--any
amendment--or-amendatory-effect-on-those-sections-by-section

19-af--this--act--is-void-and-of-no-effect-to-the-extent-of-any
conflicts

23 <u>NEH_SEETIDNx</u>—Section—21*—Effective-date*—Sections—19
24 and—28-are-effective-on-passage-and-approval-and-apply-as-of
25 danuary—1y=1989*

1 <u>NEW_SECTION</u>. Section 18. Repealer. Sections

2 2-15-1627, 7-13-2249, and 15-31-542, MCA, are repealed.

-End-