

HB 842 INTRODUCED BY HARP, ET AL.
BALANCE GENERAL FUND BUDGET BY INCOME TAX
REVISION AND PRORATED SCHOOL SCHEDULES

2/20	INTRODUCED		
2/20	REFERRED TO TAXATION		
2/20	FISCAL NOTE REQUESTED		
3/02	FISCAL NOTE RECEIVED		
3/09	HEARING		
3/20	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/23	FISCAL NOTE REQUESTED		
3/23	2ND READING NOT PASSED AS AMENDED	75	23
3/23	FISCAL NOTE RECEIVED		
3/24	RECONSIDERED ACTION ON 2ND READING	68	31
3/24	2ND READING NOT PASSED AS AMENDED	65	35

1 House BILL NO. 842
2 INTRODUCED BY HARP Kadan

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTANA
5 INDIVIDUAL INCOME TAX SYSTEM AND THE METHOD OF CALCULATING
6 THE AMOUNTS AVAILABLE FOR FOUNDATION PROGRAM AND PERMISSIVE
7 PROGRAM SUPPORT FOR ELEMENTARY SCHOOLS AND HIGH SCHOOLS FOR
8 THE PURPOSE OF BALANCING THE FISCAL 1988-89 GENERAL FUND
9 BUDGET; AMENDING SECTIONS 15-1-501, 15-30-101, 15-30-103,
10 15-30-105, 15-30-111, 15-30-131, 15-30-132, 15-30-135,
11 15-30-136, 15-30-141, 15-30-142, 15-30-144, 15-30-146,
12 15-30-162, 15-30-303, 15-31-202, 17-5-408, 19-3-105,
13 19-4-706, 19-6-705, 20-9-303, 20-9-318, 20-9-319, 20-9-343,
14 20-9-348, 20-9-352, 53-2-101, AND 67-11-303, MCA; REPEALING
15 SECTIONS 15-30-112 THROUGH 15-30-117, 15-30-121 THROUGH
16 15-30-123, 15-30-125, 15-30-126, 15-30-156, 15-30-157,
17 15-30-161, AND 20-9-351, MCA; AND PROVIDING AN IMMEDIATE
18 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
21 Section 1. Section 15-1-501, MCA, is amended to read:
22 "15-1-501. Disposition of moneys from certain
23 designated license and other taxes. (1) The state treasurer
24 shall deposit to the credit of the state general fund all
25 moneys received by him from the collection of:

- 1 (a) fees from driver's licenses, motorcycle
- 2 endorsements, and duplicate driver's licenses as provided in
- 3 61-5-121;
- 4 (b) electrical energy producer's license taxes under
- 5 chapter 51;
- 6 (c) severance taxes allocated to the general fund
- 7 under chapter 36;
- 8 (d) liquor license taxes under Title 16;
- 9 (e) telephone [company] license taxes under chapter
- 10 53; and
- 11 (f) inheritance and estate taxes under Title 72,
- 12 chapter 16.
- 13 (2) ~~Seventy-five percent of all moneys received from~~
- 14 ~~the collection of income taxes under chapter 30 and~~
- 15 ~~corporation license and income taxes under chapter 31,~~
- 16 ~~except as provided in 15-31-702, shall be deposited in the~~
- 17 ~~general fund subject to the prior pledge and appropriation~~
- 18 ~~of such income tax and corporation license tax collections~~
- 19 ~~for the payment of long range building program bonds. The~~
- 20 ~~remaining 25% of the proceeds of the corporation license~~
- 21 ~~tax, excluding that allocated to the counties under~~
- 22 ~~15-31-702, corporation income tax, and income tax shall be~~
- 23 ~~deposited to the credit of the state special revenue fund~~
- 24 ~~for state equalization aid to the public schools of Montana.~~
- 25 All moneys received from the collection of income taxes



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1 under chapter 30 of this title shall be deposited as
2 follows:

- 3 (a) 58.2% to the credit of the state general fund;
- 4 (b) 10.0% to the credit of the debt service account
5 for long-range building program bonds as described in
6 17-5-408; and
- 7 (c) 31.8% to the credit of the state special revenue
8 fund for state equalization aid to the public schools of
9 Montana as described in 20-9-343.

10 (3) All moneys received from the collection of
11 corporation license and income taxes under chapter 31 of
12 this title, except as provided in 15-31-702, shall be
13 deposited as follows:

- 14 (a) 64% to the credit of the state general fund;
- 15 (b) 11% to the credit of the debt service account for
16 long-range building program bonds as described in 17-5-408;
17 and
- 18 (c) 25% to the credit of the state special revenue
19 fund for state equalization aid to the public schools of
20 Montana as described in 20-9-343.

21 {3}{4} The state treasurer shall also deposit to the
22 credit of the state general fund all moneys received by him
23 from the collection of license taxes, fees, and all net
24 revenues and receipts from all other sources under the
25 operation of the Montana Alcoholic Beverage Code.

1 ~~{4}~~{5} Thirty-three and one-third percent of the total
2 collections of the oil severance tax under chapter 36 shall
3 be deposited into the local government block grant account
4 within the state special revenue fund. After the
5 distribution provided for in 15-36-112, the remainder of the
6 oil severance tax collections shall be deposited in the
7 general fund."

8 Section 2. Section 15-30-101, MCA, is amended to read:
9 "15-30-101. Definitions. For the purpose of this
10 chapter, unless otherwise required by the context, the
11 following definitions apply:

- 12 (1) "Base year structure" means the ~~following elements~~
13 ~~of the income tax structure:~~
- 14 ~~{a}--the tax brackets established in 15-30-103, but~~
15 ~~unadjusted by subsection {2} {3} of 15-30-103, in effect on~~
16 ~~June 30 of the taxable year;~~
- 17 ~~{b}--the---exemptions---contained---in---15-30-112,---but~~
18 ~~unadjusted by subsections--{7}--and--{8}--of--15-30-112,--in~~
19 ~~effect on June 30 of the taxable year;~~
- 20 ~~{c}--the---maximum---standard---deduction---provided---in~~
21 ~~15-30-122, but unadjusted by subsection {2} of 15-30-122, in~~
22 ~~effect on June 30 of the taxable year.~~

23 (2) "Consumer price index" means the consumer price
24 index, United States city average, for all items, using the
25 1967 base of 100 as published by the bureau of labor

1 statistics of the U.S. department of labor.

2 (3) "Department" means the department of revenue.

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

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

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

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

23 (8) "Inflation factor" means a number determined for
24 each taxable year by dividing the consumer price index for
25 June of the taxable year by the consumer price index for

1 June 7, 1988 1987.

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

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

15 (11) "Net taxable income" means ~~the adjusted gross~~
16 ~~income of a taxpayer less the deductions allowed by this~~
17 chapter is the federal taxable income of a taxpayer,
18 including interest received from obligations of another
19 state or political subdivision thereof, less the adjustments
20 specified in 15-30-111.

21 (12) "Nonresident" refers to a person who has not
22 established a residence in this state during the taxable
23 year.

24 (13) "Paid", for the purposes of the deductions and
25 credits under this chapter, means paid or accrued or paid or

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

5 (14) "Part-year resident" refers to a taxpayer who is a
6 resident of this state and another state during the
7 taxpayer's taxable year.

8 ~~(13)~~(15) "Purpose" is as defined in 45-2-101.

9 ~~(14)~~(16) "Received", for the purpose of computation of
10 taxable income under this chapter, means received or accrued
11 and the term "received or accrued" shall be construed
12 according to the method of accounting upon the basis of
13 which the taxable income is computed under this chapter.

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

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

25 ~~(17)~~(18) "Taxable year" means the taxpayer's taxable

1 year for federal income tax purposes.

2 ~~(18)~~(19) "Taxpayer" includes any person or fiduciary,
3 resident or nonresident, subject to a tax imposed by this
4 chapter and does not include corporations."

5 Section 3. Section 15-30-103, MCA, is amended to read:

6 "15-30-103. Rate of tax. (1) There shall be levied,
7 collected, and paid for each taxable year commencing on or
8 after December 31, ~~1968~~ 1986, upon the net taxable income of
9 every taxpayer subject to this tax, after making allowance
10 for exemptions and deductions as hereinafter provided except
11 those subject to subsection (2), a tax on the following
12 brackets of net taxable income, as adjusted under subsection
13 ~~(2)~~ (3), at the following rates:

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

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

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

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

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

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

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

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

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

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

9 (a) \$0 to \$4,500 of net taxable income, 4% of net
10 taxable income;

11 (b) over \$4,500 to \$12,000 of net taxable income, \$180
12 plus 6% of net taxable income over \$4,500;

13 (c) over \$12,000 of net taxable income, \$630 plus 8%
14 of net taxable income over \$12,000.

15 (2) There shall be levied, collected, and paid for
16 each taxable year commencing on or after December 31, 1986,
17 upon the net taxable income of every taxpayer filing a
18 return using the married filing separate status a tax on the
19 following brackets of net taxable income, as adjusted under
20 subsection (3), at the following rates:

21 (a) \$0 to \$2,250 of net taxable income, 4% of net
22 taxable income;

23 (b) over \$2,250 to \$6,000 of net taxable income, \$90
24 plus 6% of net taxable income over \$2,250;

25 (c) over \$6,000 of net taxable income, \$315 plus 8% of

1 net taxable income over \$6,000.

2 ~~(2)(3)~~ By November 1 of each year, the department
3 shall multiply the bracket amount contained in subsection
4 subsections (1) and (2) by the inflation factor for that
5 taxable year and round the cumulative brackets to the
6 nearest \$100. The resulting adjusted brackets are effective
7 for that taxable year and shall be used as the basis for
8 imposition of the tax in subsection subsections (1) and (2)
9 of this section."

10 Section 4. Section 15-30-105, MCA, is amended to read:

11 "15-30-105. Tax on nonresident -- alternative tax
12 based on gross sales. (1) A like tax is imposed upon every
13 person not resident of this state, which tax shall be
14 levied, collected, and paid annually at the rates specified
15 in 15-30-103 with respect to his entire net income as herein
16 defined from all property owned and from every business,
17 trade, profession, or occupation carried on in this state.

18 (2) Pursuant to the provisions of Article III, section
19 2, of the Multistate Tax Compact, every nonresident taxpayer
20 required to file a return and whose only activity in Montana
21 consists of making sales and who does not own or rent real
22 estate or tangible personal property within Montana and
23 whose annual gross volume of sales made in Montana during
24 the taxable year does not exceed \$100,000 may elect to pay
25 an income tax of 1/2 of 1% of the dollar volume of gross

1 sales made in Montana during the taxable year. Such tax
 2 shall be in lieu of the tax taxes imposed under 15-30-103
 3 and [section 5]. The gross volume of sales made in Montana
 4 during the taxable year shall be determined according to the
 5 provisions of Article IV, sections 16 and 17, of the
 6 Multistate Tax Compact."

7 NEW SECTION. Section 5. Montana alternative minimum
 8 tax. (1) A minimum tax shall be levied, collected, and paid
 9 for each taxable year commencing on or after December 31,
 10 1986, upon the income of every taxpayer subject to the
 11 provisions of this chapter.

12 (2) A person who is a resident of Montana shall file a
 13 Montana alternative minimum tax return if he:

14 (a) is required by sections 55 through 59, Internal
 15 Revenue Code, to file a federal alternative minimum tax
 16 return; or

17 (b) has received interest from obligations of another
 18 state or political subdivision thereof that are exempt from
 19 taxation pursuant to section 103(a) of the Internal Revenue
 20 Code and the amount of interest exceeds:

- 21 (i) \$40,000, if married filing jointly;
 22 (ii) \$30,000, if single or head of household;
 23 (iii) \$20,000, if married filing separately.

24 (3) A person who is a nonresident or who is a
 25 part-year resident of Montana shall file a Montana

1 alternative minimum tax return if he has one or more tax
 2 preference items as defined in sections 55 through 59 of the
 3 Internal Revenue Code that are attributable to income
 4 derived from sources in this state and that income exceeds:

- 5 (a) \$40,000, if married filing jointly;
 6 (b) \$30,000, if single or head of household;
 7 (c) \$20,000, if married filing separately.

8 (4) For a resident, the taxpayer's federal alternative
 9 minimum taxable income must be increased by the amount of
 10 interest received from obligations of another state or
 11 political subdivision thereof, which sum shall be reduced by
 12 the following:

- 13 (a) all interest received from obligations of the
 14 United States government;
 15 (b) all railroad retirement benefits; and
 16 (c) all income earned by an enrolled member of a
 17 federally recognized Indian tribe while living and working
 18 on a federally established Indian reservation.

19 (5) (a) For a nonresident or part-year resident, the
 20 taxpayer's federal alternative minimum taxable income must
 21 be prorated to determine his Montana alternative minimum
 22 taxable income. The prorated income is arrived at by
 23 dividing the Montana income determined pursuant to 15-30-131
 24 or [section 8] by the federal adjusted gross income and
 25 multiplying this percentage by the taxpayer's federal

1 alternative minimum taxable income.

2 (b) The taxpayer's prorated Montana alternative
3 minimum taxable income is then adjusted to include the
4 interest received from obligations of another state or a
5 political subdivision thereof, if the interest is used in a
6 trade, occupation, or business carried on in this state;

7 (c) The taxpayer's prorated Montana alternative
8 minimum taxable income must then be reduced by:

9 (i) all interest received from obligations of the
10 United States government;

11 (ii) all railroad retirement benefits; and

12 (iii) all income earned by an enrolled member of a
13 federally recognized Indian tribe while living and working
14 on a federally established Indian reservation.

15 (d) For residents, nonresidents, and part-year
16 residents, the rates provided for in 15-30-103 must be
17 applied to the Montana alternative minimum taxable income.
18 The taxpayer shall pay the greater amount of the Montana
19 alternative minimum tax or the tax provided for in:

20 (i) 15-30-111, if a resident;

21 (ii) 15-30-131, if a nonresident; or

22 (iii) [section 8], if a part-year resident.

23 (6) Each taxpayer shall furnish with his Montana
24 alternative minimum tax return a copy of his federal
25 alternative minimum tax return.

1 Section 6. Section 15-30-111, MCA, is amended to read:

2 "15-30-111. Adjusted-gross Montana net taxable income
3 for residents. (1) Adjusted-gross Montana net taxable income
4 for residents shall be the taxpayer's federal income-tax
5 adjusted-gross taxable income as defined in ~~section--62--of~~
6 ~~the Internal Revenue Code of 1954 or as that section may be~~
7 ~~labeled--or--amended~~ and in addition shall include the
8 following:

9 (a) all interest received on obligations of another
10 state or territory or county, municipality, district, or
11 other political subdivision thereof;

12 (b) all refunds received of federal income tax in
13 1987, to the extent the deduction of such tax resulted in a
14 reduction of Montana income tax liability, and

15 ~~(c) that portion of a shareholder's income under~~
16 ~~subchapter-S of Chapter 1 of the Internal Revenue Code of~~
17 ~~1954 that has been reduced by any federal taxes paid by the~~
18 ~~subchapter-S corporation on the income.~~

19 (2) Notwithstanding the provisions of the federal
20 Internal Revenue Code ~~of 1954 as labeled or amended~~,
21 adjusted-gross, Montana net taxable income does not include
22 the following, which are exempt from taxation under this
23 chapter:

24 (a) all interest income from obligations of the United
25 States government, the state of Montana, county,

1 municipality, district, or other political subdivision
 2 thereof;

3 (b) interest income earned by a taxpayer age 65 or
 4 older in a taxable year up to and including \$800 for a
 5 taxpayer filing a separate return and \$1,600 for each joint
 6 return;

7 (c) all benefits received under the Federal Employees'
 8 Retirement Act not in excess of \$3,600;

9 (d) all benefits, not in excess of \$360, received as
 10 an annuity, pension, or endowment under any private or
 11 corporate retirement plan or system;

12 (e) all benefits paid under the teachers' retirement
 13 law which are specified as exempt from taxation by 19-4-706;

14 (f) all benefits paid under The Public Employees'
 15 Retirement System Act which are specified as exempt from
 16 taxation by 19-3-105;

17 (g) all benefits paid under the highway patrol
 18 retirement law which are specified as exempt from taxation
 19 by 19-6-705;

20 (h) all Montana income tax refunds or credits thereof;

21 (i) all benefits paid under 19-11-602, 19-11-604, and
 22 19-11-605 to retired and disabled firefighters, their
 23 surviving spouses and orphans;

24 (j) all benefits paid under the municipal police
 25 officers' retirement system that are specified as exempt

1 from taxation by 19-9-1005;

2 (k) gain required to be recognized by a liquidating
 3 corporation under 15-31-113(i)(a)(ii);

4 (l) all tips covered by section 3402(k) of the
 5 Internal Revenue Code of 1954, as amended and applicable on
 6 January 1, 1983, received by persons for services rendered
 7 by them to patrons of premises licensed to provide food,
 8 beverage, or lodging;

9 (m) all benefits received under the workers'
 10 compensation laws; and

11 (n) all health insurance premiums paid by an employer
 12 for an employee if attributed as income to the employee
 13 under federal law.

14 (3) In the case of a shareholder of a corporation with
 15 respect to which the election provided for under subchapter
 16 S of the Internal Revenue Code of 1954, as amended, is in
 17 effect but with respect to which the election provided for
 18 under 15-31-202, as amended, is not in effect, adjusted
 19 gross income does not include any part of the corporation's
 20 undistributed taxable income, net operating loss, capital
 21 gains or other gains, profits, or losses required to be
 22 included in the shareholder's federal income tax adjusted
 23 gross income by reason of the said election under subchapter
 24 S. However, the shareholder's adjusted gross income shall
 25 include actual distributions from the corporation to the

1 extent they would be treated as taxable dividends if the
2 subchapter S election were not in effect.

3 (4) A shareholder of a DISC that is exempt from the
4 corporation license tax under 15-31-102(1)(i) shall include
5 in his adjusted gross income the earnings and profits of the
6 DISC in the same manner as provided by federal law (section
7 995, Internal Revenue Code) for all periods for which the
8 DISC election is effective.

9 (5) A taxpayer who, in determining federal adjusted
10 gross income, has reduced his business deductions by an
11 amount for wages and salaries for which a federal tax credit
12 was elected under section 44B of the Internal Revenue Code
13 of 1954 or as that section may be labeled or amended is
14 allowed to deduct the amount of such wages and salaries paid
15 regardless of the credit taken. The deduction must be made
16 in the year the wages and salaries were used to compute the
17 credit. In the case of a partnership or small business
18 corporation, the deduction must be made to determine the
19 amount of income or loss of the partnership or small
20 business corporation.

21 (6) Married taxpayers filing a joint federal return
22 who must include part of their social security benefits or
23 part of their tier 1 railroad retirement benefits in federal
24 adjusted gross income may split the federal base used in
25 calculation of federal taxable social security benefits or

1 federal taxable tier 1 railroad retirement benefits when
2 they file separate Montana income tax returns. The federal
3 base must be split equally on the Montana return.

4 (7) A taxpayer receiving retirement disability
5 benefits who has not attained age 65 by the end of the
6 taxable year and who has retired as permanently and totally
7 disabled may exclude from adjusted gross income up to \$100
8 per week received as wages or payments in lieu of wages for
9 a period during which the employee is absent from work due
10 to the disability. If the adjusted gross income before this
11 exclusion and before application of the two-earner married
12 couple deduction exceeds \$15,000, the excess reduces the
13 exclusion by an equal amount. This limitation affects the
14 amount of exclusion, but not the taxpayer's eligibility for
15 the exclusion. If eligible, married individuals shall apply
16 the exclusion separately, but the limitation for income
17 exceeding \$15,000 is determined with respect to the spouses
18 on their combined adjusted gross income. For the purpose of
19 this subsection, permanently and totally disabled means
20 unable to engage in any substantial gainful activity by
21 reason of any medically determined physical or mental
22 impairment lasting or expected to last at least 12 months.

23 (b) all railroad retirement benefits;
24 (c) all income earned by an enrolled member of a
25 federally recognized Indian tribe while living and working

1 on a federally established Indian reservation.

2 (3) A taxpayer who elects to itemize his deductions
 3 from income on his federal return for tax year 1987 and who
 4 is required to pay additional federal tax due in 1987 for
 5 the 1986 tax year may deduct the federal tax paid in 1987
 6 from his Montana net income."

7 Section 7. Section 15-30-131, MCA, is amended to read:

8 "15-30-131. Nonresident---and---temporary---resident
 9 taxpayers---adjusted-gross-income---deductions Montana net
 10 taxable income for nonresidents. (1) in--the--case--of--a
 11 taxpayer--other--than--a-resident-of-this-state, Montana net
 12 taxable income for nonresidents is derived from adjusted
 13 gross income from sources within and without the state,
 14 determined as follows:

15 (a) Montana adjusted gross income includes the entire
 16 amount of federal adjusted gross income from sources within
 17 this state, but shall does not include income from
 18 annuities, interest on bank deposits, interest on bonds,
 19 notes, or other interest-bearing obligations, or dividends
 20 on stock of corporations except to the extent to which the
 21 same shall-be are a part of income from any business, trade,
 22 profession, or occupation carried on in this state.
 23 Interest income from installment sales of real or tangible
 24 commercial or business property located in Montana must be
 25 included in adjusted gross income. Adjusted-gross-income

1 from--sources--within--and--without--this--state--shall--be
 2 allocated--and--apportioned--under--rules--prescribed--by--the
 3 department.

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

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

21 (4)--A--temporary--resident--shall--be--allowed---those
 22 deductions-and-the-credit-under-15-32-109-allowed-a-resident
 23 to--the--extent--that--such--deductions--or--credit--were--actually
 24 incurred--or--expended--in--the--state--of--Montana--during--the
 25 course-of-his-residency.

1 ~~{5}--For--the--purposes--of--this--section,--"earned--income"~~
 2 ~~shall--be--defined--as--the--same--term--is--defined--in--section--43~~
 3 ~~of--the--Internal--Revenue--Code,--or--as--that--section--may~~
 4 ~~subsequently--be--amended.~~

5 ~~{6}--Notwithstanding--the--provisions--of--subsections--{2}~~
 6 ~~and--{3},--any--contribution--made--after--December--31,--1982,--to~~
 7 ~~the--state--of--Montana--or--a--political--subdivision--thereof~~
 8 ~~shall--be--an--allowable--deduction--in--computing--net--income.~~
 9 ~~The--deduction--is--subject--to--the--limitations--set--forth--in~~
 10 ~~section--170--of--the--Internal--Revenue--Code--of--1954,--as--labeled~~
 11 ~~or--amended.~~

12 (b) To determine his Montana net taxable income, a
 13 nonresident may deduct from his Montana adjusted gross
 14 income only the following items:

15 (i) a prorated part of the federal exemption provided
 16 for in section 151 of the Internal Revenue Code;

17 (ii) a prorated part of the taxpayer's federally
 18 allowed home mortgage interest;

19 (iii) a prorated part of the taxpayer's federally
 20 allowed medical expenses;

21 (iv) all sums donated to:

22 (A) an organization qualified under section 501(c)(3)
 23 of the Internal Revenue Code to receive tax-exempt
 24 contributions, which conducts its principal activity in this
 25 state; or

1 (B) the state of Montana or a political subdivision or
 2 agency thereof;

3 (v) all railroad retirement benefits;

4 (vi) all interest received from United States
 5 obligations;

6 (vii) all income earned by an enrolled member of a
 7 federally recognized Indian tribe while living and working
 8 on a federally established Indian reservation.

9 (c) The prorated part referred to in subsections
 10 (1)(b)(i) through (1)(b)(iii) is determined by multiplying
 11 the ratio of Montana adjusted gross income to federal
 12 adjusted gross income by the federally allowed deductions
 13 specified in subsections (1)(b)(i) through (1)(b)(iii).

14 (d) The department may adopt rules for allocating and
 15 apportioning adjusted gross income from sources within and
 16 without this state.

17 ~~{7}{2}~~ For purposes of this section, "installment
 18 sales" means sales in which the buyer agrees to pay the
 19 seller in one or more deferred installments.

20 (3) The nonresident's Montana net taxable income is
 21 subject to the rates provided in 15-30-103."

22 NEW SECTION. Section 8. Montana net taxable income
 23 for part-year residents. (1) To determine Montana net
 24 taxable income, a part-year resident may deduct from his
 25 Montana adjusted gross income a prorated part of his federal

1 standard deduction or a prorated part of the itemized
 2 deductions allowed by the Internal Revenue Code. The
 3 deduction allowed in this section must be the same as taken
 4 by the taxpayer on his federal return for the year. The
 5 prorated part is determined by multiplying the ratio of
 6 Montana adjusted gross income to federal adjusted gross
 7 income by the standard deductions or itemized deductions.

8 (2) For purposes of this section, Montana adjusted
 9 gross income is determined as follows:

10 (a) Montana adjusted gross income includes federal
 11 adjusted gross income from all sources received during the
 12 period of residency and all interest income from installment
 13 sales of real or tangible commercial or business property
 14 located in Montana, less the following:

15 (i) all interest received from obligations of the
 16 United States government;

17 (ii) all railroad retirement income; and

18 (iii) all income earned by an enrolled member of a
 19 federally recognized Indian tribe while living and working
 20 on a federally established Indian reservation.

21 (b) Montana adjusted gross income does not include the
 22 following unless a part of income from a business, trade,
 23 profession, or occupation carried on in this state:

24 (i) income from annuities;

25 (ii) interest on bank deposits;

1 (iii) interest on bonds, notes, or other
 2 interest-bearing obligations; or

3 (iv) dividends on stock of corporations.

4 (3) The part-year resident's Montana net taxable
 5 income is subject to the rates provided in 15-30-103.

6 Section 9. Section 15-30-132, MCA, is amended to read:

7 "15-30-132. Change ~~from--nonresident--to--resident-or~~
 8 ~~vice-versa of residency status. If a--taxpayer--changes--his~~
 9 ~~status--from-that-of-resident-to-that-of-nonresident-or-from~~
 10 ~~that-of-nonresident-to-that-of-resident-during--the--taxable~~
 11 ~~year,--he--shall--file-a-return-covering-the-fraction-of-the~~
 12 ~~year-during-which-he-was-a-resident,--The-exemptions-provided~~
 13 ~~in-15-30-112-shall-be-prorated--on--the--ratio--the--Montana~~
 14 ~~adjusted--gross--income--bears--to--federal--adjusted--gross~~
 15 ~~income. A Montana citizen moving out of the state,~~
 16 ~~abandoning his residence in the state, and establishing a~~
 17 ~~residence elsewhere must file a return on--the--fractional~~
 18 ~~basis. If he obtains employment outside the state without~~
 19 ~~abandoning his Montana residence, then income from such~~
 20 ~~employment is taxable in Montana."~~

21 Section 10. Section 15-30-135, MCA, is amended to
 22 read:

23 "15-30-135. Tax on beneficiaries or fiduciaries of
 24 estates or trusts. (1) A tax shall be imposed upon either
 25 the fiduciaries or the beneficiaries of estates and trusts

1 as hereinafter provided, except to the extent such estates
2 and trusts ~~shall be~~ are held for educational, charitable, or
3 religious purposes, which tax shall be levied, collected,
4 and paid annually with respect to the income of estates or
5 of any kind of property held in trust, including:

6 (a) income received by estates of deceased persons
7 during the period of administration or settlement of the
8 estate;

9 (b) income accumulated in trust for the benefit of
10 unborn or unascertained persons or persons with contingent
11 interests;

12 (c) income held for future distribution under the
13 terms of the will or trust; and

14 (d) income which is to be distributed to the
15 beneficiaries periodically, whether or not at regular
16 intervals, and the income collected by a guardian of a
17 minor, to be held or distributed as the court may direct.

18 (2) The fiduciary shall be responsible for making the
19 return of income for the estate or trust for which he acts,
20 whether the fiduciary or the beneficiaries are taxable with
21 reference to the income of such estate or trust. In cases
22 under subsections (a) and (d) of subsection (1), the
23 fiduciary shall include in the return a statement of each
24 beneficiary's distributive share of net income, whether or
25 not distributed before the close of the taxable year for

1 which the return is made.

2 (3) In cases under subsections (a), (b), and (c) of
3 subsection (1), the tax shall be imposed upon the fiduciary
4 of the estate or trust with respect to the Montana net
5 income of the estate or trust and shall be paid by the
6 fiduciary. If the taxpayer's net income for the taxable
7 year of the estate or trust is computed upon the basis of a
8 period different from that upon the basis of which the net
9 income of the estate or trust is computed, then his
10 distributive share of the net income of the estate or trust
11 for any accounting period of such estate or trust ending
12 within the fiscal or calendar year shall be computed upon
13 the basis on which such beneficiary's net income is
14 computed. In such cases, a beneficiary not a resident shall
15 be taxable with respect to his income derived through such
16 estate or trust only to the extent provided in 15-30-131 for
17 individuals other than residents.

18 (4) The fiduciary of a trust created by an employer as
19 a part of a stock bonus, pension, or profit-sharing plan for
20 the exclusive benefit of some or all of his employees, to
21 which contributions are made by such employer or employees,
22 or both, for the purpose of distributing to such employees
23 the earnings and principal of the fund accumulated by the
24 trust in accordance with such plan, shall not be taxable
25 under this section, but any amount contributed to such fund

1 by the employer and all earnings of such fund shall be
2 included in computing the income of the distributee in the
3 year in which distributed or made available to him.

4 (5) Where any part of the income of a trust other than
5 a testamentary trust is or may be applied to the payment of
6 premiums upon policies of insurance on the life of the
7 grantor (except policies of insurance irrevocably payable
8 for the purposes and in the manner specified relating to the
9 so-called "charitable contribution" deduction) or to the
10 payment of premiums upon policies of life insurance under
11 which the grantor is the beneficiary, such part of the
12 income of the trust shall be included in computing the net
13 income of the grantor."

14 Section 11. Section 15-30-136, MCA, is amended to
15 read:

16 "15-30-136. Computation of income of estates or trusts
17 ---exemption. (1)---Except---as---otherwise---provided---in---this
18 chapter,---"gross---income"---of---estates---or---trusts---means---all
19 income---from---whatever---source---derived---in---the---taxable---year,
20 including---but---not---limited---to---the---following---items:

21 (a)---dividends;

22 (b)---interest---received---or---accrued,---including---interest
23 received---on---obligations---of---another---state---or---territory---or---a
24 county,---municipality,---district,---or---other---political
25 subdivision---thereof,---but---excluding---interest---income---from

1 obligations---of:

2 (i)---the---United---States---government---or---the---state---of
3 Montana;

4 (ii)---a---school---district,---or

5 (iii)---a---county,---municipality,---district,---or---other
6 political---subdivision---of---the---state;

7 (c)---income---from---partnerships---and---other---fiduciaries;

8 (d)---gross---rents---and---royalties;

9 (e)---gain---from---sale---or---exchange---of---property,---including
10 those---gains---that---are---excluded---from---gross---income---for---federal
11 fiduciary---income---tax---purposes---by---section---641(c)---of---the
12 Internal---Revenue---Code---of---1954,---as---amended;

13 (f)---gross---profit---from---trade---or---business,---and

14 (g)---refunds---recovered---on---federal---income---tax,---to---the
15 extent---the---deduction---of---such---tax---resulted---in---a---reduction---of
16 Montana---income---tax---liability;

17 (2)---In---computing---net---income,---there---are---allowed---as
18 deductions:

19 (a)---interest---expenses---deductible---for---federal---tax
20 purposes---according---to---section---163---of---the---Internal---Revenue
21 Code---of---1954,---as---amended;

22 (b)---taxes---paid---or---accrued---within---the---taxable---year,
23 including---but---not---limited---to---federal---income---tax,---but
24 excluding---Montana---income---tax;

25 (c)---that---fiduciary's---portion---of---depreciation---or

1 depletion which is deductible for federal tax purposes
2 according to sections 167, 611, and 642 of the Internal
3 Revenue Code of 1954, as amended;

4 (d) charitable contributions that are deductible for
5 federal tax purposes according to section 642(c) of the
6 Internal Revenue Code of 1954, as amended;

7 (e) administrative expenses claimed for federal income
8 tax purposes, according to sections 212 and 642(g) of the
9 Internal Revenue Code of 1954, as amended, if such expenses
10 were not claimed as a deduction in the determination of
11 Montana inheritance tax;

12 (f) losses from fire, storm, shipwreck, or other
13 casualty or from theft, to the extent not compensated for by
14 insurance or otherwise, that are deductible for federal tax
15 purposes according to section 165 of the Internal Revenue
16 Code of 1954, as amended;

17 (g) net operating loss deductions allowed for federal
18 income tax under section 642(d) of the Internal Revenue Code
19 of 1954, as amended, except estates may not claim losses
20 that are deductible on the decedent's final return;

21 (h) all benefits received as federal employees'
22 retirement not in excess of \$3,600;

23 (i) all benefits paid under the Montana teachers'
24 retirement system that are specified as exempt from taxation
25 by 19-4-706;

1 (j) all benefits paid under the Montana Public
2 Employees' Retirement System Act that are specified as
3 exempt from taxation by 19-3-105;

4 (k) all benefits paid under the Montana highway
5 patrolmen's retirement system that are specified as exempt
6 from taxation by 19-6-705;

7 (l) Montana income tax refunds or credits thereof;

8 (m) all benefits paid under 19-11-602, 19-11-604, and
9 19-11-605 to retired and disabled firemen or their surviving
10 spouses or children;

11 (n) all benefits paid under the municipal police
12 officers' retirement system that are specified as exempt
13 from taxation by 19-9-1005;

14 (o) all benefits not in excess of \$360 received as an
15 annuity, pension, or endowment under private or corporate
16 retirement plans or systems;

17 (3) in the case of a shareholder of a corporation with
18 respect to which the election provided for under subchapter
19 S, of the Internal Revenue Code of 1954, as amended, is in
20 effect but with respect to which the election provided for
21 under 15-31-202 is not in effect, net income does not
22 include any part of the corporation's undistributed taxable
23 income, net operating loss, capital gains or other gains,
24 profits, or losses required to be included in the
25 shareholder's federal income tax net income by reason of the

~~election under subchapter S. However, the shareholder's net income shall include actual distribution from the corporation to the extent it would be treated as taxable dividends if the subchapter S election were not in effect.~~
(1) The Montana taxable income of an estate or trust is its federal taxable income as provided by the Internal Revenue Code, including interest received on obligations of another state or a political subdivision thereof, reduced by interest received from obligations of the United States government.

~~(4)(2) The following additional deductions shall be a deduction is allowed in deriving taxable income of estates and trusts:~~

~~(a) any for the amount of income for in the taxable year currently required to be distributed to beneficiaries for such year;~~

~~(b) any other amounts properly paid or credited or required to be distributed for the taxable year;~~

~~(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year;~~

~~(5) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8)."~~

Section 12. Section 15-30-141, MCA, is amended to

read:

"15-30-141. Tax as personal debt. Every tax imposed by this chapter and all increases, interest, and penalties thereon ~~shall be~~ are from the time they are due and payable a personal debt from the person or fiduciary liable to pay the same to the state. Taxpayers filing a joint return are jointly and severally liable for the tax and any interest and penalty unless the department determines, based on the criteria in section 6013(e) of the Internal Revenue Code, that a spouse is relieved of liability."

Section 13. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns Filing of returns and payment of tax ~~penalty and interest~~ ~~refunds~~ ~~credits~~. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than \$17,000, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$27,000, as adjusted under the provisions of subsection (7) subject to a tax pursuant to this chapter who is required by section 6012 of the Internal Revenue Code to file a federal income tax return or who receives income in excess of \$5,000 from obligations of another state or a political subdivision

1 ~~thereof, shall be~~ is liable for a return to be filed on such
 2 forms and according to such rules as the department may
 3 prescribe. ~~The gross income amounts referred to in the~~
 4 ~~preceding sentence shall be increased by \$800, as adjusted~~
 5 ~~under the provisions of 15-30-112(7) and (8), for each~~
 6 ~~additional personal exemption allowance the taxpayer is~~
 7 ~~entitled to claim for himself and his spouse under~~
 8 ~~15-30-112(3) and (4). A nonresident shall be required to~~
 9 ~~file a return if his gross income for the taxable year~~
 10 ~~derived from sources within Montana exceeds the amount of~~
 11 ~~the exemption deduction he is entitled to claim for himself~~
 12 ~~and his spouse under the provisions of 15-30-112(2), (3),~~
 13 ~~and (4), as prorated according to 15-30-112(6).~~

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

1 (2) Every person who is required to file a return
 2 under subsection (1) shall use the same filing status to
 3 file his state return as that used by him to file his
 4 federal return.

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

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

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

25 (6) If the amount of tax as verified is greater than

1 the amount theretofore paid, the excess shall be paid by the
 2 taxpayer to the department within 60 days after notice of
 3 the amount of the tax as computed, with interest added at
 4 the rate of 9%--per-annum 3/4 of 1% per month or fraction
 5 thereof on the additional tax. In such case there shall be
 6 no penalty because of such understatement, provided the
 7 deficiency is paid within 60 days after the first notice of
 8 the amount is mailed to the taxpayer.

9 ~~{7}--By--November--1--of--each--year--the--department--shall~~
 10 ~~multiply--the--minimum--amount--of--gross--income--necessitating~~
 11 ~~the--filing--of--a--return--by--the--inflation--factor--for--the~~
 12 ~~taxable--year--These--adjusted--amounts--are--effective--for--that~~
 13 ~~taxable--year--and--persons--having--gross--incomes--less--than~~
 14 ~~these--adjusted--amounts--are--not--required--to--file--a--return--~~

15 ~~{8}--Individual--income--tax--forms--distributed--by--the~~
 16 ~~department--for--each--taxable--year--must--contain--instructions~~
 17 ~~and--tables--based--on--the--adjusted--base--year--structure--for~~
 18 ~~that--taxable--year--"~~

19 Section 14. Section 15-30-144, MCA, is amended to
 20 read:

21 "15-30-144. Time for filing -- extensions of time. (1)
 22 Returns shall be made to the department on or before the
 23 15th day of the 4th month following the close of the
 24 taxpayer's fiscal year, or if the return is made on the
 25 basis of the calendar year, then the return shall be made on

1 or before the 15th day of April following the close of the
 2 calendar year. Each return shall set forth such facts as the
 3 department considers necessary for the proper enforcement of
 4 this chapter. There shall be annexed to such return the
 5 affidavit or affirmation of the persons making the return to
 6 the effect that the statements contained therein are true.
 7 Blank forms of return shall be furnished by the department
 8 upon application, but failure to secure the form shall not
 9 relieve any taxpayer of the obligation to make any return
 10 required under this law. ~~Every taxpayer liable for a tax~~
 11 ~~under this law shall pay a minimum tax of \$1--~~

12 ~~{2}--An--automatic--6--month--extension--of--time--for--filing~~
 13 ~~a--return--is--allowed--provided--that--on--or--before--the--due--date~~
 14 ~~of--the--return--an--application--is--made--on--forms--available~~
 15 ~~from--the--department--or--in--writing--to--the--department--~~

16 (2) The person making the return may obtain an
 17 automatic 2-month extension of time for filing a return,
 18 subject to the following:

19 (a) An application for extension must be filed before
 20 the due date for filing the return on a form prescribed by
 21 the department and be accompanied by a copy of the
 22 applicant's federal income tax form 4868 submitted to the
 23 internal revenue service for the same tax year and same
 24 extension of the return filing period.

25 (b) If the applicant is not required to make a federal

1 income tax return, he must indicate that fact on the
2 application for extension filed with the department.

3 (c) An automatic extension of time to make the state
4 income tax return is not an extension of time to pay the
5 income tax due. The applicant must calculate and remit with
6 the application the tax due, less withheld tax payments,
7 estimated tax payments, and tax credits for which the
8 applicant may be eligible.

9 (d) If the applicant underestimates his tax due by 10%
10 or more, he is liable for penalties and interest under
11 15-30-323 from the date the tax is due.

12 (3) The department shall grant an application for
13 extension of time for filing a return if the applicant
14 submits an application as set forth in subsection (2). The
15 department need not notify an applicant of its determination
16 unless it denies the application.

17 (4) A person granted an automatic extension under
18 subsection (2) may be granted an additional extension, not
19 to exceed 4 months from the date for filing a return, if
20 upon further application the person shows good cause to
21 receive another extension. The filing of an appeal from a
22 denial of the application for another extension does not
23 stay the time for filing the return."

24 Section 15. Section 15-30-146, MCA, is amended to
25 read:

1 "15-30-146. Tolling of statute of limitations. The
2 running of the statute of limitations provided for under
3 15-30-145 shall be suspended during any period that the
4 federal statute of limitations for collection of federal
5 income tax has been suspended by written agreement signed by
6 the taxpayer or when the taxpayer has instituted an action
7 which has the effect of suspending the running of the
8 federal statute of limitations and for 1 additional year.
9 If the taxpayer fails to file a record of changes in federal
10 taxable income or an amended return as required by
11 15-30-304, the statute of limitations shall not apply until
12 5 years from the date the federal changes become final or
13 the amended federal return was filed. If the taxpayer omits
14 from gross income an amount properly includable therein
15 which is in excess of 25% of the amount of ~~adjusted--gross~~
16 ~~net taxable~~ income stated in the return, the statute of
17 limitations shall not apply for 2 additional years from the
18 time specified in 15-30-145."

19 Section 16. Section 15-30-162, MCA, is amended to
20 read:

21 "15-30-162. Investment credit recapture. ~~{1}--There--is~~
22 ~~allowed--as--a--credit--against--the--tax--imposed--by--15-30-103--a~~
23 ~~percentage--of--the--credit--allowed--with--respect--to--certain~~
24 ~~depreciable--property--under--section--38--of--the--Internal~~
25 ~~Revenue--Code--of--1954--as--amended--or--as--section--38--may--be~~

1 renumbered--or-amended--However, rehabilitation costs as set
 2 forth under section 46(a)(2)(F) of the Internal Revenue Code
 3 of 1954, or as section 46(a)(2)(F) may be renumbered--or
 4 amended,--are--not--to be included in the computation of the
 5 investment credit. The credit is allowed--for--the--purchase
 6 and--installation--of--certain-qualified-property-defined-by
 7 section 38 of the Internal Revenue Code of 1954, as amended,
 8 if the property meets all of the following qualifications:

9 (a)--it was placed in service in Montana, and
 10 (b)--it was used for the production of Montana adjusted
 11 gross income.

12 (2)--The--amount--of--the--credit--allowed--for--the--taxable
 13 year is 5% of the amount of credit determined under--section
 14 46(a)(2)--of--the--Internal--Revenue--Code--of--1954,--as--amended,
 15 or as section 46(a)(2) may be renumbered or amended.

16 (3)--Notwithstanding the provisions of subsection--(2),
 17 the--investment--credit--allowed--for--the--taxable--year--may--not
 18 exceed the taxpayer's tax liability for the taxable year--or
 19 \$500, whichever is less.

20 (4)--If--property--for--which--an--investment--credit--is
 21 claimed is used both inside and outside this state,--only--a
 22 portion--of--the--credit--is--allowed. The credit--must--be
 23 apportioned according to a fraction the numerator--of--which
 24 is--the--number--of--days--during--the--taxable--year--the--property
 25 was located in Montana and the denominator of which--is--the

1 number--of--days--during--the--taxable--year--the--taxpayer--owned
 2 the--property. The investment credit may be applied--only--to
 3 the--tax--liability--of--the--taxpayer--who--purchases--and--places
 4 in--service--the--property--for--which--an--investment--credit--is
 5 claimed. The credit may not be allocated between spouses
 6 unless the property--is--used--by--a--partnership--or--small
 7 business--corporation--of--which--they--are--partners--or
 8 shareholders.

9 (5) The investment credit allowed--by--this--section
 10 taken by a taxpayer pursuant to this chapter is subject to
 11 recapture as provided for in section 47 of the Internal
 12 Revenue Code of 1954, as amended, or as section 47 may be
 13 renumbered or amended."

14 Section 17. Section 15-30-303, MCA, is amended to
 15 read:

16 "15-30-303. Confidentiality of tax records. (1) Except
 17 in accordance with proper judicial order or as otherwise
 18 provided by law, it is unlawful for the department or any
 19 deputy, assistant, agent, clerk, or other officer or
 20 employee to divulge or make known in any manner the amount
 21 of income or any particulars set forth or disclosed in any
 22 report or return required under this chapter or any other
 23 information secured in the administration of this chapter.
 24 It is also unlawful to divulge or make known in any manner
 25 any federal return or federal return information disclosed

1 on any return or report required by rule of the department
2 or under this chapter.

3 (2) The officers charged with the custody of such
4 reports and returns shall not be required to produce any of
5 them or evidence of anything contained in them in any action
6 or proceeding in any court, except in any action or
7 proceeding to which the department is a party under the
8 provisions of this chapter or any other taxing act or on
9 behalf of any party to any action or proceedings under the
10 provisions of this chapter or such other act when the
11 reports or facts shown thereby are directly involved in such
12 action or proceedings, in either of which events the court
13 may require the production of and may admit in evidence so
14 much of said reports or of the facts shown thereby as are
15 pertinent to the action or proceedings and no more.

16 (3) Nothing herein shall be construed to prohibit:

17 (a) the delivery to a taxpayer or his duly authorized
18 representative of a certified copy of any return or report
19 filed in connection with his tax;

20 (b) the publication of statistics so classified as to
21 prevent the identification of particular reports or returns
22 and the items thereof; or

23 (c) the inspection by the attorney general or other
24 legal representative of the state of the report or return of
25 any taxpayer who shall bring action to set aside or review

1 the tax based thereon or against whom an action or
2 proceeding has been instituted in accordance with the
3 provisions of 15-30-311 and 15-30-322.

4 (4) Reports and returns shall be preserved for 3 years
5 and thereafter until the department orders them to be
6 destroyed.

7 (5) Any offense against subsections (1) through (4) of
8 this section shall be punished by a fine not exceeding
9 \$1,000 or by imprisonment in the county jail not exceeding 1
10 year, or both, at the discretion of the court, and if the
11 offender be an officer or employee of the state, he shall be
12 dismissed from office and be incapable of holding any public
13 office in this state for a period of 1 year thereafter.

14 (6) Notwithstanding the provisions of this section,
15 the department may permit the commissioner of internal
16 revenue of the United States or the proper officer of any
17 state imposing a tax upon the incomes of individuals or the
18 authorized representative of either such officer to inspect
19 the return of income of any individual or may furnish to
20 such officer or his authorized representative an abstract of
21 the return of income of any individual or supply him with
22 information concerning any item of income contained in any
23 return or disclosed by the report of any investigation of
24 the income or return of income of any individual, but such
25 permission shall be granted or such information furnished to

1 such officer or his representative only if the statutes of
2 the United States or of such other state, as the case may
3 be, grant substantially similar privileges to the proper
4 officer of this state charged with the administration of
5 this chapter.

6 (7) Further, notwithstanding any of the provisions of
7 this section, the department shall furnish:

8 ~~(a) to the department of justice all information~~
9 ~~necessary to identify those persons qualifying for the~~
10 ~~additional exemption for blindness pursuant to 15-30-112(4),~~
11 ~~for the purpose of enabling the department of justice to~~
12 ~~administer the provisions of 61-5-105, and~~

13 ~~(b) to the department of social and rehabilitation~~
14 ~~services information acquired under 15-30-301, pertaining to~~
15 ~~an applicant for public assistance, reasonably necessary for~~
16 ~~the prevention and detection of public assistance fraud and~~
17 ~~abuse, provided notice to the applicant has been given."~~

18 Section 18. Section 15-31-202, MCA, is amended to
19 read:

20 "15-31-202. Election by small business corporation.

21 (1) A small business corporation may elect not to be subject
22 to the taxes imposed by this chapter.

23 (2) If a small business corporation makes an election
24 under subsection (1), then:

25 (a) with respect to the taxable years of the

1 corporation for which such election is in effect, such
2 corporation is not subject to the taxes imposed by this
3 chapter and, with respect to such taxable years and all
4 succeeding taxable years, the provisions of this part apply
5 to such corporation; and

6 (b) with respect to the taxable years of a shareholder
7 of such corporation in which or with which the taxable years
8 of the corporation for which such election is in effect end,
9 the provisions of this part apply to such shareholder, and
10 with respect to such taxable years and all succeeding
11 taxable years, the provisions of this part apply to such
12 shareholder.

13 (3) An election under subsection (1) must be made in
14 accordance with rules prescribed by the department of
15 revenue.

16 (4) This election is not effective unless the
17 corporate net income or loss of such electing corporation is
18 included in the stockholders' ~~adjusted--gross~~ income ~~as~~
19 ~~defined in 15-30-111.~~

20 (5) Every electing corporation is required to pay the
21 minimum fee of \$10 required by 15-31-204."

22 Section 19. Section 17-5-408, MCA, is amended to read:

23 "17-5-408. (Effective unless contingency occurs--see
24 compiler's comments) Percentage of income, corporation
25 license, and cigarette tax pledged. (1) (a) The state

1 pledges and appropriates and directs to be credited as
 2 received to the debt service account ~~11%~~ 10% of all money,
 3 ~~except---as---provided---in---15-31-702,~~ received from the
 4 collection of the individual income tax and 11% of all
 5 money, except as provided in 15-31-702, received from the
 6 collection of the corporation license and income tax
 7 referred--to as provided in 15-1-501, and such additional
 8 amount of said taxes, if any, as may at any time be needed
 9 to comply with the principal and interest and reserve
 10 requirements stated in 17-5-405(4), ~~provided-that.~~

11 (b) ~~no~~ No more than ~~11%~~ the percentages described in
 12 subsection (1)(a) of such tax collections ~~shall-be-deemed-to~~
 13 may be pledged for the purpose of 17-5-403(2). The pledge
 14 and appropriation herein made shall be and remain at all
 15 times a first and prior charge upon all money received from
 16 the collection of said taxes.

17 (2) The state pledges and appropriates and directs to
 18 be credited to the debt service account 79.75% of all money
 19 received from the collection of the excise tax on cigarettes
 20 which is levied, imposed, and assessed by 16-11-111. The
 21 state also pledges and appropriates and directs to be
 22 credited as received to the debt service account all money
 23 received from the collection of the taxes on other tobacco
 24 products which are or may hereafter be levied, imposed, and
 25 assessed by law for that purpose, including the tax levied,

1 imposed, and assessed by 16-11-202. Nothing herein shall
 2 impair or otherwise affect the provisions and covenants
 3 contained in the resolutions authorizing the presently
 4 outstanding long-range building program bonds. Subject to
 5 the provisions of the preceding sentence, the pledge and
 6 appropriation herein made shall be and remain at all times a
 7 first and prior charge upon all money received from the
 8 collection of all taxes referred to in this subsection (2).
 9 (Revised July 1, 1987--sec. 4, Ch. 704, L. 1985.)

10 17-5-408. (Effective on occurrence of contingency--see
 11 compiler's comments) Percentage of income, corporation
 12 license, and cigarette tax pledged. (1) (a) The state
 13 pledges and appropriates and directs to be credited as
 14 received to the debt service account ~~11%~~ 10% of all money,
 15 ~~except---as---provided---in---15-31-702,~~ received from the
 16 collection of the individual income tax and 11% of all
 17 money, except as provided in 15-31-702, received from the
 18 collection of the corporation license and income tax
 19 referred--to as provided in 15-1-501, and such additional
 20 amount of said taxes, if any, as may at any time be needed
 21 to comply with the principal and interest and reserve
 22 requirements stated in 17-5-405(4), ~~provided-that.~~

23 (b) ~~no~~ No more than ~~11%~~ the percentages described in
 24 subsection (1)(a) of such tax collections ~~shall-be-deemed-to~~
 25 may be pledged for the purpose of 17-5-403(2). The pledge

1 and appropriation herein made shall be and remain at all
2 times a first and prior charge upon all money received from
3 the collection of said taxes.

4 (2) The state pledges and appropriates and directs to
5 be credited to the debt service account 53.17% of all money
6 received from the collection of the excise tax on cigarettes
7 which is levied, imposed, and assessed by 16-11-111. The
8 state also pledges and appropriates and directs to be
9 credited as received to the debt service account all money
10 received from the collection of the taxes on other tobacco
11 products which are or may hereafter be levied, imposed, and
12 assessed by law for that purpose, including the tax levied,
13 imposed, and assessed by 16-11-202. Nothing herein shall
14 impair or otherwise affect the provisions and covenants
15 contained in the resolutions authorizing the presently
16 outstanding long-range building program bonds. Subject to
17 the provisions of the preceding sentence, the pledge and
18 appropriation herein made shall be and remain at all times a
19 first and prior charge upon all money received from the
20 collection of all taxes referred to in this subsection (2)."

21 Section 20. Section 19-3-105, MCA, is amended to read:
22 "19-3-105. Exemption from ~~taxes~~ and legal process. The
23 right of a person to a retirement allowance or any other
24 benefit under this chapter and the moneys in the fund
25 created under this chapter is not:

1 ~~{1}~~ subject to execution, garnishment, attachment, or
2 any other process,

3 ~~{2}~~ subject to state, county, or municipal taxes
4 except for a refund paid under 19-3-703 of a member's
5 contributions picked up by an employer after June 30, 1985
6 as provided in 19-3-701, or

7 ~~{3}~~ nor is it assignable except as in this chapter
8 specifically provided."

9 Section 21. Section 19-4-706, MCA, is amended to read:

10 "19-4-706. Exemption from ~~taxation~~ and legal process.
11 The pensions, annuities, or any other benefits accrued or
12 accruing to any person under the provisions of the
13 retirement system and the accumulated contributions and cash
14 and securities in the various funds of the retirement system
15 are:

16 ~~{1}~~ exempted from any state, county, or municipal tax
17 of the state of Montana except for a refund paid under
18 19-4-603 of a member's contributions picked up by an
19 employer after June 30, 1985, as provided in 19-4-602;

20 ~~{2}~~ not subject to execution, garnishment, attachment
21 by trustee process or otherwise, in law or equity, or any
22 other process; and

23 ~~{3}~~ are unassignable except as specifically provided
24 in this chapter."

25 Section 22. Section 19-6-705, MCA, is amended to read:

1 "19-6-705. Exemption from ~~taxes and~~ legal process. Any
2 money received or to be paid as a member's annuity, state
3 annuity, or return of deductions or the right of any of
4 these is:

5 ~~{1}--exempt from any state, county, or municipal tax~~
6 ~~except for a refund paid under 19-6-403 of a member's~~
7 ~~contributions picked up by an employer after June 30, 1985,~~
8 ~~as provided in 19-6-402;~~

9 {2} exempt from levy, sale, garnishment, attachment,
10 or any other process; and

11 {3} is unassignable except as specifically provided in
12 19-6-706."

13 Section 23. Section 53-2-101, MCA, is amended to read:

14 "53-2-101. Definitions. Unless the context requires
15 otherwise, in this chapter the following definitions apply:

16 (1) "Department" means the department of social and
17 rehabilitation services provided for in Title 2, chapter 15,
18 part 22.

19 (2) "Public assistance" or "assistance" means any type
20 of monetary or other assistance furnished under this title
21 to a person by a state or county agency, regardless of the
22 original source of the assistance.

23 (3) "Needy person" is one who is eligible for public
24 assistance under the laws of this state.

25 (4) "Net monthly income" means one-twelfth of the

1 difference between the net taxable income for the taxable
2 year as the term net taxable income is defined in 15-30-101
3 and the state income tax paid as determined by the state
4 income tax return filed during the current year.

5 (5) "Ward Indian" is hereby defined as an Indian who
6 is living on an Indian reservation set aside for tribal use
7 or is a member of a tribe or nation accorded certain rights
8 and privileges by treaty or by federal statutes. If and when
9 the federal Social Security Act is amended to define a "ward
10 Indian", such definition shall supersede the foregoing
11 definition."

12 Section 24. Section 67-11-303, MCA, is amended to
13 read:

14 "67-11-303. Bonds and obligations. (1) An authority
15 may borrow money for any of its corporate purposes and issue
16 its bonds therefor, including refunding bonds, in such form
17 and upon such terms as it may determine, payable out of any
18 revenues of the authority, including revenues derived from:

19 (a) an airport or air navigation facility or
20 facilities;

21 (b) taxes levied pursuant to 67-11-301 or other law
22 for airport purposes;

23 (c) grants or contributions from the federal
24 government; or

25 (d) other sources.

1 (2) The bonds may be issued by resolution of the
 2 authority, without an election and without any limitation of
 3 amount, except that no such bonds may be issued at any time
 4 if the total amount of principal and interest to become due
 5 in any year on such bonds and on any then outstanding bonds
 6 for which revenues from the same source or sources are
 7 pledged exceeds the amount of such revenues to be received
 8 in that year as estimated in the resolution authorizing the
 9 issuance of the bonds. The authority shall take all action
 10 necessary and possible to impose, maintain, and collect
 11 rates, charges, rentals, and taxes, if any are pledged,
 12 sufficient to make the revenues from the pledged source in
 13 such year at least equal to the amount of such principal and
 14 interest due in that year.

15 (3) The bonds may be sold at public or private sale
 16 and may bear interest at a rate not exceeding the limitation
 17 of 17-5-102. Except as otherwise provided herein, any bonds
 18 issued pursuant to this chapter by an authority may be
 19 payable as to principal and interest solely from revenues of
 20 the authority and shall state on their face the applicable
 21 limitations or restrictions regarding the source from which
 22 such principal and interest are payable.

23 (4) Bonds issued by an authority or municipality
 24 pursuant to the provisions of this chapter are declared to
 25 be issued for an essential public and governmental purpose

1 by a political subdivision ~~within the meaning of~~
 2 ~~15-30-111(2)(a)~~ for purposes of tax exemption determinations
 3 under the Internal Revenue Code.

4 (5) For the security of any such bonds, the authority
 5 or municipality may by resolution make and enter into any
 6 covenant, agreement, or indenture and may exercise any
 7 additional powers authorized to be exercised by a
 8 municipality under Title 7, chapter 7, parts 44 and 45. The
 9 sums required from time to time to pay principal and
 10 interest and to create and maintain a reserve for the bonds
 11 may be paid from any revenues referred to in this chapter,
 12 prior to the payment of current costs of operation and
 13 maintenance of the facilities.

14 (6) Subject to the conditions stated in this
 15 subsection (6), the governing body of any municipality
 16 having a population in excess of 10,000, with respect to
 17 bonds issued pursuant to this chapter by the municipality or
 18 by an authority in which the municipality is included, may
 19 by resolution covenant that in the event that at any time
 20 all revenues, including taxes, appropriated and collected
 21 for such bonds are insufficient to pay principal or interest
 22 then due, it will levy a general tax upon all of the taxable
 23 property in the municipality for the payment of such
 24 deficiency; and may further covenant that at any time a
 25 deficiency is likely to occur within 1 year for the payment

1 of principal and interest due on such bonds, it will levy a
 2 general tax upon all the taxable property in the
 3 municipality for the payment of such deficiency, and such
 4 taxes are not subject to any limitation of rate or amount
 5 applicable to other municipal taxes but are limited to a
 6 rate estimated to be sufficient to produce the amount of the
 7 deficiency. In the event more than one municipality having a
 8 population in excess of 10,000 is included in an authority
 9 issuing bonds pursuant to this chapter, the municipalities
 10 may apportion the obligation to levy taxes for the payment
 11 of, or in anticipation of, a deficiency in the revenues
 12 appropriated for such bonds in such manner as the
 13 municipalities may determine. The resolution shall state the
 14 principal amount and purpose of the bonds and the substance
 15 of the covenant respecting deficiencies. No such resolution
 16 becomes effective until the question of its approval has
 17 been submitted to the qualified electors of the municipality
 18 at a special election called for that purpose by the
 19 governing body of the municipality and a majority of the
 20 electors voting on the question have voted in favor thereof.
 21 The notice and conduct of the election is governed, to the
 22 extent applicable, as provided for municipal general
 23 obligation bonds in Title 7, chapter 7, part 42, for an
 24 election called by cities and towns, and as provided for
 25 county general obligation bonds in Title 7, chapter 7, part

1 22, for an election called by counties. If a majority of the
 2 electors voting thereon vote against approval of the
 3 resolution, the municipality has no authority to make the
 4 covenant or to levy a tax for the payment of deficiencies
 5 pursuant to this section, but such municipality or authority
 6 may nevertheless issue bonds under this chapter payable
 7 solely from the sources referred to in subsection (1)
 8 above."

9 Section 25. Section 20-9-303, MCA, is amended to read:
 10 "20-9-303. Definition of foundation program and its
 11 proportion of the maximum-general-fund-without-a-voted-levy
 12 schedule amount -- nonisolated school foundation program
 13 financing -- special education funds. (1) As used in this
 14 title, the term "foundation program" shall mean the minimum
 15 operating expenditures, as established herein, that are
 16 sufficient to provide for the educational program of a
 17 school. The foundation program relates only to those
 18 expenditures authorized by a district's general fund budget
 19 and shall not include expenditures from any other fund. It
 20 shall be financed by:

- 21 (a) county equalization moneys; and
 - 22 (b) state equalization aid.
- 23 (2) The dollar amount of the foundation program shall
 24 be 80% of the
 25 maximum-general-fund-budget-without-a-voted-levy limitation

1 as set forth in the schedules in 20-9-316 through 20-9-321
 2 or 80% of the state equalization aid amount determined under
 3 20-9-348. The foundation program of an elementary school
 4 having an ANB of nine or fewer pupils for 2 consecutive
 5 years which is not approved as an isolated school under the
 6 provisions of 20-9-302 shall be 80% of the schedule amount,
 7 but the county and state shall participate in financing
 8 one-half of the foundation program, and the district shall
 9 finance the remaining one-half by a tax levied on the
 10 property of the district. When a school of nine or fewer
 11 pupils is approved as isolated under the provisions of
 12 20-9-302, the county and state shall participate in the
 13 financing of the total amount of the foundation program.

14 (3) Funds provided to support the special education
 15 accounting budget may be expended only for special education
 16 purposes as approved by the superintendent of public
 17 instruction in accordance with the special education
 18 budgeting provisions of this title. Expenditures for special
 19 education shall be accounted for separately from the balance
 20 of the school district general fund. Transfers between items
 21 within the special education budget for accounting purposes
 22 may be made at the discretion of the board of trustees in
 23 accordance with the financial administration part of this
 24 title. The unexpended balance of the special education
 25 accounting budget shall carry over to the next year to

1 reduce the amount of funding required to finance the
 2 district's ensuing year's maximum-budget-without-a-vote for
 3 special education."

4 Section 26. Section 20-9-318, MCA, is amended to read:
 5 "20-9-318. Elementary school maximum budget schedule
 6 ~~for-1986-87-and-succeeding-years.~~ For 1986-87 and succeeding
 7 school years, the elementary school maximum budget schedule
 8 is as follows:

9 (1) For each elementary school having an ANB of nine
 10 or fewer pupils, the maximum shall be \$20,158 if said school
 11 is approved as an isolated school.

12 (2) For schools with an ANB of 10 pupils but less than
 13 18 pupils, the maximum shall be \$20,158 plus \$842.50 per
 14 pupil on the basis of the average number belonging over
 15 nine.

16 (3) For schools with an ANB of at least 14 pupils but
 17 less than 18 pupils that qualify for instructional aide
 18 funding under 20-9-322, the maximum shall be \$33,042 plus
 19 \$842.50 per pupil on the basis of the average number
 20 belonging over 14.

21 (4) For schools with an ANB of 18 pupils and employing
 22 one teacher, the maximum shall be \$27,741 plus \$842.50 per
 23 pupil on the basis of the average number belonging over 18,
 24 not to exceed an ANB of 25.

25 (5) For schools with an ANB of 18 pupils and employing

1 two full-time teachers, the maximum shall be \$44,290 plus
2 \$527.60 per pupil on the basis of the average number
3 belonging over 18, not to exceed an ANB of 50.

4 (6) For schools having an ANB in excess of 40, the
5 maximum on the basis of the total pupils (ANB) in the
6 district for elementary pupils will be as follows:

7 (a) For a school having an ANB of more than 40 and
8 employing a minimum of three teachers, the maximum of \$1,957
9 shall be decreased at the rate of \$1.90 for each additional
10 pupil until the total number (ANB) shall have reached a
11 total of 100 pupils.

12 (b) For a school having an ANB of more than 100
13 pupils, the maximum of \$1,843 shall be decreased at the rate
14 of \$1.74 for each additional pupil until the ANB shall have
15 reached 300 pupils.

16 (c) For a school having an ANB of more than 300
17 pupils, the maximum shall not exceed \$1,496 for each pupil.

18 (7) The maximum per pupil for all pupils (ANB) and for
19 all elementary schools shall be computed on the basis of the
20 amount allowed herein on account of the last eligible pupil
21 (ANB). All elementary schools operated within the
22 incorporated limits of a city or town shall be treated as
23 one school for the purpose of this schedule.

24 (8) In the event that funding from statutorily
25 appropriated sources is insufficient to fully fund the

1 schedule to the maximum allowed, the schedule must be funded
2 on a pro rata basis and only to the extent that revenue is
3 available from sources statutorily appropriated to fund the
4 schedule."

5 Section 27. Section 20-9-319, MCA, is amended to read:

6 "20-9-319. High school maximum budget schedule for
7 ~~1986-87 and succeeding years~~. For 1986-87 and succeeding
8 school years, the high school maximum budget schedule is as
9 follows:

10 (1) For each high school having an ANB of 24 or fewer
11 pupils, the maximum shall be \$114,845.

12 (2) For a secondary school having an ANB of more than
13 24 pupils, the maximum \$4,785 shall be decreased at the rate
14 of \$26.10 for each additional pupil until the ANB shall have
15 reached a total of 40 such pupils.

16 (3) For a school having an ANB of more than 40 pupils,
17 the maximum of \$4,368 shall be decreased at the rate of
18 \$26.10 for each additional pupil until the ANB shall have
19 reached 100 pupils.

20 (4) For a school having an ANB of more than 100
21 pupils, a maximum of \$2,802 shall be decreased at the rate
22 of \$4.37 for each additional pupil until the ANB shall have
23 reached 200 pupils.

24 (5) For a school having an ANB of more than 200
25 pupils, the maximum of \$2,365 shall be decreased by \$2.40

1 for each additional pupil until the ANB shall have reached
2 300 pupils.

3 (6) For a school having an ANB of more than 300
4 pupils, the maximum of \$2,125 shall be decreased at the rate
5 of 44 cents until the ANB shall have reached 600 pupils.

6 (7) For a school having an ANB over 600 pupils, the
7 maximum shall not exceed \$1,993 per pupil.

8 (8) The maximum per pupil for all pupils (ANB) and for
9 all high schools shall be computed on the basis of the
10 amount allowed herein on account of the last eligible pupil
11 (ANB). All high schools and junior high schools which have
12 been approved and accredited as junior high schools,
13 operated within the incorporated limits of a city or town,
14 shall be treated as one school for the purpose of this
15 schedule.

16 (9) In the event that funding from statutorily
17 appropriated sources is insufficient to fully fund the
18 schedule to the maximum allowed, the schedule must be funded
19 on a pro rata basis and only to the extent that revenue is
20 available from sources statutorily appropriated to fund the
21 schedule."

22 Section 28. Section 20-9-343, MCA, is amended to read:

23 "20-9-343. Definition of and revenue for state
24 equalization aid. (1) As used in this title, the term "state
25 equalization aid" means those moneys deposited in the state

1 special revenue fund as required in this section plus any
2 legislative appropriation of moneys from other sources for
3 distribution to the public schools for the purpose of
4 equalization of the foundation program.

5 (2) The legislative appropriation for state
6 equalization aid shall be made in a single sum for the
7 biennium. The superintendent of public instruction has
8 authority to spend such appropriation, together with the
9 earmarked revenues provided in subsection (3), as required
10 for foundation program purposes throughout the biennium.

11 (3) The following shall be paid into the state special
12 revenue fund for state equalization aid to public schools of
13 the state:

14 (a) 25% 31.8% of all moneys received from the
15 collection of income taxes under chapter 30 of Title 15;

16 (b) 25% of all moneys, except as provided in
17 15-31-702, received from the collection of corporation
18 license and income taxes under chapter 31 of Title 15, as
19 provided by 15-1-501;

20 (c) 10% of the moneys received from the collection of
21 the severance tax on coal under chapter 35 of Title 15;

22 (d) 100% of the moneys received from the treasurer of
23 the United States as the state's shares of oil, gas, and
24 other mineral royalties under the federal Mineral Lands
25 Leasing Act, as amended;

1 (e) interest and income moneys described in 20-9-341
2 and 20-9-342;

3 (f) income from the local impact and education trust
4 fund account; and

5 (g) in addition to these revenues, the surplus
6 revenues collected by the counties for foundation program
7 support according to 20-9-331 and 20-9-333 shall be paid
8 into the same state special revenue fund.

9 (4) Any surplus revenue in the state equalization aid
10 account in the second year of a biennium may be used to
11 reduce the appropriation required for the next succeeding
12 biennium [or may be transferred to the state permissive
13 account if revenues in that fund are insufficient to meet
14 the state's permissive amount obligation]."

15 Section 29. Section 20-9-348, MCA, is amended to read:

16 "20-9-348. Estimation of state equalization aid for
17 budget purposes. (1) The apportionment of state equalization
18 aid shall be the second source of revenue in calculating the
19 financing of the elementary district foundation program and
20 the high school district foundation program. In order to
21 allow for the estimation of the amount of money to be
22 realized from this source of revenue when the county
23 superintendent is estimating the general fund budget
24 revenues, ~~the county superintendent shall consider that the~~
25 ~~state foundation program revenues and county equalization~~

1 ~~moneys, together, will be capable of financing 100% of the~~
2 ~~foundation program.~~ superintendent of public instruction
3 shall annually estimate a uniform percentage of each
4 district's foundation program that state equalization aid
5 and county equalization moneys together will be capable of
6 financing for the ensuing school fiscal year. The estimate
7 is "state equalization aid" for the purposes of this title
8 and must be based on the best available data and calculated
9 according to the procedure provided in 20-9-347.

10 (2) The superintendent of public instruction shall
11 notify each county superintendent of the state equalization
12 aid estimate by June 1. The county superintendent shall use
13 the estimate for establishing the financing available for
14 each district's foundation program for the ensuing school
15 fiscal year."

16 Section 30. Section 20-9-352, MCA, is amended to read:

17 "20-9-352. Permissive amount and permissive levy. (1)
18 Whenever the trustees of any district shall deem it
19 necessary to adopt a general fund budget in excess of the
20 foundation program amount but not in excess of the maximum
21 general fund budget amount for such district as established
22 by the schedules in 20-9-316 through 20-9-321, the trustees
23 shall adopt a resolution stating the reasons and purposes
24 for exceeding the foundation program amount. Such excess
25 above the foundation program amount shall be known as the

1 "permissive amount", and it shall be financed by a levy on
 2 the taxable value of all taxable property within the
 3 district as prescribed in 20-9-141, supplemented with any
 4 biennial appropriation by the legislature for this purpose.
 5 The proceeds of such an appropriation shall be deposited to
 6 the state special revenue fund, permissive account.

7 (2) The district levies to be set for the purpose of
 8 funding the permissive amount are determined as follows:

9 (a) For each elementary school district, the county
 10 commissioners shall annually set a levy not exceeding 6
 11 mills on all the taxable property in the district for the
 12 purpose of funding the permissive amount of the district.
 13 The permissive levy in mills shall be obtained by
 14 multiplying the ratio of the permissive amount to the
 15 maximum permissive amount by 6 or by using the number of
 16 mills which would fund the permissive amount, whichever is
 17 less. If the amount of revenue raised by this levy, plus
 18 anticipated or reappropriated motor vehicle fees and
 19 reimbursement under the provisions of 61-3-532 and 61-3-536,
 20 is not sufficient to fund the permissive amount in full, the
 21 amount of the deficiency shall be paid to the district from
 22 the state special revenue fund according to the provisions
 23 of subsections subsection (3) and (4) of this section.

24 (b) For each high school district, the county
 25 commissioners shall annually set a levy not exceeding 4

1 mills on all taxable property in the district for the
 2 purpose of funding the permissive amount of the district.
 3 The permissive levy in mills shall be obtained by
 4 multiplying the ratio of the permissive levy to the maximum
 5 permissive amount by 4 or by using the number of mills which
 6 would fund the permissive amount, whichever is less. If the
 7 amount of revenue raised by this levy, plus anticipated
 8 motor vehicle fees and reimbursement under the provisions of
 9 61-3-532 and 61-3-536, and plus net proceeds taxes for new
 10 production, as defined in 15-23-601, is not sufficient to
 11 fund the permissive amount in full, the amount of the
 12 deficiency shall be paid to the district from the state
 13 special revenue fund according to the provisions of
 14 subsections subsection (3) and (4) of this section.

15 ~~{3}--The superintendent of public instruction shall, if~~
 16 ~~the appropriation by the legislature for the permissive~~
 17 ~~account for the biennium is insufficient, request the budget~~
 18 ~~director to submit a request for a supplemental~~
 19 ~~appropriation in the second year of the biennium. The~~
 20 ~~supplemental appropriation shall provide enough revenue to~~
 21 ~~fund the permissive deficiency of the elementary and high~~
 22 ~~school districts of the state. The proceeds of this~~
 23 ~~appropriation shall be deposited to the state special~~
 24 ~~revenue fund, permissive account, and shall be distributed~~
 25 ~~to the elementary and high school districts in accordance~~

1 ~~with their entitlements as determined by the superintendent~~
 2 ~~of public instruction according to the provisions of~~
 3 ~~subsections (1) and (2) of this section.~~

4 ~~(4)(3)~~ Distribution under this section from the state
 5 special revenue fund shall be made in two payments. The
 6 first payment shall be made at the same time as the first
 7 distribution of state equalization aid is made after January
 8 1 of the fiscal year. The second payment shall be made at
 9 the same time as the last payment of state equalization aid
 10 is made for the fiscal year. If the appropriation is not
 11 sufficient to finance the deficiencies of the districts as
 12 determined according to subsection (2), each district will
 13 receive the same percentage of its deficiency. Surplus
 14 revenue in the second year of the biennium may be used to
 15 reduce the appropriation required for the next succeeding
 16 biennium or may be transferred to the state equalization aid
 17 state special revenue fund if revenues in that fund are
 18 insufficient to meet foundation program requirements."

19 NEW SECTION. Section 31. Surtax. After the amount of
 20 tax liability has been computed as required in 15-30-103,
 21 each person filing a Montana individual income tax return
 22 shall add as a surtax 10% of the tax liability, and the
 23 amount so arrived at is the amount due the state.

24 NEW SECTION. Section 32. Repealer. Sections 15-30-112
 25 through 15-30-117, 15-30-121 through 15-30-123, 15-30-125,

1 15-30-126, 15-30-156, 15-30-157, 15-30-161, and 20-9-351,
 2 MCA, are repealed.

3 NEW SECTION. Section 33. Codification instruction.
 4 Sections 5, 8, and 31 are intended to be codified as an
 5 integral part of Title 15, chapter 30, part 1, and the
 6 provisions of Title 15, chapter 30, part 1, apply to
 7 sections 5, 8, and 31.

8 NEW SECTION. Section 34. Extension of authority. Any
 9 existing authority of the department of revenue to make
 10 rules on the subject of the provisions of this act is
 11 extended to the provisions of this act.

12 NEW SECTION. Section 35. Effective date --
 13 applicability. (1) This act is effective on passage and
 14 approval.

15 (2) Unless otherwise specified or required by a
 16 particular section of this act, sections 1 through 24 apply
 17 retroactively, within the meaning of 1-2-109, to tax years
 18 beginning after December 31, 1986.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB842, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to revise the Montana individual income tax system and the method of calculating the amounts available for foundation program and permissive program support for elementary schools and high schools for the purpose of balancing the fiscal 1988-89 general fund budget; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimates provide the basis for comparison, unless otherwise noted.
2. Individual income tax collections will be \$208,088,000 in FY88 and \$229,991,000 in FY89.
3. The proposed individual income tax rate table was designed to raise an additional \$5,700,000 over current law estimates (DOR).
4. The individual alternative minimum tax will raise an estimated \$2,000,000 each year (based on federal statistics).
5. An individual income surtax will raise \$1.984 million per percent in FY88 and \$2.203 million per percent in FY89.

FISCAL IMPACT:

Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Individual Income Tax	\$208,088,000	\$235,628,000	\$27,540,000	\$229,991,000	\$259,721,000	\$29,730,000

Fund Information:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
State General Fund	\$133,176,320	\$137,135,496	\$ 3,959,176	\$147,194,240	\$151,157,622	\$ 3,963,382
School Equalization	52,022,000	74,929,704	22,907,704	57,497,750	82,591,278	25,093,528
Debt Service Fund	22,889,680	23,562,800	673,120	25,299,010	25,972,100	673,090

 DATE 2/26/87
 DAVID L. HUNTER, BUDGET DIRECTOR

Office of Budget and Program Planning

 DATE _____
 JOHN HARP, PRIMARY SPONSOR

Fiscal Note for HB842, as introduced.

HB 842

Expenditure Impact:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Maximum General Fund Budget Without a Vote	\$285,435,000	\$255,701,000	\$ (29,734,000)	\$286,185,000	\$267,823,000	\$(18,362,000)

Funding of Expenditures:

State Equalization	\$122,317,000	\$145,225,000	\$ 22,908,000	\$131,763,000	\$156,857,000	\$ 25,094,000
County Equalization	94,473,000	94,473,000	0	94,713,000	94,713,000	0
District Revenue	16,003,000	16,003,000	0	16,253,000	16,253,000	0
General Fund	52,642,000	0	\$ (52,642,000)	43,456,000	0	\$(43,456,000)

HB 842

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB842, second reading copy.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to revise the Montana individual income tax system and the method of calculating the amounts available for foundation program and permissive program support for elementary schools and high schools for the purpose of balancing the fiscal 1988-89 general fund budget; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimates provide the basis for comparison, unless otherwise noted.
2. Individual income tax collections will be \$208,088,000 in FY88 and \$229,991,000 in FY89. (REAC)
3. The individual alternative minimum tax will raise an estimated \$2,000,000 each year (based on federal statistics).

FISCAL IMPACT:Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Individual Income Tax	\$208,088,000	\$214,157,675	\$ 6,069,675	\$229,991,000	\$238,736,000	\$ 8,745,000

Fund Information:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
State General Fund	\$133,176,320	\$124,422,785	\$ (8,753,535)	\$147,194,240	\$139,587,612	\$(7,606,628)
School Equalization	52,022,000	58,884,041	6,862,041	57,497,750	66,060,912	8,563,162
Debt Service Fund	22,889,680	18,350,848	(4,538,832)	25,299,010	20,587,476	(4,711,534)
Windfall Reserve Fund	0	12,500,000	12,500,000	0	12,500,000	12,500,000

David L. Hunter DATE 3/23/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

John Hare DATE _____
 JOHN HARE, PRIMARY SPONSOR

Fiscal Note for HB842, second reading copy.

HB 842
#2

Expenditure Impact:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Maximum General Fund Budget Without a Vote	\$285,435,283	\$282,580,930	\$ (2,854,353)	\$286,184,919	\$277,656,608	\$ (8,528,311)

Funding of Expenditures:

State, County, District Revenue	\$232,792,491	\$239,654,532	\$ 6,862,041	\$242,729,130	\$251,292,292	\$ 8,563,162
General Fund Support	52,642,792	42,926,398	(9,716,394)	43,455,789	26,364,316	\$(17,091,473)

Net Impact To The
General Fund

--	\$ 8,924,027	--	--	\$ 17,273,311	--
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HB 842
#2

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 842

INTRODUCED BY HARP, KADAS

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTANA
INDIVIDUAL INCOME TAX SYSTEM ~~AND THE METHOD OF CALCULATING~~
~~THE AMOUNTS AVAILABLE FOR FOUNDATION PROGRAM AND PERMISSIVE~~
~~PROGRAM--SUPPORT, TO INCREASE THE CONTRIBUTION TO STATE~~
~~EQUALIZATION, AND TO ADJUST THE FOUNDATION PROGRAM SCHEDULES~~
FOR ELEMENTARY SCHOOLS AND HIGH SCHOOLS FOR THE PURPOSE OF
BALANCING THE FISCAL 1988-89 GENERAL FUND BUDGET; AMENDING
SECTIONS 1-1-207, 7-14-1133, 7-34-2416, 15-1-101, 15-1-501,
15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-131,
15-30-132, 15-30-135, 15-30-136, 15-30-141, 15-30-142,
15-30-144, 15-30-146, 15-30-162, 15-30-303, 15-31-202,
15-31-204, 15-31-209, 15-32-402, 17-5-408, 19-3-105,
19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-9-1005,
19-13-1003, 20-9-303, 20-9-310, 20-9-316 THROUGH 20-9-319,
20-9-343, 20-9-348, 20-9-352, 53-2-101, AND 67-11-303, MCA;
REPEALING SECTIONS 15-30-112 THROUGH 15-30-117, 15-30-121
THROUGH 15-30-123, 15-30-125, 15-30-126, 15-30-156,
15-30-157, 15-30-161, 15-31-201, AND 15-31-208, AND
20-9-357 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
A RETROACTIVE APPLICABILITY DATE."

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

SECTION 1. SECTION 1-1-207, MCA, IS AMENDED TO READ:

"1-1-207. Miscellaneous terms. Unless the context
requires otherwise, the following definitions apply in the
Montana Code Annotated:

(1) "Bribe" means anything of value or advantage,
present or prospective, or any promise or undertaking to
give anything of value or advantage, which is asked, given,
or accepted with a corrupt intent to unlawfully influence
the person to whom it is given in his action, vote, or
opinion in any public or official capacity.

(2) "Internal Revenue Code" means the Internal Revenue
Title enacted August 16, 1954, and redesignated as the
"Internal Revenue Code of 1986" by section 2 of Public Law
99-514, as amended.

~~(2)(3)~~ "Peace officer" means any person described in
46-1-201(8).

~~(3)(4)~~ "Vessel", when used in reference to shipping,
includes ships of all kinds, steamboats and steamships,
canal boats, and every structure adapted to be navigated
from place to place."

SECTION 2. SECTION 7-14-1133, MCA, IS AMENDED TO READ:

"7-14-1133. Bonds and obligations. (1) An authority
may borrow money for any of its corporate purposes and issue
bonds therefor, including refunding bonds, in such form and
upon such terms as it determines, payable out of any

1 revenues of the authority, including revenues derived from:
 2 (a) any port or transportation and storage facility;
 3 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
 4 (c) grants or contributions from the federal
 5 government; or
 6 (d) other sources.

7 (2) The bonds may be issued by resolution of the
 8 authority, without an election and without any limitation of
 9 amount, except that no bonds may be issued at any time if
 10 the total amount of principal and interest to become due in
 11 any year on such bonds and on any then outstanding bonds for
 12 which revenues from the same source are pledged exceeds the
 13 amount of such revenues to be received in that year, as
 14 estimated in the resolution authorizing the issuance of the
 15 bonds. The authority shall take all action necessary and
 16 possible to impose, maintain, and collect rates, charges,
 17 rentals, and taxes, if any are pledged, sufficient to make
 18 the revenues from the pledged source in such year at least
 19 equal to the amount of principal and interest due in that
 20 year.

21 (3) The bonds may be sold at public or private sale
 22 and may bear interest at a rate not exceeding the limitation
 23 of 17-5-102. Except as otherwise provided in this part, any
 24 bonds issued pursuant to this part by an authority may be
 25 payable as to principal and interest solely from revenues of

1 the authority and shall state on their face the applicable
 2 limitations or restrictions regarding the source from which
 3 such principal and interest are payable.

4 (4) Bonds issued by an authority, county, or
 5 municipality pursuant to the provisions of this part are
 6 declared to be issued for an essential public and
 7 governmental purpose by a political subdivision ~~within the~~
 8 meaning of 15-30-111(2)(a) for purposes of tax exemption
 9 determinations under the Internal Revenue Code.

10 (5) For the security of any such bonds, the authority,
 11 county, or municipality may by resolution make and enter
 12 into any covenant, agreement, or indenture and may exercise
 13 any additional powers authorized to be exercised by a
 14 municipality under Title 7, chapter 7, parts 44 and 45. The
 15 sums required from time to time to pay principal and
 16 interest and to create and maintain a reserve for the bonds
 17 may be paid from any revenues referred to in this part,
 18 prior to the payment of current costs of operation and
 19 maintenance of the facilities."

20 SECTION 3. SECTION 7-34-2416, MCA, IS AMENDED TO READ:
 21 "7-34-2416. Tax-exempt status of bonds. Bonds issued
 22 by a county pursuant to the provisions of 7-34-2411 through
 23 7-34-2418 are declared to be issued for an essential public
 24 and governmental purpose by a political subdivision ~~within~~
 25 the meaning of 15-30-111(2)(a) for purposes of tax exemption

1 determinations under the Internal Revenue Code."

2 SECTION 4. SECTION 15-1-101, MCA, IS AMENDED TO READ:

3 "15-1-101. Definitions. (1) Except as otherwise
4 specifically provided, when terms mentioned in this section
5 are used in connection with taxation, they are defined in
6 the following manner:

7 (a) The term "agricultural" refers to the raising of
8 livestock, poultry, bees, and other species of domestic
9 animals and wildlife in domestication or a captive
10 environment, and the raising of field crops, fruit, and
11 other animal and vegetable matter for food or fiber.

12 (b) The term "assessed value" means the value of
13 property as defined in 15-8-111.

14 (c) The term "average wholesale value" means the value
15 to a dealer prior to reconditioning and profit margin shown
16 in national appraisal guides and manuals or the valuation
17 schedules of the department of revenue.

18 (d) (i) The term "commercial", when used to describe
19 property, means any property used or owned by a business, a
20 trade, or a nonprofit corporation as defined in 35-2-102 or
21 used for the production of income, except that property
22 described in subsection (ii).

23 (ii) The following types of property are not
24 commercial:

25 (A) agricultural lands;

1 (B) timberlands;

2 (C) single-family residences and ancillary
3 improvements and improvements necessary to the function of a
4 bona fide farm, ranch, or stock operation;

5 (D) mobile homes used exclusively as a residence
6 except when held by a distributor or dealer of trailers or
7 mobile homes as his stock in trade;

8 (E) all property described in 15-6-135;

9 (F) all property described in 15-6-136; and

10 (G) all property described in 15-6-146.

11 (e) The term "comparable property" means property that
12 has similar use, function, and utility; that is influenced
13 by the same set of economic trends and physical,
14 governmental, and social factors; and that has the potential
15 of a similar highest and best use.

16 (f) The term "credit" means solvent debts, secured or
17 unsecured, owing to a person.

18 (g) The term "improvements" includes all buildings,
19 structures, fences, and improvements situated upon, erected
20 upon, or affixed to land. When the department of revenue or
21 its agent determines that the permanency of location of a
22 mobile home or housetrailer has been established, the mobile
23 home or housetrailer is presumed to be an improvement to
24 real property. A mobile home or housetrailer may be
25 determined to be permanently located only when it is

1 attached to a foundation which cannot feasibly be relocated
2 and only when the wheels are removed.

3 {h} The term "Internal Revenue Code" means the Internal
4 Revenue Title enacted August 16, 1954, and redesignated as
5 the "Internal Revenue Code of 1986" by section 2 of Public
6 Law 99-514, as amended.

7 {h}{i} The term "leasehold improvements" means
8 improvements to mobile homes and mobile homes located on
9 land owned by another person. This property is assessed
10 under the appropriate classification and the taxes are due
11 and payable in two payments as provided in 15-24-202.
12 Delinquent taxes on such leasehold improvements are a lien
13 only on such leasehold improvements.

14 {i}{j} The term "livestock" means cattle, sheep,
15 swine, goats, horses, mules, and asses.

16 {j}{k} The term "mobile home" means forms of housing
17 known as "trailers", "housetrailers", or "trailer coaches"
18 exceeding 8 feet in width or 45 feet in length, designed to
19 be moved from one place to another by an independent power
20 connected to them, or any "trailer", "housetrailer", or
21 "trailer coach" up to 8 feet in width or 45 feet in length
22 used as a principal residence.

23 {k}{l} The term "personal property" includes
24 everything that is the subject of ownership but that is not
25 included within the meaning of the terms "real estate" and

1 "improvements".

2 {l}{m} The term "poultry" includes all chickens,
3 turkeys, geese, ducks, and other birds raised in
4 domestication to produce food or feathers.

5 {m}{n} The term "property" includes moneys, credits,
6 bonds, stocks, franchises, and all other matters and things,
7 real, personal, and mixed, capable of private ownership.
8 This definition must not be construed to authorize the
9 taxation of the stocks of any company or corporation when
10 the property of such company or corporation represented by
11 the stocks is within the state and has been taxed.

12 {n}{o} The term "real estate" includes:

13 (i) the possession of, claim to, ownership of, or
14 right to the possession of land;

15 (ii) all mines, minerals, and quarries in and under the
16 land subject to the provisions of 15-23-501 and Title 15,
17 chapter 23, part 8; all timber belonging to individuals or
18 corporations growing or being on the lands of the United
19 States; and all rights and privileges appertaining thereto.

20 {o}{p} The term "taxable value" means the percentage
21 of market or assessed value as provided for in 15-6-131
22 through 15-6-140.

23 (2) The phrase "municipal corporation" or
24 "municipality" or "taxing unit" shall be deemed to include a
25 county, city, incorporated town, township, school district,

1 irrigation district, drainage district, or any person,
 2 persons, or organized body authorized by law to establish
 3 tax levies for the purpose of raising public revenue.

4 (3) The term "state board" or "board" when used
 5 without other qualification shall mean the state tax appeal
 6 board."

7 NEW SECTION. SECTION 5. INCOME TAX WINDFALL RESERVE
 8 ACCOUNT. (1) THERE IS AN INCOME TAX WINDFALL RESERVE
 9 ACCOUNT IN THE STATE SPECIAL REVENUE FUND.

10 (2) FOR FISCAL YEARS 1988 AND 1989, THE FIRST \$12.5
 11 MILLION RECEIVED IN EACH FISCAL YEAR FROM THE COLLECTION OF
 12 INDIVIDUAL INCOME TAXES UNDER TITLE 15, CHAPTER 30, MUST BE
 13 DEPOSITED IN THE INCOME TAX WINDFALL RESERVE ACCOUNT IN THE
 14 STATE SPECIAL REVENUE FUND FOR THE PURPOSE OF PROVIDING A
 15 RESERVE TO OFFSET THE IMPACT OF POTENTIAL OVERESTIMATES OF
 16 THE INCOME TAX WINDFALL REVENUES TO THE STATE.

17 (3) THE BALANCE IN THE INCOME TAX WINDFALL RESERVE
 18 ACCOUNT AT THE END OF THE 1989 FISCAL YEAR MUST BE
 19 TRANSFERRED TO THE GENERAL FUND AND INCLUDED IN THE ENDING
 20 GENERAL FUND BALANCE.

21 Section 6. Section 15-1-501, MCA, is amended to read:
 22 "15-1-501. Disposition of moneys from certain
 23 designated license and other taxes. (1) The state treasurer
 24 shall deposit to the credit of the state general fund all
 25 moneys received by him from the collection of:

1 (a) fees from driver's licenses, motorcycle
 2 endorsements, and duplicate driver's licenses as provided in
 3 61-5-121;

4 (b) electrical energy producer's license taxes under
 5 chapter 51;

6 (c) severance taxes allocated to the general fund
 7 under chapter 36;

8 (d) liquor license taxes under Title 16;

9 (e) telephone [company] license taxes under chapter
 10 53; and

11 (f) inheritance and estate taxes under Title 72,
 12 chapter 16.

13 ~~(2) Seventy-five percent of all moneys received from~~
 14 ~~the collection of income taxes under chapter 30 and~~
 15 ~~corporation license and income taxes under chapter 31,~~
 16 ~~except as provided in 15-31-702, shall be deposited in the~~
 17 ~~general fund subject to the prior pledge and appropriation~~
 18 ~~of such income tax and corporation license tax collections~~
 19 ~~for the payment of long range building program bonds. The~~
 20 ~~remaining 25% of the proceeds of the corporation license~~
 21 ~~tax, excluding that allocated to the counties under~~
 22 ~~15-31-702, corporation income tax, and income tax shall be~~
 23 ~~deposited to the credit of the state special revenue fund~~
 24 ~~for state equalization aid to the public schools of Montana.~~
 25 All moneys received from the collection of income taxes

1 under chapter 30 of this title THAT IS NOT DEPOSITED IN THE
 2 INCOME TAX WINDFALL RESERVE ACCOUNT PURSUANT TO [SECTION 5]
 3 shall be deposited as follows:

4 (a) ~~50.2%~~ 61.7% to the credit of the state general
 5 fund;

6 (b) ~~10.0%~~ 9.1% to the credit of the debt service
 7 account for long-range building program bonds as described
 8 in 17-5-408; and

9 (c) ~~31.8%~~ 29.2% to the credit of the state special
 10 revenue fund for state equalization aid to the public
 11 schools of Montana as described in 20-9-343.

12 (3) All moneys received from the collection of
 13 corporation license and income taxes under chapter 31 of
 14 this title, except as provided in 15-31-702, shall be
 15 deposited as follows:

16 (a) 64% to the credit of the state general fund;

17 (b) 11% to the credit of the debt service account for
 18 long-range building program bonds as described in 17-5-408;
 19 and

20 (c) 25% to the credit of the state special revenue
 21 fund for state equalization aid to the public schools of
 22 Montana as described in 20-9-343.

23 {3}{4} The state treasurer shall also deposit to the
 24 credit of the state general fund all moneys received by him
 25 from the collection of license taxes, fees, and all net

1 revenues and receipts from all other sources under the
 2 operation of the Montana Alcoholic Beverage Code.

3 ~~{4}~~{5} Thirty-three and one-third percent of the total
 4 collections of the oil severance tax under chapter 36 shall
 5 be deposited into the local government block grant account
 6 within the state special revenue fund. After the
 7 distribution provided for in 15-36-112, the remainder of the
 8 oil severance tax collections shall be deposited in the
 9 general fund."

10 Section 7. Section 15-30-101, MCA, is amended to read:

11 "15-30-101. Definitions. For the purpose of this
 12 chapter, unless otherwise required by the context, the
 13 following definitions apply:

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

16 ~~(a) the tax brackets established in 15-30-103, but~~
 17 ~~unadjusted by subsection {2} {3} of 15-30-103, in effect on~~
 18 ~~June 30 of the taxable year;~~

19 ~~(b) the exemptions contained in 15-30-112, but~~
 20 ~~unadjusted by subsections {7} and {8} of 15-30-112, in~~
 21 ~~effect on June 30 of the taxable year;~~

22 ~~(c) the maximum standard deduction provided in~~
 23 ~~15-30-122, but unadjusted by subsection {2} of 15-30-122, in~~
 24 ~~effect on June 30 of the taxable year.~~

25 (2) "Consumer price index" means the consumer price

1 index, United States city average, for all items, using the
2 1967 base of 100 as published by the bureau of labor
3 statistics of the U.S. department of labor.

4 (3) "Department" means the department of revenue.

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

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

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

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

25 (8) "Inflation factor" means a number determined for

1 each taxable year by dividing the consumer price index for
2 June of the taxable year by the consumer price index for
3 June, 1986 1987.

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

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

17 (11) "Net taxable income" means the adjusted gross
18 income of a taxpayer less the deductions allowed by this
19 chapter is the federal taxable income of a taxpayer,
20 including interest received from obligations of another
21 state or political subdivision thereof, less the adjustments
22 specified in 15-30-111.

23 (12) "Nonresident" refers to a person who has not
24 established a residence in this state during the taxable
25 year.

1 ~~{12}~~(13) "Paid", for the purposes of the deductions and
 2 credits under this chapter, means paid or accrued or paid or
 3 incurred, and the terms "paid or incurred" and "paid or
 4 accrued" shall be construed according to the method of
 5 accounting upon the basis of which the taxable income is
 6 computed under this chapter.

7 (14) "Part-year resident" refers to a taxpayer who is a
 8 resident of this state and another state during the
 9 taxpayer's taxable year.

10 ~~{13}~~(15) "Purposely" is as defined in 45-2-101.

11 ~~{14}~~(16) "Received", for the purpose of computation of
 12 taxable income under this chapter, means received or accrued
 13 and the term "received or accrued" shall be construed
 14 according to the method of accounting upon the basis of
 15 which the taxable income is computed under this chapter.

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

24 ~~{16}~~- "Taxable--income"--means-the-adjusted-gross-income
 25 of-a-taxpayer-less-the-deductions--and--exemptions--provided

1 ~~for-in-this-chapter.~~

2 ~~{17}~~(18) "Taxable year" means the taxpayer's taxable
 3 year for federal income tax purposes.

4 ~~{18}~~(19) "Taxpayer" includes any person or fiduciary,
 5 resident or nonresident, subject to a tax imposed by this
 6 chapter and does not include corporations."

7 Section 8. Section 15-30-103, MCA, is amended to read:

8 "15-30-103. Rate of tax. (1) There shall be levied,
 9 collected, and paid for each taxable year commencing on or
 10 after December 31, ~~1968~~ 1986, upon the net taxable income of
 11 every taxpayer subject to this tax, ~~after--making--allowance~~
 12 ~~for-exemptions-and-deductions-as-hereinafter-provided~~ except
 13 those subject to subsection (2), a tax on the following
 14 brackets of net taxable income, as adjusted under subsection
 15 ~~{2}~~ (3), at the following rates:

16 ~~{a}~~--on-the-first-\$1,000-of-taxable-income-or-any-part
 17 thereof, 2%;

18 ~~{b}~~--on--the--next--\$1,000-of-taxable-income-or-any-part
 19 thereof, 3%;

20 ~~{c}~~--on-the-next-\$2,000-of-taxable-income-or--any--part
 21 thereof, 4%;

22 ~~{d}~~--on--the--next--\$2,000-of-taxable-income-or-any-part
 23 thereof, 5%;

24 ~~{e}~~--on-the-next-\$2,000-of-taxable-income-or--any--part
 25 thereof, 6%;

1 ~~(f) -- on the next \$2,000 of taxable income or any part~~
2 ~~thereof, 7%;~~
3 ~~(g) -- on the next \$4,000 of taxable income or any part~~
4 ~~thereof, 8%;~~
5 ~~(h) -- on the next \$6,000 of taxable income or any part~~
6 ~~thereof, 9%;~~
7 ~~(i) -- on the next \$15,000 of taxable income or any part~~
8 ~~thereof, 10%;~~
9 ~~(j) -- on any taxable income in excess of \$35,000 or any~~
10 ~~part thereof, 11%.~~
11 (a) \$0 to \$4,500 of net taxable income, 4% 3% of net
12 taxable income;
13 (b) over \$4,500 to \$12,000 of net taxable income, 9% 8%
14 \$135 plus 6% 5% of net taxable income over \$4,500;
15 (c) over \$12,000 of net taxable income, 9% 8% plus
16 0% 7% of net taxable income over \$12,000.
17 (2) There shall be levied, collected, and paid for
18 each taxable year commencing on or after December 31, 1986,
19 upon the net taxable income of every taxpayer filing a
20 return using the married filing separate status a tax on the
21 following brackets of net taxable income, as adjusted under
22 subsection (3), at the following rates:
23 (a) \$0 to \$2,250 of net taxable income, 4% 3% of net
24 taxable income;
25 (b) over \$2,250 to \$6,000 of net taxable income, 9% 8%

1 \$67.50 plus 6% 5% of net taxable income over \$2,250;
2 (c) over \$6,000 of net taxable income, 9% 8% plus
3 0% 7% of net taxable income over \$6,000.
4 ~~(2)(3)~~ (3) By November 1 of each year, the department
5 shall multiply the bracket amount contained in subsection
6 subsections (1) and (2) by the inflation factor for that
7 taxable year and round the cumulative brackets to the
8 nearest \$100. The resulting adjusted brackets are effective
9 for that taxable year and shall be used as the basis for
10 imposition of the tax in subsection subsections (1) and (2)
11 of this section."
12 Section 9. Section 15-30-105, MCA, is amended to read:
13 "15-30-105. Tax on nonresident -- alternative tax
14 based on gross sales. (1) A like tax is imposed upon every
15 person not resident of this state, which tax shall be
16 levied, collected, and paid annually at the rates specified
17 in 15-30-103 with respect to his entire net income as herein
18 defined from all property owned and from every business,
19 trade, profession, or occupation carried on in this state.
20 (2) Pursuant to the provisions of Article III, section
21 2, of the Multistate Tax Compact, every nonresident taxpayer
22 required to file a return and whose only activity in Montana
23 consists of making sales and who does not own or rent real
24 estate or tangible personal property within Montana and
25 whose annual gross volume of sales made in Montana during

1 the taxable year does not exceed \$100,000 may elect to pay
 2 an income tax of 1/2 of 1% of the dollar volume of gross
 3 sales made in Montana during the taxable year. Such tax
 4 shall be in lieu of the ~~tax taxes~~ imposed under 15-30-103
 5 and [section 5 10]. The gross volume of sales made in
 6 Montana during the taxable year shall be determined
 7 according to the provisions of Article IV, sections 16 and
 8 17, of the Multistate Tax Compact."

9 NEW SECTION. Section 10. Montana alternative minimum
 10 tax. (1) A minimum tax shall be levied, collected, and paid
 11 for each taxable year commencing on or after December 31,
 12 1986, upon the income of every taxpayer subject to the
 13 provisions of this chapter.

14 (2) A person who is a resident of Montana shall file a
 15 Montana alternative minimum tax return if he:

16 (a) is required by ~~sections~~ SECTION 55 through-59,
 17 Internal Revenue Code, to ~~file~~ PAY a federal alternative
 18 minimum tax return; or

19 (b) has received interest from obligations of another
 20 state or political subdivision thereof that are exempt from
 21 taxation pursuant to section 103(a) of the Internal Revenue
 22 Code and the amount of interest exceeds:

- 23 (i) \$40,000, if married filing jointly;
 24 (ii) \$30,000, if single or head of household;
 25 (iii) \$20,000, if married filing separately.

1 (3) A person who is a nonresident or who is a
 2 part-year resident of Montana shall file a Montana
 3 alternative minimum tax return if he has one or more tax
 4 preference items as defined in sections 55 through 59 of the
 5 Internal Revenue Code that are attributable to income
 6 derived from sources in this state and that income exceeds:

- 7 (a) \$40,000, if married filing jointly;
 8 (b) \$30,000, if single or head of household;
 9 (c) \$20,000, if married filing separately.

10 (4) For a resident, the taxpayer's federal alternative
 11 minimum taxable income, LESS THE APPLICABLE EXEMPTION AMOUNT
 12 PROVIDED FOR IN SECTION 55 OF THE INTERNAL REVENUE CODE,
 13 must be increased by the amount of interest received from
 14 obligations of another state or political subdivision
 15 thereof, which sum shall be reduced by the following:

- 16 (a) all interest received from obligations of the
 17 United States government;
 18 (b) all railroad retirement benefits; and
 19 (c) all income earned by an enrolled member of a
 20 federally recognized Indian tribe while living and working
 21 on a federally established Indian reservation.

22 (5) (a) For a nonresident or part-year resident, the
 23 taxpayer's federal alternative minimum taxable income, LESS
 24 THE APPLICABLE EXEMPTION AMOUNT PROVIDED FOR IN SECTION 55
 25 OF THE INTERNAL REVENUE CODE, must be prorated to determine

1 his Montana alternative minimum taxable income. The prorated
2 income is arrived at by dividing the Montana income
3 determined pursuant to 15-30-131 or [section 8 13] by the
4 federal adjusted gross income and multiplying this
5 percentage by the taxpayer's federal alternative minimum
6 taxable income.

7 (b) The taxpayer's prorated Montana alternative
8 minimum taxable income is then adjusted to include the
9 interest received from obligations of another state or a
10 political subdivision thereof, if the interest is used in a
11 trade, occupation, or business carried on in this state;

12 (c) The taxpayer's prorated Montana alternative
13 minimum taxable income must then be reduced by:

14 (i) all interest received from obligations of the
15 United States government;

16 (ii) all railroad retirement benefits; and

17 (iii) all income earned by an enrolled member of a
18 federally recognized Indian tribe while living and working
19 on a federally established Indian reservation.

20 (d) For residents, nonresidents, and part-year
21 residents, ~~the rates provided for in 15-30-103 must~~ A TAX
22 RATE OF 5% SHALL be applied to the Montana alternative
23 minimum taxable income. The taxpayer shall pay the greater
24 amount of the Montana alternative minimum tax or the tax
25 provided for in:

- 1 (i) 15-30-111, if a resident;
2 (ii) 15-30-131, if a nonresident; or
3 (iii) [section 8 13], if a part-year resident.

4 (6) Each taxpayer shall furnish with his Montana
5 alternative minimum tax return a copy of his federal
6 alternative minimum tax return.

7 Section 11. Section 15-30-111, MCA, is amended to
8 read:

9 "15-30-111. Adjusted-gross Montana net taxable income
10 for residents. (1) Adjusted-gross Montana net taxable income
11 for residents shall be the taxpayer's federal income--tax
12 adjusted--gross taxable income as defined in section-62-of
13 the Internal Revenue Code of-1954-or-as-that-section-may--be
14 labeled--or--amended and in addition shall include the
15 following:

16 (a) all interest received on obligations of another
17 state or--territory--or--county, municipality, district, or
18 other political subdivision thereof;

19 (b) all refunds received of federal income tax in
20 1987, to the extent the deduction of such tax resulted in a
21 reduction of Montana income tax liability; and

22 (c)--that--portion--of--a--shareholder's--income--under
23 subchapter--S--of--Chapter--1--of--the--Internal--Revenue--Code--of
24 1954--that--has--been--reduced--by--any--federal--taxes--paid--by--the
25 subchapter-S--corporation--on--the--income.

1 (2) Notwithstanding the provisions of the federal
 2 Internal Revenue Code of 1954 as labeled or amended,
 3 adjusted gross, Montana net taxable income does not include
 4 the following, which are exempt from taxation under this
 5 chapter:

6 (a) all interest income from obligations of the United
 7 States government, the state of Montana, county,
 8 municipality, district, or other political subdivision
 9 thereof;

10 (b) interest income earned by a taxpayer age 65 or
 11 older in a taxable year up to and including \$800 for a
 12 taxpayer filing a separate return and \$1,600 for each joint
 13 return;

14 (c) all benefits received under the Federal Employees'
 15 Retirement Act not in excess of \$3,600;

16 (d) all benefits, not in excess of \$360, received as
 17 an annuity, pension, or endowment under any private or
 18 corporate retirement plan or system;

19 (e) all benefits paid under the teachers' retirement
 20 law which are specified as exempt from taxation by 19-4-706;

21 (f) all benefits paid under the Public Employees'
 22 Retirement System Act which are specified as exempt from
 23 taxation by 19-3-105;

24 (g) all benefits paid under the highway patrol
 25 retirement law which are specified as exempt from taxation

1 by 19-6-705;

2 (h) all Montana income tax refunds or credits thereof;

3 (i) all benefits paid under 19-11-602, 19-11-604, and
 4 19-11-605 to retired and disabled firefighters, their
 5 surviving spouses and orphans;

6 (j) all benefits paid under the municipal police
 7 officers' retirement system that are specified as exempt
 8 from taxation by 19-9-1005;

9 (k) gain required to be recognized by a liquidating
 10 corporation under 15-31-113(i)(a)(ii);

11 (l) all tips covered by section 3402(k) of the
 12 Internal Revenue Code of 1954, as amended and applicable on
 13 January 1, 1983, received by persons for services rendered
 14 by them to patrons of premises licensed to provide food,
 15 beverage, or lodging;

16 (m) all benefits received under the workers'
 17 compensation laws; and

18 (n) all health insurance premiums paid by an employer
 19 for an employee if attributed as income to the employee
 20 under federal law;

21 (3) in the case of a shareholder of a corporation with
 22 respect to which the election provided for under subchapter
 23 S of the Internal Revenue Code of 1954, as amended, is in
 24 effect but with respect to which the election provided for
 25 under 15-31-202, as amended, is not in effect, adjusted

1 gross income does not include any part of the corporation's
 2 undistributed taxable income, net operating loss, capital
 3 gains or other gains, profits, or losses required to be
 4 included in the shareholder's federal income tax adjusted
 5 gross income by reason of the said election under subchapter
 6 S. However, the shareholder's adjusted gross income shall
 7 include actual distributions from the corporation to the
 8 extent they would be treated as taxable dividends if the
 9 subchapter S election were not in effect.

10 (4) A shareholder of a BISE that is exempt from the
 11 corporation license tax under 15-31-102(1)(1) shall include
 12 in his adjusted gross income the earnings and profits of the
 13 BISE in the same manner as provided by federal law (section
 14 9957 Internal Revenue Code) for all periods for which the
 15 BISE election is effective.

16 (5) A taxpayer who, in determining federal adjusted
 17 gross income, has reduced his business deductions by an
 18 amount for wages and salaries for which a federal tax credit
 19 was elected under section 44B of the Internal Revenue Code
 20 of 1954 or as that section may be labeled or amended is
 21 allowed to deduct the amount of such wages and salaries paid
 22 regardless of the credit taken. The deduction must be made
 23 in the year the wages and salaries were used to compute the
 24 credit. In the case of a partnership or small business
 25 corporation, the deduction must be made to determine the

1 amount of income or loss of the partnership or small
 2 business corporation.

3 (6) Married taxpayers filing a joint federal return
 4 who must include part of their social security benefits or
 5 part of their tier I railroad retirement benefits in federal
 6 adjusted gross income may split the federal base used in
 7 calculation of federal taxable social security benefits or
 8 federal taxable tier I railroad retirement benefits when
 9 they file separate Montana income tax returns. The federal
 10 base must be split equally on the Montana return.

11 (7) A taxpayer receiving retirement disability
 12 benefits who has not attained age 65 by the end of the
 13 taxable year and who has retired as permanently and totally
 14 disabled may exclude from adjusted gross income up to \$100
 15 per week received as wages or payments in lieu of wages for
 16 a period during which the employee is absent from work due
 17 to the disability. If the adjusted gross income before this
 18 exclusion and before application of the two-earner married
 19 couple deduction exceeds \$15,000, the excess reduces the
 20 exclusion by an equal amount. This limitation affects the
 21 amount of exclusion, but not the taxpayer's eligibility for
 22 the exclusion. If eligible, married individuals shall apply
 23 the exclusion separately, but the limitation for income
 24 exceeding \$15,000 is determined with respect to the spouses
 25 on their combined adjusted gross income. For the purpose of

1 ~~this subsection, permanently and totally disabled means~~
 2 ~~unable to engage in any substantial gainful activity by~~
 3 ~~reason of any medically determined physical or mental~~
 4 ~~impairment lasting or expected to last at least 12 months.~~

5 (b) all railroad retirement benefits;

6 (C) ALL BENEFITS, NOT IN EXCESS OF \$3,600, RECEIVED AS
 7 AN ANNUITY, PENSION, OR ENDOWMENT UNDER ANY PUBLIC, PRIVATE,
 8 OR CORPORATE RETIREMENT PLAN OR SYSTEM OTHER THAN A RAILROAD
 9 RETIREMENT PLAN;

10 (c)(D) all income earned by an enrolled member of a
 11 federally recognized Indian tribe while living and working
 12 on a federally established Indian reservation.

13 (3) A taxpayer who elects to itemize his deductions
 14 from income on his federal return for tax year 1987 and who
 15 is required to pay additional federal tax due in 1987 for
 16 the 1986 tax year may deduct the federal tax paid in 1987
 17 from his Montana net income."

18 Section 12. Section 15-30-131, MCA, is amended to
 19 read:

20 "15-30-131. Nonresident and temporary resident
 21 taxpayers' adjusted gross income less deductions Montana net
 22 taxable income for nonresidents. (1) In the case of a
 23 taxpayer other than a resident of this state, Montana net
 24 taxable income for nonresidents is derived from adjusted
 25 gross income from sources within and without the state,

1 determined as follows:

2 (a) Montana adjusted gross income includes the entire
 3 amount of federal adjusted gross income from sources within
 4 this state, but ~~shall~~ does not include income from
 5 annuities, interest on bank deposits, interest on bonds,
 6 notes, or other interest-bearing obligations, or dividends
 7 on stock of corporations except to the extent to which the
 8 same ~~shall be~~ are a part of income from any business, trade,
 9 profession, or occupation carried on in this state.
 10 Interest income from installment sales of real or tangible
 11 commercial or business property located in Montana must be
 12 included in adjusted gross income. ~~Adjusted gross income~~
 13 ~~from sources within and without this state shall be~~
 14 ~~allocated and apportioned under rules prescribed by the~~
 15 ~~department.~~

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

22 ~~(3) In the case of a taxpayer other than a resident of~~
 23 ~~this state who is a resident of a state that does not impose~~
 24 ~~a tax on the income of natural persons residing within that~~
 25 ~~state, the deductions allowed in computing net income are~~

1 ~~restricted to the greater of those directly relating to the~~
 2 ~~production of Montana income or a prorated amount of those~~
 3 ~~allowed under 15-30-121. For the purposes of this~~
 4 ~~subsection, deductions allowed under 15-30-121 apply only to~~
 5 ~~earned income and must be prorated according to the ratio~~
 6 ~~that the taxpayer's Montana earned income bears to his~~
 7 ~~federal earned income.~~

8 (4) ~~A temporary resident shall be allowed those~~
 9 ~~deductions and the credit under 15-32-109 allowed a resident~~
 10 ~~to the extent that such deductions or credit were actually~~
 11 ~~incurred or expended in the state of Montana during the~~
 12 ~~course of his residency.~~

13 (5) ~~For the purposes of this section, "earned income"~~
 14 ~~shall be defined as the same term is defined in section 43~~
 15 ~~of the Internal Revenue Code, or as that section may~~
 16 ~~subsequently be amended.~~

17 (6) ~~Notwithstanding the provisions of subsections (2)~~
 18 ~~and (3), any contribution made after December 31, 1982, to~~
 19 ~~the state of Montana or a political subdivision thereof~~
 20 ~~shall be an allowable deduction in computing net income.~~
 21 ~~The deduction is subject to the limitations set forth in~~
 22 ~~section 170 of the Internal Revenue Code of 1954, as labeled~~
 23 ~~or amended.~~

24 (b) To determine his Montana net taxable income, a
 25 nonresident may deduct from his Montana adjusted gross

1 income only the following items:

2 (i) a prorated part of the federal exemption provided
 3 for in section 151 of the Internal Revenue Code;

4 (ii) a prorated part of the taxpayer's federally
 5 allowed home mortgage interest;

6 (iii) a prorated part of the taxpayer's federally
 7 allowed medical expenses;

8 (iv) all sums donated to:

9 (A) an organization qualified under section 501(c)(3)
 10 of the Internal Revenue Code to receive tax-exempt
 11 contributions, which conducts its principal activity in this
 12 state; or

13 (B) the state of Montana or a political subdivision or
 14 agency thereof;

15 (v) all railroad retirement benefits;

16 (vi) all interest received from United States
 17 obligations;

18 (vii) all income earned by an enrolled member of a
 19 federally recognized Indian tribe while living and working
 20 on a federally established Indian reservation;

21 (VIII) INTEREST AND TAXES ON MONTANA PROPERTY USED FOR
 22 THE PRODUCTION OF MONTANA INCOME.

23 (c) The prorated part referred to in subsections
 24 (1)(b)(i) through (1)(b)(iii) is determined by multiplying
 25 the ratio of Montana adjusted gross income to federal

1 adjusted gross income by the federally allowed deductions
2 specified in subsections (1)(b)(i) through (1)(b)(iii).

3 (d) The department may adopt rules for allocating and
4 apportioning adjusted gross income from sources within and
5 without this state.

6 ~~(7)~~(2) For purposes of this section, "installment
7 sales" means sales in which the buyer agrees to pay the
8 seller in one or more deferred installments.

9 (3) The nonresident's Montana net taxable income is
10 subject to the rates provided in 15-30-103."

11 NEW SECTION. Section 13. Montana net taxable income
12 for part-year residents. (1) To determine Montana net
13 taxable income, a part-year resident may deduct from his
14 Montana adjusted gross income a prorated part of his federal
15 standard deduction or a prorated part of the itemized
16 deductions allowed by the Internal Revenue Code. The
17 deduction allowed in this section must be the same as taken
18 by the taxpayer on his federal return for the year. The
19 prorated part is determined by multiplying the ratio of
20 Montana adjusted gross income to federal adjusted gross
21 income by the standard deductions or itemized deductions.

22 (2) For purposes of this section, Montana adjusted
23 gross income is determined as follows:

24 (a) Montana adjusted gross income includes federal
25 adjusted gross income from all sources received during the

1 period of residency and all interest income from installment
2 sales of real or tangible commercial or business property
3 located in Montana, less the following:

4 (i) all interest received from obligations of the
5 United States government;

6 (ii) all railroad retirement income; and

7 (iii) all income earned by an enrolled member of a
8 federally recognized Indian tribe while living and working
9 on a federally established Indian reservation.

10 (b) Montana adjusted gross income does not include the
11 following unless a part of income from a business, trade,
12 profession, or occupation carried on in this state:

13 (i) income from annuities;

14 (ii) interest on bank deposits;

15 (iii) interest on bonds, notes, or other
16 interest-bearing obligations; or

17 (iv) dividends on stock of corporations.

18 (3) The part-year resident's Montana net taxable
19 income is subject to the rates provided in 15-30-103.

20 Section 14. Section 15-30-132, MCA, is amended to
21 read:

22 "~~15-30-132. Change from--nonresident--to--resident--or~~
23 ~~vice-versa of residency status. If-a--taxpayer--changes--his~~
24 ~~status--from-that-of-resident-to-that-of-nonresident--or--from~~
25 ~~that-of-nonresident-to-that-of-resident--during--the--taxable~~

1 ~~year, he shall file a return covering the fraction of the~~
 2 ~~year during which he was a resident. The exemptions provided~~
 3 ~~in 15-30-112 shall be prorated on the ratio the Montana~~
 4 ~~adjusted gross income bears to federal adjusted gross~~
 5 ~~income. A Montana citizen moving out of the state,~~
 6 ~~abandoning his residence in the state, and establishing a~~
 7 ~~residence elsewhere must file a return on the fractional~~
 8 ~~basis. If he obtains employment outside the state without~~
 9 ~~abandoning his Montana residence, then income from such~~
 10 ~~employment is taxable in Montana."~~

11 Section 15. Section 15-30-135, MCA, is amended to
 12 read:

13 "15-30-135. Tax on beneficiaries or fiduciaries of
 14 estates or trusts. (1) A tax shall be imposed upon either
 15 the fiduciaries or the beneficiaries of estates and trusts
 16 as hereinafter provided, except to the extent such estates
 17 and trusts ~~shall be~~ are held for educational, charitable, or
 18 religious purposes, which tax shall be levied, collected,
 19 and paid annually with respect to the income of estates or
 20 of any kind of property held in trust, including:

21 (a) income received by estates of deceased persons
 22 during the period of administration or settlement of the
 23 estate;

24 (b) income accumulated in trust for the benefit of
 25 unborn or unascertained persons or persons with contingent

1 interests;

2 (c) income held for future distribution under the
 3 terms of the will or trust; and

4 (d) income which is to be distributed to the
 5 beneficiaries periodically, whether or not at regular
 6 intervals, and the income collected by a guardian of a
 7 minor, to be held or distributed as the court may direct.

8 (2) The fiduciary shall be responsible for making the
 9 return of income for the estate or trust for which he acts,
 10 whether the fiduciary or the beneficiaries are taxable with
 11 reference to the income of such estate or trust. In cases
 12 under subsections (a) and (d) of subsection (1), the
 13 fiduciary shall include in the return a statement of each
 14 beneficiary's distributive share of net income, whether or
 15 not distributed before the close of the taxable year for
 16 which the return is made.

17 (3) In cases under subsections (a), (b), and (c) of
 18 subsection (1), the tax shall be imposed upon the fiduciary
 19 of the estate or trust with respect to the Montana net
 20 income of the estate or trust and shall be paid by the
 21 fiduciary. If the taxpayer's net income for the taxable
 22 year of the estate or trust is computed upon the basis of a
 23 period different from that upon the basis of which the net
 24 income of the estate or trust is computed, then his
 25 distributive share of the net income of the estate or trust

1 for any accounting period of such estate or trust ending
 2 within the fiscal or calendar year shall be computed upon
 3 the basis on which such beneficiary's net income is
 4 computed. In such cases, a beneficiary not a resident shall
 5 be taxable with respect to his income derived through such
 6 estate or trust only to the extent provided in 15-30-131 for
 7 individuals other than residents.

8 (4) The fiduciary of a trust created by an employer as
 9 a part of a stock bonus, pension, or profit-sharing plan for
 10 the exclusive benefit of some or all of his employees, to
 11 which contributions are made by such employer or employees,
 12 or both, for the purpose of distributing to such employees
 13 the earnings and principal of the fund accumulated by the
 14 trust in accordance with such plan, shall not be taxable
 15 under this section, but any amount contributed to such fund
 16 by the employer and all earnings of such fund shall be
 17 included in computing the income of the distributee in the
 18 year in which distributed or made available to him.

19 (5) Where any part of the income of a trust other than
 20 a testamentary trust is or may be applied to the payment of
 21 premiums upon policies of insurance on the life of the
 22 grantor (except policies of insurance irrevocably payable
 23 for the purposes and in the manner specified relating to the
 24 so-called "charitable contribution" deduction) or to the
 25 payment of premiums upon policies of life insurance under

1 which the grantor is the beneficiary, such part of the
 2 income of the trust shall be included in computing the net
 3 income of the grantor."

4 Section 16. Section 15-30-136, MCA, is amended to
 5 read:

6 "15-30-136. Computation of income of estates or trusts
 7 ~~---exemption. (i)---Except---as---otherwise---provided---in---this~~
 8 ~~chapter,---"gross---income"---of---estates---or---trusts---means---all~~
 9 ~~income---from---whatever---source---derived---in---the---taxable---year,~~
 10 ~~including---but---not---limited---to---the---following---items:~~

11 ~~(a)---dividends;~~

12 ~~(b)---interest---received---or---accrued,---including---interest~~
 13 ~~received---on---obligations---of---another---state---or---territory---or---a~~
 14 ~~county,---municipality,---district,---or---other---political~~
 15 ~~subdivision---thereof,---but---excluding---interest---income---from~~
 16 ~~obligations---of:~~

17 ~~(i)---the---United---States---government---or---the---state---of~~
 18 ~~Montana;~~

19 ~~(ii)---a---school---district,---or~~

20 ~~(iii)---a---county,---municipality,---district,---or---other~~
 21 ~~political---subdivision---of---the---state;~~

22 ~~(c)---income---from---partnerships---and---other---fiduciaries;~~

23 ~~(d)---gross---rents---and---royalties;~~

24 ~~(e)---gain---from---sale---or---exchange---of---property,---including~~
 25 ~~those---gains---that---are---excluded---from---gross---income---for---federal~~

1 fiduciary--income--tax--purposes--by--section--641(c)--of--the
 2 Internal--Revenue--Code--of--1954,--as--amended;
 3 (f)--gross--profit--from--trade--or--business,--and
 4 (g)--refunds--recovered--on--federal--income--tax,--to--the
 5 extent--the--deduction--of--such--tax--resulted--in--a--reduction--of
 6 Montana--income--tax--liability;
 7 (2)--In--computing--net--income,--there--are--allowed--as
 8 deductions:
 9 (a)--interest--expenses--deductible--for--federal--tax
 10 purposes--according--to--section--163--of--the--Internal--Revenue
 11 Code--of--1954,--as--amended;
 12 (b)--taxes--paid--or--accrued--within--the--taxable--year,
 13 including--but--not--limited--to--federal--income--tax,--but
 14 excluding--Montana--income--tax;
 15 (c)--that--fiduciary's--portion--of--depreciation--or
 16 depletion--which--is--deductible--for--federal--tax--purposes
 17 according--to--sections--167,--611,--and--642--of--the--Internal
 18 Revenue--Code--of--1954,--as--amended;
 19 (d)--charitable--contributions--that--are--deductible--for
 20 federal--tax--purposes--according--to--section--642(c)--of--the
 21 Internal--Revenue--Code--of--1954,--as--amended;
 22 (e)--administrative--expenses--claimed--for--federal--income
 23 tax--purposes,--according--to--sections--212--and--642(g)--of--the
 24 Internal--Revenue--Code--of--1954,--as--amended,--if--such--expenses
 25 were--not--claimed--as--a--deduction--in--the--determination--of

1 Montana--inheritance--tax;
 2 (f)--losses--from--fire,--storm,--shipwreck,--or--other
 3 casualty--or--from--theft,--to--the--extent--not--compensated--for--by
 4 insurance--or--otherwise,--that--are--deductible--for--federal--tax
 5 purposes--according--to--section--165--of--the--Internal--Revenue
 6 Code--of--1954,--as--amended;
 7 (g)--net--operating--loss--deductions--allowed--for--federal
 8 income--tax--under--section--642(d)--of--the--Internal--Revenue--Code
 9 of--1954,--as--amended,--except--estates--may--not--claim--losses
 10 that--are--deductible--on--the--decendent's--final--return;
 11 (h)--all--benefits--received--as--federal--employees'
 12 retirement--not--in--excess--of--\$3,600;
 13 (i)--all--benefits--paid--under--the--Montana--teachers'
 14 retirement--system--that--are--specified--as--exempt--from--taxation
 15 by--19-4-786;
 16 (j)--all--benefits--paid--under--the--Montana--Public
 17 Employees'--Retirement--System--Act--that--are--specified--as
 18 exempt--from--taxation--by--19-3-185;
 19 (k)--all--benefits--paid--under--the--Montana--highway
 20 patrolmen's--retirement--system--that--are--specified--as--exempt
 21 from--taxation--by--19-6-785;
 22 (l)--Montana--income--tax--refunds--or--credits--thereof;
 23 (m)--all--benefits--paid--under--19-11-602,--19-11-604,--and
 24 19-11-605--to--retired--and--disabled--firemen--or--their--surviving
 25 spouses--or--children;

~~{n}--all--benefits--paid--under--the--municipal--police officers'--retirement--system--that--are--specified--as--exempt from--taxation--by--19-9-1005;~~

~~{o}--all--benefits--not--in--excess--of--\$360--received--as--an annuity,--pension,--or--endowment--under--private--or--corporate retirement--plans--or--systems;~~

~~{3}--In--the--case--of--a--shareholder--of--a--corporation--with respect--to--which--the--election--provided--for--under--subchapter S--of--the--Internal--Revenue--Code--of--1954,--as--amended,--is--in effect--but--with--respect--to--which--the--election--provided--for under--15-31-202--is--not--in--effect,--net--income--does--not include--any--part--of--the--corporation's--undistributed--taxable income,--net--operating--loss,--capital--gains--or--other--gains, profits,--or--losses--required--to--be--included--in--the shareholder's--federal--income--tax--net--income--by--reason--of--the election--under--subchapter--S. However,--the--shareholder's--net income--shall--include--actual--distribution--from--the corporation--to--the--extent--it--would--be--treated--as--taxable dividends--if--the--subchapter--S--election--were--not--in--effect.~~

(1) The Montana taxable income of an estate or trust is its federal taxable income as provided by the Internal Revenue Code, including interest received on obligations of another state or a political subdivision thereof, reduced by interest received from obligations of the United States government.

~~{4}(2) The--following--additional--deductions--shall--be A deduction is allowed in deriving taxable income of estates and trusts:~~

~~{a}--any for the amount of income for in the taxable year currently required to be distributed to beneficiaries for such year;~~

~~{b}--any--other--amounts--properly--paid--or--credited--or required--to--be--distributed--for--the--taxable--year;~~

~~{c}--the--amount--of--60%--of--the--excess--of--the--net long-term--capital--gain--over--the--net--short-term--capital--loss for--the--taxable--year.~~

~~{5}--The--exemption--allowed--for--estates--and--trusts--is that--exemption--provided--in--15-30-112(2){a}--and 15-30-112(8)."~~

Section 17. Section 15-30-141, MCA, is amended to read:

"15-30-141. Tax as personal debt. Every tax imposed by this chapter and all increases, interest, and penalties thereon shall be are from the time they are due and payable a personal debt from the person or fiduciary liable to pay the same to the state. Taxpayers filing a joint return are jointly and severally liable for the tax and any interest and penalty unless the department determines, based on the criteria in section 6013(e) of the Internal Revenue Code, that a spouse is relieved of liability."

1 Section 18. Section 15-30-142, MCA, is amended to
2 read:

3 "15-30-142. Returns Filing of returns and payment of
4 tax ~~---penalty-and-interest---refunds---credits.~~ (1) Every
5 single individual and every married individual not filing a
6 joint return with his or her spouse and having a gross
7 income for the taxable year of more than \$17,000, as adjusted
8 under the provisions of subsection (7), and married
9 individuals not filing separate returns and having a
10 combined gross income for the taxable year of more than
11 \$27,000, as adjusted under the provisions of subsection (7)
12 subject to a tax pursuant to this chapter who is required by
13 section 6012 of the Internal Revenue Code to file a federal
14 income tax return or who receives income in excess of \$5,000
15 from obligations of another state or a political subdivision
16 thereof, shall be is liable for a return to be filed on such
17 forms and according to such rules as the department may
18 prescribe. ~~The gross income amounts referred to in the~~
19 ~~preceding sentence shall be increased by \$800, as adjusted~~
20 ~~under the provisions of 15-30-112(7) and (8), for each~~
21 ~~additional personal exemption allowance the taxpayer is~~
22 ~~entitled to claim for himself and his spouse under~~
23 ~~15-30-112(3) and (4). A nonresident shall be required to~~
24 ~~file a return if his gross income for the taxable year~~
25 ~~derived from sources within Montana exceeds the amount of~~

1 the exemption deduction he is entitled to claim for himself
2 and his spouse under the provisions of 15-30-112(2), (3),
3 and (4), as prorated according to 15-30-112(6).

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

16 (2) Every person who is required to file a return
17 under subsection (1) shall use the same filing status to
18 file his state return as that used by him to file his
19 federal return.

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

24 (4) All taxpayers, including but not limited to those
25 subject to the provisions of 15-30-202 and 15-30-241, shall

1 compute the amount of income tax payable and shall, at the
 2 time of filing the return required by this chapter, pay to
 3 the department any balance of income tax remaining unpaid
 4 after crediting the amount withheld as provided by 15-30-202
 5 and/or any payment made by reason of an estimated tax return
 6 provided for in 15-30-241, ~~provided, however,~~ if the tax so
 7 computed is greater by \$1 than the amount withheld and/or
 8 paid by estimated return as provided in this chapter. If the
 9 amount of tax withheld and/or payment of estimated tax
 10 exceeds by more than \$1 the amount of income tax as
 11 computed, the taxpayer ~~shall be~~ is entitled to a refund of
 12 the excess.

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

15 (6) If the amount of tax as verified is greater than
 16 the amount theretofore paid, the excess shall be paid by the
 17 taxpayer to the department within 60 days after notice of
 18 the amount of the tax as computed, with interest added at
 19 the rate of ~~9% per annum~~ 3/4 of 1% per month or fraction
 20 thereof on the additional tax. In such case there shall be
 21 no penalty because of such understatement, provided the
 22 deficiency is paid within 60 days after the first notice of
 23 the amount is mailed to the taxpayer.

24 ~~(7) By November 1 of each year, the department shall~~
 25 ~~multiply the minimum amount of gross income necessitating~~

1 ~~the filing of a return by the inflation factor for the~~
 2 ~~taxable year. These adjusted amounts are effective for that~~
 3 ~~taxable year, and persons having gross incomes less than~~
 4 ~~these adjusted amounts are not required to file a return.~~
 5 ~~(8) Individual income tax forms distributed by the~~
 6 ~~department for each taxable year must contain instructions~~
 7 ~~and tables based on the adjusted base year structure for~~
 8 ~~that taxable year."~~

9 Section 19. Section 15-30-144, MCA, is amended to
 10 read:

11 "15-30-144. Time for filing -- extensions of time. (1)
 12 Returns shall be made to the department on or before the
 13 15th day of the 4th month following the close of the
 14 taxpayer's fiscal year, or if the return is made on the
 15 basis of the calendar year, then the return shall be made on
 16 or before the 15th day of April following the close of the
 17 calendar year. Each return shall set forth such facts as the
 18 department considers necessary for the proper enforcement of
 19 this chapter. There shall be annexed to such return the
 20 affidavit or affirmation of the persons making the return to
 21 the effect that the statements contained therein are true.
 22 Blank forms of return shall be furnished by the department
 23 upon application, but failure to secure the form shall not
 24 relieve any taxpayer of the obligation to make any return
 25 required under this law. ~~Every taxpayer liable for a tax~~

~~under this law shall pay a minimum tax of \$1.~~

~~(2) An automatic 6-month extension of time for filing a return is allowed, provided that on or before the due date of the return, an application is made on forms available from the department or in writing to the department.~~

(2) The person making the return may obtain an automatic 2-month 4-MONTH extension of time for filing a return, subject to the following:

(a) An application for extension must be filed before the due date for filing the return on a form prescribed by the department and be accompanied by a copy of the applicant's federal income tax form 4868 submitted to the internal revenue service for the same tax year and same extension of the return filing period.

(b) If the applicant is not required to make a federal income tax return, he must indicate that fact on the application for extension filed with the department.

(c) An automatic extension of time to make the state income tax return is not an extension of time to pay the income tax due. The applicant must calculate and remit with the application the tax due, less withheld tax payments, estimated tax payments, and tax credits for which the applicant may be eligible.

(d) If the applicant underestimates his tax due by 10% or more, he is liable for penalties and interest under

15-30-323 from the date the tax is due.

(3) The department shall grant an application for extension of time for filing a return if the applicant submits an application as set forth in subsection (2). The department need not notify an applicant of its determination unless it denies the application.

(4) A person granted an automatic extension under subsection (2) may be granted an additional extension, not to exceed 4 2 months from the date for filing a return, if upon further application the person shows good cause to receive another extension. The filing of an appeal from a denial of the application for another extension does not stay the time for filing the return."

Section 20. Section 15-30-146, MCA, is amended to read:

"15-30-146. Tolling of statute of limitations. The running of the statute of limitations provided for under 15-30-145 shall be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action which has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file a record of changes in federal taxable income or an amended return as required by

1 15-30-304, the statute of limitations shall not apply until
 2 5 years from the date the federal changes become final or
 3 the amended federal return was filed. If the taxpayer omits
 4 from gross income an amount properly includable therein
 5 which is in excess of 25% of the amount of adjusted-gross
 6 net taxable income stated in the return, the statute of
 7 limitations shall not apply for 2 additional years from the
 8 time specified in 15-30-145."

9 Section 21. Section 15-30-162, MCA, is amended to
 10 read:

11 "15-30-162. Investment credit recapture. (1) There is
 12 allowed as a credit against the tax imposed by 15-30-103 a
 13 percentage of the credit allowed with respect to certain
 14 depreciable property under section 38 of the Internal
 15 Revenue Code of 1954, as amended, or as section 38 may be
 16 renumbered or amended. However, rehabilitation costs as set
 17 forth under section 46(a)(2)(F) of the Internal Revenue Code
 18 of 1954, or as section 46(a)(2)(F) may be renumbered or
 19 amended, are not to be included in the computation of the
 20 investment credit. The credit is allowed for the purchase
 21 and installation of certain qualified property defined by
 22 section 38 of the Internal Revenue Code of 1954, as amended,
 23 if the property meets all of the following qualifications:

- 24 (a) it was placed in service in Montana; and
- 25 (b) it was used for the production of Montana adjusted

1 gross income.

2 (2) The amount of the credit allowed for the taxable
 3 year is 5% of the amount of credit determined under section
 4 46(a)(2) of the Internal Revenue Code of 1954, as amended,
 5 or as section 46(a)(2) may be renumbered or amended;

6 (3) Notwithstanding the provisions of subsection (2),
 7 the investment credit allowed for the taxable year may not
 8 exceed the taxpayer's tax liability for the taxable year or
 9 \$500, whichever is less.

10 (4) If property for which an investment credit is
 11 claimed is used both inside and outside this state, only a
 12 portion of the credit is allowed. The credit must be
 13 apportioned according to a fraction the numerator of which
 14 is the number of days during the taxable year the property
 15 was located in Montana and the denominator of which is the
 16 number of days during the taxable year the taxpayer owned
 17 the property. The investment credit may be applied only to
 18 the tax liability of the taxpayer who purchases and places
 19 in service the property for which an investment credit is
 20 claimed. The credit may not be allocated between spouses
 21 unless the property is used by a partnership or small
 22 business corporation of which they are partners or
 23 shareholders.

24 (5) The investment credit allowed by this section
 25 taken by a taxpayer pursuant to this chapter is subject to

1 recapture as provided for in section 47 of the Internal
 2 Revenue Code ~~of 1954, as amended, or as section 47 may be~~
 3 ~~renumbered or amended."~~

4 Section 22. Section 15-30-303, MCA, is amended to
 5 read:

6 "15-30-303. Confidentiality of tax records. (1) Except
 7 in accordance with proper judicial order or as otherwise
 8 provided by law, it is unlawful for the department or any
 9 deputy, assistant, agent, clerk, or other officer or
 10 employee to divulge or make known in any manner the amount
 11 of income or any particulars set forth or disclosed in any
 12 report or return required under this chapter or any other
 13 information secured in the administration of this chapter.
 14 It is also unlawful to divulge or make known in any manner
 15 any federal return or federal return information disclosed
 16 on any return or report required by rule of the department
 17 or under this chapter.

18 (2) The officers charged with the custody of such
 19 reports and returns shall not be required to produce any of
 20 them or evidence of anything contained in them in any action
 21 or proceeding in any court, except in any action or
 22 proceeding to which the department is a party under the
 23 provisions of this chapter or any other taxing act or on
 24 behalf of any party to any action or proceedings under the
 25 provisions of this chapter or such other act when the

1 reports or facts shown thereby are directly involved in such
 2 action or proceedings, in either of which events the court
 3 may require the production of and may admit in evidence so
 4 much of said reports or of the facts shown thereby as are
 5 pertinent to the action or proceedings and no more.

6 (3) Nothing herein shall be construed to prohibit:

7 (a) the delivery to a taxpayer or his duly authorized
 8 representative of a certified copy of any return or report
 9 filed in connection with his tax;

10 (b) the publication of statistics so classified as to
 11 prevent the identification of particular reports or returns
 12 and the items thereof; or

13 (c) the inspection by the attorney general or other
 14 legal representative of the state of the report or return of
 15 any taxpayer who shall bring action to set aside or review
 16 the tax based thereon or against whom an action or
 17 proceeding has been instituted in accordance with the
 18 provisions of 15-30-311 and 15-30-322.

19 (4) Reports and returns shall be preserved for 3 years
 20 and thereafter until the department orders them to be
 21 destroyed.

22 (5) Any offense against subsections (1) through (4) of
 23 this section shall be punished by a fine not exceeding
 24 \$1,000 or by imprisonment in the county jail not exceeding 1
 25 year, or both, at the discretion of the court, and if the

1 offender be an officer or employee of the state, he shall be
 2 dismissed from office and be incapable of holding any public
 3 office in this state for a period of 1 year thereafter.

4 (6) Notwithstanding the provisions of this section,
 5 the department may permit the commissioner of internal
 6 revenue of the United States or the proper officer of any
 7 state imposing a tax upon the incomes of individuals or the
 8 authorized representative of either such officer to inspect
 9 the return of income of any individual or may furnish to
 10 such officer or his authorized representative an abstract of
 11 the return of income of any individual or supply him with
 12 information concerning any item of income contained in any
 13 return or disclosed by the report of any investigation of
 14 the income or return of income of any individual, but such
 15 permission shall be granted or such information furnished to
 16 such officer or his representative only if the statutes of
 17 the United States or of such other state, as the case may
 18 be, grant substantially similar privileges to the proper
 19 officer of this state charged with the administration of
 20 this chapter.

21 (7) Further, notwithstanding any of the provisions of
 22 this section, the department shall furnish:

23 (a) to the department of justice all information
 24 necessary to identify those persons qualifying for the
 25 additional exemption for blindness pursuant to 15-30-112(4);

1 for the purpose of enabling the department of justice to
 2 administer the provisions of 61-5-105; and

3 (b) to the department of social and rehabilitation
 4 services information acquired under 15-30-301, pertaining to
 5 an applicant for public assistance, reasonably necessary for
 6 the prevention and detection of public assistance fraud and
 7 abuse, provided notice to the applicant has been given."

8 Section 23. Section 15-31-202, MCA, is amended to
 9 read:

10 "15-31-202. Election by small business corporation.
 11 (1) A small business corporation may elect THAT HAS MADE A
 12 VALID ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE
 13 INTERNAL REVENUE CODE IS not to be subject to the taxes
 14 imposed by this chapter.

15 (2) If a small business corporation makes an election
 16 under subsection (1), then:

17 (a) with respect to the taxable years of the
 18 corporation for which such election is in effect, such
 19 corporation is not subject to the taxes imposed by this
 20 chapter and, with respect to such taxable years and all
 21 succeeding taxable years, the provisions of this part apply
 22 to such corporation; and

23 (b) with respect to the taxable years of a shareholder
 24 of such corporation in which or with which the taxable years
 25 of the corporation for which such election is in effect end;

1 the--provisions--of--this--part--apply--to--such--shareholder,--and
2 with--respect--to--such--taxable--years--and--all--succeeding
3 taxable--years,--the--provisions--of--this--part--apply--to--such
4 shareholder.

5 {3}--An--election--under--subsection--(1)--must--be--made--in
6 accordance--with--rules--prescribed--by--the--department--of
7 revenue.

8 (2) A SMALL BUSINESS CORPORATION THAT HAS MADE A VALID
9 ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE INTERNAL
10 REVENUE CODE SHALL FILE BY THE 15TH DAY OF THE THIRD MONTH
11 OF ITS FIRST TAXABLE YEAR A COPY OF THE INTERNAL REVENUE
12 SERVICE NOTIFICATION OR OTHER PROOF THAT A VALID FEDERAL
13 ELECTION HAS BEEN MADE. IF SUCH PROOF IS NOT FILED BY THE
14 TIME THE DEPARTMENT RECEIVES THE CORPORATION'S FIRST TAX
15 RETURN, THE DEPARTMENT SHALL NOTIFY THE CORPORATION THAT
16 SUCH PROOF IS REQUIRED WITHIN 60 DAYS OF THE DATE OF THE
17 NOTICE. IF PROOF IS NOT RECEIVED WITHIN 60 DAYS, OR BY A
18 REASONABLE EXTENSION DATE BASED UPON A REQUEST BY THE
19 TAXPAYER PRIOR TO THE EXPIRATION OF THE 60 DAYS, THE
20 CORPORATION IS SUBJECT TO THE TAXES IMPOSED BY THIS CHAPTER.

21 {2}(3) A SMALL BUSINESS CORPORATION THAT HAS MADE A
22 VALID ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE
23 INTERNAL REVENUE CODE MAY ELECT TO BE SUBJECT TO THE TAXES
24 IMPOSED BY THIS CHAPTER BY FILING AN ELECTION ON A FORM
25 PROVIDED BY THE DEPARTMENT. THE FORM MUST HAVE PRINTED ON IT

1 A NOTIFICATION THAT MAKING THE ELECTION WILL SUBJECT INCOME
2 TO TAX UNDER BOTH THIS CHAPTER AND CHAPTER 30. FOR TAX YEARS
3 BEGINNING ON OR AFTER JANUARY 1, 1987, BUT BEFORE MARCH 1,
4 1988, THE ELECTION MUST BE FILED BY MAY 15, 1988.
5 THEREAFTER, THE ELECTION MUST BE FILED BY THE 15TH DAY OF
6 THE THIRD MONTH OF THE TAXABLE YEAR FOR WHICH THE ELECTION
7 IS TO BECOME EFFECTIVE. THE ELECTION MAY BE REVOKED BY
8 WRITTEN NOTIFICATION TO THE DEPARTMENT. SUCH REVOCATION MUST
9 BE FILED BY THE 15TH DAY OF THE THIRD MONTH OF THE TAXABLE
10 YEAR FOR WHICH THE REVOCATION IS TO BE EFFECTIVE.

11 (4) This election SECTION is not effective unless the
12 corporate net income or loss of such--electing THE
13 NONELECTING SMALL BUSINESS corporation is included in the
14 stockholders' adjusted-gross income as-defined-in-15-30-111.

15 (5) Every electing NONELECTING SMALL BUSINESS
16 corporation is required to pay the A minimum fee of \$10
17 required by 15-31-204."

18 SECTION 24. SECTION 15-31-204, MCA, IS AMENDED TO
19 READ:

20 "15-31-204. Minimum fee of qualifying corporations
21 unaffected. Notwithstanding the provisions of 15-31-121
22 corporations electing-and qualifying under 15-31-202 shall
23 pay a minimum fee of \$10."

24 SECTION 25. SECTION 15-31-209, MCA, IS AMENDED TO
25 READ:

1 "15-31-209. Termination and revocation. If the
 2 election under the provisions of Subchapter S is either
 3 terminated or revoked for federal purposes, the corporation
 4 must notify the department within 30 days of such
 5 termination or revocation. ~~The department may terminate an~~
 6 ~~election at any time if it discovers the corporation does~~
 7 ~~not qualify as a small business corporation as provided for~~
 8 ~~under the provisions of Subchapter S of the Internal Revenue~~
 9 ~~Code of 1954. A corporation that does not have a valid~~
 10 federal election for the entire taxable year is subject to
 11 tax under this chapter."

12 SECTION 26. SECTION 15-32-402, MCA, IS AMENDED TO
 13 READ:

14 "15-32-402. Commercial investment credit --
 15 wind-generated electricity. (1) An individual, corporation,
 16 partnership, or small business corporation as defined in
 17 ~~15-31-201~~ Subchapter S of Chapter 1 of the Internal Revenue
 18 Code that makes an investment of \$5,000 or more in certain
 19 depreciable property qualifying under section 38 of the
 20 Internal Revenue Code ~~of 1954~~ ~~as amended~~, for a commercial
 21 system located in Montana which generates electricity by
 22 means of wind power is entitled to a tax credit against
 23 taxes imposed by 15-30-103 or 15-31-121 in an amount equal
 24 to 35% of the eligible costs, to be taken as a credit only
 25 against taxes due as a consequence of taxable or net income

1 produced by one of the following:

- 2 (a) manufacturing plants located in Montana that
 3 produce wind energy generating equipment;
 4 (b) a new business facility or the expanded portion of
 5 an existing business facility for which the wind energy
 6 generating equipment supplies, on a direct contract sales
 7 basis, the basic energy needed; or
 8 (c) the wind energy generating equipment in which the
 9 investment for which a credit is being claimed was made.
- 10 (2) For purposes of determining the amount of the tax
 11 credit that may be claimed under subsection (1), eligible
 12 costs include only those expenditures that qualify under
 13 section 38 of the Internal Revenue Code ~~of 1954~~ ~~as amended~~,
 14 and that are associated with the purchase, installation, or
 15 upgrading of:
- 16 (a) generating equipment;
 17 (b) safety devices and storage components;
 18 (c) transmission lines necessary to connect with
 19 existing transmission facilities; and
 20 (d) transmission lines necessary to connect directly
 21 to the purchaser of the electricity when no other
 22 transmission facilities are available.
- 23 (3) Eligible costs under subsection (2) must be
 24 reduced by the amount of any grants provided by the state or
 25 federal government for the system."

1 Section 27. Section 17-5-408, MCA, is amended to read:

2 "17-5-408. (Effective unless contingency occurs--see
3 compiler's comments) Percentage of income, corporation
4 license, and cigarette tax pledged. (1) (a) The state
5 pledges and appropriates and directs to be credited as
6 received to the debt service account ~~11%~~ 10% of all money
7 ~~except---as---provided---in---15-31-702,~~ received from the
8 collection of the individual income tax and 11% of all
9 money, except as provided in 15-31-702, received from the
10 collection of the corporation license and income tax
11 referred--to as provided in 15-1-501, and such additional
12 amount of said taxes, if any, as may at any time be needed
13 to comply with the principal and interest and reserve
14 requirements stated in 17-5-405(4)~~7-provided-that.~~

15 (b) ~~no~~ No more than ~~11%~~ the percentages described in
16 subsection (1)(a) of such tax collections ~~shall be deemed to~~
17 may be pledged for the purpose of 17-5-403(2). The pledge
18 and appropriation herein made shall be and remain at all
19 times a first and prior charge upon all money received from
20 the collection of said taxes.

21 (2) The state pledges and appropriates and directs to
22 be credited to the debt service account 79.75% of all money
23 received from the collection of the excise tax on cigarettes
24 which is levied, imposed, and assessed by 16-11-111. The
25 state also pledges and appropriates and directs to be

1 credited as received to the debt service account all money
2 received from the collection of the taxes on other tobacco
3 products which are or may hereafter be levied, imposed, and
4 assessed by law for that purpose, including the tax levied,
5 imposed, and assessed by 16-11-202. Nothing herein shall
6 impair or otherwise affect the provisions and covenants
7 contained in the resolutions authorizing the presently
8 outstanding long-range building program bonds. Subject to
9 the provisions of the preceding sentence, the pledge and
10 appropriation herein made shall be and remain at all times a
11 first and prior charge upon all money received from the
12 collection of all taxes referred to in this subsection (2).
13 (Revived July 1, 1967--sec. 4, Ch. 704, L. 1985.)

14 17-5-408. (Effective on occurrence of contingency--see
15 compiler's comments) Percentage of income, corporation
16 license, and cigarette tax pledged. (1) (a) The state
17 pledges and appropriates and directs to be credited as
18 received to the debt service account ~~11%~~ 10% of all money
19 ~~except---as---provided---in---15-31-702,~~ received from the
20 collection of the individual income tax and 11% of all
21 money, except as provided in 15-31-702, received from the
22 collection of the corporation license and income tax
23 referred--to as provided in 15-1-501, and such additional
24 amount of said taxes, if any, as may at any time be needed
25 to comply with the principal and interest and reserve

1 requirements stated in 17-5-405(4), ~~provided that,~~

2 (b) no more than 11% the percentages described in
3 subsection (1)(a) of such tax collections shall be deemed to
4 may be pledged for the purpose of 17-5-403(2). The pledge
5 and appropriation herein made shall be and remain at all
6 times a first and prior charge upon all money received from
7 the collection of said taxes.

8 (2) The state pledges and appropriates and directs to
9 be credited to the debt service account 53.17% of all money
10 received from the collection of the excise tax on cigarettes
11 which is levied, imposed, and assessed by 16-11-111. The
12 state also pledges and appropriates and directs to be
13 credited as received to the debt service account all money
14 received from the collection of the taxes on other tobacco
15 products which are or may hereafter be levied, imposed, and
16 assessed by law for that purpose, including the tax levied,
17 imposed, and assessed by 16-11-202. Nothing herein shall
18 impair or otherwise affect the provisions and covenants
19 contained in the resolutions authorizing the presently
20 outstanding long-range building program bonds. Subject to
21 the provisions of the preceding sentence, the pledge and
22 appropriation herein made shall be and remain at all times a
23 first and prior charge upon all money received from the
24 collection of all taxes referred to in this subsection (2)."

25 Section 28. Section 19-3-105, MCA, is amended to read:

1 "19-3-105. Exemption from ~~taxes and~~ TAXES AND legal
2 process. The right of a person to a retirement allowance or
3 any other benefit under this chapter and the moneys in the
4 fund created under this chapter is not:

5 ~~(1) subject to execution, garnishment, attachment,~~
6 ~~or any other process;~~

7 ~~(2) subject to state, county, or municipal taxes~~
8 ~~except for a refund paid under 19-3-703 of a member's~~
9 ~~contributions picked up by an employer after June 30, 1985,~~
10 ~~as provided in 19-3-701; or~~

11 (2) SUBJECT TO STATE, COUNTY, OR MUNICIPAL TAXES TO
12 THE EXTENT PROVIDED IN 15-30-111, EXCEPT FOR A REFUND PAID
13 UNDER 19-3-703 OF A MEMBER'S CONTRIBUTIONS PICKED UP BY AN
14 EMPLOYER AFTER JUNE 30, 1985, AS PROVIDED IN 19-3-701; OR

15 ~~(3) (3) nor is it~~ assignable except as in this chapter
16 specifically provided."

17 Section 29. Section 19-4-706, MCA, is amended to read:

18 "19-4-706. Exemption from ~~taxation and~~ TAXES AND legal
19 process. The pensions, annuities, or any other benefits
20 accrued or accruing to any person under the provisions of
21 the retirement system and the accumulated contributions and
22 cash and securities in the various funds of the retirement
23 system are:

24 ~~(1) exempted from any state, county, or municipal tax~~
25 ~~of the state of Montana except for a refund paid under~~

1 19-4-603--of--a--member's--contributions--picked--up--by--an
2 employer--after--June--30,--1985,--as--provided--in--19-4-602;

3 (1) EXEMPTED FROM ANY STATE, COUNTY, OR MUNICIPAL TAX
4 OF THE STATE OF MONTANA TO THE EXTENT PROVIDED IN 15-30-111,
5 EXCEPT FOR A REFUND PAID UNDER 19-4-603 OF A MEMBER'S
6 CONTRIBUTIONS PICKED UP BY AN EMPLOYER AFTER JUNE 30, 1985,
7 AS PROVIDED IN 19-4-602;

8 {2}(2) not subject to execution, garnishment,
9 attachment by trustee process or otherwise, in law or
10 equity, or any other process; and

11 {3}(3) are unassignable except as specifically
12 provided in this chapter."

13 SECTION 30. SECTION 19-5-704, MCA, IS AMENDED TO READ:

14 "19-5-704. Exemption from taxes and legal process. Any
15 money received or to be paid as a member's annuity, state
16 annuity, or return of deductions or the right of any of
17 these shall be exempt from any state or municipal tax to the
18 extent provided in 15-30-111 and from levy, sale,
19 garnishment, attachment, or any other process whatsoever and
20 shall be unassignable except as specifically provided in
21 19-5-705."

22 Section 31. Section 19-6-705, MCA, is amended to read:

23 "19-6-705. Exemption from taxes-and TAXES AND legal
24 process. Any money received or to be paid as a member's
25 annuity, state annuity, or return of deductions or the right

1 of any of these is:

2 {1}--exempt--from--any--state,--county,--or--municipal--tax
3 except--for--a--refund--paid--under--19-6-403--of--a--member's
4 contributions--picked--up--by--an--employer--after--June--30,--1985,
5 as--provided--in--19-6-402;

6 (1) EXEMPT FROM ANY STATE, COUNTY, OR MUNICIPAL TAX TO
7 THE EXTENT PROVIDED IN 15-30-111, EXCEPT FOR A REFUND PAID
8 UNDER 19-6-403 OF A MEMBER'S CONTRIBUTIONS PICKED UP BY AN
9 EMPLOYER AFTER JUNE 30, 1985, AS PROVIDED IN 19-6-402;

10 {2}(2) exempt from levy, sale, garnishment,
11 attachment, or any other process; and

12 {3}(3) is unassignable except as specifically provided
13 in 19-6-706."

14 SECTION 32. SECTION 19-7-705, MCA, IS AMENDED TO READ:

15 "19-7-705. Exemption from taxes and legal process. Any
16 money received or to be paid as a member's annuity, state
17 annuity, or return of deductions or the right of any of
18 these is:

19 (1) exempt from any state, county, or municipal tax to
20 the extent provided in 15-30-111, except for a refund paid
21 under 19-7-304(1) of a member's contributions picked up by
22 an employer after June 30, 1985, as provided in 19-7-403;

23 (2) exempt from levy, sale, garnishment, attachment,
24 or any other process; and

25 (3) unassignable except as specifically provided in

1 19-7-706."

2 SECTION 33. SECTION 19-8-805, MCA, IS AMENDED TO READ:

3 "19-8-805. Exemption from taxes and legal process. Any
4 money received or to be paid as a member's annuity, state
5 annuity, or return of deductions or the right of any of
6 these is:

7 (1) exempt from any state, county, or municipal tax to
8 the extent provided in 15-30-111, except for a refund paid
9 under 19-8-503 of the member's contributions picked up by an
10 employer after June 30, 1985, as provided in 19-8-502;

11 (2) exempt from levy, sale, garnishment, attachment,
12 or any other process; and

13 (3) unassignable except as specifically provided in
14 19-8-806."

15 SECTION 34. SECTION 19-9-1005, MCA, IS AMENDED TO
16 READ:

17 "19-9-1005. Exemption from taxes. Any money paid in
18 accordance with the provisions of this chapter is exempt
19 from any state, county, or municipal tax to the extent
20 provided in 15-30-111, except a refund paid under 19-9-304
21 of a member's contributions picked up by an employer after
22 June 30, 1985, as provided in 19-9-601."

23 SECTION 35. SECTION 19-13-1003, MCA, IS AMENDED TO
24 READ:

25 "19-13-1003. Exemption from taxes. Any money received

1 as a retirement allowance in accordance with the provisions
2 of this chapter is exempt from any state or municipal tax to
3 the extent provided in 15-30-111."

4 Section 36. Section 53-2-101, MCA, is amended to read:

5 "53-2-101. Definitions. Unless the context requires
6 otherwise, in this chapter the following definitions apply:

7 (1) "Department" means the department of social and
8 rehabilitation services provided for in Title 2, chapter 15,
9 part 22.

10 (2) "Public assistance" or "assistance" means any type
11 of monetary or other assistance furnished under this title
12 to a person by a state or county agency, regardless of the
13 original source of the assistance.

14 (3) "Needy person" is one who is eligible for public
15 assistance under the laws of this state.

16 (4) "Net monthly income" means one-twelfth of the
17 difference between the net taxable income for the taxable
18 year as the term net taxable income is defined in 15-30-101
19 and the state income tax paid as determined by the state
20 income tax return filed during the current year.

21 (5) "Ward Indian" is hereby defined as an Indian who
22 is living on an Indian reservation set aside for tribal use
23 or is a member of a tribe or nation accorded certain rights
24 and privileges by treaty or by federal statutes. If and when
25 the federal Social Security Act is amended to define a "ward

1 ~~19-4-603--of--a--member's--contributions--picked--up--by--an~~
2 ~~employer--after--June--30,--1985,--as--provided--in--19-4-602;~~

3 (1) EXEMPTED FROM ANY STATE, COUNTY, OR MUNICIPAL TAX
4 OF THE STATE OF MONTANA TO THE EXTENT PROVIDED IN 15-30-111,
5 EXCEPT FOR A REFUND PAID UNDER 19-4-603 OF A MEMBER'S
6 CONTRIBUTIONS PICKED UP BY AN EMPLOYER AFTER JUNE 30, 1985,
7 AS PROVIDED IN 19-4-602;

8 ~~(2)(2)~~ not subject to execution, garnishment,
9 attachment by trustee process or otherwise, in law or
10 equity, or any other process; and

11 ~~(3)(3)~~ are unassignable except as specifically
12 provided in this chapter."

13 SECTION 30. SECTION 19-5-704, MCA, IS AMENDED TO READ:

14 "19-5-704. Exemption from taxes and legal process. Any
15 money received or to be paid as a member's annuity, state
16 annuity, or return of deductions or the right of any of
17 these shall be exempt from any state or municipal tax to the
18 extent provided in 15-30-111 and from levy, sale,
19 garnishment, attachment, or any other process whatsoever and
20 shall be unassignable except as specifically provided in
21 19-5-705."

22 Section 31. Section 19-6-705, MCA, is amended to read:

23 "19-6-705. Exemption from ~~taxes-and~~ TAXES AND legal
24 process. Any money received or to be paid as a member's
25 annuity, state annuity, or return of deductions or the right

1 of any of these is:

2 ~~(1)--exempt--from--any--state,--county,--or--municipal--tax~~
3 ~~except--for--a--refund--paid--under--19-6-403--of--a--member's~~
4 ~~contributions--picked--up--by--an--employer--after--June--30,--1985,~~
5 ~~as--provided--in--19-6-402;~~

6 (1) EXEMPT FROM ANY STATE, COUNTY, OR MUNICIPAL TAX TO
7 THE EXTENT PROVIDED IN 15-30-111, EXCEPT FOR A REFUND PAID
8 UNDER 19-6-403 OF A MEMBER'S CONTRIBUTIONS PICKED UP BY AN
9 EMPLOYER AFTER JUNE 30, 1985, AS PROVIDED IN 19-6-402;

10 ~~(2)(2)~~ exempt from levy, sale, garnishment,
11 attachment, or any other process; and

12 ~~(3)(3)~~ is unassignable except as specifically provided
13 in 19-6-706."

14 SECTION 32. SECTION 19-7-705, MCA, IS AMENDED TO READ:

15 "19-7-705. Exemption from taxes and legal process. Any
16 money received or to be paid as a member's annuity, state
17 annuity, or return of deductions or the right of any of
18 these is:

19 (1) exempt from any state, county, or municipal tax to
20 the extent provided in 15-30-111, except for a refund paid
21 under 19-7-304(1) of a member's contributions picked up by
22 an employer after June 30, 1985, as provided in 19-7-403;

23 (2) exempt from levy, sale, garnishment, attachment,
24 or any other process; and

25 (3) unassignable except as specifically provided in

1 19-7-706."

2 SECTION 33. SECTION 19-8-805, MCA, IS AMENDED TO READ:

3 "19-8-805. Exemption from taxes and legal process. Any
4 money received or to be paid as a member's annuity, state
5 annuity, or return of deductions or the right of any of
6 these is:

7 (1) exempt from any state, county, or municipal tax to
8 the extent provided in 15-30-111, except for a refund paid
9 under 19-8-503 of the member's contributions picked up by an
10 employer after June 30, 1985, as provided in 19-8-502;

11 (2) exempt from levy, sale, garnishment, attachment,
12 or any other process; and

13 (3) unassignable except as specifically provided in
14 19-8-806."

15 SECTION 34. SECTION 19-9-1005, MCA, IS AMENDED TO

16 READ:

17 "19-9-1005. Exemption from taxes. Any money paid in
18 accordance with the provisions of this chapter is exempt
19 from any state, county, or municipal tax to the extent
20 provided in 15-30-111, except a refund paid under 19-9-304
21 of a member's contributions picked up by an employer after
22 June 30, 1985, as provided in 19-9-601."

23 SECTION 35. SECTION 19-13-1003, MCA, IS AMENDED TO

24 READ:

25 "19-13-1003. Exemption from taxes. Any money received

1 as a retirement allowance in accordance with the provisions
2 of this chapter is exempt from any state or municipal tax to
3 the extent provided in 15-30-111."

4 Section 36. Section 53-2-101, MCA, is amended to read:

5 "53-2-101. Definitions. Unless the context requires
6 otherwise, in this chapter the following definitions apply:

7 (1) "Department" means the department of social and
8 rehabilitation services provided for in Title 2, chapter 15,
9 part 22.

10 (2) "Public assistance" or "assistance" means any type
11 of monetary or other assistance furnished under this title
12 to a person by a state or county agency, regardless of the
13 original source of the assistance.

14 (3) "Needy person" is one who is eligible for public
15 assistance under the laws of this state.

16 (4) "Net monthly income" means one-twelfth of the
17 difference between the net taxable income for the taxable
18 year as the term net taxable income is defined in 15-30-101
19 and the state income tax paid as determined by the state
20 income tax return filed during the current year.

21 (5) "Ward Indian" is hereby defined as an Indian who
22 is living on an Indian reservation set aside for tribal use
23 or is a member of a tribe or nation accorded certain rights
24 and privileges by treaty or by federal statutes. If and when
25 the federal Social Security Act is amended to define a "ward

1 Indian", such definition shall supersede the foregoing
 2 definition."

3 Section 37. Section 67-11-303, MCA, is amended to
 4 read:

5 "67-11-303. Bonds and obligations. (1) An authority
 6 may borrow money for any of its corporate purposes and issue
 7 its bonds therefor, including refunding bonds, in such form
 8 and upon such terms as it may determine, payable out of any
 9 revenues of the authority, including revenues derived from:

10 (a) an airport or air navigation facility or
 11 facilities;

12 (b) taxes levied pursuant to 67-11-301 or other law
 13 for airport purposes;

14 (c) grants or contributions from the federal
 15 government; or

16 (d) other sources.

17 (2) The bonds may be issued by resolution of the
 18 authority, without an election and without any limitation of
 19 amount, except that no such bonds may be issued at any time
 20 if the total amount of principal and interest to become due
 21 in any year on such bonds and on any then outstanding bonds
 22 for which revenues from the same source or sources are
 23 pledged exceeds the amount of such revenues to be received
 24 in that year as estimated in the resolution authorizing the
 25 issuance of the bonds. The authority shall take all action

1 necessary and possible to impose, maintain, and collect
 2 rates, charges, rentals, and taxes, if any are pledged,
 3 sufficient to make the revenues from the pledged source in
 4 such year at least equal to the amount of such principal and
 5 interest due in that year.

6 (3) The bonds may be sold at public or private sale
 7 and may bear interest at a rate not exceeding the limitation
 8 of 17-5-102. Except as otherwise provided herein, any bonds
 9 issued pursuant to this chapter by an authority may be
 10 payable as to principal and interest solely from revenues of
 11 the authority and shall state on their face the applicable
 12 limitations or restrictions regarding the source from which
 13 such principal and interest are payable.

14 (4) Bonds issued by an authority or municipality
 15 pursuant to the provisions of this chapter are declared to
 16 be issued for an essential public and governmental purpose
 17 by a political subdivision ~~within---the---meaning---of~~
 18 ~~45-30-111(2)(a)~~ for purposes of tax exemption determinations
 19 under the Internal Revenue Code.

20 (5) For the security of any such bonds, the authority
 21 or municipality may by resolution make and enter into any
 22 covenant, agreement, or indenture and may exercise any
 23 additional powers authorized to be exercised by a
 24 municipality under Title 7, chapter 7, parts 44 and 45. The
 25 sums required from time to time to pay principal and

1 interest and to create and maintain a reserve for the bonds
2 may be paid from any revenues referred to in this chapter,
3 prior to the payment of current costs of operation and
4 maintenance of the facilities.

5 (6) Subject to the conditions stated in this
6 subsection (6), the governing body of any municipality
7 having a population in excess of 10,000, with respect to
8 bonds issued pursuant to this chapter by the municipality or
9 by an authority in which the municipality is included, may
10 by resolution covenant that in the event that at any time
11 all revenues, including taxes, appropriated and collected
12 for such bonds are insufficient to pay principal or interest
13 then due, it will levy a general tax upon all of the taxable
14 property in the municipality for the payment of such
15 deficiency; and may further covenant that at any time a
16 deficiency is likely to occur within 1 year for the payment
17 of principal and interest due on such bonds, it will levy a
18 general tax upon all the taxable property in the
19 municipality for the payment of such deficiency, and such
20 taxes are not subject to any limitation of rate or amount
21 applicable to other municipal taxes but are limited to a
22 rate estimated to be sufficient to produce the amount of the
23 deficiency. In the event more than one municipality having a
24 population in excess of 10,000 is included in an authority
25 issuing bonds pursuant to this chapter, the municipalities

1 may apportion the obligation to levy taxes for the payment
2 of, or in anticipation of, a deficiency in the revenues
3 appropriated for such bonds in such manner as the
4 municipalities may determine. The resolution shall state the
5 principal amount and purpose of the bonds and the substance
6 of the covenant respecting deficiencies. No such resolution
7 becomes effective until the question of its approval has
8 been submitted to the qualified electors of the municipality
9 at a special election called for that purpose by the
10 governing body of the municipality and a majority of the
11 electors voting on the question have voted in favor thereof.
12 The notice and conduct of the election is governed, to the
13 extent applicable, as provided for municipal general
14 obligation bonds in Title 7, chapter 7, part 42, for an
15 election called by cities and towns, and as provided for
16 county general obligation bonds in Title 7, chapter 7, part
17 22, for an election called by counties. If a majority of the
18 electors voting thereon vote against approval of the
19 resolution, the municipality has no authority to make the
20 covenant or to levy a tax for the payment of deficiencies
21 pursuant to this section, but such municipality or authority
22 may nevertheless issue bonds under this chapter payable
23 solely from the sources referred to in subsection (1)
24 above."

25 ~~Section-25,--Section-20-9-303,--MEA,--is-amended-to-read:~~

1 ~~"20-9-303. Definition of foundation program and its~~
 2 ~~proportion of the maximum general fund without a voted levy~~
 3 ~~schedule amount ---- nonisolated school foundation program~~
 4 ~~financing ---- special education funds. (1) As used in this~~
 5 ~~title, the term "foundation program" shall mean the minimum~~
 6 ~~operating expenditures, as established herein, that are~~
 7 ~~sufficient to provide for the educational program of a~~
 8 ~~school. The foundation program relates only to those~~
 9 ~~expenditures authorized by a district's general fund budget~~
 10 ~~and shall not include expenditures from any other fund. It~~
 11 ~~shall be financed by:~~

- 12 ~~(a) county equalization moneys; and~~
- 13 ~~(b) state equalization aid;~~

14 ~~(2) The dollar amount of the foundation program shall~~
 15 ~~be ----- 80% ----- of ----- the~~
 16 ~~maximum general fund budget without a voted levy limitation~~
 17 ~~as set forth in the schedules in 20-9-316 through 20-9-321~~
 18 ~~or 80% of the state equalization aid amount determined under~~
 19 ~~20-9-340. The foundation program of an elementary school~~
 20 ~~having an ANB of nine or fewer pupils for 2 consecutive~~
 21 ~~years which is not approved as an isolated school under the~~
 22 ~~provisions of 20-9-302 shall be 80% of the schedule amount,~~
 23 ~~but the county and state shall participate in financing~~
 24 ~~one-half of the foundation program, and the district shall~~
 25 ~~finance the remaining one-half by a tax levied on the~~

1 ~~property of the district. When a school of nine or fewer~~
 2 ~~pupils is approved as isolated under the provisions of~~
 3 ~~20-9-302, the county and state shall participate in the~~
 4 ~~financing of the total amount of the foundation program.~~

5 ~~(3) Funds provided to support the special education~~
 6 ~~accounting budget may be expended only for special education~~
 7 ~~purposes as approved by the superintendent of public~~
 8 ~~instruction in accordance with the special education~~
 9 ~~budgeting provisions of this title. Expenditures for special~~
 10 ~~education shall be accounted for separately from the balance~~
 11 ~~of the school district general fund. Transfers between items~~
 12 ~~within the special education budget for accounting purposes~~
 13 ~~may be made at the discretion of the board of trustees in~~
 14 ~~accordance with the financial administration part of this~~
 15 ~~title. The unexpended balance of the special education~~
 16 ~~accounting budget shall carry over to the next year to~~
 17 ~~reduce the amount of funding required to finance the~~
 18 ~~district's ensuing year's maximum budget without a vote for~~
 19 ~~special education."~~

20 ~~SECTION 38. SECTION 20-9-316, MCA, IS AMENDED TO READ:~~

21 ~~"20-9-316. Elementary school maximum budget schedule~~
 22 ~~for 1985-86 1987-88. (1) For each elementary school having~~
 23 ~~an ANB of nine or fewer pupils, the maximum shall be \$19,959~~
 24 ~~\$19,957 if said school is approved as an isolated school.~~

25 ~~(2) For schools with an ANB of 10 pupils but less than~~

1 18 pupils, the maximum shall be ~~\$19,959~~ \$19,957 plus ~~\$834-10~~
 2 \$834 per pupil on the basis of the average number belonging
 3 over nine.

4 (3) For schools with an ANB of at least 14 pupils but
 5 less than 18 pupils that qualify for instructional aide
 6 funding under 20-9-322, the maximum shall be ~~\$32,714~~ \$32,711
 7 plus ~~\$834-10~~ \$834 per pupil on the basis of the average
 8 number belonging over 14.

9 (4) For schools with an ANB of 18 pupils and employing
 10 one teacher, the maximum shall be ~~\$27,466~~ \$27,463 plus
 11 ~~\$834-10~~ \$834 per pupil on the basis of the average number
 12 belonging over 18, not to exceed an ANB of 25.

13 (5) For schools with an ANB of 18 pupils and employing
 14 two full-time teachers, the maximum shall be ~~\$43,851~~ \$43,847
 15 plus ~~\$522-40~~ \$522.30 per pupil on the basis of the average
 16 number belonging over 18, not to exceed an ANB of 50.

17 (6) For schools having an ANB in excess of 40, the
 18 maximum on the basis of the total pupils (ANB) in the
 19 district for elementary pupils will be as follows:

20 (a) For a school having an ANB of more than 40 and
 21 employing a minimum of three teachers, the maximum of \$1,938
 22 shall be decreased at the rate of \$1.88 for each additional
 23 pupil until the total number (ANB) shall have reached a
 24 total of 100 pupils.

25 (b) For a school having an ANB of more than 100

1 pupils, the maximum of \$1,825 shall be decreased at the rate
 2 of \$1.72 for each additional pupil until the ANB shall have
 3 reached 300 pupils.

4 (c) For a school having an ANB of more than 300
 5 pupils, the maximum shall not exceed \$1,481 for each pupil.

6 (7) The maximum per pupil for all pupils (ANB) and for
 7 all elementary schools shall be computed on the basis of the
 8 amount allowed herein on account of the last eligible pupil
 9 (ANB). All elementary schools operated within the
 10 incorporated limits of a city or town shall be treated as
 11 one school for the purpose of this schedule."

12 SECTION 39. SECTION 20-9-317, MCA, IS AMENDED TO READ:

13 "20-9-317. High school maximum budget schedule for
 14 ~~1985-86 1987-88~~. (1) For each high school having an ANB of
 15 24 or fewer pupils, the maximum shall be ~~\$113,788~~ \$113,696.

16 (2) For a secondary school having an ANB of more than
 17 24 pupils, the maximum ~~\$4,738~~ \$4,737 shall be decreased at
 18 the rate of \$25.84 for each additional pupil until the ANB
 19 shall have reached a total of 40 such pupils.

20 (3) For a school having an ANB of more than 40 pupils,
 21 the maximum of \$4,324 shall be decreased at the rate of
 22 \$25.84 for each additional pupil until the ANB shall have
 23 reached 100 pupils.

24 (4) For a school having an ANB of more than 100
 25 pupils, a maximum of \$2,774 shall be decreased at the rate

1 of \$4.32 for each additional pupil until the ANB shall have
2 reached 200 pupils.

3 (5) For a school having an ANB of more than 200
4 pupils, the maximum of ~~\$2,342~~ \$2,341 shall be decreased by
5 ~~\$2.38~~ \$2.37 for each additional pupil until the ANB shall
6 have reached 300 pupils.

7 (6) For a school having an ANB of more than 300
8 pupils, the maximum of \$2,104 shall be decreased at the rate
9 of 44 cents until the ANB shall have reached 600 pupils.

10 (7) For a school having an ANB over 600 pupils, the
11 maximum shall not exceed \$1,973 per pupil.

12 (8) The maximum per pupil for all pupils (ANB) and for
13 all high schools, shall be computed on the basis of the
14 amount allowed herein on account of the last eligible pupil
15 (ANB). All high schools and junior high schools which have
16 been approved and accredited as junior high schools,
17 operated within the incorporated limits of a city or town,
18 shall be treated as one school for the purpose of this
19 schedule."

20 Section 40. Section 20-9-318, MCA, is amended to read:

21 "20-9-318. Elementary school maximum budget schedule
22 ~~for 1986-87 and succeeding years~~ FOR 1988-89 AND SUCCEEDING
23 YEARS. For ~~1986-87~~ 1988-89 and succeeding school years, the
24 elementary school maximum budget schedule is as follows:

25 (1) For each elementary school having an ANB of nine

1 or fewer pupils, the maximum shall be ~~\$20,150~~ \$19,558 if
2 said school is approved as an isolated school.

3 (2) For schools with an ANB of 10 pupils but less than
4 18 pupils, the maximum shall be ~~\$20,150~~ \$19,558 plus ~~\$842.50~~
5 \$817.30 per pupil on the basis of the average number
6 belonging over nine.

7 (3) For schools with an ANB of at least 14 pupils but
8 less than 18 pupils that qualify for instructional aide
9 funding under 20-9-322, the maximum shall be ~~\$33,042~~ \$32,057
10 plus ~~\$842.50~~ \$817.30 per pupil on the basis of the average
11 number belonging over 14.

12 (4) For schools with an ANB of 18 pupils and employing
13 one teacher, the maximum shall be ~~\$27,741~~ \$26,914 plus
14 ~~\$842.50~~ \$817.30 per pupil on the basis of the average number
15 belonging over 18, not to exceed an ANB of 25.

16 (5) For schools with an ANB of 18 pupils and employing
17 two full-time teachers, the maximum shall be ~~\$44,290~~ \$42,970
18 plus ~~\$527.60~~ \$511.90 per pupil on the basis of the average
19 number belonging over 18, not to exceed an ANB of 50.

20 (6) For schools having an ANB in excess of 40, the
21 maximum on the basis of the total pupils (ANB) in the
22 district for elementary pupils will be as follows:

23 (a) For a school having an ANB of more than 40 and
24 employing a minimum of three teachers, the maximum of ~~\$1,957~~
25 \$1,899 shall be decreased at the rate of ~~\$1.90~~ \$1.84 for

1 each additional pupil until the total number (ANB) shall
2 have reached a total of 100 pupils.

3 (b) For a school having an ANB of more than 100
4 pupils, the maximum of ~~\$1,843~~ \$1,788 shall be decreased at
5 the rate of ~~\$1.74~~ \$1.69 for each additional pupil until the
6 ANB shall have reached 300 pupils.

7 (c) For a school having an ANB of more than 300
8 pupils, the maximum shall not exceed ~~\$1,496~~ \$1,451 for each
9 pupil.

10 (7) The maximum per pupil for all pupils (ANB) and for
11 all elementary schools shall be computed on the basis of the
12 amount allowed herein on account of the last eligible pupil
13 (ANB). All elementary schools operated within the
14 incorporated limits of a city or town shall be treated as
15 one school for the purpose of this schedule.

16 ~~(8) --in--the--event--that--funding--from--statutorily~~
17 ~~appropriated--sources--is--insufficient--to--fully--fund--the~~
18 ~~schedule--to--the--maximum--allowed--the--schedule--must--be--funded~~
19 ~~on--a--pro-rata--basis--and--only--to--the--extent--that--revenue--is~~
20 ~~available--from--sources--statutorily--appropriated--to--fund--the~~
21 ~~schedule."~~

22 Section 41. Section 20-9-319, MCA, is amended to read:
23 "20-9-319. High school maximum budget schedule for
24 ~~1986-87-and-succeeding--years~~ FOR 1988-89 AND SUCCEEDING
25 YEARS. For ~~1986-87~~ 1988-89 and succeeding school years, the

1 high school maximum budget schedule is as follows:

2 (1) For each high school having an ANB of 24 or fewer
3 pupils, the maximum shall be ~~\$114,845~~ \$111,422.

4 (2) For a secondary school having an ANB of more than
5 24 pupils, the maximum ~~\$47,785~~ \$4,643 shall be decreased at
6 the rate of ~~\$26.10~~ \$25.32 for each additional pupil until
7 the ANB shall have reached a total of 40 such pupils.

8 (3) For a school having an ANB of more than 40 pupils,
9 the maximum of ~~\$47,368~~ \$4,237 shall be decreased at the rate
10 of ~~\$26.10~~ \$25.32 for each additional pupil until the ANB
11 shall have reached 100 pupils.

12 (4) For a school having an ANB of more than 100
13 pupils, a maximum of ~~\$27,882~~ \$2,718 shall be decreased at the
14 rate of ~~\$4.37~~ \$4.24 for each additional pupil until the ANB
15 shall have reached 200 pupils.

16 (5) For a school having an ANB of more than 200
17 pupils, the maximum of ~~\$27,365~~ \$2,295 shall be decreased by
18 ~~\$2.40~~ \$2.33 for each additional pupil until the ANB shall
19 have reached 300 pupils.

20 (6) For a school having an ANB of more than 300
21 pupils, the maximum of ~~\$27,125~~ \$2,062 shall be decreased at
22 the rate of ~~44~~ 43 cents until the ANB shall have reached 600
23 pupils.

24 (7) For a school having an ANB over 600 pupils, the
25 maximum shall not exceed ~~\$1,993~~ \$1,933 per pupil.

1 (8) The maximum per pupil for all pupils (ANB) and for
 2 all high schools shall be computed on the basis of the
 3 amount allowed herein on account of the last eligible pupil
 4 (ANB). All high schools and junior high schools which have
 5 been approved and accredited as junior high schools,
 6 operated within the incorporated limits of a city or town,
 7 shall be treated as one school for the purpose of this
 8 schedule.

9 ~~(9) In the event that funding from statutorily~~
 10 ~~appropriated sources is insufficient to fully fund the~~
 11 ~~schedule to the maximum allowed, the schedule must be funded~~
 12 ~~on a pro-rata basis and only to the extent that revenue is~~
 13 ~~available from sources statutorily appropriated to fund the~~
 14 ~~schedule."~~

15 Section 42. Section 20-9-343, MCA, is amended to read:

16 "20-9-343. Definition of and revenue for state
 17 equalization aid. (1) As used in this title, the term "state
 18 equalization aid" means those moneys deposited in the state
 19 special revenue fund as required in this section plus any
 20 legislative appropriation of moneys from other sources for
 21 distribution to the public schools for the purpose of
 22 equalization of the foundation program.

23 (2) The legislative appropriation for state
 24 equalization aid shall be made in a single sum for the
 25 biennium. The superintendent of public instruction has

1 authority to spend such appropriation, together with the
 2 earmarked revenues provided in subsection (3), as required
 3 for foundation program purposes throughout the biennium.

4 (3) The following shall be paid into the state special
 5 revenue fund for state equalization aid to public schools of
 6 the state:

7 (a) 25% ~~31.8%~~ 29.2% of all moneys received from the
 8 collection of income taxes under chapter 30 of Title 15;

9 (b) 25% of all moneys, except as provided in
 10 15-31-702, received from the collection of corporation
 11 license and income taxes under chapter 31 of Title 15, as
 12 provided by 15-1-501;

13 (c) 10% of the moneys received from the collection of
 14 the severance tax on coal under chapter 35 of Title 15;

15 (d) 100% of the moneys received from the treasurer of
 16 the United States as the state's shares of oil, gas, and
 17 other mineral royalties under the federal Mineral Lands
 18 Leasing Act, as amended;

19 (e) interest and income moneys described in 20-9-341
 20 and 20-9-342;

21 (f) income from the local impact and education trust
 22 fund account; and

23 (g) in addition to these revenues, the surplus
 24 revenues collected by the counties for foundation program
 25 support according to 20-9-331 and 20-9-333 shall be paid

1 into the same state special revenue fund.

2 (4) Any surplus revenue in the state equalization aid
3 account in the second year of a biennium may be used to
4 reduce the appropriation required for the next succeeding
5 biennium [or may be transferred to the state permissive
6 account if revenues in that fund are insufficient to meet
7 the state's permissive amount obligation]."

8 ~~Section 29. Section 20-9-348, MCA, is amended to read:~~

9 ~~"20-9-348. Estimation of state equalization aid for~~
10 ~~budget purposes. (1) The apportionment of state equalization~~
11 ~~aid shall be the second source of revenue in calculating the~~
12 ~~financing of the elementary district foundation program and~~
13 ~~the high school district foundation program. In order to~~
14 ~~allow for the estimation of the amount of money to be~~
15 ~~realized from this source of revenue when the county~~
16 ~~superintendent is estimating the general fund budget~~
17 ~~revenues, the county superintendent shall consider that the~~
18 ~~state foundation program revenues and county equalization~~
19 ~~moneys, together, will be capable of financing 100% of the~~
20 ~~foundation program. superintendent of public instruction~~
21 ~~shall annually estimate a uniform percentage of each~~
22 ~~district's foundation program that state equalization aid~~
23 ~~and county equalization moneys together will be capable of~~
24 ~~financing for the ensuing school fiscal year. The estimate~~
25 ~~is "state equalization aid" for the purposes of this title~~

1 ~~and must be based on the best available data and calculated~~
2 ~~according to the procedure provided in 20-9-347.~~

3 ~~(2) The superintendent of public instruction shall~~
4 ~~notify each county superintendent of the state equalization~~
5 ~~aid estimate by June 1. The county superintendent shall use~~
6 ~~the estimate for establishing the financing available for~~
7 ~~each district's foundation program for the ensuing school~~
8 ~~fiscal year."~~

9 ~~Section 30. Section 20-9-352, MCA, is amended to read:~~

10 ~~"20-9-352. Permissive amount and permissive levy. (1)~~
11 ~~Whenever the trustees of any district shall deem it~~
12 ~~necessary to adopt a general fund budget in excess of the~~
13 ~~foundation program amount but not in excess of the maximum~~
14 ~~general fund budget amount for such district as established~~
15 ~~by the schedules in 20-9-316 through 20-9-321, the trustees~~
16 ~~shall adopt a resolution stating the reasons and purposes~~
17 ~~for exceeding the foundation program amount. Such excess~~
18 ~~above the foundation program amount shall be known as the~~
19 ~~"permissive amount", and it shall be financed by a levy on~~
20 ~~the taxable value of all taxable property within the~~
21 ~~district as prescribed in 20-9-141, supplemented with any~~
22 ~~biennial appropriation by the legislature for this purpose.~~
23 ~~The proceeds of such an appropriation shall be deposited to~~
24 ~~the state special revenue fund, permissive account.~~

25 ~~(2) The district levies to be set for the purpose of~~

1 funding the permissive amount are determined as follows:

2 (a) For each elementary school district, the county
3 commissioners shall annually set a levy not exceeding 6
4 mills on all the taxable property in the district for the
5 purpose of funding the permissive amount of the district.
6 The permissive levy in mills shall be obtained by
7 multiplying the ratio of the permissive amount to the
8 maximum permissive amount by 6 or by using the number of
9 mills which would fund the permissive amount, whichever is
10 less. If the amount of revenue raised by this levy, plus
11 anticipated or reappropriated motor vehicle fees and
12 reimbursement under the provisions of 61-3-532 and 61-3-536,
13 is not sufficient to fund the permissive amount in full, the
14 amount of the deficiency shall be paid to the district from
15 the state special revenue fund according to the provisions
16 of subsections subsection (3) and (4) of this section.

17 (b) For each high school district, the county
18 commissioners shall annually set a levy not exceeding 4
19 mills on all taxable property in the district for the
20 purpose of funding the permissive amount of the district.
21 The permissive levy in mills shall be obtained by
22 multiplying the ratio of the permissive levy to the maximum
23 permissive amount by 4 or by using the number of mills which
24 would fund the permissive amount, whichever is less. If the
25 amount of revenue raised by this levy, plus anticipated

1 motor vehicle fees and reimbursement under the provisions of
2 61-3-532 and 61-3-536, and plus net proceeds taxes for new
3 production, as defined in 15-23-601, is not sufficient to
4 fund the permissive amount in full, the amount of the
5 deficiency shall be paid to the district from the state
6 special revenue fund according to the provisions of
7 subsections subsection (3) and (4) of this section.

8 (3) The superintendent of public instruction shall, if
9 the appropriation by the legislature for the permissive
10 account for the biennium is insufficient, request the budget
11 director to submit a request for a supplemental
12 appropriation in the second year of the biennium. The
13 supplemental appropriation shall provide enough revenue to
14 fund the permissive deficiency of the elementary and high
15 school districts of the state. The proceeds of this
16 appropriation shall be deposited to the state special
17 revenue fund, permissive account, and shall be distributed
18 to the elementary and high school districts in accordance
19 with their entitlements as determined by the superintendent
20 of public instruction according to the provisions of
21 subsections (1) and (2) of this section.

22 (4)(3) Distribution under this section from the state
23 special revenue fund shall be made in two payments. The
24 first payment shall be made at the same time as the first
25 distribution of state equalization aid is made after January

1 ~~of the fiscal year. The second payment shall be made at~~
 2 ~~the same time as the last payment of state equalization aid~~
 3 ~~is made for the fiscal year. If the appropriation is not~~
 4 ~~sufficient to finance the deficiencies of the districts as~~
 5 ~~determined according to subsection (2), each district will~~
 6 ~~receive the same percentage of its deficiency. Surplus~~
 7 ~~revenue in the second year of the biennium may be used to~~
 8 ~~reduce the appropriation required for the next succeeding~~
 9 ~~biennium or may be transferred to the state equalization aid~~
 10 ~~state special revenue fund if revenues in that fund are~~
 11 ~~insufficient to meet foundation program requirements."~~

12 NEW SECTION. Section 43. Surtax. After the amount of
 13 tax liability has been computed as required in 15-30-103,
 14 each person filing a Montana individual income tax return
 15 shall add as a surtax ~~10%~~ 20% of the tax liability, and the
 16 amount so arrived at is the amount due the state.

17 NEW SECTION. Section 44. Repealer. Sections 15-30-112
 18 through 15-30-117, 15-30-121 through 15-30-123, 15-30-125,
 19 15-30-126, 15-30-156, 15-30-157, 15-30-161, 15-31-201, and
 20 ~~20-9-351~~ 15-31-208, MCA, are repealed.

21 NEW SECTION. Section 45. Codification instruction.
 22 Sections ~~57-87 and 31~~ 10, 13, AND 43 are intended to be
 23 codified as an integral part of Title 15, chapter 30, part
 24 1, and the provisions of Title 15, chapter 30, part 1, apply
 25 to sections ~~57-87 and 31~~ 10, 13, AND 43.

1 NEW SECTION. Section 46. Extension of authority. Any
 2 existing authority of the department of revenue to make
 3 rules on the subject of the provisions of this act is
 4 extended to the provisions of this act.

5 NEW SECTION. Section 47. Effective date --
 6 applicability. (1) This act is effective on passage and
 7 approval.

8 (2) Unless otherwise specified or required by a
 9 particular section of this act, sections 1 through ~~24~~ 22, 27
 10 THROUGH 37, AND 44 apply retroactively, within the meaning
 11 of 1-2-109, to tax years beginning after December 31, 1986.

12 (3) SECTIONS 23 THROUGH 26 APPLY RETROACTIVELY, WITHIN
 13 THE MEANING OF 1-2-109, TO ALL SMALL BUSINESS CORPORATIONS
 14 THAT HAVE MADE A VALID ELECTION UNDER SUBCHAPTER S OF
 15 CHAPTER 1 OF THE INTERNAL REVENUE CODE ON OR BEFORE DECEMBER
 16 31, 1986, AND FOR TAX YEARS ENDING AFTER DECEMBER 31, 1986.

17 NEW SECTION. SECTION 48. COORDINATION INSTRUCTION.
 18 IF HOUSE BILL NO. 377 IS PASSED AND APPROVED, THIS ACT IS
 19 VOID.

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