

HB 902 INTRODUCED BY HARP, ET AL.
INCOME TAX REVISION AND FUNDING FOR SCHOOLS

3/26 INTRODUCED
3/26 REFERRED TO TAXATION
3/26 FISCAL NOTE REQUESTED
4/03 FISCAL NOTE RECEIVED
4/06 TABLED IN COMMITTEE

1 House BILL NO. 902
2 INTRODUCED BY HARP (Wanda) Miller Moore

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTANA
5 INDIVIDUAL INCOME TAX SYSTEM, TO INCREASE THE CONTRIBUTION
6 TO STATE EQUALIZATION, AND TO ADJUST THE FOUNDATION PROGRAM
7 SCHEDULES FOR ELEMENTARY SCHOOLS AND HIGH SCHOOLS FOR THE
8 PURPOSE OF BALANCING THE FISCAL 1988-89 GENERAL FUND BUDGET;
9 TO APPROPRIATE FUNDS FOR EQUALIZATION AID FOR SCHOOLS;
10 AMENDING SECTIONS 1-1-207, 7-14-1133, 7-34-2416, 15-1-101,
11 15-1-501, 15-30-101, 15-30-103, 15-30-105, 15-30-111,
12 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-141,
13 15-30-142, 15-30-144, 15-30-146, 15-30-162, 15-30-303,
14 15-31-202, 15-31-204, 15-31-209, 15-32-402, 17-5-408,
15 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805,
16 19-9-1005, 19-13-1003, 20-9-316 THROUGH 20-9-319, 20-9-343,
17 53-2-101, AND 67-11-303, MCA; REPEALING 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 15-31-208, MCA; AND PROVIDING EFFECTIVE DATES, A RETROACTIVE
21 APPLICABILITY DATE, AND A TERMINATION DATE."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
24 Section 1. Section 1-1-207, MCA, is amended to read:
25 "1-1-207. Miscellaneous terms. Unless the context

1 requires otherwise, the following definitions apply in the
2 Montana Code Annotated:

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

9 (2) "Internal Revenue Code" means the Internal Revenue
10 Title enacted August 16, 1954, and redesignated as the
11 "Internal Revenue Code of 1986" by section 2 of Public Law
12 99-514, as amended.

13 ~~(2)~~(3) "Peace officer" means any person described in
14 46-1-201(8).

15 ~~(3)~~(4) "Vessel", when used in reference to shipping,
16 includes ships of all kinds, steamboats and steamships,
17 canal boats, and every structure adapted to be navigated
18 from place to place."

19 Section 2. Section 7-14-1133, MCA, is amended to read:
20 "7-14-1133. Bonds and obligations. (1) An authority
21 may borrow money for any of its corporate purposes and issue
22 bonds therefor, including refunding bonds, in such form and
23 upon such terms as it determines, payable out of any
24 revenues of the authority, including revenues derived from:

25 (a) any port or transportation and storage facility;



1 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
 2 (c) grants or contributions from the federal
 3 government; or

4 (d) other sources.

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

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

1 such principal and interest are payable.

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

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

18 Section 3. Section 7-34-2416, MCA, is amended to read:

19 "7-34-2416. Tax-exempt status of bonds. Bonds issued
 20 by a county pursuant to the provisions of 7-34-2411 through
 21 7-34-2418 are declared to be issued for an essential public
 22 and governmental purpose by a political subdivision ~~within~~
 23 the meaning of 15-30-111(2)(a) for purposes of tax exemption
 24 determinations under the Internal Revenue Code."

25 Section 4. Section 15-1-101, MCA, is amended to read:

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

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

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

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

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

21 (ii) The following types of property are not
22 commercial:

- 23 (A) agricultural lands;
- 24 (B) timberlands;
- 25 (C) single-family residences and ancillary

1 improvements and improvements necessary to the function of a
2 bona fide farm, ranch, or stock operation;

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

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

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

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

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

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

16 (g) The term "improvements" includes all buildings,
17 structures, fences, and improvements situated upon, erected
18 upon, or affixed to land. When the department of revenue or
19 its agent determines that the permanency of location of a
20 mobile home or housetrailer has been established, the mobile
21 home or housetrailer is presumed to be an improvement to
22 real property. A mobile home or housetrailer may be
23 determined to be permanently located only when it is
24 attached to a foundation which cannot feasibly be relocated
25 and only when the wheels are removed.

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

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

12 (i)(j) The term "livestock" means cattle, sheep,
 13 swine, goats, horses, mules, and asses.

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

21 (k)(l) The term "personal property" includes
 22 everything that is the subject of ownership but that is not
 23 included within the meaning of the terms "real estate" and
 24 "improvements".

25 (i)(m) The term "poultry" includes all chickens,

1 turkeys, geese, ducks, and other birds raised in
 2 domestication to produce food or feathers.

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

10 (n)(o) The term "real estate" includes:

11 (i) the possession of, claim to, ownership of, or
 12 right to the possession of land;

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

18 (o)(p) The term "taxable value" means the percentage
 19 of market or assessed value as provided for in 15-6-131
 20 through 15-6-140.

21 (2) The phrase "municipal corporation" or
 22 "municipality" or "taxing unit" shall be deemed to include a
 23 county, city, incorporated town, township, school district,
 24 irrigation district, drainage district, or any person,
 25 persons, or organized body authorized by law to establish

1 tax levies for the purpose of raising public revenue.

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

5 NEW SECTION. Section 5. Income tax windfall reserve
6 account. (1) There is an income tax windfall reserve account
7 in the state special revenue fund.

8 (2) For fiscal years 1988 and 1989, the first \$12.5
9 million received in each fiscal year from the collection of
10 individual income taxes under Title 15, chapter 30, must be
11 deposited in the income tax windfall reserve account in the
12 state special revenue fund for the purpose of providing a
13 reserve to offset the impact of potential overestimates of
14 the income tax windfall revenues to the state.

15 (3) The balance in the income tax windfall reserve
16 account at the end of the 1989 fiscal year must be
17 transferred to the general fund and included in the ending
18 general fund balance.

19 Section 6. Section 15-1-501, MCA, is amended to read:

20 "15-1-501. Disposition of moneys from certain
21 designated license and other taxes. (1) The state treasurer
22 shall deposit to the credit of the state general fund all
23 moneys received by him from the collection of:

24 (a) fees from driver's licenses, motorcycle
25 endorsements, and duplicate driver's licenses as provided in

1 61-5-121;

2 (b) electrical energy producer's license taxes under
3 chapter 51;

4 (c) severance taxes allocated to the general fund
5 under chapter 36;

6 (d) liquor license taxes under Title 16;

7 (e) telephone [company] license taxes under chapter
8 53; and

9 (f) inheritance and estate taxes under Title 72,
10 chapter 16.

11 ~~(2) Seventy-five percent of all moneys received from
12 the collection of income taxes under chapter 30 and
13 corporation license and income taxes under chapter 31,
14 except as provided in 15-31-702, shall be deposited in the
15 general fund subject to the prior pledge and appropriation
16 of such income tax and corporation license tax collections
17 for the payment of long-range building program bonds. The
18 remaining 25% of the proceeds of the corporation license
19 tax, excluding that allocated to the counties under
20 15-31-702, corporation income tax, and income tax shall be
21 deposited to the credit of the state special revenue fund
22 for state equalization aid to the public schools of Montana.
23 All moneys received from the collection of income taxes
24 under chapter 30 of this title that is not deposited in the
25 income tax windfall reserve account pursuant to [section 5]~~

1 shall be deposited as follows:

- 2 (a) 61.7% to the credit of the state general fund;
 3 (b) 9.1% to the credit of the debt service account for
 4 long-range building program bonds as described in 17-5-408;
 5 and
 6 (c) 29.2% to the credit of the state special revenue
 7 fund for state equalization aid to the public schools of
 8 Montana as described in 20-9-343.

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

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

20 ~~(3)~~(4) The state treasurer shall also deposit to the
 21 credit of the state general fund all moneys received by him
 22 from the collection of license taxes, fees, and all net
 23 revenues and receipts from all other sources under the
 24 operation of the Montana Alcoholic Beverage Code.

25 ~~(4)~~(5) Thirty-three and one-third percent of the total

1 collections of the oil severance tax under chapter 36 shall
 2 be deposited into the local government block grant account
 3 within the state special revenue fund. After the
 4 distribution provided for in 15-36-112, the remainder of the
 5 oil severance tax collections shall be deposited in the
 6 general fund."

7 Section 7. Section 15-30-101, MCA, is amended to read:
 8 "15-30-101. Definitions. For the purpose of this
 9 chapter, unless otherwise required by the context, the
 10 following definitions apply:

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

13 ~~(a) the tax brackets established in 15-30-103, but~~
 14 ~~unadjusted by subsection (2) (3) of 15-30-103, in effect on~~
 15 ~~June 30 of the taxable year;~~

16 ~~(b) the exemptions contained in 15-30-112, but~~
 17 ~~unadjusted by subsections (7) and (8) of 15-30-112, in~~
 18 ~~effect on June 30 of the taxable year;~~

19 ~~(c) the maximum standard deduction provided in~~
 20 ~~15-30-122, but unadjusted by subsection (2) of 15-30-122, in~~
 21 ~~effect on June 30 of the taxable year.~~

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

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

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

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

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

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

22 (8) "Inflation factor" means a number determined for
23 each taxable year by dividing the consumer price index for
24 June of the taxable year by the consumer price index for
25 June ~~7-1980~~ 1987.

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

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

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

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

23 ~~(12)~~(13) "Paid", for the purposes of the deductions and
24 credits under this chapter, means paid or accrued or paid or
25 incurred, and the terms "paid or incurred" and "paid or

1 accrued" shall be construed according to the method of
2 accounting upon the basis of which the taxable income is
3 computed under this chapter.

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

7 ~~(13)~~(15) "Purposely" is as defined in 45-2-101.

8 ~~(14)~~(16) "Received", for the purpose of computation of
9 taxable income under this chapter, means received or accrued
10 and the term "received or accrued" shall be construed
11 according to the method of accounting upon the basis of
12 which the taxable income is computed under this chapter.

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

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

24 ~~(17)~~(18) "Taxable year" means the taxpayer's taxable
25 year for federal income tax purposes.

1 ~~(18)~~(19) "Taxpayer" includes any person or fiduciary,
2 resident or nonresident, subject to a tax imposed by this
3 chapter and does not include corporations."

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

5 "15-30-103. Rate of tax. (1) There shall be levied,
6 collected, and paid for each taxable year commencing on or
7 after December 31, 1968 1986, upon the net taxable income of
8 every taxpayer subject to this tax, ~~after making allowance~~
9 ~~for exemptions and deductions as hereinafter provided except~~
10 ~~those subject to subsection (2),~~ a tax on the following
11 brackets of net taxable income, as adjusted under subsection
12 ~~(2)~~ (3), at the following rates:

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

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

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

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

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

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

25 ~~(g) on the next \$4,000 of taxable income or any part~~

1 ~~thereof, 8%;~~
 2 ~~(h) -- on the next \$6,000 of taxable income or any part~~
 3 ~~thereof, 9%;~~
 4 ~~(i) -- on the next \$15,000 of taxable income or any part~~
 5 ~~thereof, 10%;~~
 6 ~~(j) -- on any taxable income in excess of \$35,000 or any~~
 7 ~~part thereof, 11%;~~
 8 (a) \$0 to \$4,500 of net taxable income, 3% of net
 9 taxable income;
 10 (b) over \$4,500 to \$12,000 of net taxable income, \$135
 11 plus 5% of net taxable income over \$4,500;
 12 (c) over \$12,000 of net taxable income, \$510 plus 7%
 13 of net taxable income over \$12,000.
 14 (2) There shall be levied, collected, and paid for
 15 each taxable year commencing on or after December 31, 1986,
 16 upon the net taxable income of every taxpayer filing a
 17 return using the married filing separate status a tax on the
 18 following brackets of net taxable income, as adjusted under
 19 subsection (3), at the following rates:
 20 (a) \$0 to \$2,250 of net taxable income, 3% of net
 21 taxable income;
 22 (b) over \$2,250 to \$6,000 of net taxable income,
 23 \$67.50 plus 5% of net taxable income over \$2,250;
 24 (c) over \$6,000 of net taxable income, \$255 plus 7% of
 25 net taxable income over \$6,000.

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

9 Section 9. Section 15-30-105, MCA, is amended to read:
 10 "15-30-105. Tax on nonresident -- alternative tax
 11 based on gross sales. (1) A like tax is imposed upon every
 12 person not resident of this state, which tax shall be
 13 levied, collected, and paid annually at the rates specified
 14 in 15-30-103 with respect to his entire net income as herein
 15 defined from all property owned and from every business,
 16 trade, profession, or occupation carried on in this state.

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

1 shall be in lieu of the tax taxes imposed under 15-30-103
 2 and [section 10]. The gross volume of sales made in Montana
 3 during the taxable year shall be determined according to the
 4 provisions of Article IV, sections 16 and 17, of the
 5 Multistate Tax Compact."

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

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

13 (a) is required by section 55 of the Internal
 14 Revenue Code, to pay a federal alternative minimum
 15 tax; or

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

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

23 (3) A person who is a nonresident or who is a
 24 part-year resident of Montana shall file a Montana
 25 alternative minimum tax return if he has one or more tax

1 preference items as defined in sections 55 through 59 of the
 2 Internal Revenue Code that are attributable to income
 3 derived from sources in this state and that income exceeds:

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

7 (4) For a resident, the taxpayer's federal alternative
 8 minimum taxable income, less the applicable exemption amount
 9 provided for in section 55 of the Internal Revenue Code,
 10 must be increased by the amount of interest received from
 11 obligations of another state or political subdivision
 12 thereof, which sum shall be reduced by 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, less
 21 the applicable exemption amount provided for in section 55
 22 of the Internal Revenue Code, must be prorated to determine
 23 his Montana alternative minimum taxable income. The prorated
 24 income is arrived at by dividing the Montana income
 25 determined pursuant to 15-30-131 or [section 13] by the

1 federal adjusted gross income and multiplying this
2 percentage by the taxpayer's federal alternative minimum
3 taxable income.

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

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

11 (i) all interest received from obligations of the
12 United States government;

13 (ii) all railroad retirement benefits; and

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

17 (d) For residents, nonresidents, and part-year
18 residents, a tax rate of 5% shall be applied to
19 the Montana alternative minimum taxable income. The
20 taxpayer shall pay the greater amount of the Montana
21 alternative minimum tax or the tax provided for
22 in:

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

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

25 (iii) [section 13], if a part-year resident.

1 (6) Each taxpayer shall furnish with his Montana
2 alternative minimum tax return a copy of his federal
3 alternative minimum tax return.

4 Section 11. Section 15-30-111, MCA, is amended to
5 read:

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

13 (a) all interest received on obligations of another
14 state ~~or--territory--or--county,-municipality,-district,~~ or
15 other political subdivision thereof;

16 (b) all refunds received of federal income tax in
17 1987, to the extent the deduction of such tax resulted in a
18 reduction of Montana income tax liability; ~~and~~

19 ~~(c)--that--portion--of--a--shareholder's--income--under~~
20 ~~subchapter--S;--of--Chapter-i-of-the-internal-Revenue-Code-of~~
21 ~~1954-that-has-been-reduced-by-any-federal-taxes-paid-by--the~~
22 ~~subchapter-S;-corporation-on-the-income.~~

23 (2) Notwithstanding the provisions of the federal
24 Internal Revenue Code ~~of--1954--as--labeled--or--amended,~~
25 ~~adjusted--gross,~~ Montana net taxable income does not include

1 the following, which are exempt from taxation under this
2 chapter:

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

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

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

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

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

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

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

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

25 (i) all benefits paid under 19-11-602, 19-11-604, and

1 19-11-605 to retired and disabled firefighters, their
2 surviving spouses and orphans;

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

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

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

13 (m) all benefits received under the workers'
14 compensation laws; and

15 (n) all health insurance premiums paid by an employer
16 for an employee if attributed as income to the employee
17 under federal law;

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

1 included in the shareholder's federal income tax adjusted
 2 gross income by reason of the said election under subchapter
 3 B. However, the shareholder's adjusted gross income shall
 4 include actual distributions from the corporation to the
 5 extent they would be treated as taxable dividends if the
 6 subchapter B election were not in effect.

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

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

25 (6) Married taxpayers filing a joint federal return

1 who must include part of their social security benefits or
 2 part of their tier 1 railroad retirement benefits in federal
 3 adjusted gross income may split the federal base used in
 4 calculation of federal taxable social security benefits or
 5 federal taxable tier 1 railroad retirement benefits when
 6 they file separate Montana income tax returns. The federal
 7 base must be split equally on the Montana return.

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

1 ~~impairment--lasting--or--expected--to--last--at--least--12--months--~~

2 (b) all railroad retirement benefits;

3 (c) all benefits, not in excess of \$3,600, received as
4 an annuity, pension, or endowment under any public, private,
5 or corporate retirement plan or system other than a railroad
6 retirement plan;

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

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

17 "15-30-131. Nonresident---and---temporary---resident
18 taxpayers---adjusted-gross-income---deductions Montana net
19 taxable income for nonresidents. (1) In--the--case--of--a
20 taxpayer--other--than--a--resident--of--this--state, Montana net
21 taxable income for nonresidents is derived from adjusted
22 gross income from sources within and without the state,
23 determined as follows:

24 (a) Montana adjusted gross income includes the entire
25 amount of federal adjusted gross income from sources within

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

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

19 ~~(3)--In-the-case-of-a-taxpayer-other-than-a-resident-of~~
20 ~~this-state-who-is-a-resident-of-a-state-that-does-not-impose~~
21 ~~a--tax-on-the-income-of-natural-persons-residing-within-that~~
22 ~~state,-the-deductions-allowed-in-computing--net--income--are~~
23 ~~restricted--to-the-greater-of-those-directly-relating-to-the~~
24 ~~production-of-Montana-income-or-a-prorated-amount--of--those~~
25 ~~allowed---under---15-30-121.---For---the--purposes--of--this~~

1 subsection, deductions allowed under 15-30-121 apply only to
 2 earned income and must be prorated according to the ratio
 3 that the taxpayer's Montana earned income bears to his
 4 federal earned income.

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

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

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

21 (b) To determine his Montana net taxable income, a
 22 nonresident may deduct from his Montana adjusted gross
 23 income only the following items:

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

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

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

5 (iv) all sums donated to:

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

10 (B) the state of Montana or a political subdivision or
 11 agency thereof;

12 (v) all railroad retirement benefits;

13 (vi) all interest received from United States
 14 obligations;

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

18 (viii) interest and taxes on Montana property used for
 19 the production of Montana income.

20 (c) The prorated part referred to in subsections
 21 (1)(b)(i) through (1)(b)(iii) is determined by multiplying
 22 the ratio of Montana adjusted gross income to federal
 23 adjusted gross income by the federally allowed deductions
 24 specified in subsections (1)(b)(i) through (1)(b)(iii).

25 (d) The department may adopt rules for allocating and

1 apportioning adjusted gross income from sources within and
2 without this state.

3 (7)(2) For purposes of this section, "installment
4 sales" means sales in which the buyer agrees to pay the
5 seller in one or more deferred installments.

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

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

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

21 (a) Montana adjusted gross income includes federal
22 adjusted gross income from all sources received during the
23 period of residency and all interest income from installment
24 sales of real or tangible commercial or business property
25 located in Montana, less the following:

1 (i) all interest received from obligations of the
2 United States government;

3 (ii) all railroad retirement income; and

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

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

10 (i) income from annuities;

11 (ii) interest on bank deposits;

12 (iii) interest on bonds, notes, or other
13 interest-bearing obligations; or

14 (iv) dividends on stock of corporations.

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

17 Section 14. Section 15-30-132, MCA, is amended to
18 read:

19 "15-30-132. Change from--nonresident--to--resident-or
20 vice-versa of residency status. If a--taxpayer--changes--his
21 status--from-that-of-resident-to-that-of-nonresident-or-from
22 that-of-nonresident-to-that-of-resident-during--the--taxable
23 year,--he--shall--file-a-return-covering-the-fraction-of-the
24 year-during-which-he-was-a-resident--The-exemptions-provided
25 in-15-30-112-shall-be-prorated--on--the--ratio--the--Montana

1 ~~adjusted--gross--income--bears--to--federal--adjusted--gross~~
 2 ~~income.~~ A Montana citizen moving out of the state,
 3 abandoning his residence in the state, and establishing a
 4 residence elsewhere must file a return ~~on--the--fractional~~
 5 ~~basis.~~ If he obtains employment outside the state without
 6 abandoning his Montana residence, then income from such
 7 employment is taxable in Montana."

8 Section 15. Section 15-30-135, MCA, is amended to
 9 read:

10 "15-30-135. Tax on beneficiaries or fiduciaries of
 11 estates or trusts. (1) A tax shall be imposed upon either
 12 the fiduciaries or the beneficiaries of estates and trusts
 13 as hereinafter provided, except to the extent such estates
 14 and trusts ~~shall-be~~ are held for educational, charitable, or
 15 religious purposes, which tax shall be levied, collected,
 16 and paid annually with respect to the income of estates or
 17 of any kind of property held in trust, including:

18 (a) income received by estates of deceased persons
 19 during the period of administration or settlement of the
 20 estate;

21 (b) income accumulated in trust for the benefit of
 22 unborn or unascertained persons or persons with contingent
 23 interests;

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

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

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

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

1 computed. In such cases, a beneficiary not a resident shall
2 be taxable with respect to his income derived through such
3 estate or trust only to the extent provided in 15-30-131 for
4 individuals other than residents.

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

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

1 Section 16. Section 15-30-136, MCA, is amended to
2 read:

3 "15-30-136. Computation of income of estates or trusts
4 ~~---exemption. (i)---Except---as---otherwise---provided---in---this~~
5 ~~chapter,---"gross---income"---of---estates---or---trusts---means---all~~
6 ~~income---from---whatever---source---derived---in---the---taxable---year,~~
7 ~~including---but---not---limited---to---the---following---items:~~

8 (a) ~~---dividends;~~

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

14 (i) ~~---the---United---States---government---or---the---state---of~~
15 ~~Montana;~~

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

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

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

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

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

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

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

4 (2)--in-computing-net--income,--there--are--allowed--as
5 deductions;

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

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

12 (c)--that---fiduciary's---portion--of--depreciation--or
13 depletion-which--is--deductible--for--federal--tax--purposes
14 according--to--sections--167,--611,--and-642-of-the-Internal
15 Revenue-Code-of-1954,--as-amended;

16 (d)--charitable-contributions-that-are--deductible--for
17 federal--tax--purposes--according--to--section-642(c)-of-the
18 Internal-Revenue-Code-of-1954,--as-amended;

19 (e)--administrative-expenses-claimed-for-federal-income
20 tax-purposes,--according-to-sections-212-and--642(g)--of--the
21 Internal--Revenue-Code-of-1954,--as-amended,--if-such-expenses
22 were-not-claimed-as-a--deduction--in--the--determination--of
23 Montana-inheritance-tax;

24 (f)--losses--from--fire,--storm,--shipwreck,--or--other
25 casualty-or-from-theft,--to-the-extent-not-compensated-for-by

1 insurance-or-otherwise,--that-are-deductible-for-federal--tax
2 purposes--according--to--section-165-of-the-Internal-Revenue
3 Code-of-1954,--as-amended;

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

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

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

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

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

19 (l)--Montana-income-tax-refunds-or-credits-thereof;

20 (m)--all-benefits-paid-under-19-11-602,--19-11-604,--and
21 19-11-605-to-retired-and-disabled-firemen-or-their-surviving
22 spouses-or-children;

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

1 ~~(1) all benefits not in excess of \$360 received as an~~
 2 ~~annuity, pension, or endowment under private or corporate~~
 3 ~~retirement plans or systems;~~

4 ~~(3) in the case of a shareholder of a corporation with~~
 5 ~~respect to which the election provided for under subchapter~~
 6 ~~S7 of the Internal Revenue Code of 1954, as amended, is in~~
 7 ~~effect but with respect to which the election provided for~~
 8 ~~under 15-31-202 is not in effect, net income does not~~
 9 ~~include any part of the corporation's undistributed taxable~~
 10 ~~income, net operating loss, capital gains or other gains,~~
 11 ~~profits, or losses required to be included in the~~
 12 ~~shareholder's federal income tax net income by reason of the~~
 13 ~~election under subchapter S7. However, the shareholder's net~~
 14 ~~income shall include actual distribution from the~~
 15 ~~corporation to the extent it would be treated as taxable~~
 16 ~~dividends if the subchapter S7 election were not in effect.~~

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

23 ~~(4)(2) The following additional deductions shall be a~~
 24 ~~deduction is allowed in deriving taxable income of estates~~
 25 ~~and trusts:~~

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

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

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

9 ~~(5) The exemption allowed for estates and trusts is~~
 10 ~~that exemption provided in 15-30-112(2)(a) and~~
 11 ~~15-30-112(8)."~~

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

14 "15-30-141. Tax as personal debt. Every tax imposed by
 15 this chapter and all increases, interest, and penalties
 16 thereon shall be are from the time they are due and payable
 17 a personal debt from the person or fiduciary liable to pay
 18 the same to the state. Taxpayers filing a joint return are
 19 jointly and severally liable for the tax and any interest
 20 and penalty unless the department determines, based on the
 21 criteria in section 6013(e) of the Internal Revenue Code,
 22 that a spouse is relieved of liability."

23 Section 18. Section 15-30-142, MCA, is amended to
 24 read:

25 "15-30-142. Returns Filing of returns and payment of

1 tax ---penalty-and-interest---refunds---credits. (1) Every
 2 single individual and every married individual not filing a
 3 joint return with his or her spouse and having a gross
 4 income for the taxable year of more than \$17,000, as adjusted
 5 under the provisions of subsection (7), and married
 6 individuals not filing separate returns and having a
 7 combined gross income for the taxable year of more than
 8 \$27,000, as adjusted under the provisions of subsection (7)
 9 subject to a tax pursuant to this chapter who is required by
 10 section 6012 of the Internal Revenue Code to file a federal
 11 income tax return or who receives income in excess of \$5,000
 12 from obligations of another state or a political subdivision
 13 thereof, shall be is liable for a return to be filed on such
 14 forms and according to such rules as the department may
 15 prescribe. The gross income amounts referred to in the
 16 preceding sentence shall be increased by \$800, as adjusted
 17 under the provisions of 15-30-112(7) and (8), for each
 18 additional personal exemption allowance the taxpayer is
 19 entitled to claim for himself and his spouse under
 20 15-30-112(3) and (4). A nonresident shall be required to
 21 file a return if his gross income for the taxable year
 22 derived from sources within Montana exceeds the amount of
 23 the exemption deduction he is entitled to claim for himself
 24 and his spouse under the provisions of 15-30-112(2), (3),
 25 and (4), as prorated according to 15-30-112(6).

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

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

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

21 (4) All taxpayers, including but not limited to those
 22 subject to the provisions of 15-30-202 and 15-30-241, shall
 23 compute the amount of income tax payable and shall, at the
 24 time of filing the return required by this chapter, pay to
 25 the department any balance of income tax remaining unpaid

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

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

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

21 ~~{7}--By--November--1--of--each--year,--the--department--shall~~
 22 ~~multiply--the--minimum--amount--of--gross--income--necessitating~~
 23 ~~the--filing--of--a--return--by--the--inflation--factor--for--the~~
 24 ~~taxable--year.--These--adjusted--amounts--are--effective--for--that~~
 25 ~~taxable--year,--and--persons--having--gross--incomes--less--than~~

1 ~~these--adjusted--amounts--are--not--required--to--file--a--return;~~

2 ~~{8}--Individual--income--tax--forms--distributed--by--the~~
 3 ~~department--for--each--taxable--year--must--contain--instructions~~
 4 ~~and--tables--based--on--the--adjusted--base--year--structure--for~~
 5 ~~that--taxable--year."~~

6 Section 19. Section 15-30-144, MCA, is amended to
 7 read:

8 "15-30-144. Time for filing -- extensions of time. (1)
 9 Returns shall be made to the department on or before the
 10 15th day of the 4th month following the close of the
 11 taxpayer's fiscal year, or if the return is made on the
 12 basis of the calendar year, then the return shall be made on
 13 or before the 15th day of April following the close of the
 14 calendar year. Each return shall set forth such facts as the
 15 department considers necessary for the proper enforcement of
 16 this chapter. There shall be annexed to such return the
 17 affidavit or affirmation of the persons making the return to
 18 the effect that the statements contained therein are true.
 19 Blank forms of return shall be furnished by the department
 20 upon application, but failure to secure the form shall not
 21 relieve any taxpayer of the obligation to make any return
 22 required under this law. ~~Every taxpayer liable for a tax~~
 23 ~~under this law shall pay a minimum tax of \$1.~~

24 ~~{2}--An--automatic--6--month--extension--of--time--for--filing~~
 25 ~~a--return--is--allowed,--provided--that--on--or--before--the--due--date~~

1 ~~of--the--return,--an--application-is-made-on-forms-available~~
 2 ~~from-the-department-or-in-writing-to-the-department.~~

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

6 (a) An application for extension must be filed before
 7 the due date for filing the return on a form prescribed by
 8 the department.

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

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

18 (d) If the applicant underestimates his tax due by 10%
 19 or more, he is liable for penalties and interest under
 20 15-30-323 from the date the tax is due.

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

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

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

10 "15-30-146. Tolling of statute of limitations. The
 11 running of the statute of limitations provided for under
 12 15-30-145 shall be suspended during any period that the
 13 federal statute of limitations for collection of federal
 14 income tax has been suspended by written agreement signed by
 15 the taxpayer or when the taxpayer has instituted an action
 16 which has the effect of suspending the running of the
 17 federal statute of limitations and for 1 additional year.
 18 If the taxpayer fails to file a record of changes in federal
 19 taxable income or an amended return as required by
 20 15-30-304, the statute of limitations shall not apply until
 21 5 years from the date the federal changes become final or
 22 the amended federal return was filed. If the taxpayer omits
 23 from gross income an amount properly includable therein
 24 which is in excess of 25% of the amount of adjusted-gross
 25 net taxable income stated in the return, the statute of

1 limitations shall not apply for 2 additional years from the
2 time specified in 15-30-145."

3 Section 21. Section 15-30-162, MCA, is amended to
4 read:

5 "15-30-162. Investment credit recapture. {1} There is
6 allowed as a credit against the tax imposed by 15-30-103 a
7 percentage of the credit allowed with respect to certain
8 depreciable property under section 38 of the Internal
9 Revenue Code of 1954, as amended, or as section 38 may be
10 renumbered or amended. However, rehabilitation costs as set
11 forth under section 46(a)(2)(F) of the Internal Revenue Code
12 of 1954, or as section 46(a)(2)(F) may be renumbered or
13 amended, are not to be included in the computation of the
14 investment credit. The credit is allowed for the purchase
15 and installation of certain qualified property defined by
16 section 38 of the Internal Revenue Code of 1954, as amended,
17 if the property meets all of the following qualifications:

18 {a} it was placed in service in Montana; and
19 {b} it was used for the production of Montana adjusted
20 gross income;

21 {2} The amount of the credit allowed for the taxable
22 year is 5% of the amount of credit determined under section
23 46(a)(2) of the Internal Revenue Code of 1954, as amended,
24 or as section 46(a)(2) may be renumbered or amended;

25 {3} Notwithstanding the provisions of subsection {2},

1 the investment credit allowed for the taxable year may not
2 exceed the taxpayer's tax liability for the taxable year or
3 \$500, whichever is less;

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

18 {5} The investment credit allowed by this section
19 taken by a taxpayer pursuant to this chapter is subject to
20 recapture as provided for in section 47 of the Internal
21 Revenue Code of 1954, as amended, or as section 47 may be
22 renumbered or amended."

23 Section 22. Section 15-30-303, MCA, is amended to
24 read:

25 "15-30-303. Confidentiality of tax records. (1) Except

1 in accordance with proper judicial order or as otherwise
 2 provided by law, it is unlawful for the department or any
 3 deputy, assistant, agent, clerk, or other officer or
 4 employee to divulge or make known in any manner the amount
 5 of income or any particulars set forth or disclosed in any
 6 report or return required under this chapter or any other
 7 information secured in the administration of this chapter.
 8 It is also unlawful to divulge or make known in any manner
 9 any federal return or federal return information disclosed
 10 on any return or report required by rule of the department
 11 or under this chapter.

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

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

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

4 (b) the publication of statistics so classified as to
 5 prevent the identification of particular reports or returns
 6 and the items thereof; or

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

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

16 (5) Any offense against subsections (1) through (4) of
 17 this section shall be punished by a fine not exceeding
 18 \$1,000 or by imprisonment in the county jail not exceeding 1
 19 year, or both, at the discretion of the court, and if the
 20 offender be an officer or employee of the state, he shall be
 21 dismissed from office and be incapable of holding any public
 22 office in this state for a period of 1 year thereafter.

23 (6) Notwithstanding the provisions of this section,
 24 the department may permit the commissioner of internal
 25 revenue of the United States or the proper officer of any

1 state imposing a tax upon the incomes of individuals or the
 2 authorized representative of either such officer to inspect
 3 the return of income of any individual or may furnish to
 4 such officer or his authorized representative an abstract of
 5 the return of income of any individual or supply him with
 6 information concerning any item of income contained in any
 7 return or disclosed by the report of any investigation of
 8 the income or return of income of any individual, but such
 9 permission shall be granted or such information furnished to
 10 such officer or his representative only if the statutes of
 11 the United States or of such other state, as the case may
 12 be, grant substantially similar privileges to the proper
 13 officer of this state charged with the administration of
 14 this chapter.

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

17 (a) to the department of justice all information
 18 necessary to identify those persons qualifying for the
 19 additional exemption for blindness pursuant to 15-30-112(4),
 20 for the purpose of enabling the department of justice to
 21 administer the provisions of 61-5-105, and

22 (b) to the department of social and rehabilitation
 23 services information acquired under 15-30-301, pertaining to
 24 an applicant for public assistance, reasonably necessary for
 25 the prevention and detection of public assistance fraud and

1 abuse, provided notice to the applicant has been given."

2 Section 23. Section 15-31-202, MCA, is amended to
 3 read:

4 "15-31-202. Election by small business corporation.
 5 (1) A small business corporation may elect that has made a
 6 valid election under Subchapter S of Chapter 1 of the
 7 Internal Revenue Code is not to be subject to the taxes
 8 imposed by this chapter.

9 ~~(2) If a small business corporation makes an election~~
 10 ~~under subsection (1), then:~~

11 ~~(a) With respect to the taxable years of the~~
 12 ~~corporation for which such election is in effect, such~~
 13 ~~corporation is not subject to the taxes imposed by this~~
 14 ~~chapter and, with respect to such taxable years and all~~
 15 ~~succeeding taxable years, the provisions of this part apply~~
 16 ~~to such corporation, and~~

17 ~~(b) With respect to the taxable years of a shareholder~~
 18 ~~of such corporation in which or with which the taxable years~~
 19 ~~of the corporation for which such election is in effect end,~~
 20 ~~the provisions of this part apply to such shareholder, and~~
 21 ~~with respect to such taxable years and all succeeding~~
 22 ~~taxable years, the provisions of this part apply to such~~
 23 ~~shareholder.~~

24 ~~(3) An election under subsection (1) must be made in~~
 25 ~~accordance with rules prescribed by the department of~~

1 revenue:

2 (2) A small business corporation that has made a valid
 3 election under Subchapter S of Chapter 1 of the Internal
 4 Revenue Code shall file by the 15th day of the third month
 5 of its first taxable year a copy of the internal revenue
 6 service notification or other proof that a valid federal
 7 election has been made. If such proof is not filed by the
 8 time the department receives the corporation's first tax
 9 return, the department shall notify the corporation that
 10 such proof is required within 60 days of the date of the
 11 notice. If proof is not received within 60 days, or by a
 12 reasonable extension date based upon a request by the
 13 taxpayer prior to the expiration of the 60 days, the
 14 corporation is subject to the taxes imposed by this chapter.

15 (3) A small business corporation that has made a valid
 16 election under Subchapter S of Chapter 1 of the Internal
 17 Revenue Code may elect to be subject to the taxes imposed
 18 by this chapter by filing an election on a form provided by
 19 the department. The form must have printed on it a
 20 notification that making the election will subject income to
 21 tax under both this chapter and chapter 30. For tax years
 22 beginning on or after January 1, 1987, but before March 1,
 23 1988, the election must be filed by May 15, 1988.
 24 Thereafter, the election must be filed by the 15th day of
 25 the third month of the taxable year for which the election

1 is to become effective. The election may be revoked by
 2 written notification to the department. Such revocation must
 3 be filed by the 15th day of the third month of the taxable
 4 year for which the revocation is to be effective.

5 (4) This election section is not effective unless the
 6 corporate net income or loss of such---electing the
 7 nonelecting small business corporation is included in the
 8 stockholders' adjusted-gross income as-defined-in-15-30-iii.

9 (5) Every electing nonelecting small business
 10 corporation is required to pay the a minimum fee of \$10
 11 required by 15-31-204."

12 Section 24. Section 15-31-204, MCA, is amended to
 13 read:

14 "15-31-204. Minimum fee of qualifying corporations
 15 unaffected. Notwithstanding the provisions of 15-31-121
 16 corporations electing--and qualifying under 15-31-202 shall
 17 pay a minimum fee of \$10."

18 Section 25. Section 15-31-209, MCA, is amended to
 19 read:

20 "15-31-209. Termination and revocation. If the
 21 election under the provisions of Subchapter S is either
 22 terminated or revoked for federal purposes, the corporation
 23 must notify the department within 30 days of such
 24 termination or revocation. ~~The department may terminate an~~
 25 ~~election at any time if it discovers the corporation does~~

1 ~~not--qualify-as-a-small-business-corporation-as-provided-for~~
 2 ~~under-the-provisions-of-Subchapter-S-of-the-Internal-Revenue~~
 3 ~~Code-of-1954: A corporation that does not have a valid~~
 4 ~~federal election for the entire taxable year is subject to~~
 5 ~~tax under this chapter."~~

6 Section 26. Section 15-32-402, MCA, is amended to
 7 read:

8 "15-32-402. Commercial investment credit --
 9 wind-generated electricity. (1) An individual, corporation,
 10 partnership, or small business corporation as defined in
 11 ~~15-31-201~~ Subchapter S of Chapter 1 of the Internal Revenue
 12 Code that makes an investment of \$5,000 or more in certain
 13 depreciable property qualifying under section 38 of the
 14 Internal Revenue Code ~~of-1954,-as-amended,~~ for a commercial
 15 system located in Montana which generates electricity by
 16 means of wind power is entitled to a tax credit against
 17 taxes imposed by 15-30-103 or 15-31-121 in an amount equal
 18 to 35% of the eligible costs, to be taken as a credit only
 19 against taxes due as a consequence of taxable or net income
 20 produced by one of the following:

21 (a) manufacturing plants located in Montana that
 22 produce wind energy generating equipment;

23 (b) a new business facility or the expanded portion of
 24 an existing business facility for which the wind energy
 25 generating equipment supplies, on a direct contract sales

1 basis, the basic energy needed; or

2 (c) the wind energy generating equipment in which the
 3 investment for which a credit is being claimed was made.

4 (2) For purposes of determining the amount of the tax
 5 credit that may be claimed under subsection (1), eligible
 6 costs include only those expenditures that qualify under
 7 section 38 of the Internal Revenue Code ~~of-1954,-as-amended,~~
 8 and that are associated with the purchase, installation, or
 9 upgrading of:

10 (a) generating equipment;

11 (b) safety devices and storage components;

12 (c) transmission lines necessary to connect with
 13 existing transmission facilities; and

14 (d) transmission lines necessary to connect directly
 15 to the purchaser of the electricity when no other
 16 transmission facilities are available.

17 (3) Eligible costs under subsection (2) must be
 18 reduced by the amount of any grants provided by the state or
 19 federal government for the system."

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

21 "17-5-408. (Effective unless contingency occurs--see
 22 compiler's comments) Percentage of income, corporation
 23 license, and cigarette tax pledged. (1) (a) The state
 24 pledges and appropriates and directs to be credited as
 25 received to the debt service account ~~11%~~ 10% of all money,

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

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

15 (2) The state pledges and appropriates and directs to
 16 be credited to the debt service account 79.75% of all money
 17 received from the collection of the excise tax on cigarettes
 18 which is levied, imposed, and assessed by 16-11-111. The
 19 state also pledges and appropriates and directs to be
 20 credited as received to the debt service account all money
 21 received from the collection of the taxes on other tobacco
 22 products which are or may hereafter be levied, imposed, and
 23 assessed by law for that purpose, including the tax levied,
 24 imposed, and assessed by 16-11-202. Nothing herein shall
 25 impair or otherwise affect the provisions and covenants

1 contained in the resolutions authorizing the presently
 2 outstanding long-range building program bonds. Subject to
 3 the provisions of the preceding sentence, the pledge and
 4 appropriation herein made shall be and remain at all times a
 5 first and prior charge upon all money received from the
 6 collection of all taxes referred to in this subsection (2).
 7 (Revised July 1, 1987--sec. 4, Ch. 704, L. 1985.)

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

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

1 the collection of said taxes.

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

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

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

24 (1) subject to execution, garnishment, attachment, or
25 any other process;

1 (2) subject to state, county, or municipal taxes to
2 the extent provided in 15-30-111, except for a refund paid
3 under 19-3-703 of a member's contributions picked up by an
4 employer after June 30, 1985, as provided in 19-3-701; or

5 (3) assignable except as in this chapter specifically
6 provided."

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

8 "19-4-706. Exemption from ~~taxation~~ taxes and legal
9 process. The pensions, annuities, or any other benefits
10 accrued or accruing to any person under the provisions of
11 the retirement system and the accumulated contributions and
12 cash and securities in the various funds of the retirement
13 system are:

14 (1) exempted from any state, county, or municipal tax
15 of the state of Montana to the extent provided in 15-30-111,
16 except for a refund paid under 19-4-603 of a member's
17 contributions picked up by an employer after June 30, 1985,
18 as provided in 19-4-602;

19 (2) not subject to execution, garnishment, attachment
20 by trustee process or otherwise, in law or equity, or any
21 other process; and

22 (3) unassignable except as specifically provided in
23 this chapter."

24 Section 30. Section 19-5-704, MCA, is amended to read:

25 "19-5-704. Exemption from taxes and legal process. Any

1 money received or to be paid as a member's annuity, state
 2 annuity, or return of deductions or the right of any of
 3 these shall be exempt from any state or municipal tax to the
 4 extent provided in 15-30-111 and from levy, sale,
 5 garnishment, attachment, or any other process whatsoever and
 6 shall be unassignable except as specifically provided in
 7 19-5-705."

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

9 "19-6-705. Exemption from taxes and legal process. Any
 10 money received or to be paid as a member's annuity, state
 11 annuity, or return of deductions or the right of any of
 12 these is:

13 (1) exempt from any state, county, or municipal tax to
 14 the extent provided in 15-30-111, except for a refund paid
 15 under 19-6-403 of a member's contributions picked up by an
 16 employer after June 30, 1985, as provided in 19-6-402;

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

19 (3) unassignable except as specifically provided in
 20 19-6-706."

21 Section 32. Section 19-7-705, MCA, is amended to read:

22 "19-7-705. Exemption from taxes and legal process. Any
 23 money received or to be paid as a member's annuity, state
 24 annuity, or return of deductions or the right of any of
 25 these is:

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

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

7 (3) unassignable except as specifically provided in
 8 19-7-706."

9 Section 33. Section 19-8-805, MCA, is amended to read:

10 "19-8-805. Exemption from taxes and legal process. Any
 11 money received or to be paid as a member's annuity, state
 12 annuity, or return of deductions or the right of any of
 13 these is:

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

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

20 (3) unassignable except as specifically provided in
 21 19-8-806."

22 Section 34. Section 19-9-1005, MCA, is amended to
 23 read:

24 "19-9-1005. Exemption from taxes. Any money paid in
 25 accordance with the provisions of this chapter is exempt

1 from any state, county, or municipal tax to the extent
 2 provided in 15-30-111, except a refund paid under 19-9-304
 3 of a member's contributions picked up by an employer after
 4 June 30, 1985, as provided in 19-9-601."

5 Section 35. Section 19-13-1003, MCA, is amended to
 6 read:

7 "19-13-1003. Exemption from taxes. Any money received
 8 as a retirement allowance in accordance with the provisions
 9 of this chapter is exempt from any state or municipal tax to
 10 the extent provided in 15-30-111."

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

12 "53-2-101. Definitions. Unless the context requires
 13 otherwise, in this chapter the following definitions apply:

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

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

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

23 (4) "Net monthly income" means one-twelfth of the
 24 difference between the net taxable income for the taxable
 25 year as the term net taxable income is defined in 15-30-101

1 and the state income tax paid as determined by the state
 2 income tax return filed during the current year.

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

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

12 "67-11-303. Bonds and obligations. (1) An authority
 13 may borrow money for any of its corporate purposes and issue
 14 its bonds therefor, including refunding bonds, in such form
 15 and upon such terms as it may determine, payable out of any
 16 revenues of the authority, including revenues derived from:

17 (a) an airport or air navigation facility or
 18 facilities;

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

21 (c) grants or contributions from the federal
 22 government; or

23 (d) other sources.

24 (2) The bonds may be issued by resolution of the
 25 authority, without an election and without any limitation of

1 amount, except that no such bonds may be issued at any time
 2 if the total amount of principal and interest to become due
 3 in any year on such bonds and on any then outstanding bonds
 4 for which revenues from the same source or sources are
 5 pledged exceeds the amount of such revenues to be received
 6 in that year as estimated in the resolution authorizing the
 7 issuance of the bonds. The authority shall take all action
 8 necessary and possible to impose, maintain, and collect
 9 rates, charges, rentals, and taxes, if any are pledged,
 10 sufficient to make the revenues from the pledged source in
 11 such year at least equal to the amount of such principal and
 12 interest due in that year.

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

21 (4) Bonds issued by an authority or municipality
 22 pursuant to the provisions of this chapter are declared to
 23 be issued for an essential public and governmental purpose
 24 by a political subdivision ~~within the meaning of~~
 25 ~~15-30-111(2)(a)~~ for purposes of tax exemption determinations

1 under the Internal Revenue Code.

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

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

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

1 resolution, the municipality has no authority to make the
 2 covenant or to levy a tax for the payment of deficiencies
 3 pursuant to this section, but such municipality or authority
 4 may nevertheless issue bonds under this chapter payable
 5 solely from the sources referred to in subsection (1)
 6 above."

7 Section 38. Section 20-9-316, MCA, is amended to read:
 8 "20-9-316. Elementary school maximum budget schedule
 9 for ~~1985-86~~ 1987-88. (1) For each elementary school having
 10 an ANB of nine or fewer pupils, the maximum shall be ~~\$19,959~~
 11 \$19,957 if said school 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 ~~\$19,959~~ \$19,957 plus ~~\$834-10~~
 14 \$834 per pupil on the basis of the average number belonging
 15 over 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 ~~\$32,714~~ \$32,711
 19 plus ~~\$834-10~~ \$834 per pupil on the basis of the average
 20 number belonging over 14.

21 (4) For schools with an ANB of 18 pupils and employing
 22 one teacher, the maximum shall be ~~\$27,466~~ \$27,463 plus
 23 ~~\$834-10~~ \$834 per pupil on the basis of the average number
 24 belonging over 18, 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 ~~\$43,851~~ \$43,847
 2 plus ~~\$522.40~~ \$522.30 per pupil on the basis of the average
 3 number 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 \$1,938
 9 shall be decreased at the rate of \$1.88 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 \$1,825 shall be decreased at the rate
 14 of \$1.72 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 \$1,481 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 Section 39. Section 20-9-317, MCA, is amended to read:

25 "20-9-317. High school maximum budget schedule for

1 ~~1985-86~~ 1987-88. (1) For each high school having an ANB of
 2 24 or fewer pupils, the maximum shall be ~~\$113,700~~ \$113,696.

3 (2) For a secondary school having an ANB of more than
 4 24 pupils, the maximum ~~\$4,730~~ \$4,737 shall be decreased at
 5 the rate of \$25.84 for each additional pupil until the ANB
 6 shall have reached a total of 40 such pupils.

7 (3) For a school having an ANB of more than 40 pupils,
 8 the maximum of \$4,324 shall be decreased at the rate of
 9 \$25.84 for each additional pupil until the ANB shall have
 10 reached 100 pupils.

11 (4) For a school having an ANB of more than 100
 12 pupils, a maximum of \$2,774 shall be decreased at the rate
 13 of \$4.32 for each additional pupil until the ANB shall have
 14 reached 200 pupils.

15 (5) For a school having an ANB of more than 200
 16 pupils, the maximum of ~~\$2,342~~ \$2,341 shall be decreased by
 17 ~~\$2.30~~ \$2.37 for each additional pupil until the ANB shall
 18 have reached 300 pupils.

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

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

24 (8) The maximum per pupil for all pupils (ANB) and for
 25 all high schools shall be computed on the basis of the

1 amount allowed herein on account of the last eligible pupil
2 (ANB). All high schools and junior high schools which have
3 been approved and accredited as junior high schools,
4 operated within the incorporated limits of a city or town,
5 shall be treated as one school for the purpose of this
6 schedule."

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

8 "20-9-318. Elementary school maximum budget schedule
9 for ~~1986-87 and succeeding years~~ for 1988-89 and succeeding
10 years. For ~~1986-87~~ 1988-89 and succeeding school years, the
11 elementary school maximum budget schedule is as follows:

12 (1) For each elementary school having an ANB of nine
13 or fewer pupils, the maximum shall be ~~\$20,150~~ \$19,558 if
14 said school is approved as an isolated school.

15 (2) For schools with an ANB of 10 pupils but less than
16 18 pupils, the maximum shall be ~~\$20,150~~ \$19,558 plus ~~\$842.50~~
17 \$817.30 per pupil on the basis of the average number
18 belonging over nine.

19 (3) For schools with an ANB of at least 14 pupils but
20 less than 18 pupils that qualify for instructional aide
21 funding under 20-9-322, the maximum shall be ~~\$33,042~~ \$32,057
22 plus ~~\$842.50~~ \$817.30 per pupil on the basis of the average
23 number belonging over 14.

24 (4) For schools with an ANB of 18 pupils and employing
25 one teacher, the maximum shall be ~~\$27,741~~ \$26,914 plus

1 ~~\$842.50~~ \$817.30 per pupil on the basis of the average number
2 belonging over 18, not to exceed an ANB of 25.

3 (5) For schools with an ANB of 18 pupils and employing
4 two full-time teachers, the maximum shall be ~~\$44,290~~ \$42,970
5 plus ~~\$527.60~~ \$511.90 per pupil on the basis of the average
6 number belonging over 18, not to exceed an ANB of 50.

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

10 (a) For a school having an ANB of more than 40 and
11 employing a minimum of three teachers, the maximum of ~~\$17,957~~
12 \$1,899 shall be decreased at the rate of ~~\$1.90~~ \$1.84 for
13 each additional pupil until the total number (ANB) shall
14 have reached a total of 100 pupils.

15 (b) For a school having an ANB of more than 100
16 pupils, the maximum of ~~\$17,043~~ \$1,788 shall be decreased at
17 the rate of ~~\$1.74~~ \$1.69 for each additional pupil until the
18 ANB shall have reached 300 pupils.

19 (c) For a school having an ANB of more than 300
20 pupils, the maximum shall not exceed ~~\$17,496~~ \$1,451 for each
21 pupil.

22 (7) The maximum per pupil for all pupils (ANB) and for
23 all elementary schools shall be computed on the basis of the
24 amount allowed herein on account of the last eligible pupil
25 (ANB). All elementary schools operated within the

1 incorporated limits of a city or town shall be treated as
2 one school for the purpose of this schedule."

3 Section 41. Section 20-9-319, MCA, is amended to read:

4 "20-9-319. High school maximum budget schedule for
5 ~~1986-87--and--succeeding--years~~ for 1988-89 and succeeding
6 ~~years~~. For ~~1986-87~~ 1988-89 and succeeding school years, the
7 high school maximum budget schedule is as follows:

8 (1) For each high school having an ANB of 24 or fewer
9 pupils, the maximum shall be ~~\$114,845~~ \$111,422.

10 (2) For a secondary school having an ANB of more than
11 24 pupils, the maximum ~~\$4,785~~ \$4,643 shall be decreased at
12 the rate of ~~\$26.10~~ \$25.32 for each additional pupil until
13 the ANB shall have reached a total of 40 such pupils.

14 (3) For a school having an ANB of more than 40 pupils,
15 the maximum of ~~\$4,368~~ \$4,237 shall be decreased at the rate
16 of ~~\$26.10~~ \$25.32 for each additional pupil until the ANB
17 shall have reached 100 pupils.

18 (4) For a school having an ANB of more than 100
19 pupils, a maximum of ~~\$2,882~~ \$2,718 shall be decreased at the
20 rate of ~~\$4.37~~ \$4.24 for each additional pupil until the ANB
21 shall have reached 200 pupils.

22 (5) For a school having an ANB of more than 200
23 pupils, the maximum of ~~\$2,365~~ \$2,295 shall be decreased by
24 ~~\$2.40~~ \$2.33 for each additional pupil until the ANB shall
25 have reached 300 pupils.

1 (6) For a school having an ANB of more than 300
2 pupils, the maximum of ~~\$2,125~~ \$2,062 shall be decreased at
3 the rate of ~~44~~ 43 cents until the ANB shall have reached 600
4 pupils.

5 (7) For a school having an ANB over 600 pupils, the
6 maximum shall not exceed ~~\$1,993~~ \$1,933 per pupil.

7 (8) The maximum per pupil for all pupils (ANB) and for
8 all high schools shall be computed on the basis of the
9 amount allowed herein on account of the last eligible pupil
10 (ANB). All high schools and junior high schools which have
11 been approved and accredited as junior high schools,
12 operated within the incorporated limits of a city or town,
13 shall be treated as one school for the purpose of this
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%~~ 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 NEW SECTION. Section 43. Surtax. After the amount of
9 tax liability has been computed as required in 15-30-103,
10 each person filing a Montana individual income tax return
11 shall add as a surtax 10% of the tax liability, and the
12 amount so arrived at is the amount due the state.

13 NEW SECTION. Section 44. Repealer. Sections 15-30-112
14 through 15-30-117, 15-30-121 through 15-30-123, 15-30-125,
15 15-30-126, 15-30-156, 15-30-157, 15-30-161, 15-31-201, and
16 15-31-208, MCA, are repealed.

17 NEW SECTION. Section 45. Appropriation. There is
18 appropriated from the general fund to the superintendent of
19 public instruction \$96 million for the biennium ending June
20 30, 1989, for state equalization aid.

21 NEW SECTION. Section 46. Codification instruction.
22 Sections 10, 13, and 43 are intended to be codified as an
23 integral part of Title 15, chapter 30, part 1, and the
24 provisions of Title 15, chapter 30, part 1, apply to
25 sections 10, 13, and 43.

1 NEW SECTION. Section 47. 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 48. Effective date --
6 applicability. (1) This act, except section 45, is effective
7 on passage and approval.

8 (2) Section 45 is effective July 1, 1987.

9 (3) Unless otherwise specified or required by a
10 particular section of this act, sections 1 through 22, 27
11 through 37, and 44 apply retroactively, within the meaning
12 of 1-2-109, to tax years beginning after December 31, 1986.

13 (4) Sections 23 through 26 apply retroactively, within
14 the meaning of 1-2-109, to all small business corporations
15 that have made a valid election under Subchapter S of
16 Chapter 1 of the Internal Revenue Code on or before December
17 31, 1986, and for tax years ending after December 31, 1986.

18 (5) Section 43 applies to tax years beginning after
19 December 31, 1986, and ending before January 1, 1989.

20 NEW SECTION. Section 49. Termination. Section 43
21 terminates December 31, 1989.

-End-