

HOUSE BILL NO. 904

INTRODUCED BY HARP, DONALDSON, MILLER, WINSLOW, SPAETH,
HARPER, KADAS, KEENAN, REAM, NEUMAN, BRANDEWIE, LORY

IN THE HOUSE

MARCH 28, 1987

INTRODUCED AND REFERRED TO COMMITTEE
ON RULES.

ON MOTION, REREFERRED TO COMMITTEE
ON APPROPRIATIONS.

ON MOTION BY CHIEF SPONSOR, SENATOR
NEUMAN AND REPRESENTATIVES SPAETH,
HARPER, KADAS, KEENAN, BRANDEWIE,
REAM, AND LORY ADDED AS SPONSORS.

MARCH 30, 1987

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

APRIL 1, 1987

SECOND READING, DO PASS.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED.
AYES, 57; NOES, 43.

TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 3, 1987

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

APRIL 13, 1987

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

SECOND READING, CONCURRED IN.

ON MOTION, RULES SUSPENDED TO PLACE
BILL ON THIRD READING THIS DAY.

APRIL 13, 1987

THIRD READING, CONCURRED IN.
AYES, 28; NOES, 22.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1987

RECEIVED FROM SENATE.

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 16, 1987

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 17, 1987

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 20, 1987

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 21, 1987

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 22, 1987

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

APRIL 23, 1987

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1
 2 INTRODUCED BY *House BILL NO. 904*
 3 *HARR* *Winkler* *Mills*
 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 (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 (j) The term "livestock" means cattle, sheep,
 13 swine, goats, horses, mules, and asses.

14 (k) The term "mobile home" means forms of housing
 15 known as "trailers", "housetrailer", 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 (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 (m) The term "poultry" includes all chickens,

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

3 (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 (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 (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) 58.2% to the credit of the state general fund;

3 (b) 10% 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) 31.8% 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 ~~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, 1960 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, 4% of net
9 taxable income;

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

12 (c) over \$12,000 of net taxable income, \$630 plus 8%
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, 4% of net
21 taxable income;

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

24 (c) over \$6,000 of net taxable income, \$315 plus 8% 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-1-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(1)(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 S. 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 S 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 ~~(e) 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 ~~S, 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 S. 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 S 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 \$1,000, 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 \$2,000, 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 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-15-30-111.

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 ~~\$522.48~~ \$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 ~~\$113,708~~ \$113,696.

3 (2) For a secondary school having an ANB of more than
 4 24 pupils, the maximum ~~\$4,738~~ \$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 ~~\$2.38~~ \$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 ~~\$207,150~~ \$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 ~~\$207,150~~ \$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 ~~\$337,042~~ \$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 ~~\$17,843~~ \$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 ~~\$2,802~~ \$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%~~ 31.8% 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. Coordination. If House Bill
6 No. 2 as it passes the House of Representatives is amended
7 in the Senate, this act is void.

8 NEW SECTION. Section 49. Effective date --
9 applicability. (1) This act, except section 45, is effective
10 on passage and approval.

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

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

16 (4) Sections 23 through 26 apply retroactively, within
17 the meaning of 1-2-109, to all small business corporations
18 that have made a valid election under Subchapter S of
19 Chapter 1 of the Internal Revenue Code on or before December
20 31, 1986, and for tax years ending after December 31, 1986.

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

23 NEW SECTION. Section 50. Termination. Section 43
24 terminates December 31, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB904, as amended.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to revise the Montana individual income tax system, to increase the contribution to state equalization, and to adjust the foundation program schedules for elementary schools and high schools for the purpose of balancing the fiscal 1988-89 general fund budget; to appropriate funds for equalization aid for schools; and providing effective dates, a retroactive applicability date, and a termination date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimates provide the basis for comparison, unless otherwise noted.
2. Individual income tax collections will be \$208,088,000 in FY88 and \$229,991,000 in FY89. (REAC)
3. The proposed rate table will raise an additional \$5,700,000 a year over current law estimates. The proposed \$3,600 retirement exclusion reduces the additional revenue to \$500,000 each year. (DOR)
4. The 10% surtax will raise \$25,450,875 in FY88 and \$18,981,634 in FY89.

FISCAL IMPACT:Revenues:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Individual Income Tax	\$208,088,000	\$234,038,875	\$25,950,875	\$229,991,000	\$249,472,634	\$19,481,634

Fund Information:

State General Fund	\$133,176,320	\$128,935,625	(\$ 4,240,695)	\$147,194,240	\$137,918,073	(\$ 9,276,167)
School Equalization	52,022,000	70,449,362	18,427,362	57,497,750	75,357,298	17,859,548
Debt Service Fund	22,889,680	22,153,888	(735,792)	25,299,010	23,697,263	(1,601,747)
Windfall Reserve Fund	0	12,500,000	12,500,000	0	12,500,000	12,500,000

David L. Hunter DATE 3/30/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

John Harp DATE _____
 JOHN HARP, PRIMARY SPONSOR

Fiscal Note for HB904, as amended.

HB 904

Fiscal Note Request, HB904, as amended.

Form BD-15

Page 2

Expenditures:

Maximum General Fund

Budget Without A Vote	\$285,435,283	\$285,435,283	\$	0	\$286,184,919	\$286,184,919	\$	0
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Funding of Expenditures:

State, County, District

Revenue	\$232,792,491	\$251,219,853	\$ 18,427,362	\$242,729,130	\$260,588,678	\$ 17,859,548
General Fund Support	52,642,792	34,215,430	(18,427,362)	43,455,789	25,596,241	(17,859,548)

Net Impact To The

General Fund	--	25,950,875	--	--	19,481,634	--
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TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

Section 45 establishes a \$96 million general fund appropriation for state equalization aid. Based on the bill as amended, only \$59.812 million would be necessary to fund state equalization aid at the rates contained in this legislation.

HB 904

RE-REFERRED AND
APPROVED BY COMMITTEE
ON APPROPRIATIONS
AS AMENDED

HOUSE BILL NO. 904

INTRODUCED BY HARP, DONALDSON, MILLER, WINSLOW, SPAETH,

HARPER, KADAS, KEENAN, REAM, NEUMAN, BRANDEWIE, LORY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTANA
INDIVIDUAL INCOME TAX SYSTEM, TO INCREASE THE CONTRIBUTION
TO STATE EQUALIZATION, AND TO ADJUST THE FOUNDATION PROGRAM
SCHEDULES FOR ELEMENTARY SCHOOLS AND HIGH SCHOOLS FOR THE
PURPOSE OF BALANCING THE FISCAL 1988-89 GENERAL FUND BUDGET;
TO APPROPRIATE FUNDS FOR EQUALIZATION AID FOR SCHOOLS;
AMENDING SECTIONS 1-1-207, 7-14-1133, 7-34-2416, 15-1-101,
15-1-501, 15-30-101, 15-30-103, 15-30-105, 15-30-111,
15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-141,
15-30-142, 15-30-144, 15-30-146, 15-30-162, 15-30-303,
15-31-202, 15-31-204, 15-31-209, 15-32-402, 17-5-408,
19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805,
19-9-1005, 19-13-1003, ~~20-9-316~~ through 20-9-318, 20-9-319,
20-9-343, 53-2-101, AND 67-11-303, MCA; REPEALING SECTIONS
15-30-112 THROUGH 15-30-117, 15-30-121 THROUGH 15-30-123,
15-30-125, 15-30-126, 15-30-156, 15-30-157, 15-30-161,
15-31-201, AND 15-31-208, MCA; AND PROVIDING EFFECTIVE
DATES, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION
DATE."

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

Section 1. Section 1-1-207, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

1 limitations or restrictions regarding the source from which
 2 such principal and interest are payable.

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

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

19 Section 3. Section 7-34-2416, MCA, is amended to read:
 20 "7-34-2416. Tax-exempt status of bonds. Bonds issued
 21 by a county pursuant to the provisions of 7-34-2411 through
 22 7-34-2418 are declared to be issued for an essential public
 23 and governmental purpose by a political subdivision ~~within~~
 24 the-meaning-of-15-30-111(2)(a) for purposes of tax exemption
 25 determinations under the Internal Revenue Code."

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

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

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

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

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

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

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

24 (A) agricultural lands;

25 (B) timberlands;

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

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

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

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

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

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

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

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

1 and only when the wheels are removed.

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

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

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

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

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

1 (m) The term "poultry" includes all chickens,
 2 turkeys, geese, ducks, and other birds raised in
 3 domestication to produce food or feathers.

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

11 (o) The term "real estate" includes:

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

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

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

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

1 persons, or organized body authorized by law to establish
2 tax levies for the purpose of raising public revenue.

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

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

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

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

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

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

25 (a) fees from driver's licenses, motorcycle

1 endorsements, and duplicate driver's licenses as provided in
2 61-5-121;

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

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

7 (d) liquor license taxes under Title 16;

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

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

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

1 income tax windfall reserve account pursuant to [section 5]
2 shall be deposited as follows:

- 3 (a) 58.2% to the credit of the state general fund;
4 (b) 10% to the credit of the debt service account for
5 long-range building program bonds as described in 17-5-408;
6 and
7 (c) 31.8% to the credit of the state special revenue
8 fund for state equalization aid to the public schools of
9 Montana as described in 20-9-343.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 June ~~7, 1986~~ 1987.

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

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

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

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

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

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

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

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

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

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

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

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

1 year for federal income tax purposes.

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

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

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

14 ~~(a) on the first \$17,000 of taxable income or any part~~
15 ~~thereof 7-2%~~

16 ~~(b) on the next \$17,000 of taxable income or any part~~
17 ~~thereof 7-3%~~

18 ~~(c) on the next \$27,000 of taxable income or any part~~
19 ~~thereof 7-4%~~

20 ~~(d) on the next \$27,000 of taxable income or any part~~
21 ~~thereof 7-5%~~

22 ~~(e) on the next \$27,000 of taxable income or any part~~
23 ~~thereof 7-6%~~

24 ~~(f) on the next \$27,000 of taxable income or any part~~
25 ~~thereof 7-7%~~

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

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

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

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

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

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

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

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

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

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

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

1 net taxable income over \$6,000.

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

10 Section 9. Section 15-30-105, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

8 ~~(4)--For a resident, the taxpayer's federal alternative~~
 9 ~~minimum taxable income, less the applicable exemption amount~~
 10 ~~provided for in section 55 of the Internal Revenue Code,~~
 11 ~~must be increased by the amount of interest received from~~
 12 ~~obligations of another state or political subdivision~~
 13 ~~thereof, which sum shall be reduced by the following:~~

14 ~~(a)--all interest received from obligations of the~~
 15 ~~United States government;~~

16 ~~(b)--all railroad retirement benefits; and~~

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

20 ~~(5)--(a) For a nonresident or part-year resident, the~~
 21 ~~taxpayer's federal alternative minimum taxable income, less~~
 22 ~~the applicable exemption amount provided for in section 55~~
 23 ~~of the Internal Revenue Code, must be prorated to determine~~
 24 ~~his Montana alternative minimum taxable income. The prorated~~
 25 ~~income is arrived at by dividing the Montana income~~

1 determined pursuant to 15-30-131 or {section 13} by the
2 federal adjusted gross income and multiplying this
3 percentage by the taxpayer's federal alternative minimum
4 taxable income;

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

10 {c} The taxpayer's prorated Montana alternative
11 minimum taxable income must then be reduced by:

12 {i} all interest received from obligations of the
13 United States government;

14 {ii} all railroad retirement benefits; and

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

24 {i} 15-30-111, if a resident;

25 {ii} 15-30-131, if a nonresident; or

1 {iii} {section 13} if a part-year resident;

2 {6} Each taxpayer shall furnish with his Montana
3 alternative minimum tax return a copy of his federal
4 alternative minimum tax return;

5 Section 10. Section 15-30-111, MCA, is amended to
6 read:

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

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

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

20 {c} that portion of a shareholder's income under
21 subchapter S of Chapter 1 of the Internal Revenue Code of
22 1954 that has been reduced by any federal taxes paid by the
23 subchapter S corporation on the income.

24 (2) Notwithstanding the provisions of the federal
25 Internal Revenue Code of 1954 as labeled or amended;

1 adjusted-gross, Montana net taxable income does not include
 2 the following, which are exempt from taxation under this
 3 chapter:

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

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

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

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

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

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

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

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

1 (i) all benefits paid under 19-11-602, 19-11-604, and
 2 19-11-605 to retired and disabled firefighters, their
 3 surviving spouses and orphans;

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

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

9 (l) all tips covered by section 3402(k) of the
 10 Internal Revenue Code of 1954, as amended and applicable on
 11 January 17, 1983, received by persons for services rendered
 12 by them to patrons of premises licensed to provide food,
 13 beverage, or lodging;

14 (m) all benefits received under the workers'
 15 compensation laws, and

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

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

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

8 {4}--A--shareholder--of--a--BISC--that--is--exempt--from--the
 9 corporation--license--tax--under--15-31-102(1)(1)--shall--include
 10 in--his--adjusted--gross--income--the--earnings--and--profits--of--the
 11 BISC--in--the--same--manner--as--provided--by--federal--law--(section
 12 995, Internal Revenue Code)--for--all--periods--for--which--the
 13 BISC--election--is--effective.

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

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

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

1 ~~reason--of--any--medically--determined--physical--or--mental~~
 2 ~~impairment--lasting--or--expected--to--last--at--least--12--months.~~

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

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

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

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

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

25 (a) Montana adjusted gross income includes the entire

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

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

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

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

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

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

15 ~~{6} Notwithstanding the provisions of subsections {2}~~
 16 ~~and {3}, any contribution made after December 31, 1987, to~~
 17 ~~the state of Montana or a political subdivision thereof~~
 18 ~~shall be an allowable deduction in computing net income.~~
 19 ~~The deduction is subject to the limitations set forth in~~
 20 ~~section 170 of the Internal Revenue Code of 1954, as labeled~~
 21 ~~or amended.~~

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

25 (i) a prorated part of the federal exemption provided

1 for in section 151 of the Internal Revenue Code;

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

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

6 (iv) all sums donated to:

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

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

13 (v) all railroad retirement benefits;

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

16 (vii) 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 (viii) interest and taxes on Montana property used for
 20 the production of Montana income.

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

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

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

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

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

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

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

1 located in Montana, less the following:

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

4 (ii) all railroad retirement income; and

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

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

11 (i) income from annuities;

12 (ii) interest on bank deposits;

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

15 (iv) dividends on stock of corporations.

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

18 Section 13. Section 15-30-132, MCA, is amended to
 19 read:

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

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

9 Section 14. Section 15-30-135, MCA, is amended to
 10 read:

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

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

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

25 (c) income held for future distribution under the

1 terms of the will or trust; and

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

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

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

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

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

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

1 income of the grantor."

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

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

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

 - 15 (i) the United States government or the state of
 16 Montana;
 - 17 (ii) a school district; or
 - 18 (iii) a county, municipality, district, or other
 19 political subdivision of the state;
 - 20 (c) income from partnerships and other fiduciaries;
 - 21 (d) gross rents and royalties;
 - 22 (e) gain from sale or exchange of property, including
 23 those gains that are excluded from gross income for federal
 24 fiduciary income tax purposes by section 641(c) of the
 25 Internal Revenue Code of 1954, as amended;

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

1 casualty-or-from-theft; to-the-extent-not-compensated-for-by
 2 insurance-or-otherwise; that-are-deductible-for-federal--tax
 3 purposes--according--to--section-165-of-the-Internal-Revenue
 4 Code-of-1954; as-amended;
 5 (g)--net-operating-loss-deductions-allowed-for--federal
 6 income-tax-under-section-642(d)-of-the-Internal-Revenue-Code
 7 of--1954; as--amended; except-estates-may-not-claim-losses
 8 that-are-deductible-on-the-decedent's-final-return;
 9 (h)--all--benefits--received--as---federal---employees'
 10 retirement-not-in-excess-of-\$3,600;
 11 (i)--all--benefits--paid--under--the--Montana-teachers'
 12 retirement-system-that-are-specified-as-exempt-from-taxation
 13 by-19-4-706;
 14 (j)--all--benefits--paid--under--the---Montana---Public
 15 Employees'-Retirement--System--Act--that--are--specified-as
 16 exempt-from-taxation-by-19-3-105;
 17 (k)--all--benefits--paid--under--the--Montana---highway
 18 patrolmen's--retirement--system-that-are-specified-as-exempt
 19 from-taxation-by-19-6-705;
 20 (l)--Montana-income-tax-refunds-or-credits-thereof;
 21 (m)--all-benefits-paid-under-19-11-602; 19-11-604; and
 22 19-11-605-to-retired-and-disabled-firemen-or-their-surviving
 23 spouses-or-children;
 24 (n)--all--benefits--paid--under--the--municipal--police
 25 officers'-retirement-system-that--are--specified--as--exempt

1 from taxation by 19-9-1005;
 2 ~~{0}--all--benefits--not--in--excess--of--\$360--received--as--an~~
 3 ~~annuity, pension, or endowment under private or corporate~~
 4 ~~retirement plans or systems.~~
 5 ~~{3}--in--the--case--of--a--shareholder--of--a--corporation--with~~
 6 ~~respect--to--which--the--election--provided--for--under--subchapter~~
 7 ~~S, of the Internal Revenue Code of 1954, as amended, is in~~
 8 ~~effect--but--with--respect--to--which--the--election--provided--for~~
 9 ~~under 15-31-202 is not in effect, net income does not~~
 10 ~~include--any--part--of--the--corporation's--undistributed--taxable~~
 11 ~~income, net operating loss, capital gains or other gains,~~
 12 ~~profits, or losses required to be included in the~~
 13 ~~shareholder's federal income tax net income by reason of the~~
 14 ~~election under subchapter S. However, the shareholder's net~~
 15 ~~income shall include actual distribution from the~~
 16 ~~corporation to the extent it would be treated as taxable~~
 17 ~~dividends if the subchapter S election were not in effect.~~
 18 {1} The Montana taxable income of an estate or trust is its
 19 federal taxable income as provided by the Internal Revenue
 20 Code, including interest received on obligations of another
 21 state or a political subdivision thereof, reduced by
 22 interest received from obligations of the United States
 23 government.
 24 ~~{4}{2} The following additional deductions shall be a~~
 25 deduction is allowed in deriving taxable income of estates

1 and trusts;
 2 ~~{a}--any for the amount of income for in the taxable~~
 3 ~~year currently required to be distributed to beneficiaries~~
 4 ~~for such year;~~
 5 ~~{b}--any--other--amounts--properly--paid--or--credited--or~~
 6 ~~required to be distributed for the taxable year;~~
 7 ~~{c}--the--amount--of--60%--of--the--excess--of--the--net~~
 8 ~~long-term capital gain over the net short-term capital loss~~
 9 ~~for the taxable year.~~
 10 ~~{5}--The exemption allowed for estates and trusts is~~
 11 ~~that exemption provided in 15-30-112{2}{a} and~~
 12 ~~15-30-112{8}."~~
 13 Section 16. Section 15-30-141, MCA, is amended to
 14 read:
 15 "15-30-141. Tax as personal debt. Every tax imposed by
 16 this chapter and all increases, interest, and penalties
 17 thereon shall be are from the time they are due and payable
 18 a personal debt from the person or fiduciary liable to pay
 19 the same to the state. Taxpayers filing a joint return are
 20 jointly and severally liable for the tax and any interest
 21 and penalty unless the department determines, based on the
 22 criteria in section 6013(e) of the Internal Revenue Code,
 23 that a spouse is relieved of liability."
 24 Section 17. Section 15-30-142, MCA, is amended to
 25 read:

1 "15-30-142. Returns Filing of returns and payment of
 2 tax ---penalty-and-interest----refunds----credits. (1) Every
 3 single individual and every married individual not filing a
 4 joint return with his or her spouse and having a gross
 5 income for the taxable year of more than \$1,000, as adjusted
 6 under the provisions of subsection (7), and married
 7 individuals not filing separate returns and having a
 8 combined gross income for the taxable year of more than
 9 \$2,000, as adjusted under the provisions of subsection (7)
 10 subject to a tax pursuant to this chapter who is required by
 11 section 6012 of the Internal Revenue Code to file a federal
 12 income tax return or who receives income in excess of \$5,000
 13 from obligations of another state or a political subdivision
 14 thereof, shall be is liable for a return to be filed on such
 15 forms and according to such rules as the department may
 16 prescribe. The gross income amounts referred to in the
 17 preceding sentence shall be increased by \$800, as adjusted
 18 under the provisions of 15-30-112(7) and (8), for each
 19 additional personal exemption allowance the taxpayer is
 20 entitled to claim for himself and his spouse under
 21 15-30-112(3) and (4). A nonresident shall be required to
 22 file a return if his gross income for the taxable year
 23 derived from sources within Montana exceeds the amount of
 24 the exemption deduction he is entitled to claim for himself
 25 and his spouse under the provisions of 15-30-112(2) (3),

1 and (4), as prorated according to 15-30-112(6);
 2 (2) In accordance with instructions set forth by the
 3 department, every taxpayer who is married and living with
 4 husband or wife and is required to file a return may, at his
 5 or her option, file a joint return with husband or wife even
 6 though one of the spouses has neither gross income nor
 7 deductions; if a joint return is made, the tax shall be
 8 computed on the aggregate taxable income and the liability
 9 with respect to the tax shall be joint and several; if a
 10 joint return has been filed for a taxable year, the spouses
 11 may not file separate returns after the time for filing the
 12 return of either has expired unless the department so
 13 consents;

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

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

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

1 the department any balance of income tax remaining unpaid
 2 after crediting the amount withheld as provided by 15-30-202
 3 and/or any payment made by reason of an estimated tax return
 4 provided for in 15-30-2417-provided7-however7 if the tax so
 5 computed is greater by \$1 than the amount withheld and/or
 6 paid by estimated return as provided in this chapter. If the
 7 amount of tax withheld and/or payment of estimated tax
 8 exceeds by more than \$1 the amount of income tax as
 9 computed, the taxpayer ~~shall-be~~ is entitled to a refund of
 10 the excess.

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

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

22 ~~{7}--By--November--1--of--each--year7--the--department--shall~~
 23 ~~multiply--the--minimum--amount--of--gross--income--necessitating~~
 24 ~~the--filing--of--a--return--by--the--inflation--factor--for--the~~
 25 ~~taxable--year7--These--adjusted--amounts--are--effective--for--that~~

1 ~~taxable--year7--and--persons--having--gross--incomes--less--than~~
 2 ~~these--adjusted--amounts--are--not--required--to--file--a--return7~~

3 ~~{8}--Individual--income--tax--forms--distributed--by--the~~
 4 ~~department--for--each--taxable--year--must--contain--instructions~~
 5 ~~and--tables--based--on--the--adjusted--base--year--structure--for~~
 6 ~~that--taxable--year7--"~~

7 Section 18. Section 15-30-144, MCA, is amended to
 8 read:

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

25 ~~{2}--An--automatic--6--month--extension--of--time--for--filing~~

1 ~~a return is allowed, provided that on or before the due date~~
 2 ~~of the return, an application is made on forms available~~
 3 ~~from the department or in writing to the department.~~

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

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

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

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

19 (d) If the applicant underestimates his tax due by 10%
 20 or more, he is liable for penalties and interest under
 21 15-30-323 from the date the tax is due.

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

1 unless it denies the application.

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

9 Section 19. Section 15-30-146, MCA, is amended to
 10 read:

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

1 net taxable income stated in the return, the statute of
 2 limitations shall not apply for 2 additional years from the
 3 time specified in 15-30-145."

4 Section 20. Section 15-30-162, MCA, is amended to
 5 read:

6 "15-30-162. Investment credit recapture. (1) There is
 7 allowed as a credit against the tax imposed by 15-30-163 a
 8 percentage of the credit allowed with respect to certain
 9 depreciable property under section 38 of the Internal
 10 Revenue Code of 1954, as amended, or as section 38 may be
 11 renumbered or amended. However, rehabilitation costs as set
 12 forth under section 46(a)(2)(F) of the Internal Revenue Code
 13 of 1954, or as section 46(a)(2)(F) may be renumbered or
 14 amended, are not to be included in the computation of the
 15 investment credit. The credit is allowed for the purchase
 16 and installation of certain qualified property defined by
 17 section 38 of the Internal Revenue Code of 1954, as amended,
 18 if the property meets all of the following qualifications:

- 19 (a) it was placed in service in Montana; and
- 20 (b) it was used for the production of Montana adjusted
 21 gross income.

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

1 (3) Notwithstanding the provisions of subsection (2),
 2 the investment credit allowed for the taxable year may not
 3 exceed the taxpayer's tax liability for the taxable year or
 4 \$500, whichever is less.

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

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

24 Section 21. Section 15-30-303, MCA, is amended to
 25 read:

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

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

1 (3) Nothing herein shall be construed to prohibit:
 2 (a) the delivery to a taxpayer or his duly authorized
 3 representative of a certified copy of any return or report
 4 filed in connection with his tax;

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

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

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

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

24 (6) Notwithstanding the provisions of this section,
 25 the department may permit the commissioner of internal

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

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

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

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

1 the prevention and detection of public assistance fraud and
 2 abuse, provided notice to the applicant has been given."

3 Section 22. Section 15-31-202, MCA, is amended to
 4 read:

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

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

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

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

25 ~~(3) An election under subsection (1) must be made in~~

1 ~~accordance with rules prescribed by the department of~~
2 ~~revenue.~~

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

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

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

6 (4) This election section is not effective unless the
7 corporate net income or loss of such electing the
8 nonelecting small business corporation is included in the
9 stockholders' adjusted-gross income as defined in 15-30-111.

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

13 Section 23. Section 15-31-204, MCA, is amended to
14 read:

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

19 Section 24. Section 15-31-209, MCA, is amended to
20 read:

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

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

7 Section 25. Section 15-32-402, MCA, is amended to
 8 read:

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

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

24 (b) a new business facility or the expanded portion of
 25 an existing business facility for which the wind energy

1 generating equipment supplies, on a direct contract sales
 2 basis, the basic energy needed; or

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

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

11 (a) generating equipment;

12 (b) safety devices and storage components;

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

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

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

21 Section 26. Section 17-5-408, MCA, is amended to read:

22 "17-5-408. (Effective unless contingency occurs--see
 23 compiler's comments) Percentage of income, corporation
 24 license, and cigarette tax pledged. (1) (a) The state
 25 pledges and appropriates and directs to be credited as

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

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

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

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

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

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

1 times a first and prior charge upon all money received from
2 the collection of said taxes.

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

20 Section 27. Section 19-3-105, MCA, is amended to read:

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

25 (1) subject to execution, garnishment, attachment, or

1 any other process;

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

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

8 Section 28. Section 19-4-706, MCA, is amended to read:

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

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

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

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

25 Section 29. Section 19-5-704, MCA, is amended to read:

1 "19-5-704. Exemption from taxes and legal process. Any
 2 money received or to be paid as a member's annuity, state
 3 annuity, or return of deductions or the right of any of
 4 these shall be exempt from any state or municipal tax to the
 5 extent provided in 15-30-111 and from levy, sale,
 6 garnishment, attachment, or any other process whatsoever and
 7 shall be unassignable except as specifically provided in
 8 19-5-705."

9 Section 30. Section 19-6-705, MCA, is amended to read:

10 "19-6-705. 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 19-6-403 of a member's contributions picked up by an
 17 employer after June 30, 1985, as provided in 19-6-402;

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

20 (3) unassignable except as specifically provided in
 21 19-6-706."

22 Section 31. Section 19-7-705, MCA, is amended to read:

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

1 these is:

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

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

8 (3) unassignable except as specifically provided in
 9 19-7-706."

10 Section 32. Section 19-8-805, MCA, is amended to read:

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

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

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

21 (3) unassignable except as specifically provided in
 22 19-8-806."

23 Section 33. Section 19-9-1005, MCA, is amended to
 24 read:

25 "19-9-1005. Exemption from taxes. Any money paid in

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

6 Section 34. Section 19-13-1003, MCA, is amended to
 7 read:

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

12 Section 35. Section 53-2-101, MCA, is amended to read:

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

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

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

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

24 (4) "Net monthly income" means one-twelfth of the
 25 difference between the net taxable income for the taxable

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

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

11 Section 36. Section 67-11-303, MCA, is amended to
 12 read:

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

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

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

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

24 (d) other sources.

25 (2) The bonds may be issued by resolution of the

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

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

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

1 ~~15-30-111(2)(a)~~ for purposes of tax exemption determinations
 2 under the Internal Revenue Code.

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

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

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

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

8 ~~Section 38,--Section 20-9-316, MCA, is amended to read:~~
 9 ~~"20-9-316.--Elementary--school--maximum-budget-schedule~~
 10 ~~for-1985-86-1987-88.--(1)-For-each-elementary--school--having~~
 11 ~~an-ANB-of-nine-or-fewer-pupils, the maximum shall be \$19,959~~
 12 ~~\$19,957 if said school is approved as an isolated school;~~
 13 ~~(2)--For-schools-with-an-ANB-of-10-pupils-but-less-than~~
 14 ~~10-pupils, the maximum shall be \$19,959-\$19,957 plus \$834; 10~~
 15 ~~\$834--per-pupil-on-the-basis-of-the-average-number-belonging~~
 16 ~~over-nine;~~
 17 ~~(3)--For-schools-with-an-ANB-of-at-least-14-pupils--but~~
 18 ~~less--than--10--pupils--that--qualify-for-instructional-aid~~
 19 ~~funding-under-20-9-322, the maximum shall be \$32,714-\$32,711~~
 20 ~~plus-\$834; 10-\$834-per-pupil-on--the--basis--of--the--average~~
 21 ~~number-belonging-over-14;~~
 22 ~~(4)--For-schools-with-an-ANB-of-10-pupils-and-employing~~
 23 ~~one--teacher,--the--maximum--shall--be--\$27,466-\$27,463-plus~~
 24 ~~\$834; 10-\$834-per-pupil-on-the-basis-of--the--average--number~~
 25 ~~belonging-over-10, not to exceed an ANB of 25;~~

1 (5)--For schools with an ANB of 18 pupils and employing
2 two full-time teachers, the maximum shall be \$43,851-\$43,847
3 plus \$522,40-\$522,30 per pupil on the basis of the average
4 number belonging over 18, not to exceed an ANB of 50.

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

8 (a)--For a school having an ANB of more than 40 and
9 employing a minimum of three teachers, the maximum of \$1,938
10 shall be decreased at the rate of \$1.88 for each additional
11 pupil until the total number (ANB) shall have reached a
12 total of 100 pupils.

13 (b)--For a school having an ANB of more than 100
14 pupils, the maximum of \$1,825 shall be decreased at the rate
15 of \$1.72 for each additional pupil until the ANB shall have
16 reached 300 pupils.

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

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

25 Section 39, Section 20-9-317, MCA, is amended to read:

1 "20-9-317--High school maximum budget schedule for
2 1985-86-1987-88--(1)--For each high school having an ANB of
3 24 or fewer pupils, the maximum shall be \$113,788-\$113,696.

4 (2)--For a secondary school having an ANB of more than
5 24 pupils, the maximum \$4,738-\$4,737 shall be decreased at
6 the rate of \$25.84 for each additional pupil until the ANB
7 shall have reached a total of 40 such pupils.

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

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

16 (5)--For a school having an ANB of more than 200
17 pupils, the maximum of \$2,342-\$2,341 shall be decreased by
18 \$2.38-\$2.37 for each additional pupil until the ANB shall
19 have reached 300 pupils.

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

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

25 (8)--The maximum per pupil for all pupils (ANB) and for

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

8 Section 37. Section 20-9-318, MCA, is amended to read:

9 "20-9-318. Elementary school maximum budget schedule
 10 for 1986-87 and succeeding years for 1988-89 1987-88 and
 11 succeeding years. For 1986-87 1988-89 1987-88 and succeeding
 12 school years, the elementary school maximum budget schedule
 13 is as follows:

14 (1) For each elementary school having an ANB of nine
 15 or fewer pupils, the maximum shall be \$20,158 ~~\$19,550~~
 16 \$20,158 if said school is approved as an isolated school.

17 (2) For schools with an ANB of 10 pupils but less than
 18 18 pupils, the maximum shall be \$20,158 ~~\$19,550~~ \$20,158 plus
 19 ~~\$842.50~~ ~~\$817.30~~ \$842.50 per pupil on the basis of the
 20 average number belonging over nine.

21 (3) For schools with an ANB of at least 14 pupils but
 22 less than 18 pupils that qualify for instructional aide
 23 funding under 20-9-322, the maximum shall be \$33,042 ~~\$32,057~~
 24 \$33,042 plus ~~\$842.50~~ ~~\$817.30~~ \$842.50 per pupil on the basis
 25 of the average number belonging over 14.

1 (4) For schools with an ANB of 18 pupils and employing
 2 one teacher, the maximum shall be \$27,741 ~~\$26,914~~ \$27,741
 3 plus ~~\$842.50~~ ~~\$817.30~~ \$842.50 per pupil on the basis of the
 4 average number belonging over 18, not to exceed an ANB of
 5 25.

6 (5) For schools with an ANB of 18 pupils and employing
 7 two full-time teachers, the maximum shall be \$44,290 ~~\$42,970~~
 8 \$44,290 plus ~~\$527.60~~ ~~\$511.90~~ \$527.60 per pupil on the basis
 9 of the average number belonging over 18, not to exceed an
 10 ANB of 50.

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

14 (a) For a school having an ANB of more than 40 and
 15 employing a minimum of three teachers, the maximum of \$1,957
 16 ~~\$1,899~~ \$1,957 shall be decreased at the rate of ~~\$1.90~~ ~~\$1.84~~
 17 \$1.90 for each additional pupil until the total number (ANB)
 18 shall have reached a total of 100 pupils.

19 (b) For a school having an ANB of more than 100
 20 pupils, the maximum of \$1,843 ~~\$1,788~~ \$1,843 shall be
 21 decreased at the rate of ~~\$1.74~~ ~~\$1.69~~ \$1.74 for each
 22 additional pupil until the ANB shall have reached 300
 23 pupils.

24 (c) For a school having an ANB of more than 300
 25 pupils, the maximum shall not exceed \$1,496 ~~\$1,451~~ \$1,496

1 for each pupil.

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

8 Section 38. Section 20-9-319, MCA, is amended to read:

9 "20-9-319. High school maximum budget schedule for
10 ~~1986-87--and--succeeding--years~~ for 1988-89 1987-88 and
11 succeeding years. For ~~1986-87 1988-89~~ 1987-88 and succeeding
12 school years, the high school maximum budget schedule is as
13 follows:

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

16 (2) For a secondary school having an ANB of more than
17 24 pupils, the maximum ~~\$4,785~~ \$4,643 \$4,785 shall be
18 decreased at the rate of ~~\$26.10~~ \$25.32 \$26.10 for each
19 additional pupil until the ANB shall have reached a total of
20 40 such pupils.

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

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

1 pupils, a maximum of ~~\$2,802~~ \$2,718 \$2,802 shall be decreased
2 at the rate of ~~\$4.37~~ \$4.24 \$4.37 for each additional pupil
3 until the ANB shall have reached 200 pupils.

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

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

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

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

22 Section 39. Section 20-9-343, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

15 NEW SECTION. Section 40. Surtax. After the amount of
 16 tax liability has been computed as required in 15-30-103,
 17 each person filing a Montana individual income tax return
 18 shall add as a surtax 10% of the tax liability, and the
 19 amount so arrived at is the amount due the state.

20 NEW SECTION. Section 41. Repealer. Sections 15-30-112
 21 through 15-30-117, 15-30-121 through 15-30-123, 15-30-125,
 22 15-30-126, 15-30-156, 15-30-157, 15-30-161, 15-31-201, and
 23 15-31-208, MCA, are repealed.

24 NEW SECTION. Section 42. Appropriation. There is
 25 appropriated from the general fund to the superintendent of

1 public instruction \$96 million for the biennium ending June
2 30, 1989, for state equalization aid.

3 NEW SECTION. Section 43. Codification instruction.
4 Sections ~~107--137--and--43~~ 12 AND 40 are intended to be
5 codified as an integral part of Title 15, chapter 30, part
6 1, and the provisions of Title 15, chapter 30, part 1, apply
7 to sections ~~107-137-and-43~~ 12 AND 40.

8 NEW SECTION. Section 44. Extension of authority. Any
9 existing authority of the department of revenue to make
10 rules on the subject of the provisions of this act is
11 extended to the provisions of this act.

12 NEW SECTION. Section 45. Coordination. If House Bill
13 No. 2 as it passes the House of Representatives is amended
14 in the Senate, this act is void.

15 NEW SECTION. Section 46. Effective date --
16 applicability. (1) This act, except section 45 42, is
17 effective on passage and approval.

18 (2) Section 45 42 is effective July 1, 1987.

19 (3) Unless otherwise specified or required by a
20 particular section of this act, sections 1 through ~~227-27~~
21 21, 26 through 37 36, and ~~44~~ 41 apply retroactively, within
22 the meaning of 1-2-109, to tax years beginning after
23 December 31, 1986.

24 (4) Sections ~~23~~ 22 through 26 25 apply retroactively,
25 within the meaning of 1-2-109, to all small business

1 corporations that have made a valid election under
2 Subchapter S of Chapter 1 of the Internal Revenue Code on or
3 before December 31, 1986, and for tax years ending after
4 December 31, 1986.

5 (5) Section ~~43~~ 40 applies to tax years beginning after
6 December 31, 1986, and ending before January 1, 1989.

7 NEW SECTION. Section 47. Termination. Section ~~43~~ 40
8 terminates December 31, 1989.

-End-

1 HOUSE BILL NO. 904

2 INTRODUCED BY HARP, DONALDSON, MILLER, WINSLOW, SPAETH,

3 HARPER, KADAS, KEENAN, REAM, NEUMAN, BRANDEWIE, LORY

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 20-9-318, 20-9-319,

17 20-9-343, 53-2-101, AND 67-11-303, MCA; REPEALING SECTIONS

18 15-30-112 THROUGH 15-30-117, 15-30-121 THROUGH 15-30-123,

19 15-30-125, 15-30-126, 15-30-156, 15-30-157, 15-30-161,

20 15-31-201, AND 15-31-208, MCA; AND PROVIDING EFFECTIVE

21 DATES, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION

22 DATE."

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 Section 1. Section 1-1-207, MCA, is amended to read:

THERE ARE NO CHANGES ON
HB 904, AND DUE TO LENGTH
 WILL NOT BE REPRINTED. PLEASE
 REFER TO SECOND READING
 (YELLOW) FOR COMPLETE TEXT.

THIRD READING

HB 904

HOUSE BILL NO. 904

INTRODUCED BY HARP, DONALDSON, MILLER, WINSLOW, SPAETH,
HARPER, KADAS, KEENAN, REAM, NEUMAN, BRANDEWIE, LORY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE-~~THE~~ PROVIDE A
10 PERCENT SURTAX ON MONTANA INDIVIDUAL INCOME TAX SYSTEM,
TO INCREASE THE CONTRIBUTION TO STATE EQUALIZATION, AND TO
~~ADJUST-THE APPROPRIATE FUNDS FROM THE EDUCATION AND LOCAL~~
IMPACT TRUST TO THE SCHOOL FOUNDATION PROGRAM SCHEDULES FOR
~~ELEMENTARY-SCHOOLS-AND--HIGH-SCHOOLS~~ FOR THE PURPOSE OF
BALANCING THE FISCAL 1988-89 GENERAL FUND BUDGET; TO
APPROPRIATE FUNDS FOR EQUALIZATION AID FOR SCHOOLS; AMENDING
SECTIONS ~~1-1-2077-7-14-11337-7-34-24167-15-1-1017~~ 15-1-501,
~~15-30-1017--15-30-1037--15-30-1057--15-30-1117--15-30-1317~~
~~15-30-1327--15-30-1357--15-30-1367--15-30-1417--15-30-1427~~
~~15-30-1447--15-30-1467--15-30-1627--15-30-3037--15-31-2027~~
~~15-31-2047--15-31-2097--15-32-4027~~ 17-5-408, 19-3-1057
~~19-4-7067-19-5-7047-19-6-7057-19-7-7057-19-8-8057-19-9-10057~~
~~19-13-10037~~ 20-9-316--through 20-9-318, 20-9-319, AND
20-9-343, 53-2-1017-~~AND-67-11-3037~~ MCA; ~~REPEALING--SECTIONS~~
~~15-30-112--THROUGH--15-30-117--15-30-121-THROUGH-15-30-123,~~
~~15-30-1257--15-30-1267--15-30-1567--15-30-1577--15-30-1617~~
~~15-31-2017--AND--15-31-2007--MCA,~~ AND PROVIDING EFFECTIVE
DATES, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION
DATE."

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

~~Section-1--Section--1-1-2077--MCA, is amended to read:~~
~~"1-1-2077--Miscellaneous--terms,--Unless--the--context~~
~~requires--otherwise7--the-following-definitions-apply-in-the~~
~~Montana-Code-Annotated:~~

~~(1)--"Bribe"--means--anything--of--value--or--advantage,~~
~~present--or--prospective7--or--any-promise-or-undertaking-to~~
~~give-anything-of-value-or-advantage7--which-is-asked7--given7~~
~~or--accepted--with--a-corrupt-intent-to-unlawfully-influence~~
~~the-person-to-whom-it-is-given--in--his-action7--vote7--or~~
~~opinion-in-any-public-or-official-capacity.~~

~~(2)--"Internal-Revenue-Code"--means-the-Internal-Revenue~~
~~Title--enacted--August--167--19547--and--redesignated-as-the~~
~~"Internal-Revenue-Code-of-1986"--by-section-2-of--Public--Law~~
~~99-5147--as-amended7~~

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

~~(3)(4)--"Vessel"--when-used-in-reference--to--shipping7~~
~~includes--ships--of--all--kinds7--steamboats-and-steamships7~~
~~canal-boats7--and-every-structure--adapted--to--be--navigated~~
~~from-place-to-place."~~

~~Section-2--Section-7-14-11337-MCA, is amended to read:~~

~~"7-14-11337--Bonds--and--obligations:--(1)--An-authority~~
~~may-borrow-money-for-any-of-its-corporate-purposes-and-issue~~

1 bonds therefor, including refunding bonds, in such form and
 2 upon such terms as it determines, payable out of any
 3 revenues of the authority, including revenues derived from:
 4 (a) any port or transportation and storage facility;
 5 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
 6 (c) grants or contributions from the federal
 7 government; or
 8 (d) other sources.
 9 (2) The bonds may be issued by resolution of the
 10 authority, without an election and without any limitation of
 11 amount, except that no bonds may be issued at any time if
 12 the total amount of principal and interest to become due in
 13 any year on such bonds and on any then outstanding bonds for
 14 which revenues from the same source are pledged exceeds the
 15 amount of such revenues to be received in that year, as
 16 estimated in the resolution authorizing the issuance of the
 17 bonds. The authority shall take all action necessary and
 18 possible to impose, maintain, and collect rates, charges,
 19 rentals, and taxes, if any are pledged, sufficient to make
 20 the revenues from the pledged source in such year at least
 21 equal to the amount of principal and interest due in that
 22 year.
 23 (3) The bonds may be sold at public or private sale
 24 and may bear interest at a rate not exceeding the limitation
 25 of 17-5-102. Except as otherwise provided in this part, any

1 bonds issued pursuant to this part by an authority may be
 2 payable as to principal and interest solely from revenues of
 3 the authority and shall state on their face the applicable
 4 limitations or restrictions regarding the source from which
 5 such principal and interest are payable.
 6 (4) Bonds issued by an authority, county, or
 7 municipality pursuant to the provisions of this part are
 8 declared to be issued for an essential public and
 9 governmental purpose by a political subdivision within the
 10 meaning of 15-30-111(2)(a) for purposes of tax exemption
 11 determinations under the Internal Revenue Code.
 12 (5) For the security of any such bonds, the authority,
 13 county, or municipality may by resolution make and enter
 14 into any covenant, agreement, or indenture and may exercise
 15 any additional powers authorized to be exercised by a
 16 municipality under Title 7, chapter 7, parts 44 and 45. The
 17 sums required from time to time to pay principal and
 18 interest and to create and maintain a reserve for the bonds
 19 may be paid from any revenues referred to in this part
 20 prior to the payment of current costs of operation and
 21 maintenance of the facilities.
 22 Section 3, Section 7-34-2416, MCA, is amended to read:
 23 "7-34-2416. Tax exempt status of bonds. Bonds issued
 24 by a county pursuant to the provisions of 7-34-2411 through
 25 7-34-2418 are declared to be issued for an essential public

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

4 Section-4--Section--15-1-101-MCA, is-amended-to-read:
 5 "15-1-101-Definitions--(1)--Except--as--otherwise
 6 specifically--provided, when-terms-mentioned-in-this-section
 7 are-used-in-connection-with-taxation, they--are--defined--in
 8 the-following-manner:

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

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

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

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

25 (ii)--The--following--types--of--property--are--not

1 commercial:

2 (A)--agricultural-lands;

3 (B)--timberlands;

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

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

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

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

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

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

18 (f)--The--term--"credit"--means-solvent-debts, secured--or
 19 unsecured, owing-to-a-person;

20 (g)--The--term--"improvements"--includes-all-buildings,
 21 structures, fences, and-improvements-situated-upon,--erected
 22 upon,--or--affixed-to-land. When-the-department-of-revenue-or
 23 its-agent-determines-that-the-permanency-of--location--of--a
 24 mobile-home-or-housetrailer-has-been-established, the-mobile
 25 home--or--housetrailer--is--presumed-to-be-an-improvement-to

1 real--property;---A--mobile--home--or--housetrailer--may--be
2 determined--to--be--permanently--located--only--when--it--is
3 attached--to--a--foundation--which--cannot--feasibly--be--relocated
4 and--only--when--the--wheels--are--removed;

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

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

16 {i){j)}--The--term--"livestock"--- means--catties--sheep;
17 swine--goats--horses--mules--and--asses;

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

25 {k){l)}--The--term--"personal--property"--- includes

1 everything--that--is--the--subject--of--ownership--but--that--is--not
2 included--within--the--meaning--of--the--terms--"real--estate"--and
3 "improvements";

4 {l){m)}--The--term--"poultry"--- includes--all--chickens,
5 turkeys--geese--ducks--and--other--birds--raised--in
6 domestication--to--produce--food--or--feathers;

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

14 {n){o)}--The--term--"real--estate"--- includes:

15 {i)}--the--possession--of--claim--to--ownership--of--or
16 right--to--the--possession--of--land;

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

22 {o){p)}--The--term--"taxable--value"--- means--the--percentage
23 of--market--or--assessed--value--as--provided--for--in--15--6--131
24 through--15--6--140;

25 {p)}--The--phrase--"municipal--corporation"--- or

1 "municipality" or "taxing unit" shall be deemed to include a
2 county, city, incorporated town, township, school district,
3 irrigation district, drainage district, or any person,
4 persons, or organized body authorized by law to establish
5 tax levies for the purpose of raising public revenue.

6 {3} The term "state board" or "board" when used
7 without other qualification shall mean the state tax appeal
8 board.

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

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

19 {3} The balance in the income tax windfall reserve
20 account at the end of the 1989 fiscal year must be
21 transferred to the general fund and included in the ending
22 general fund balance.

23 Section 1. Section 15-1-501, MCA, is amended to read:
24 "15-1-501. Disposition of moneys from certain
25 designated license and other taxes. (1) The state treasurer

1 shall deposit to the credit of the state general fund all
2 moneys received by him from the collection of:

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

6 (b) electrical energy producer's license taxes under
7 chapter 51;

8 (c) severance taxes allocated to the general fund
9 under chapter 36;

10 (d) liquor license taxes under Title 16;

11 (e) telephone [company] license taxes under chapter
12 53; and

13 (f) inheritance and estate taxes under Title 72,
14 chapter 16.

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

1 ~~for state equalization aid to the public schools of Montana;~~
 2 All moneys received from the collection of income taxes
 3 under chapter 30 of this title that is not deposited in the
 4 income tax windfall reserve account pursuant to {section--5}
 5 shall be deposited as follows:

- 6 (a) 58.2% to the credit of the state general fund;
- 7 (b) 10% to the credit of the debt service account for
 8 long-range building program bonds as described in 17- 408;
 9 and
- 10 (c) 31.8% to the credit of the state special revenue
 11 fund for state equalization aid to the public schools of
 12 Montana as described in 20-9-343.

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

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

24 {3}(4) The state treasurer shall also deposit to the
 25 credit of the state general fund all moneys received by him

1 from the collection of license taxes, fees, and all net
 2 revenues and receipts from all other sources under the
 3 operation of the Montana Alcoholic Beverage Code.

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

11 Section 7:--Section 15-30-1017-MEA7-is-amended-to-read:
 12 "15-30-1017--Definitions:--For--the--purpose--of--this
 13 chapter,--unless--otherwise--required--by--the--context,--the
 14 following definitions apply:

15 {1}--"Base-year-structure"--means--the--following--elements
 16 of--the--income--tax--structure:

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

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

23 {c}--the--maximum--standard--deduction--provided--in
 24 15-30-122,--but--unadjusted--by--subsection--{2}--of--15-30-122,--in
 25 effect--on--June-30--of--the--taxable--year;

1 {2}--"Consumer-price-index"--means-the-consumer-price
2 index, United States city average, for all items, using the
3 1967 base of 100 as published by the bureau of labor
4 statistics of the U.S. department of labor.

5 {3}--"Department"--means-the-department-of-revenue.

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

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

17 {6}--"Foreign-country" or "foreign government"--means
18 any jurisdiction other than the one embraced within the
19 United States, its territories and possessions.

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

1 {8}--"Inflation factor"--means-a-number-determined-for
2 each taxable year by dividing the consumer price index for
3 June of the taxable year by the consumer price index for
4 June, 1980-1987.

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

17 {10}--"Knowingly"--is-as-defined-in-45-2-101.

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

24 {12}--"Nonresident"--refers-to-a-person-who-has-not
25 established a residence in this state during the taxable

1 year.

2 {12}{13} "Paid", for the purposes of the deductions and

3 credits under this chapter, means paid or accrued or paid or

4 incurred, and the terms "paid or incurred" and "paid or

5 accrued" shall be construed according to the method of

6 accounting upon the basis of which the taxable income is

7 computed under this chapter.

8 {14} "Part-year resident" refers to a taxpayer who is a

9 resident of this state and another state during the

10 taxpayer's taxable year.

11 {13}{15} "Purpose" is as defined in 45-2-101.

12 {14}{16} "Received", for the purpose of computation of

13 taxable income under this chapter, means received or accrued

14 and the term "received or accrued" shall be construed

15 according to the method of accounting upon the basis of

16 which the taxable income is computed under this chapter.

17 {15}{17} "Resident" applies only to natural persons and

18 includes, for the purpose of determining liability to the

19 tax imposed by this chapter with reference to the income of

20 any taxable year, any person domiciled in the state of

21 Montana and any other person who maintains a permanent place

22 of abode within the state even though temporarily absent

23 from the state and has not established a residence

24 elsewhere.

25 {16} "Taxable income" means the adjusted gross income

1 of a taxpayer less the deductions and exemptions provided

2 for in this chapter.

3 {17}{18} "Taxable year" means the taxpayer's taxable

4 year for federal income tax purposes.

5 {18}{19} "Taxpayer" includes any person or fiduciary,

6 resident or nonresident, subject to a tax imposed by this

7 chapter and does not include corporations.

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

9 "15-30-103. Rate of tax. (1) There shall be levied,

10 collected, and paid for each taxable year commencing on or

11 after December 31, 1968, 1986, upon the net taxable income of

12 every taxpayer subject to this tax, after making allowance

13 for exemptions and deductions as hereinafter provided, except

14 those subject to subsection (2), a tax on the following

15 brackets of net taxable income, as adjusted under subsection

16 (2)-(3), at the following rates:

17 (a) on the first \$1,000 of taxable income or any part

18 thereof, 2%;

19 (b) on the next \$1,000 of taxable income or any part

20 thereof, 3%;

21 (c) on the next \$2,000 of taxable income or any part

22 thereof, 4%;

23 (d) on the next \$2,000 of taxable income or any part

24 thereof, 5%;

25 (e) on the next \$2,000 of taxable income or any part

1 ~~thereof 7-6%;~~
2 ~~{f}--on-the-next-\$2,000-of-taxable-income-or-any-part~~
3 ~~thereof 7-7%;~~
4 ~~{g}--on--the--next--\$4,000-of-taxable-income-or-any-part~~
5 ~~thereof 7-8%;~~
6 ~~{h}--on-the-next-\$6,000-of-taxable-income-or-any-part~~
7 ~~thereof 7-9%;~~
8 ~~{i}--on--the--next--\$15,000-of-taxable-income-or-any-part~~
9 ~~thereof 7-10%;~~
10 ~~{j}--on-any-taxable-income-in-excess-of-\$35,000-or-any~~
11 ~~part-thereof 7-11%.~~
12 ~~{a}--\$0--to--\$4,500--of--net--taxable-income 7-4%--of--net~~
13 ~~taxable-income 7~~
14 ~~{b}--over-\$4,500-to-\$12,000-of-net-taxable-income 7-9%--~~
15 ~~plus-6%--of--net--taxable--income--over--\$4,500 7~~
16 ~~{c}--over-\$12,000-of-net-taxable-income 7-\$630--plus--8%~~
17 ~~of-net-taxable-income-over-\$12,000 7~~
18 ~~{2}--There--shall--be--levied 7--collected 7--and--paid--for~~
19 ~~each-taxable-year-commencing-on-or-after-December-31 7--1986 7~~
20 ~~upon--the--net--taxable--income--of--every-taxpayer-filing-a~~
21 ~~return-using-the-married-filing-separate-status-a-tax-on-the~~
22 ~~following-brackets-of-net-taxable-income 7-as-adjusted--under~~
23 ~~subsection-(3) 7-at-the-following-rates:~~
24 ~~{a}--\$0--to--\$2,250--of--net--taxable-income 7-4%--of--net~~
25 ~~taxable-income 7~~

1 ~~{b}--over-\$2,250-to-\$6,000-of-net-taxable--income 7--\$90~~
2 ~~plus-6%--of--net--taxable--income--over--\$2,250 7~~
3 ~~{c}--over-\$6,000-of-net-taxable-income 7-\$315-plus-8%--of~~
4 ~~net-taxable-income-over-\$6,000 7~~
5 ~~{2}{3}--By--November--1--of--each--year 7-the-department~~
6 ~~shall-multiply-the-bracket-amount--contained--in--subsection~~
7 ~~subsections--(1)--and--(2)--by-the-inflation-factor-for-that~~
8 ~~taxable-year--and--round--the--cumulative--brackets--to--the~~
9 ~~nearest--\$100 7-The-resulting-adjusted-brackets-are-effective~~
10 ~~for-that-taxable-year-and-shall-be-used--as--the--basis--for~~
11 ~~imposition--of-the-tax-in-subsection-subsections-(1)--and--(2)~~
12 ~~of-this-section 7~~
13 ~~Section-9--Section-15-30-105 7-MCA 7-is-amended-to-read:~~
14 ~~"15-30-105. Tax on nonresident-----alternative--tax~~
15 ~~based--on-gross-sales--(1) A-like-tax-is-imposed-upon-every~~
16 ~~person-not-resident--of--this--state 7--which--tax--shall--be~~
17 ~~levied 7--collected 7--and--paid--annually--at--the--rates--specified~~
18 ~~in-15-30-103-with-respect-to-his-entire-net-income-as-herein~~
19 ~~defined-from-all-property-owned--and--from--every--business 7~~
20 ~~trade 7--profession 7--or--occupation--carried-on-in-this-state 7~~
21 ~~{2}--Pursuant-to-the-provisions-of-Article-III 7-section~~
22 ~~2 7-of-the-Multistate-Tax-Compact 7-every-nonresident-taxpayer~~
23 ~~required-to-file-a-return-and-whose-only-activity-in-Montana~~
24 ~~consists-of-making-sales-and-who-does-not-own-or-rent--real~~
25 ~~estate--or--tangible--personal--property--within-Montana-and~~

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

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

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

17 (a) is required by section 55 of the Internal
 18 Revenue Code, to pay a federal alternative minimum
 19 tax; or

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

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

1 (iii) \$20,000, if married filing separately;
 2 (3) A person who is a nonresident or who is a
 3 part-year resident of Montana shall file a Montana
 4 alternative minimum tax return if he has one or more tax
 5 preference items as defined in sections 55 through 59 of the
 6 Internal Revenue Code that are attributable to income
 7 derived from sources in this state and that income exceeds:

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

11 (4) For a resident, the taxpayer's federal alternative
 12 minimum taxable income, less the applicable exemption amount
 13 provided for in section 55 of the Internal Revenue Code,
 14 must be increased by the amount of interest received from
 15 obligations of another state or political subdivision
 16 thereof which sum shall be reduced by the following:

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

23 (5) (a) For a nonresident or part-year resident, the
 24 taxpayer's federal alternative minimum taxable income, less
 25 the applicable exemption amount provided for in section 55

1 of the Internal Revenue Code, must be prorated to determine
 2 his Montana alternative minimum taxable income. The prorated
 3 income is arrived at by dividing the Montana income
 4 determined pursuant to 15-30-131 or {section 13} by the
 5 federal adjusted gross income and multiplying this
 6 percentage by the taxpayer's federal alternative minimum
 7 taxable income.

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

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

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

17 (ii) all railroad retirement benefits; and

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

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

1 in:

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

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

4 (iii) {section 13}, if a part-year resident;

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

8 Section 10, Section 15-30-111, MCA, is amended to
 9 read:

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

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

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

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

1 subchapter S corporation on the income;

2 (2) Notwithstanding the provisions of the federal

3 Internal Revenue Code of 1954 as labeled or amended,

4 adjusted gross Montana net taxable income does not include

5 the following, which are exempt from taxation under this

6 chapter:

7 (a) all interest income from obligations of the United

8 States government, the state of Montana, county,

9 municipality, district, or other political subdivision

10 thereof;

11 (b) interest income earned by a taxpayer age 65 or

12 older in a taxable year up to and including \$800 for a

13 taxpayer filing a separate return and \$1,600 for each joint

14 return;

15 (c) all benefits received under the Federal Employees'

16 Retirement Act not in excess of \$3,600;

17 (d) all benefits, not in excess of \$360, received as

18 an annuity, pension, or endowment under any private or

19 corporate retirement plan or system;

20 (e) all benefits paid under the teachers' retirement

21 law which are specified as exempt from taxation by 19-4-706;

22 (f) all benefits paid under the Public Employees'

23 Retirement System Act which are specified as exempt from

24 taxation by 19-3-105;

25 (g) all benefits paid under the highway patrol

1 retirement law which are specified as exempt from taxation

2 by 19-6-705;

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

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

5 19-11-605 to retired and disabled firefighters, their

6 surviving spouses and orphans;

7 (j) all benefits paid under the municipal police

8 officers' retirement system that are specified as exempt

9 from taxation by 19-9-1005;

10 (k) gain required to be recognized by a liquidating

11 corporation under 15-31-113(a)(ii);

12 (l) all tips covered by section 3402(k) of the

13 Internal Revenue Code of 1954 as amended and applicable on

14 January 1, 1983, received by persons for services rendered

15 by them to patrons of premises licensed to provide food,

16 beverage, or lodging;

17 (m) all benefits received under the workers'

18 compensation laws; and

19 (n) all health insurance premiums paid by an employer

20 for an employee if attributed as income to the employee

21 under federal law;

22 (3) In the case of a shareholder of a corporation with

23 respect to which the election provided for under subchapter

24 S of the Internal Revenue Code of 1954 as amended, is in

25 effect but with respect to which the election provided for

1 under 15-31-2027 as amended, is not in effect, adjusted
 2 gross income does not include any part of the corporation's
 3 undistributed taxable income, net operating loss, capital
 4 gains or other gains, profits, or losses required to be
 5 included in the shareholder's federal income tax adjusted
 6 gross income by reason of the said election under subchapter
 7 S. However, the shareholder's adjusted gross income shall
 8 include actual distributions from the corporation to the
 9 extent they would be treated as taxable dividends if the
 10 subchapter S election were not in effect.

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

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

1 corporation, the deduction must be made to determine the
 2 amount of income or loss of the partnership or small
 3 business corporation.

4 (6) Married taxpayers filing a joint federal return
 5 who must include part of their social security benefits or
 6 part of their tier 1 railroad retirement benefits in federal
 7 adjusted gross income may split the federal base used in
 8 calculation of federal taxable social security benefits or
 9 federal taxable tier 1 railroad retirement benefits when
 10 they file separate Montana income tax returns. The federal
 11 base must be split equally on the Montana return.

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

1 on their combined adjusted gross income. For the purpose of
2 this subsection, permanently and totally disabled means
3 unable to engage in any substantial gainful activity by
4 reason of any medically determined physical or mental
5 impairment lasting or expected to last at least 12 months.

6 (b) all railroad retirement benefits;

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

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

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

19 Section 11, Section 15-30-131, MCA, is amended to
20 read:

21 "15-30-131. Nonresident and temporary resident
22 taxpayers' adjusted gross income less deductions Montana net
23 taxable income for nonresidents. (1) In the case of a
24 taxpayer other than a resident of this state, Montana net
25 taxable income for nonresidents is derived from adjusted

1 gross income from sources within and without the state,
2 determined as follows:

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

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

23 (3) In the case of a taxpayer other than a resident of
24 this state who is a resident of a state that does not impose
25 a tax on the income of natural persons residing within that

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

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

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

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

25 (b) To determine his Montana net taxable income, a

1 nonresident may deduct from his Montana adjusted gross
 2 income only the following items:

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

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

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

9 (iv) all sums donated to:

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

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

16 (v) all railroad retirement benefits;

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

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

22 (viii) interest and taxes on Montana property used for
 23 the production of Montana income;

24 (c) The prorated part referred to in subsections
 25 (i)(b)(i) through (i)(b)(iii) is determined by multiplying

1 the ratio of Montana adjusted gross income to federal
2 adjusted gross income by the federally allowed deductions
3 specified in subsections (1)(b)(i) through (1)(b)(iii);

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

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

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

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

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

25 (a) Montana adjusted gross income includes federal

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

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

7 (ii) all railroad retirement income; and

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

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

14 (i) income from annuities;

15 (ii) interest on bank deposits;

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

18 (iv) dividends on stock of corporations;

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

21 Section 13, Section 15-30-132, MCA, is amended to
22 read:

23 "15-30-132. Change from nonresident to resident or
24 vice-versa of residency status; if a taxpayer changes his
25 status from that of resident to that of nonresident or from

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

12 Section-14,--Section--15-30-135,--MCA,--is--amended--to
 13 read:

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

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

25 (b)--income--accumulated--in--trust--for-the-benefit-of

1 unborn-or-unascertained-persons-or-persons--with--contingent
 2 interests;

3 (c)--income--held--for--future--distribution--under--the
 4 terms-of-the-will-or-trust,--and

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

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

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

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

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

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

1 payment of premiums upon policies of life insurance under
 2 which the grantor is the beneficiary, such part of the
 3 income of the trust shall be included in computing the net
 4 income of the grantor."

5 Section 15, Section 15-30-136, MCA, is amended to
 6 read:

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

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

18 (i) the United States government or the state of
 19 Montana;

20 (ii) a school district; or

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

23 (c) income from partnerships and other fiduciaries;

24 (d) gross rents and royalties;

25 (e) gain from sale or exchange of property, including

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

1 were not claimed as a deduction in the determination of
 2 Montana inheritance tax;
 3 (f) losses from fire, storm, shipwreck, or other
 4 casualty or from theft, to the extent not compensated for by
 5 insurance or otherwise, that are deductible for federal tax
 6 purposes according to section 165 of the Internal Revenue
 7 Code of 1954, as amended;
 8 (g) net operating loss deductions allowed for federal
 9 income tax under section 642(d) of the Internal Revenue Code
 10 of 1954, as amended, except estates may not claim losses
 11 that are deductible on the decedent's final return;
 12 (h) all benefits received as federal employees'
 13 retirement not in excess of \$3,600;
 14 (i) all benefits paid under the Montana teachers'
 15 retirement system that are specified as exempt from taxation
 16 by 19-4-706;
 17 (j) all benefits paid under the Montana Public
 18 Employees' Retirement System Act that are specified as
 19 exempt from taxation by 19-3-105;
 20 (k) all benefits paid under the Montana highway
 21 patrolmen's retirement system that are specified as exempt
 22 from taxation by 19-6-705;
 23 (l) Montana income tax refunds or credits thereof;
 24 (m) all benefits paid under 19-11-602, 19-11-604, and
 25 19-11-605 to retired and disabled firemen or their surviving

1 spouses or children;

2 (n) all benefits paid under the municipal police

3 officers' retirement system that are specified as exempt

4 from taxation by 19-9-1005;

5 (o) all benefits not in excess of \$360 received as an

6 annuity, pension, or endowment under private or corporate

7 retirement plans or systems;

8 (3) in the case of a shareholder of a corporation with

9 respect to which the election provided for under subchapter

10 S7 of the Internal Revenue Code of 1954, as amended, is in

11 effect but with respect to which the election provided for

12 under 15-31-202 is not in effect, net income does not

13 include any part of the corporation's undistributed taxable

14 income, net operating loss, capital gains or other gains,

15 profits, or losses required to be included in the

16 shareholder's federal income tax net income by reason of the

17 election under subchapter S. However, the shareholder's net

18 income shall include actual distribution from the

19 corporation to the extent it would be treated as taxable

20 dividends if the subchapter S election were not in effect.

21 (1) The Montana taxable income of an estate or trust is its

22 federal taxable income as provided by the Internal Revenue

23 Code, including interest received on obligations of another

24 state or a political subdivision thereof, reduced by

25 interest received from obligations of the United States

1 government;

2 (4)(2) The following additional deductions shall be a

3 deduction is allowed in deriving taxable income of estates

4 and trusts:

5 (a) any for the amount of income for in the taxable

6 year currently required to be distributed to beneficiaries

7 for such year;

8 (b) any other amounts properly paid or credited or

9 required to be distributed for the taxable year;

10 (c) the amount of 60% of the excess of the net

11 long-term capital gain over the net short-term capital loss

12 for the taxable year;

13 (5) The exemption allowed for estates and trusts is

14 that exemption provided in 15-30-112(2)(a) and

15 15-30-112(8).⁴

16 Section 16, Section 15-30-141, MCA, is amended to

17 read:

18 "15-30-141. Tax as personal debt. Every tax imposed

19 by this chapter and all increases, interest, and penalties

20 thereon shall be a personal debt from the person or fiduciary liable to pay

21 the same to the state. Taxpayers filing a joint return are

22 jointly and severally liable for the tax and any interest

23 and penalty unless the department determines, based on the

24 criteria in section 6013(e) of the Internal Revenue Code,

25

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

1 derived from sources within Montana exceeds the amount of
 2 the exemption deduction he is entitled to claim for himself
 3 and his spouse under the provisions of 15-30-112(2), (3),
 4 and (4), as prorated according to 15-30-112(6).
 5 (2) In accordance with instructions set forth by the
 6 department, every taxpayer who is married and living with
 7 husband or wife and is required to file a return may, at his
 8 or her option, file a joint return with husband or wife even
 9 though one of the spouses has neither gross income nor
 10 deductions. If a joint return is made, the tax shall be
 11 computed on the aggregate taxable income and the liability
 12 with respect to the tax shall be joint and several. If a
 13 joint return has been filed for a taxable year, the spouses
 14 may not file separate returns after the time for filing the
 15 return of either has expired unless the department so
 16 consents.
 17 (2) Every person who is required to file a return
 18 under subsection (1) shall use the same filing status to
 19 file his state return as that used by him to file his
 20 federal return.
 21 (3) If any such taxpayer is unable to make his own
 22 return, the return shall be made by a duly authorized agent
 23 or by a guardian or other person charged with the care of
 24 the person or property of such taxpayer.
 25 (4) All taxpayers, including but not limited to those

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

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

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

25 (7) By November 1 of each year, the department shall

1 multiply the minimum amount of gross income necessitating
 2 the filing of a return by the inflation factor for the
 3 taxable year. These adjusted amounts are effective for that
 4 taxable year, and persons having gross incomes less than
 5 these adjusted amounts are not required to file a return.

6 (8) Individual income tax forms distributed by the
 7 department for each taxable year must contain instructions
 8 and tables based on the adjusted base year structure for
 9 that taxable year."

10 Section 18, Section 15-30-144, MCA, is amended to
 11 read:

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

1 required under this law. Every taxpayer liable for a tax
2 under this law shall pay a minimum tax of \$1.

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

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

10 (a) An application for extension must be filed before
11 the due date for filing the return on a form prescribed by
12 the department.

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

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

22 (d) If the applicant underestimates his tax due by 10%
23 or more, he is liable for penalties and interest under
24 15-30-323 from the date the tax is due.

25 (3) The department shall grant an application for

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

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

12 Section 19, Section 15-30-146, MCA, is amended to
13 read:

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

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

7 Section 20, Section 15-30-162, MCA, is amended to
8 read:

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

- 22 (a) it was placed in service in Montana, and
- 23 (b) it was used for the production of Montana adjusted
24 gross income.
- 25 (2) The amount of the credit allowed for the taxable

1 year is 5% of the amount of credit determined under section
2 46(a)(2) of the Internal Revenue Code of 1954, as amended,
3 or as section 46(a)(2) may be renumbered or amended.

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

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

22 (5) The investment credit allowed by this section
23 taken by a taxpayer pursuant to this chapter is subject to
24 recapture as provided for in section 47 of the Internal
25 Revenue Code of 1954, as amended, or as section 47 may be

1 renumbered or amended."

2 Section 21, Section 15-30-303, MCA, is amended to

3 read:

4 "15-30-303. Confidentiality of tax records. (1)

5 Except in accordance with proper judicial order or as

6 otherwise provided by law, it is unlawful for the department

7 or any deputy, assistant, agent, clerk, or other officer or

8 employee to divulge or make known in any manner the amount

9 of income or any particulars set forth or disclosed in any

10 report or return required under this chapter or any other

11 information secured in the administration of this chapter.

12 It is also unlawful to divulge or make known in any manner

13 any federal return or federal return information disclosed

14 on any return or report required by rule of the department

15 or under this chapter.

16 (2) The officers charged with the custody of such

17 reports and returns shall not be required to produce any of

18 them or evidence of anything contained in them in any action

19 or proceeding in any court, except in any action or

20 proceeding to which the department is a party under the

21 provisions of this chapter or any other taxing act or on

22 behalf of any party to any action or proceedings under the

23 provisions of this chapter or such other act when the

24 reports or facts shown thereby are directly involved in such

25 action or proceedings, in either of which events the court

1 may require the production of and may admit in evidence so

2 much of said reports or of the facts shown thereby as are

3 pertinent to the action or proceedings and no more.

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

5 (a) the delivery to a taxpayer or his duly authorized

6 representative of a certified copy of any return or report

7 filed in connection with his tax;

8 (b) the publication of statistics so classified as to

9 prevent the identification of particular reports or returns

10 and the items thereof; or

11 (c) the inspection by the attorney general or other

12 legal representative of the state of the report or return of

13 any taxpayer who shall bring action to set aside or review

14 the tax based thereon or against whom an action or

15 proceeding has been instituted in accordance with the

16 provisions of 15-30-311 and 15-30-322.

17 (4) Reports and returns shall be preserved for 3 years

18 and thereafter until the department orders them to be

19 destroyed.

20 (5) Any offense against subsections (1) through (4) of

21 this section shall be punished by a fine not exceeding

22 \$1,000 or by imprisonment in the county jail not exceeding 1

23 year, or both, at the discretion of the court, and if the

24 offender be an officer or employee of the state, he shall be

25 dismissed from office and be incapable of holding any public

1 office in this state for a period of 1 year thereafter;

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

19 {7}--Further, notwithstanding any of the provisions of
20 this section, the department shall furnish:

21 {a)--to the department of justice all information
22 necessary to identify those persons qualifying for the
23 additional exemption for blindness pursuant to 15-30-112(4),
24 for the purpose of enabling the department of justice to
25 administer the provisions of 61-5-105; and

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

6 Section 22, Section 15-31-202, MCA, is amended to
7 read:

8 "15-31-202. Election by small business corporation.
9 {1}--A small business corporation may elect that has made a
10 valid election under Subchapter S of Chapter 1 of the
11 Internal Revenue Code is not to be subject to the taxes
12 imposed by this chapter;

13 {2}--If a small business corporation makes an election
14 under subsection {1}, then:

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

21 {b)--with respect to the taxable years of a shareholder
22 of such corporation in which or with which the taxable years
23 of the corporation for which such election is in effect end,
24 the provisions of this part apply to such shareholder; and
25 with respect to such taxable years and all succeeding

1 taxable years, the provisions of this part apply to such
2 shareholder.

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

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

19 (3) A small business corporation that has made a valid
20 election under Subchapter S of Chapter 1 of the Internal
21 Revenue Code may elect to be subject to the taxes imposed
22 by this chapter by filing an election on a form provided by
23 the department. The form must have printed on it a
24 notification that making the election will subject income to
25 tax under both this chapter and Chapter 38. For tax years

1 ~~beginning on or after January 1, 1987, but before March 1,~~
2 ~~1987, the election must be filed by May 15, 1987.~~
3 ~~Thereafter, the election must be filed by the 15th day of~~
4 ~~the third month of the taxable year for which the election~~
5 ~~is to become effective. The election may be revoked by~~
6 ~~written notification to the department. Such revocation must~~
7 ~~be filed by the 15th day of the third month of the taxable~~
8 ~~year for which the revocation is to be effective.~~

9 (4) This election section is not effective unless the
10 corporate net income or loss of such electing the
11 nonelecting small business corporation is included in the
12 stockholders' adjusted gross income as defined in 15-30-111.

13 (5) Every electing nonelecting small business
14 corporation is required to pay the a minimum fee of \$10
15 required by 15-31-204.⁴

16 Section 23, Section 15-31-204, MCA, is amended to
17 read:

18 "15-31-204. Minimum fee of qualifying corporations
19 unaffected. Notwithstanding the provisions of 15-31-121
20 corporations electing and qualifying under 15-31-202 shall
21 pay a minimum fee of \$10."⁴

22 Section 24, Section 15-31-209, MCA, is amended to
23 read:

24 "15-31-209. Termination and revocation. If the
25 election under the provisions of Subchapter S is either

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

10 Section 25, Section 17-5-402, MCA, is amended to
 11 read:

12 "17-5-402. Commercial investment credit
 13 wind-generated electricity. (1) An individual, corporation,
 14 partnership, or small business corporation as defined in
 15 17-5-201, Subchapter S of Chapter 1 of the Internal Revenue
 16 Code that makes an investment of 95,000 or more in certain
 17 depreciable property qualifying under section 38 of the
 18 Internal Revenue Code of 1954, as amended, for a commercial
 19 system located in Montana which generates electricity by
 20 means of wind power is entitled to a tax credit against
 21 taxes imposed by 17-5-103 or 17-5-121 in an amount equal
 22 to 35% of the eligible costs, to be taken as a credit only
 23 against taxes due as a consequence of taxable or net income
 24 produced by one of the following:

25 (a) manufacturing plants located in Montana that

1 produce wind energy generating equipment;

2 (b) a new business facility or the expanded portion of
 3 an existing business facility for which the wind energy
 4 generating equipment supplies, on a direct contract sales
 5 basis, the basic energy needed; or

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

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

14 (a) generating equipment;

15 (b) safety devices and storage components;

16 (c) transmission lines necessary to connect with
 17 existing transmission facilities; and

18 (d) transmission lines necessary to connect directly
 19 to the purchaser of the electricity when no other
 20 transmission facilities are available.

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

24 Section 2. Section 17-5-408, MCA, is amended to read:

25 "17-5-408. (Effective unless contingency occurs--see

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

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

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

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

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

25 (b) ~~no~~ No more than ~~the~~ the ~~percentages described in~~

1 subsection (1)(a) of such tax collections ~~shall be deemed to~~
 2 may be pledged for the purpose of 17-5-403(2). The pledge
 3 and appropriation herein made shall be and remain at all
 4 times a first and prior charge upon all money received from
 5 the collection of said taxes.

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

23 ~~Section-27--Section-19-3-105--MCA--is-amended-to-read:~~
 24 ~~"19-3-105--Exemption--from--taxes--and--legal-process--~~
 25 ~~The-right-of-a-person-to-a-retirement-allowance-or-any-other~~

1 ~~benefit-under-this--chapter--and--the--moneys--in--the--fund~~
 2 ~~created-under-this-chapter-is-not:~~

3 ~~(1)--subject--to-execution, garnishment, attachment, or~~
 4 ~~any-other-process;~~

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

9 ~~(3)--assignable--except-as-in-this-chapter-specifically~~
 10 ~~provided:"~~

11 ~~Section-28--Section-19-4-706--MCA--is-amended-to-read:~~
 12 ~~"19-4-706--Exemption-from--taxation--taxes--and--legal~~
 13 ~~process--The--pensions, annuities, or any other benefits~~
 14 ~~accrued-or-accruing-to-any-person-under--the--provisions--of~~
 15 ~~the--retirement-system-and-the-accumulated-contributions-and~~
 16 ~~cash-and-securities-in-the-various-funds-of--the--retirement~~
 17 ~~system-are:~~

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

23 ~~(2)--not-subject-to-execution, garnishment, attachment~~
 24 ~~by--trustee--process--or--otherwise, in-law-or-equity, or-any~~
 25 ~~other-process; and~~

1 (3)--unassignable-except-as--specifically--provided--in
2 this-chapter."
3 Section-29,--Section-19-5-704,--MCA,--is-amended-to-read:
4 "19-5-704,--Exemption--from--taxes--and--legal-process:
5 Any-money-received-or-to-be--paid--as--a--member's--annuity,
6 state--annuity,--or-return-of-deductions-or-the-right-of-any
7 of-these-shall-be-exempt-from-any-state-or-municipal-tax--to
8 the--extent--provided--in--15-30-111--and--from--levy,--sale,
9 garnishment,--attachment,--or-any-other-process-whatsoever-and
10 shall-be-unassignable-except--as--specifically--provided--in
11 19-5-705."
12 Section-30,--Section-19-6-705,--MCA,--is-amended-to-read:
13 "19-6-705,--Exemption--from--taxes--and--legal-process:
14 Any-money-received-or-to-be--paid--as--a--member's--annuity,
15 state--annuity,--or-return-of-deductions-or-the-right-of-any
16 of-these-is:
17 (1)--exempt-from-any-state,--county,--or-municipal-tax--to
18 the-extent-provided-in-15-30-111--except-for-a--refund--paid
19 under--19-6-403--of-a-member's-contributions-picked-up-by-an
20 employer-after-June-30,--1985,--as-provided-in-19-6-402;
21 (2)--exempt-from-levy,--sale,--garnishment,--attachment,
22 or-any-other-process;--and
23 (3)--unassignable--except-as-specifically-provided-in
24 19-6-706."
25 Section-31,--Section-19-7-705,--MCA,--is-amended-to-read:

1 "19-7-705,--Exemption-from--taxes--and--legal--process:
2 Any--money--received--or--to--be-paid-as-a-member's-annuity,
3 state-annuity,--or-return-of-deductions-or-the-right--of--any
4 of-these-is:
5 (1)--exempt-from-any-state,--county,--or-municipal-tax--to
6 the--extent--provided-in-15-30-111--except-for-a-refund-paid
7 under-19-7-304(1)--of-a-member's-contributions-picked--up--by
8 an-employer-after-June-30,--1985,--as-provided-in-19-7-403;
9 (2)--exempt--from--levy,--sale,--garnishment,--attachment,
10 or-any-other-process;--and
11 (3)--unassignable-except-as--specifically--provided--in
12 19-7-706."
13 Section-32,--Section-19-8-005,--MCA,--is-amended-to-read:
14 "19-8-005,--Exemption--from--taxes--and--legal-process:
15 Any-money-received-or-to-be--paid--as--a--member's--annuity,
16 state--annuity,--or-return-of-deductions-or-the-right-of-any
17 of-these-is:
18 (1)--exempt-from-any-state,--county,--or-municipal-tax--to
19 the-extent-provided-in-15-30-111--except-for-a--refund--paid
20 under-19-8-503--of-the-member's-contributions-picked-up-by-an
21 employer-after-June-30,--1985,--as-provided-in-19-8-502;
22 (2)--exempt--from--levy,--sale,--garnishment,--attachment,
23 or-any-other-process;--and
24 (3)--unassignable-except-as--specifically--provided--in
25 19-8-006."

1 Section 33, Section 19-9-1005, MCA, is amended to
2 read:

3 "19-9-1005. Exemption from taxes. Any money paid in
4 accordance with the provisions of this chapter is exempt
5 from any state, county, or municipal tax to the extent
6 provided in 15-30-111, except a refund paid under 19-9-304
7 of a member's contributions picked up by an employer after
8 June 30, 1985, as provided in 19-9-601."

9 Section 34, Section 19-13-1003, MCA, is amended to
10 read:

11 "19-13-1003. Exemption from taxes. Any money received
12 as a retirement allowance in accordance with the provisions
13 of this chapter is exempt from any state or municipal tax to
14 the extent provided in 15-30-111."

15 Section 35, Section 53-2-101, MCA, is amended to read:

16 "53-2-101. Definitions. Unless the context requires
17 otherwise, in this chapter the following definitions apply:

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

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

25 (3) "Needy person" is one who is eligible for public

1 assistance under the laws of this state.

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

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

14 Section 36, Section 67-11-303, MCA, is amended to
15 read:

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

21 (a) an airport or air navigation facility or
22 facilities;

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

25 (c) grants or contributions from the federal

1 government; or
 2 (d) other sources;
 3 (2) The bonds may be issued by resolution of the
 4 authority, without an election and without any limitation of
 5 amount, except that no such bonds may be issued at any time
 6 if the total amount of principal and interest to become due
 7 in any year on such bonds and on any then outstanding bonds
 8 for which revenues from the same source or sources are
 9 pledged exceeds the amount of such revenues to be received
 10 in that year as estimated in the resolution authorizing the
 11 issuance of the bonds; The authority shall take all action
 12 necessary and possible to impose, maintain, and collect
 13 rates, charges, rentals, and taxes, if any, are pledged,
 14 sufficient to make the revenues from the pledged source in
 15 such year at least equal to the amount of such principal and
 16 interest due in that year;
 17 (3) The bonds may be sold at public or private sale
 18 and may bear interest at a rate not exceeding the limitation
 19 of 17-5-102. Except as otherwise provided herein, any bonds
 20 issued pursuant to this chapter by an authority may be
 21 payable as to principal and interest solely from revenues of
 22 the authority and shall state on their face the applicable
 23 limitations or restrictions regarding the source from which
 24 such principal and interest are payable;
 25 (4) Bonds issued by an authority or municipality

1 pursuant to the provisions of this chapter are declared to
 2 be issued for an essential public and governmental purpose
 3 by a political subdivision within the meaning of
 4 15-30-111(2)(a) for purposes of tax exemption determinations
 5 under the Internal Revenue Code;
 6 (5) For the security of any such bonds, the authority
 7 or municipality may by resolution make and enter into any
 8 covenant, agreement, or indenture and may exercise any
 9 additional powers authorized to be exercised by a
 10 municipality under Title 7, chapter 7, parts 44 and 45. The
 11 sums required from time to time to pay principal and
 12 interest and to create and maintain a reserve for the bonds
 13 may be paid from any revenues referred to in this chapter,
 14 prior to the payment of current costs of operation and
 15 maintenance of the facilities;
 16 (6) Subject to the conditions stated in this
 17 subsection (6), the governing body of any municipality
 18 having a population in excess of 10,000, with respect to
 19 bonds issued pursuant to this chapter by the municipality or
 20 by an authority in which the municipality is included, may
 21 by resolution covenant that in the event that at any time
 22 all revenues, including taxes, appropriated and collected
 23 for such bonds are insufficient to pay principal or interest
 24 then due, it will levy a general tax upon all of the taxable
 25 property in the municipality for the payment of such

1 deficiency; and may further covenant that at any time a
 2 deficiency is likely to occur within 1 year for the payment
 3 of principal and interest due on such bonds, it will levy a
 4 general tax upon all the taxable property in the
 5 municipality for the payment of such deficiency, and such
 6 taxes are not subject to any limitation of rate or amount
 7 applicable to other municipal taxes but are limited to a
 8 rate estimated to be sufficient to produce the amount of the
 9 deficiency. In the event more than one municipality having a
 10 population in excess of 10,000 is included in an authority
 11 issuing bonds pursuant to this chapter, the municipalities
 12 may apportion the obligation to levy taxes for the payment
 13 of, or in anticipation of, a deficiency in the revenues
 14 appropriated for such bonds in such manner as the
 15 municipalities may determine. The resolution shall state the
 16 principal amount and purpose of the bonds and the substance
 17 of the covenant respecting deficiencies. No such resolution
 18 becomes effective until the question of its approval has
 19 been submitted to the qualified electors of the municipality
 20 at a special election called for that purpose by the
 21 governing body of the municipality and a majority of the
 22 electors voting on the question have voted in favor thereof.
 23 The notice and conduct of the election is governed, to the
 24 extent applicable, as provided for municipal general
 25 obligation bonds in Title 77, chapter 77, part 427 for an

1 election called by cities and towns, and as provided for
 2 county general obligation bonds in Title 77, chapter 77, part
 3 227 for an election called by counties. If a majority of the
 4 electors voting thereon vote against approval of the
 5 resolution, the municipality has no authority to make the
 6 covenant or to levy a tax for the payment of deficiencies
 7 pursuant to this section, but such municipality or authority
 8 may nevertheless issue bonds under this chapter payable
 9 solely from the sources referred to in subsection (1)
 10 above."

11 Section 38. Section 20-9-316, MCA, is amended to read:

12 "20-9-316. Elementary school maximum budget schedule
 13 for 1985-86 1987-88, (1) For each elementary school having
 14 an ANB of nine or fewer pupils, the maximum shall be \$19,959
 15 \$19,957 if said school is approved as an isolated school.

16 (2) For schools with an ANB of 10 pupils but less than
 17 18 pupils, the maximum shall be \$19,959 \$19,957 plus \$834.10
 18 \$834 per pupil on the basis of the average number belonging
 19 over nine.

20 (3) For schools with an ANB of at least 14 pupils but
 21 less than 18 pupils that qualify for instructional aide
 22 funding under 20-9-322, the maximum shall be \$32,714 \$32,711
 23 plus \$834.10 \$834 per pupil on the basis of the average
 24 number belonging over 14.

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

1 one teacher, the maximum shall be \$27,466-~~\$27,463~~ plus
2 9834,10-~~9834~~ per pupil on the basis of the average number
3 belonging over 18, not to exceed an ANB of 25.

4 (5) For schools with an ANB of 18 pupils and employing
5 two full-time teachers, the maximum shall be \$43,851-~~43,847~~
6 plus \$522.40-~~522.38~~ per pupil on the basis of the average
7 number belonging over 18, not to exceed an ANB of 50.

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

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

16 (b) For a school having an ANB of more than 100
17 pupils, the maximum of \$1,825 shall be decreased at the rate
18 of \$1.72 for each additional pupil until the ANB shall have
19 reached 300 pupils.

20 (c) For a school having an ANB of more than 300
21 pupils, the maximum shall not exceed \$1,481 for each 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 39, Section 20-9-317, MCA, is amended to read:
4 "20-9-317. High school maximum budget schedule for
5 1985-86-~~1987-88~~. (1) For each high school having an ANB of
6 24 or fewer pupils, the maximum shall be \$113,700-~~113,696~~.

7 (2) For a secondary school having an ANB of more than
8 24 pupils, the maximum \$4,738-~~4,737~~ shall be decreased at
9 the rate of \$25.84 for each additional pupil until the ANB
10 shall have reached a total of 40 such pupils.

11 (3) For a school having an ANB of more than 40 pupils,
12 the maximum of \$4,324 shall be decreased at the rate of
13 \$25.84 for each additional pupil until the ANB shall have
14 reached 100 pupils.

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

19 (5) For a school having an ANB of more than 200
20 pupils, the maximum of \$2,342-~~2,341~~ shall be decreased by
21 92.38-~~92.37~~ for each additional pupil until the ANB shall
22 have reached 300 pupils.

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

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

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

11 Section 3. Section 20-9-318, MCA, is amended to read:
 12 "20-9-318. Elementary school maximum budget schedule
 13 for 1986-87 and succeeding years for ~~1986-89~~ 1987-88 and
 14 succeeding years. For 1986-87 ~~1986-89~~ 1987-88 and succeeding
 15 school years, the elementary school maximum budget schedule
 16 is as follows:

17 (1) For each elementary school having an ANB of nine
 18 or fewer pupils, the maximum shall be ~~\$20,150~~ \$19,550
 19 \$20,158 if said school is approved as an isolated school.

20 (2) For schools with an ANB of 10 pupils but less than
 21 18 pupils, the maximum shall be ~~\$20,150~~ \$19,550 \$20,158 plus
 22 ~~\$842.50~~ \$817.30 \$842.50 per pupil on the basis of the
 23 average number belonging over nine.

24 (3) For schools with an ANB of at least 14 pupils but
 25 less than 18 pupils that qualify for instructional aide

1 funding under 20-9-322, the maximum shall be ~~\$33,042~~ \$32,057
 2 \$33,042 plus ~~\$842.50~~ \$817.30 \$842.50 per pupil on the basis
 3 of the average number belonging over 14.

4 (4) For schools with an ANB of 18 pupils and employing
 5 one teacher, the maximum shall be ~~\$27,741~~ \$26,914 \$27,741
 6 plus ~~\$842.50~~ \$817.30 \$842.50 per pupil on the basis of the
 7 average number belonging over 18, not to exceed an ANB of
 8 25.

9 (5) For schools with an ANB of 18 pupils and employing
 10 two full-time teachers, the maximum shall be ~~\$44,290~~ \$42,970
 11 \$44,290 plus ~~\$527.60~~ \$511.90 \$527.60 per pupil on the basis
 12 of the average number belonging over 18, not to exceed an
 13 ANB of 50.

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

17 (a) For a school having an ANB of more than 40 and
 18 employing a minimum of three teachers, the maximum of ~~\$17,957~~
 19 \$17,899 \$1,957 shall be decreased at the rate of ~~\$1.90~~ \$1.84
 20 \$1.90 for each additional pupil until the total number (ANB)
 21 shall have reached a total of 100 pupils.

22 (b) For a school having an ANB of more than 100
 23 pupils, the maximum of ~~\$17,843~~ \$17,708 \$1,843 shall be
 24 decreased at the rate of ~~\$1.74~~ \$1.69 \$1.74 for each
 25 additional pupil until the ANB shall have reached 300

1 pupils.

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

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

11 Section 4. Section 20-9-319, MCA, is amended to read:

12 "20-9-319. High school maximum budget schedule for
13 ~~1986-87--and--succeeding--years~~ for ~~1988-89~~ 1987-88 and
14 succeeding years. For ~~1986-87~~ ~~1988-89~~ 1987-88 and succeeding
15 school years, the high school maximum budget schedule is as
16 follows:

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

19 (2) For a secondary school having an ANB of more than
20 24 pupils, the maximum ~~\$4,785~~ ~~\$4,643~~ \$4,785 shall be
21 decreased at the rate of ~~\$26.10~~ ~~\$25.32~~ \$26.10 for each
22 additional pupil until the ANB shall have reached a total of
23 40 such pupils.

24 (3) For a school having an ANB of more than 40 pupils,
25 the maximum of ~~\$4,368~~ ~~\$4,237~~ \$4,368 shall be decreased at

1 the rate of ~~\$26.10~~ ~~\$25.32~~ \$26.10 for each additional pupil
2 until the ANB shall have reached 100 pupils.

3 (4) For a school having an ANB of more than 100
4 pupils, a maximum of ~~\$2,802~~ ~~\$2,718~~ \$2,802 shall be decreased
5 at the rate of ~~\$4.37~~ ~~\$4.24~~ \$4.37 for each additional pupil
6 until the ANB shall have reached 200 pupils.

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

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

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

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

25 Section 5. Section 20-9-343, MCA, is amended to read:

1 "20-9-343. Definition of and revenue for state
 2 equalization aid. (1) As used in this title, the term "state
 3 equalization aid" means those moneys deposited in the state
 4 special revenue fund as required in this section plus any
 5 legislative appropriation of moneys from other sources for
 6 distribution to the public schools for the purpose of
 7 equalization of the foundation program.

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

14 (3) The following shall be paid into the state special
 15 revenue fund for state equalization aid to public schools of
 16 the state:

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

19 (b) 25% of all moneys, except as provided in
 20 15-31-702, received from the collection of corporation
 21 license and income taxes under chapter 31 of Title 15, as
 22 provided by 15-1-501;

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

25 (d) 100% of the moneys received from the treasurer of

1 the United States as the state's shares of oil, gas, and
 2 other mineral royalties under the federal Mineral Lands
 3 Leasing Act, as amended;

4 (e) interest and income moneys described in 20-9-341
 5 and 20-9-342;

6 (f) income from the local impact and education trust
 7 fund account; and

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

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

18 NEW SECTION. Section 6. Surtax. After the amount of
 19 tax liability has been computed as required in 15-30-103,
 20 each person filing a Montana individual income tax return
 21 shall add as a surtax 10% of the tax liability, and the
 22 amount so arrived at is the amount due the state.

23 ~~NEW SECTION. Section 41. Repealer. Sections~~
 24 ~~15-30-112 through 15-30-117, 15-30-121 through 15-30-123,~~
 25 ~~15-30-125, 15-30-126, 15-30-156, 15-30-157, 15-30-161,~~

~~15-31-2017-and-15-31-2007-MEA7-are-repealed-~~

NEW SECTION. SECTION 7. EXEMPTION FOR GAIN ON SALE OR EXCHANGE OF CERTAIN CAPITAL ASSETS. NOTWITHSTANDING THE PROVISIONS OF 15-30-111, ADJUSTED GROSS INCOME DOES NOT INCLUDE 40% OF CAPITAL GAINS ON THE SALE OR EXCHANGE OF CAPITAL ASSETS BEFORE DECEMBER 31, 1986, AS CAPITAL GAINS ARE DETERMINED UNDER SUBCHAPTER P. OF CHAPTER 1 OF THE INTERNAL REVENUE CODE AS IT READ ON DECEMBER 31, 1986.

NEW SECTION. Section 8. Appropriation. There is appropriated \$34 MILLION FROM THE EDUCATION AND LOCAL IMPACT TRUST AND \$62 MILLION from the general fund to the superintendent-of-public-instruction--\$96--million SCHOOL FOUNDATION PROGRAM for the biennium ending June 30, 1989, for state equalization aid. THE GOVERNOR IS AUTHORIZED TO REDUCE THE GENERAL FUND APPROPRIATION TO THE AMOUNT NECESSARY TO FUND THE SCHOOL FOUNDATION SCHEDULES IN 20-9-318 AND 20-9-319.

NEW SECTION. Section 9. Codification instruction. Sections ~~107-137-and-43~~ 12 6 AND 40 7 are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to sections ~~107-137-and-43~~ 12 6 AND 40 7.

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

extended to the provisions of this act.

~~NEW-SECTION--Section-45--Coordination--If-House-Bill No--2--as-it-passes-the-House-of-Representatives-is-amended in-the-Senate--this-act-is-void-~~

NEW SECTION. Section 11. Effective date -- applicability. (1) This act, except section 45 42 8, is effective on passage and approval.

(2) Section 45 42 8 is effective July 1, 1987.

(3) Unless otherwise specified or required by a particular section of this act, sections 1 through 227-27 217-26-through-37-367--and--44--41 7 apply retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1986.

~~(4)--Sections-23-22-through-26-25-apply--retroactively, within--the--meaning--of--1-2-109--to--all--small--business corporations--that--have--made--a--valid--election--under Subchapter-S-of-Chapter-1-of-the-Internal-Revenue-Code-on-or before--December--31--1986--and-for-tax-years-ending-after December-31--1986-~~

~~(5)--Section-43-40-applies-to-tax-years-beginning-after December-31--1986--and-ending-before-January-1--1989-~~

NEW SECTION. Section 12. Termination. Section 43 40 6 terminates December 31, 1989.

-End-

STANDING COMMITTEE REPORT Page 1 of 3.

SENATE

April 13, 19 87

April 13, 19 87

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE BILL No. 904

third reading copy (blue color)

INCOME TAX REVISION TO FUND EDUCATION

HARP (BROWN)

House Bill 904

Respectfully report as follows. That No

- 1. Title, line 4.
Following: "TO"
Strike: "REVISE THE"
Insert: "PROVIDE A 10% SURTAX ON"
- 2. Title, line 5.
Strike: "SYSTEM"
- 3. Title, line 6.
Strike: "ADJUST THE"
Insert: "APPROPRIATE FUNDS FROM THE EDUCATION AND LOCAL IMPACT TRUST TO THE SCHOOL"
- 4. Title, line 7.
Strike: "SCHEDULES FOR ELEMENTARY SCHOOLS AND HIGH SCHOOLS"
- 5. Title, line 10.
Strike: "1-1-207, 7-14-1133, 7-34-2416, 15-1-101,"
- 6. Title, lines 11 through 14.
Following: "15-1-501," on line 11
Strike: remainder of line 11 through "15-32-402," on line 14
- 7. Title, line 15.
Strike: line 15 in its entirety

DO PASS

DO NOT PASS

[Signature]
CONTINUED

Chairman

- 8. Title, line 16.
Strike: "19-9-1005, 19-13-1003,"
Following: "20-9-319,"
Insert: "AND"
- 9. Title, lines 17 through 20.
Following: "20-9-343," on line 17
Strike: "53-2-101, AND 67-11-303,"
Following: "MCA;" on line 17
Strike: remainder of line 17 through "MCA;" on line 20
- 10. Page 1, line 25 through line 19, page 9.
Strike: sections 1 through 5 in their entirety
Renumber: subsequent sections
- 11. Page 10, line 25 and line 1, page 11.
Following: "title" on line 25
Strike: remainder of line 25 through end of line 1
- 12. Page 12, line 8 through line 20, page 56.
Strike: sections 7 through 25 in their entirety
Renumber: subsequent sections
- 13. Page 59, line 20 through line 7, page 68.
Strike: sections 27 through 36 in their entirety
Renumber: subsequent sections
- 14. Page 76, lines 20 through 23.
Strike: section 41 in its entirety
Insert: "NEW SECTION. Section 7. Exemption for gain on sale or exchange of certain capital assets. Notwithstanding the provisions of 15-30-111, adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under Subchapter P of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986."
Renumber: subsequent sections
- 15. Page 76, line 25 and line 1, page 77.
Following: "appropriated" on line 25
Insert: "\$34 million from the education and local impact trust and \$62 million"
Following: "to the" on line 25
Strike: "superintendent of public instruction \$96 million"
Insert: "school foundation program"

CONTINUED

[Signature]

413

16. Page 77, line 2.

Following: "."

Insert: "The governor is authorized to reduce the general fund appropriation to the amount necessary to fund the school foundation schedules in 20-9-318 and 20-9-319."

17. Page 77, lines 4 and 7.

Strike: "12" and "40"

Insert: "6" and "7"

18. Page 77, lines 12 through 14.

Strike: section 45 in its entirety

Renumber: subsequent sections

19. Page 77, lines 16 and 18.

Strike: "42"

Insert: "8"

20. Page 77, line 21.

Strike: "21, 26 through", "36, and", and "41"

Insert: "7"

21. Page 77, line 24 through line 6, page 78.

Strike: subsections (4) and (5) in their entirety

22. Page 78, line 7.

Strike: "40"

Insert: "6"

jhl/e:hb904sam.txt (dw3)

AND AS AMENDED,
BE CONCURRED IN

George McCallum
Senator McCallum, Chairman

6:10p.
4-13-8
BKW

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB904, reference copy.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide a 10% surtax on Montana individual income tax, to increase the contribution to state equalization, and to appropriate funds from the education and local impact trust to the school foundation program for the purpose of balancing the fiscal 1988-89 general fund budget; to appropriate funds for equalization aid for schools, and providing effective dates, a retroactive applicability date, and a termination date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimates provide the basis for comparison, unless otherwise noted.
2. Individual income tax collections will be \$208,088,000 in FY88 and \$299,991,000 in FY89.
3. The 10% surtax applies to calendar years 1987 and 1988. The 10% surtax will raise \$24.540 million in FY88 and \$17.330 million in FY89. (see technical note)
4. The capital gains exclusion will reduce income tax collections \$822,000 a year. (DOR)
5. The distribution of income tax collections will be : Current law/Proposed law.
 General Fund - 64% / 58.2%
 School Equalization - 25% / 31.8%
 Debt Service Fund - 11% / 10.0%
6. The appropriation of \$34 million from the education trust to the school foundation program will be made on January 1, 1988. The reduction in interest earnings to the general fund will be \$1,932,000 in FY88 and \$3,865,000 in FY89.

FISCAL IMPACT:

Revenues:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual Income Tax	\$208,088,000	\$231,806,000	\$23,718,000	\$229,991,000	\$246,499,000	\$16,508,000

Fund Information:

General Fund	\$133,176,320	\$134,911,092	\$ 1,734,772	\$147,194,240	\$143,462,418	(\$ 3,731,822)
School Equalization	52,022,000	73,714,308	21,692,308	57,497,750	78,386,682	20,888,932
Debt Service Fund	22,889,680	23,180,600	290,920	25,299,010	24,649,900	(649,110)

Education Trust Fund:

	<u>FY88</u>	<u>FY89</u>
Appropriation	\$34,000,000	-
Loss of Interest Earnings		
General Fund	\$ 1,932,000	\$3,865,000

David L. Hunter DATE 4/16/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

John Harp DATE _____
 JOHN HARP, PRIMARY SPONSOR

Fiscal Note for HB904, reference copy.

HB904
#2

Fiscal Note Request, HB904, reference copy.

Form BD-15

Page 2

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

The bill, in its reference copy revision, will require the Department of Revenue to adopt rules that clarify that the surtax applies to income tax liabilities for calendar years 1987 and 1988.

HB 904
#2