

SB 307 INTRODUCED BY CRIPPEN, MCCALLUM, BROWN, R., ET AL.
MONTANA ECONOMIC AND TAX REFORM ACT OF 1987 (ALSO
KNOWN AS "GODZILLA")

2/06	INTRODUCED		
2/06	REFERRED TO TAXATION		
2/14	FISCAL NOTE REQUESTED		
2/16	HEARING		
2/16	FISCAL NOTE RECEIVED		
2/17	HEARING		
2/18	HEARING		
2/19	HEARING		
2/24	HEARING		
4/10	COMMITTEE REPORT--BILL PASSED AS AMENDED		
4/10	SPONSORS REMOVED	50	0
4/10	SPONSORS ADDED;		
	CRIPPEN NAMED PRIMARY SPONSOR	50	0
4/10	2ND READING PASSED AS AMENDED	27	23
4/10	3RD READING PASSED	27	23

TRANSMITTED TO HOUSE

DIED IN PROCESS

1 Senate BILL NO. 307
 2 INTRODUCED BY Neuman HARP Ream Jack Bong
 3 Van Vleet W. Williams BY REQUEST OF THE GOVERNOR Spicer Butt
 4 Kadva Julian Loy Hersch Ullendy Reek Keen
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO STIMULATE AND
 6 ENCOURAGE THE GROWTH OF THE MONTANA ECONOMY BY MEANS OF THE
 7 MONTANA ECONOMIC AND TAX REFORM ACT OF 1987; AMENDING
 8 SECTIONS 1-1-207, 7-14-1133, 7-34-2416, 15-1-101, 15-1-206,
 9 15-2-301, 15-6-134, 15-6-142, 15-6-151, 15-30-101,
 10 15-30-103, 15-30-105, 15-30-111, 15-30-131, 15-30-132,
 11 15-30-135, 15-30-136, 15-30-141, 15-30-142, 15-30-144,
 12 15-30-146, 15-30-162, 15-30-171, 15-30-172, 15-30-174,
 13 15-30-176, 15-30-178, 15-30-207, 15-30-303, 15-30-321,
 14 15-30-323, 15-31-113, 15-31-114, 15-31-121, 15-31-202,
 15 15-31-305, 15-31-502, 15-31-552, 15-31-554, 15-32-102,
 16 15-32-203, 15-35-103, 15-35-202, 15-35-203, 15-36-101,
 17 15-36-105, 15-37-104, 15-50-206, 15-51-103, 15-55-108,
 18 15-70-203, 15-70-210, 15-70-332, 16-1-409, 16-11-143,
 19 19-3-105, 19-4-706, 19-6-705, 53-2-101, 61-1-129, 61-3-523,
 20 61-3-525, 61-3-606, 67-11-303, 69-1-225, 69-1-226, AND
 21 90-8-202, MCA; REPEALING SECTIONS 15-30-112 THROUGH
 22 15-30-117, 15-30-121 THROUGH 15-30-123, 15-30-125,
 23 15-30-126, 15-30-156, 15-30-157, 15-30-161, 15-31-116,
 24 15-31-124 THROUGH 15-31-127, 15-31-553, 15-31-601,
 25 15-31-602, 15-31-604 THROUGH 15-31-607, 15-32-101, 15-32-103

1 THROUGH 15-32-106, 15-32-108, 15-32-109, 15-32-201,
 2 15-32-202, 15-32-301 THROUGH 15-32-303, 15-32-401 THROUGH
 3 15-32-407, 15-35-105, 15-36-107, 15-37-201 THROUGH
 4 15-37-207, 15-37-210 THROUGH 15-37-212, 15-37-221,
 5 15-38-107, 15-51-111, 15-53-111, 15-53-112, 15-54-101
 6 THROUGH 15-54-105, 15-54-111 THROUGH 15-54-113, 15-56-101
 7 THROUGH 15-56-108, 15-56-111 THROUGH 15-56-113, 15-57-101
 8 THROUGH 15-57-110, 15-58-101, 15-58-102, 15-58-104 THROUGH
 9 15-58-111, 15-58-121 THROUGH 15-58-126, 15-59-101,
 10 15-59-102, 15-59-104 THROUGH 15-59-110, 15-59-112 THROUGH
 11 15-59-114, 15-59-121, 15-59-201, 15-59-203, 15-59-210,
 12 15-59-212 THROUGH 15-59-214, 15-59-221, 15-70-330,
 13 16-11-101, 19-9-1005, 23-2-714, 23-2-715, 35-18-503,
 14 61-3-524, AND 82-11-133, MCA; AND PROVIDING APPLICABILITY
 15 DATES AND AN IMMEDIATE EFFECTIVE DATE."
 16
 17 WHEREAS, the economy of Montana has suffered from
 18 external forces that have caused lower prices for its raw
 19 materials and farm products; and
 20 WHEREAS, the Montana economy must grow by developing
 21 new industry and business, as well as by nurturing existing
 22 industry and business; and
 23 WHEREAS, a key to economic growth is tax fairness; and
 24 WHEREAS, the people of Montana have clearly spoken in
 25 favor of tax fairness and tax reform; and

1 WHEREAS, a simple, understandable tax system is
2 essential to achieving tax fairness and reform; and

3 WHEREAS, the principles of tax fairness and reform
4 require all Montana citizens and businesses to pay their
5 fair share.

6 THEREFORE, the Legislature of the State of Montana
7 enacts the following economic and tax reform measure.
8

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

10 Section 1. Section 15-6-134, MCA, is amended to read:

11 "15-6-134. Class four property -- description --
12 taxable percentage. (1) Class four property includes:

13 (a) all land except that specifically included in
14 another class;

15 (b) all improvements except those specifically
16 included in another class;

17 (c) the first ~~\$35,000~~ \$80,000 or less of the market
18 value of any improvement on real property and appurtenant
19 land not exceeding 5 acres owned or under contract for deed
20 and actually occupied for at least 10 months a year as the
21 primary residential dwelling of any person whose total
22 household income from all sources including otherwise
23 tax-exempt income of all types, as defined in 15-30-171(5),
24 is not more than \$10,000 for a single person or \$12,000 for
25 a married couple;

1 (d) all golf courses, including land and improvements
2 actually and necessarily used for that purpose, that consist
3 of at least 9 holes and not less than 3,000 lineal yards.

4 (2) Class four property is taxed as follows:

5 (a) Except as provided in 15-24-1402 or 15-24-1501,
6 property described in subsections (1)(a) and (1)(b) is taxed
7 at the ~~taxable percentage rate of~~ 3.86% of its market
8 value.

9 (b) Property described in subsection (1)(c) is taxed
10 at the ~~taxable percentage rate of~~ 3.86% of its market value
11 multiplied by a percentage figure based on income and
12 determined from the following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier
\$0 - \$1,000	\$0 - \$1,200	0%
1,001 - 2,000	1,201 - 2,400	10%
2,001 - 3,000	2,401 - 3,600	20%
3,001 - 4,000	3,601 - 4,800	30%
4,001 - 5,000	4,801 - 6,000	40%
5,001 - 6,000	6,001 - 7,200	50%
6,001 - 7,000	7,201 - 8,400	60%
7,001 - 8,000	8,401 - 9,600	70%
8,001 - 9,000	9,601 - 10,800	80%
9,001 - 10,000	10,801 - 12,000	90%

25 (c) Property described in subsection (1)(d) is taxed

1 at one-half the taxable percentage rate "P" established in
 2 subsection (2)(a).

3 (3) -- Until January 17, 1986, the taxable percentage rate
 4 "P" for class four property is 8.55%.

5 (4) -- Prior to July 17, 1986, the department of revenue
 6 shall determine the taxable percentage rate "P" applicable
 7 to class four property for the revaluation cycle beginning
 8 January 17, 1986, as follows:

9 (a) -- The director of the department of revenue shall
 10 certify to the governor before July 17, 1986, the percentage
 11 by which the appraised value of all property in the state
 12 classified under class four as of January 17, 1986, has
 13 increased due to the revaluation conducted under 15-7-111.
 14 This figure is the certified statewide percentage increase.

15 (b) -- The taxable value of property in class four is
 16 determined as a function of the certified statewide
 17 percentage increase in accordance with the table shown
 18 below:

19 (c) -- This table limits the statewide increase in
 20 taxable valuation resulting from reappraisal to 8%. In
 21 calculating the percentage increase, the department may not
 22 consider changes resulting from new construction, additions,
 23 or deletions during calendar year 1985.

24 (d) -- The taxable percentage must be calculated by
 25 interpolation to coincide with the nearest whole number

1 certified statewide percentage increase from the following
 2 table:

Certified Statewide Percentage Increase	Class Four Taxable Percentage "P"
0	8.55
10	7.77
20	7.12
30	6.57
40	6.10
50	5.70
60	5.34
70	5.02
80	4.75
90	4.50
100	4.27
110	4.07
120	3.88
130	3.71
140	3.56
150	3.42
160	3.28
170	3.16
180	3.05
190	2.94
200	2.85

1	210	275
2	220	267
3	230	259
4	240	251
5	250	244
6	260	237
7	270	231
8	280	225
9	290	219
10	300	213

11 ~~{5}--After--July--17--19867--no--adjustment--may--be--made--by~~
 12 ~~the--department--to--the--taxable--percentage--rate--"P"--until--a~~
 13 ~~reevaluation--has--been--made--as--provided--in--15-7-111.~~

14 {6}{3} Within the meaning of comparable property as
 15 defined in 15-1-101, property assessed as commercial
 16 property is comparable only to other property assessed as
 17 commercial property, and property assessed as other than
 18 commercial property is comparable only to other property
 19 assessed as other than commercial property."

20 Section 2. Section 15-6-142, MCA, is amended to read:

21 "15-6-142. Class twelve property -- description --
 22 taxable percentage. (1) Class twelve property includes:

23 (a) a trailer or mobile home used as a residence
 24 except when:

25 (i) held by a distributor or dealer of trailers or

1 mobile homes as his stock in trade; or
 2 (ii) specifically included in another class;
 3 (b) the first \$35,000 or less of the market value of a
 4 trailer or mobile home used as a residence and actually
 5 occupied for at least 10 months a year as the primary
 6 residential dwelling of any person whose total income from
 7 all sources including otherwise tax-exempt income of all
 8 types is not more than \$10,000 for a single person or
 9 \$12,000 for a married couple.

10 (2) Class twelve property is taxed as follows:

11 (a) Property described in subsection (1)(a) that is
 12 not of the type described in subsection (1)(b) is taxed at
 13 ~~the--taxable--percentage--rate--"P"--described--in--15-6-134,~~
 14 3.86% of its market value.

15 (b) Property described in subsection (1)(b) is taxed
 16 at ~~the--taxable--percentage--rate--"P"--described--in--15-6-134,~~
 17 3.86% of its market value multiplied by a percentage figure
 18 based on income and determined from the table established in
 19 subsection (2)(b) of 15-6-134."

20 Section 3. Section 15-6-151, MCA, is amended to read:

21 "15-6-151. Application for certain class four
 22 classifications. (1) A person applying for classification of
 23 property described in subsection (1)(c) of 15-6-134 shall
 24 make an affidavit to the department of revenue, on a form
 25 provided by the department without cost, stating:

1 (a) his income;

2 (b) the fact that he maintains the land and
3 improvements as his primary residential dwelling, where
4 applicable; and

5 (c) such other information as is relevant to the
6 applicant's eligibility.

7 ~~{2}--This application must be made before--March--1--of~~
8 ~~the---year---after---the---applicant---becomes---eligible---The~~
9 ~~application--remains--in--effect--in--subsequent--years--unless~~
10 ~~there--is--a--change--in--the--applicant's--eligibility---The~~
11 ~~taxpayer--shall--inform--the--department--of--any--change--in~~
12 ~~eligibility---The--department--may--inquire--by--mail--whether--any~~
13 ~~change--in--eligibility--has--taken--place--and--may--require--a--new~~
14 ~~statement--of--eligibility--at--any--time--it--considers--necessary-~~

15 {3}{2} The affidavit is sufficient if the applicant
16 signs a statement affirming the correctness of the
17 information supplied, whether or not the statement is signed
18 before a person authorized to administer oaths, and mails
19 the application and statement to the department of revenue
20 on or before April 15 of the year for which relief is
21 sought. This signed statement shall be treated as a
22 statement under oath or equivalent affirmation for the
23 purposes of 45-7-202, relating to the criminal offense of
24 false swearing.

25 (3) An application for a tax credit pursuant to

1 15-30-171 filed after January 1, 1988, may also be an
2 application for relief pursuant to this section if the
3 taxpayer states on the form that he wishes it to be an
4 application for relief and agrees that the department and
5 the county may use information from the income tax return as
6 appropriate to provide relief under this section. The
7 application must be received by April 15 of the year for
8 which relief is sought, and the relief applies to the year
9 in which the credit application is received by the
10 department."

11 Section 4. Section 15-30-171, MCA, is amended to read:
12 "15-30-171. Residential property tax credit for
13 elderly -- definitions. As used in 15-30-171 through
14 15-30-179, the following definitions apply:

15 {1}--"income"--means--federal--adjusted--gross--income,
16 without--regard--to--loss,--as--that--quantity--is--defined--in--the
17 internal--Revenue--Code--of--the--United--States,--plus--all
18 nontaxable--income,--including--but--not--limited--to:

19 {a}--the---gross--amount--of--any--pension--or--annuity
20 {including--Railroad--Retirement--Act--benefits--and--veterans'
21 disability--benefits};

22 {b}--the--amount--of--capital--gains--excluded--from--adjusted
23 gross--income;

24 {c}--alimony;

25 {d}--support--money;

~~(e) nontaxable strike benefits;~~

~~(f) cash public assistance and relief;~~

~~(g) payments and interest on federal, state, county, and municipal bonds; and~~

~~(h) all payments under federal social security.~~

{2}(1) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

{3}(2) "Claimant" means an individual natural person who is eligible to file a claim under 15-30-172.

{4}(3) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

{5}(4) "Gross household income" means all income ~~received by all individuals of a household while they are members of the household;~~ monetary benefits of any kind received by each individual member of the household, without regard to losses of any kind and without regard to whether such benefits are taxable income under state or federal income tax laws. Such income includes but is not limited to the following:

(a) 100% of the gains on all sales;

(b) alimony, child support, or any other type of maintenance payment;

(c) cash public assistance and relief;

(d) life insurance and endowment contracts;

(e) social security and the gross amount of any pension or annuity (including railroad retirement benefits and veterans' disability benefits);

(f) unemployment and workers' compensation benefits;

(g) all tax refunds; and

(h) any monetary benefits defined as income in the Internal Revenue Code or by this chapter.

{6}(5) "Household income" means ~~\$0 or the amount obtained by subtracting \$4,000 from gross household income, whichever is greater~~ less \$4,000, times the inflation factor provided for in this section, but in no case may it be less than \$0.

{7}(6) "Homestead" means a single-family dwelling or unit of a multiple-unit dwelling that is subject to ad valorem taxes in Montana, owned and occupied as a residence by the owner for at least 6 months of the claim period or occupied as a dwelling of a renter or lessee for at least 6 months of the claim period, and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling.

{8}(7) "Department" means the department of revenue.

1 ~~(9)~~(8) "Gross rent" means the total rent in cash or
2 its equivalent actually paid during the claim period by the
3 renter or lessee for the right of occupancy of the homestead
4 pursuant to an arm's length transaction with the landlord.

5 ~~(10)~~(9) "Property tax paid billed" means general ad
6 valorem taxes, exclusive of special assessments, penalties,
7 or interest, levied against the homestead, ~~exclusive of~~
8 ~~special assessments, penalties, or interest and paid~~ during
9 the claim period.

10 ~~(11)~~(10) "Rent-equivalent tax paid" means 15% of the
11 gross rent.

12 (11) "Inflation factor" means a number determined by
13 November 1 for each taxable year by dividing the consumer
14 price index for June of the taxable year by the consumer
15 price index for June 1987."

16 Section 5. Section 15-30-172, MCA, is amended to read:

17 "15-30-172. Residential property tax credit for
18 elderly -- eligibility. (1) In order to be eligible to make
19 a claim under 15-30-171 through 15-30-179, an individual
20 must have ~~reached age 62 or older during the claim period~~
21 ~~for which relief is sought and must have resided in Montana~~
22 ~~for at least 9 months of that period; a household income of~~
23 less than \$45,000 during the claim period and be a resident
24 as defined in 15-30-101.

25 (2) A person who has been a full-time student at an

1 educational institution for 6 months or more of the taxable
2 year is not eligible for the credit. "Educational
3 institution" means one that normally maintains a regular
4 faculty and curriculum and normally has a regularly
5 organized body of students in attendance at the place where
6 its educational activities are carried on. A person is a
7 full-time student if he is considered to be such by the
8 educational institution or if the person claims such status
9 for any other tax purpose."

10 Section 6. Section 15-30-174, MCA, is amended to read:

11 "15-30-174. Residential property tax credit for
12 elderly -- filing date. (1) Except as provided in subsection
13 (2), a claim for relief must be submitted at the same time
14 the claimant's individual income tax return is due. For an
15 individual not required to file a tax return, the claim must
16 be submitted on or before April 15 of the year following the
17 year for which relief is sought.

18 (2) The department may grant a reasonable extension
19 for filing a claim whenever, in its judgment, good cause
20 exists. However, the extension granted may not be longer
21 than the statute of limitations provided in this chapter.
22 The department shall keep a record of each extension and the
23 reason for granting the extension.

24 (3) In the event that an individual who would have a
25 claim under 15-30-171 through 15-30-179 dies before filing

1 the claim, the personal representative of the estate of the
2 decedent may file the claim."

3 Section 7. Section 15-30-176, MCA, is amended to read:

4 "15-30-176. Residential property tax credit for
5 elderly -- computation of relief. The amount of the tax
6 credit granted under the provisions of 15-30-171 through
7 15-30-179 is computed as follows:

8 (1) In the case of a claimant who owns the homestead
9 for which a claim is made, the credit is the amount of
10 property tax paid billed less the deduction specified in
11 subsection (4).

12 (2) In the case of a claimant who rents the homestead
13 for which a claim is made, the credit is the amount of
14 rent-equivalent tax paid less the deduction specified in
15 subsection (4).

16 (3) In the case of a claimant who both owns and rents
17 the homestead for which a claim is made, the credit is:

18 (a) the amount of property tax paid billed on the
19 owned portion of the homestead ~~less the deduction specified~~
20 ~~in subsection (4);~~ plus

21 (b) the amount of rent-equivalent tax paid on the
22 rented portion of the homestead; less

23 (c) the deduction specified in subsection (4).

24 (4) Property tax paid billed and rent-equivalent tax
25 paid are reduced according to the following schedule:

1	Household income	Amount of reduction
2	\$ 0-999	\$0
3	1,000-1,999	\$0
4	2,000-2,999	the product of .006 times the household income
5	3,000-3,999	the product of .016 times the household income
6	4,000-4,999	the product of .024 times the household income
7	5,000-5,999	the product of .028 times the household income
8	6,000-6,999	the product of .032 times the household income
9	7,000-7,999	the product of .035 times the household income
10	8,000-8,999	the product of .039 times the household income
11	9,000-9,999	the product of .042 times the household income
12	10,000-10,999	the product of .045 times the household income
13	11,000-11,999	the product of .048 times the household income
14	12,000 & over	the product of .050 times the household income

15 (5) In no case may the credit granted exceed \$400.

16 (6) Property taxes billed must be allocated on the
17 basis of period of ownership during the claim period."

18 Section 8. Section 15-30-178, MCA, is amended to read:

19 "15-30-178. Residential property tax credit for
20 elderly -- proof of claim. ~~A receipt showing property tax~~
21 ~~paid or a receipt showing gross rent paid, whichever is~~
22 ~~appropriate, must be filed with each claim; in addition,~~
23 ~~each~~ Each claimant must, at the request of the department,
24 supply all ~~additional~~ information necessary to support his
25 claim."

1 Section 9. Section 1-1-207, MCA, is amended to read:

2 "1-1-207. Miscellaneous terms. Unless the context
3 requires otherwise, the following definitions apply in the
4 Montana Code Annotated:

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

11 (2) "Internal Revenue Code" means the Internal Revenue
12 Title enacted August 16, 1954, and redesignated as the
13 "Internal Revenue Code of 1986" by section 2 of Public Law
14 99-514, as amended.

15 ~~(2)~~(3) "Peace officer" means any person described in
16 46-1-201(8).

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

21 Section 10. Section 7-14-1133, MCA, is amended to
22 read:

23 "7-14-1133. Bonds and obligations. (1) An authority
24 may borrow money for any of its corporate purposes and issue
25 bonds therefor, including refunding bonds, in such form and

1 upon such terms as it determines, payable out of any
2 revenues of the authority, including revenues derived from:

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

4 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;

5 (c) grants or contributions from the federal
6 government; or

7 (d) other sources.

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

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

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

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

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

21 Section 11. Section 7-34-2416, MCA, is amended to
22 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 12. 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
6 Internal Revenue Title enacted August 16, 1954, and
7 redesignated as the "Internal Revenue Code of 1986" by
8 section 2 of Public 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 cattle, sheep,
17 swine, goats, horses, mules, and asses.

18 {j}{k} The term "mobile home" means forms of housing
19 known as "trailers", "housetrainers", 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 ~~(m)~~(m) The term "poultry" includes all chickens,
5 turkeys, geese, ducks, and other birds raised in
6 domestication to produce food or feathers.

7 ~~(n)~~(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 ~~(o)~~(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 ~~(p)~~(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 (2) 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 Section 13. Section 15-30-101, MCA, is amended to
10 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 each taxable year by dividing the consumer price index for
2 June of the taxable year by the consumer price index for
3 ~~June, 1980~~ 1987.

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

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

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

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

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

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

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

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

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

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

1 ~~for in this chapter:~~

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

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

7 Section 14. Section 15-30-103, MCA, is amended to
8 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, 6%;~~
2 ~~(f) on the next \$2,000 of taxable income or any part~~
3 ~~thereof, 7%;~~
4 ~~(g) on the next \$4,000 of taxable income or any part~~
5 ~~thereof, 8%;~~
6 ~~(h) on the next \$6,000 of taxable income or any part~~
7 ~~thereof, 9%;~~
8 ~~(i) on the next \$15,000 of taxable income or any part~~
9 ~~thereof, 10%;~~
10 ~~(j) on any taxable income in excess of \$35,000 or any~~
11 ~~part thereof, 11%.~~
12 (a) \$0 to \$4,500 of net taxable income, 4% of net
13 taxable income;
14 (b) over \$4,500 to \$12,000 of net taxable income, \$180
15 plus 6% of net taxable income over \$4,500;
16 (c) over \$12,000 of net taxable income, \$630 plus 8%
17 of net taxable income over \$12,000.
18 (2) There shall be levied, collected, and paid for
19 each taxable year commencing on or after December 31, 1986,
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, as adjusted under
23 subsection (3), at the following rates:
24 (a) \$0 to \$2,250 of net taxable income, 4% of net
25 taxable income;

1 (b) over \$2,250 to \$6,000 of net taxable income, \$90
2 plus 6% of net taxable income over \$2,250;
3 (c) over \$6,000 of net taxable income, \$315 plus 8% of
4 net taxable income over \$6,000.
5 ~~(2)(3)~~ By November 1 of each year, 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. 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."
13 Section 15. Section 15-30-105, MCA, is amended to
14 read:
15 "15-30-105. Tax on nonresident -- alternative tax
16 based on gross sales. (1) A like tax is imposed upon every
17 person not resident of this state, which tax shall be
18 levied, collected, and paid annually at the rates specified
19 in 15-30-103 with respect to his entire net income as herein
20 defined from all property owned and from every business,
21 trade, profession, or occupation carried on in this state.
22 (2) Pursuant to the provisions of Article III, section
23 2, of the Multistate Tax Compact, every nonresident taxpayer
24 required to file a return and whose only activity in Montana
25 consists of making sales and who does not own or rent real

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

11 NEW SECTION. Section 16. Montana alternative minimum
 12 tax. (1) A minimum tax shall be levied, collected, and paid
 13 for each taxable year commencing on or after December 31,
 14 1986, upon the income of every taxpayer subject to the
 15 provisions of this chapter.

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

18 (a) is required by sections 55 through 59, Internal
 19 Revenue Code, to file a federal alternative minimum tax
 20 return; or

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

25 (i) \$40,000, if married filing jointly;

1 (ii) \$30,000, if single or head of household;

2 (iii) \$20,000, if married filing separately.

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

9 (a) \$40,000, if married filing jointly;

10 (b) \$30,000, if single or head of household;

11 (c) \$20,000, if married filing separately.

12 (4) For a resident, the taxpayer's federal alternative
 13 minimum taxable income must be increased by the amount of
 14 interest received from obligations of another state or
 15 political subdivision thereof, which sum shall be reduced by
 16 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 must
 25 be prorated to determine his Montana alternative minimum

1 taxable income. The prorated income is arrived at by
2 dividing the Montana adjusted gross income determined
3 pursuant to 15-30-131 or [section 19] by the federal
4 adjusted gross income and multiplying this percentage by the
5 taxpayer's federal alternative minimum taxable income.

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

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

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

15 (ii) all railroad retirement benefits; and

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

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

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

1 (iii) [section 19], 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 17. 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(i)(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 1, 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)(i) 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 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 (3) A taxpayer who elects to itemize his deductions
8 from income on his federal return for tax year 1987 and who
9 is required to pay additional federal tax due in 1987 for
10 the 1986 tax year may deduct the federal tax paid in 1987
11 from his Montana net income."

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

14 "15-30-131. ~~Nonresident and temporary resident~~
15 ~~taxpayers adjusted gross income deductions Montana net~~
16 ~~taxable income for nonresidents. (1) In the case of a~~
17 ~~taxpayer other than a resident of this state, Montana net~~
18 ~~taxable income for nonresidents is derived from adjusted~~
19 ~~gross income from sources within and without the state,~~
20 ~~determined as follows:~~

21 (a) Montana adjusted gross income includes the entire
22 amount of federal adjusted gross income from sources within
23 this state, but ~~shall~~ does not include income from
24 annuities, interest on bank deposits, interest on bonds,
25 notes, or other interest-bearing obligations, or dividends

1 on stock of corporations except to the extent to which the
2 same ~~shall be~~ are a part of income from any business, trade,
3 profession, or occupation carried on in this state.
4 Interest income from installment sales of real or tangible
5 commercial or business property located in Montana must be
6 included in adjusted gross income. ~~Adjusted gross income~~
7 ~~from sources within and without this state shall be~~
8 ~~allocated and apportioned under rules prescribed by the~~
9 ~~department.~~

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

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

1 ~~federal-earned-income:~~

2 ~~{4}--A--temporary--resident--shall--be--allowed--those~~
 3 ~~deductions-and-the-credit-under-15-32-109-allowed-a-resident~~
 4 ~~to-the-extent-that-such-deductions-or-credit--were--actually~~
 5 ~~incurred--or--expended--in--the--state-of-Montana-during-the~~
 6 ~~course-of-his-residency:~~

7 ~~{5}--For-the-purposes-of-this-section,"earned--income"~~
 8 ~~shall--be--defined-as-the-same-term-is-defined-in-section-43~~
 9 ~~of-the--Internal--Revenue--Code,--or--as--that--section--may~~
 10 ~~subsequently-be-amended:~~

11 ~~{6}--Notwithstanding--the-provisions-of-subsections-(2)~~
 12 ~~and-(3),--any-contribution-made-after-December-31,--1982,--to~~
 13 ~~the--state--of--Montana--or--a-political-subdivision-thereof~~
 14 ~~shall-be-an-allowable-deduction--in--computing--net--income.~~
 15 ~~The--deduction--is--subject--to-the-limitations-set-forth-in~~
 16 ~~section-170-of-the-Internal-Revenue-Code-of-1954,--as-labeled~~
 17 ~~or-amended:~~

18 (b) To determine his Montana net taxable income, a
 19 nonresident may deduct from his Montana adjusted gross
 20 income only the following items:

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

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

25 (iii) a prorated part of the taxpayer's federally

1 allowed medical expenses;

2 (iv) all sums donated to:

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

7 (B) the state of Montana or a political subdivision or
 8 agency thereof;

9 (v) all railroad retirement benefits;

10 (vi) all interest received from United States
 11 obligations;

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

15 (c) The prorated part referred to in subsections
 16 (1)(b)(i) through (1)(b)(iii) is determined by multiplying
 17 the ratio of Montana adjusted gross income to federal
 18 adjusted gross income by the federally allowed deductions
 19 specified in subsections (1)(b)(i) through (1)(b)(iii).

20 (d) The department may adopt rules for allocating and
 21 apportioning adjusted gross income from sources within and
 22 without this state.

23 ~~{7}~~(2) For purposes of this section, "installment
 24 sales" means sales in which the buyer agrees to pay the
 25 seller in one or more deferred installments.

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

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

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

16 (a) Montana adjusted gross income includes federal
 17 adjusted gross income from all sources received during the
 18 period of residency and all interest income from installment
 19 sales of real or tangible commercial or business property
 20 located in Montana, less the following:

21 (i) all interest received from obligations of the
 22 United States government;

23 (ii) all railroad retirement income; and

24 (iii) all income earned by an enrolled member of a
 25 federally recognized Indian tribe while living and working

1 on a federally established Indian reservation.

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

5 (i) income from annuities;

6 (ii) interest on bank deposits;

7 (iii) interest on bonds, notes, or other
 8 interest-bearing obligations; or

9 (iv) dividends on stock of corporations.

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

12 Section 20. Section 15-30-132, MCA, is amended to
 13 read:

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

1 abandoning his Montana residence, then income from such
2 employment is taxable in Montana."

3 Section 21. Section 15-30-135, MCA, is amended to
4 read:

5 "15-30-135. Tax on beneficiaries or fiduciaries of
6 estates or trusts. (1) A tax shall be imposed upon either
7 the fiduciaries or the beneficiaries of estates and trusts
8 as hereinafter provided, except to the extent such estates
9 and trusts ~~shall be~~ are held for educational, charitable, or
10 religious purposes, which tax shall be levied, collected,
11 and paid annually with respect to the income of estates or
12 of any kind of property held in trust, including:

13 (a) income received by estates of deceased persons
14 during the period of administration or settlement of the
15 estate;

16 (b) income accumulated in trust for the benefit of
17 unborn or unascertained persons or persons with contingent
18 interests;

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

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

25 (2) The fiduciary shall be responsible for making the

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

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

25 (4) The fiduciary of a trust created by an employer as

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

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

21 Section 22. Section 15-30-136, MCA, is amended to
 22 read:

23 "15-30-136. Computation of income of estates or trusts
 24 ---exemption. (1)---Except---as---otherwise---provided---in---this
 25 chapter,---"gross---income"---of---estates---or---trusts---means---all

1 income from whatever source derived in the taxable year,
 2 including but not limited to the following items:
 3 (a)---dividends;
 4 (b)---interest---received---or---accrued,---including---interest
 5 received on obligations of another state or territory or a
 6 county,---municipality,---district,---or---other---political
 7 subdivision thereof,---but---excluding---interest---income---from
 8 obligations of:
 9 (i)---the---United---States---government---or---the---state---of
 10 Montana;
 11 (ii)---a---school---district,---or
 12 (iii)---a---county,---municipality,---district,---or---other
 13 political subdivision of the state;
 14 (c)---income---from---partnerships---and---other---fiduciaries;
 15 (d)---gross---rents---and---royalties;
 16 (e)---gain---from---sale---or---exchange---of---property,---including
 17 those gains that are excluded from gross income for federal
 18 fiduciary---income---tax---purposes---by---section---641(c)---of---the
 19 Internal Revenue Code of 1954, as amended;
 20 (f)---gross---profit---from---trade---or---business;---and
 21 (g)---refunds---recovered---on---federal---income---tax,---to---the
 22 extent---the---deduction---of---such---tax---resulted---in---a---reduction---of
 23 Montana income tax liability;
 24 (2)---in---computing---net---income,---there---are---allowed---as
 25 deductions:

1 {a}--interest---expenses--deductible--for--federal--tax
2 purposes--according--to--section-163--of--the--Internal--Revenue
3 Code--of--1954,--as--amended;

4 {b}--taxes--paid--or--accrued--within--the--taxable--year,
5 including--but--not--limited--to--federal--income--tax,--but
6 excluding--Montana--income--tax;

7 {c}--that---fiduciary's---portion--of--depreciation--or
8 depletion--which--is--deductible--for--federal--tax--purposes
9 according--to--sections--167,--611,--and--642--of--the--Internal
10 Revenue--Code--of--1954,--as--amended;

11 {d}--charitable--contributions--that--are--deductible--for
12 federal--tax--purposes--according--to--section-642(c)--of--the
13 Internal--Revenue--Code--of--1954,--as--amended;

14 {e}--administrative--expenses--claimed--for--federal--income
15 tax--purposes,--according--to--sections--212--and--642(g)--of--the
16 Internal--Revenue--Code--of--1954,--as--amended,--if--such--expenses
17 were--not--claimed--as--a--deduction--in--the--determination--of
18 Montana--inheritance--tax;

19 {f}--losses--from--fire,--storm,--shipwreck,--or--other
20 casualty--or--from--theft,--to--the--extent--not--compensated--for--by
21 insurance--or--otherwise,--that--are--deductible--for--federal--tax
22 purposes--according--to--section-165--of--the--Internal--Revenue
23 Code--of--1954,--as--amended;

24 {g}--net--operating--loss--deductions--allowed--for--federal
25 income--tax--under--section-642(d)--of--the--Internal--Revenue--Code

1 of--1954,--as--amended,--except--estates--may--not--claim--losses
2 that--are--deductible--on--the--decendent's--final--return;

3 {h}--all--benefits--received--as---federal---employees'
4 retirement--not--in--excess--of--\$3,600;

5 {i}--all--benefits--paid--under--the--Montana--teachers'
6 retirement--system--that--are--specified--as--exempt--from--taxation
7 by--19-4-706;

8 {j}--all--benefits--paid--under--the---Montana---Public
9 Employees'--Retirement--System--Act--that--are--specified--as
10 exempt--from--taxation--by--19-3-105;

11 {k}--all--benefits--paid--under--the--Montana---highway
12 patrolmen's--retirement--system--that--are--specified--as--exempt
13 from--taxation--by--19-6-705;

14 {l}--Montana--income--tax--refunds--or--credits--thereof;

15 {m}--all--benefits--paid--under--19-11-602,--19-11-604,--and
16 19-11-605--to--retired--and--disabled--firemen--or--their--surviving
17 spouses--or--children;

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

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

24 {p}--in--the--case--of--a--shareholder--of--a--corporation--with
25 respect--to--which--the--election--provided--for--under--subchapter

1 ~~S~~ of the Internal Revenue Code of 1954, as amended, is in
 2 effect but with respect to which the election provided for
 3 under 15-31-202 is not in effect, net income does not
 4 include any part of the corporation's undistributed taxable
 5 income, net operating loss, capital gains or other gains,
 6 profits, or losses required to be included in the
 7 shareholder's federal income tax net income by reason of the
 8 election under subchapter S. However, the shareholder's net
 9 income shall include actual distribution from the
 10 corporation to the extent it would be treated as taxable
 11 dividends if the subchapter S election were not in effect.
 12 (1) The Montana taxable income of an estate or trust is its
 13 federal taxable income as provided by the Internal Revenue
 14 Code, including interest received on obligations of another
 15 state or a political subdivision thereof, reduced by
 16 interest received from obligations of the United States
 17 government.

18 ~~(4)(2)~~ The following additional deductions shall be a
 19 deduction is allowed in deriving taxable income of estates
 20 and trusts:

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

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

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

4 ~~(5)~~ The exemption allowed for estates and trusts is
 5 that exemption provided in 15-30-112(2)(a) and
 6 15-30-112(8).

7 Section 23. Section 15-30-141, MCA, is amended to
 8 read:

9 "15-30-141. Tax as personal debt. Every tax imposed by
 10 this chapter and all increases, interest, and penalties
 11 thereon shall be are from the time they are due and payable
 12 a personal debt from the person or fiduciary liable to pay
 13 the same to the state. Taxpayers filing a joint return are
 14 jointly and severally liable for the tax and any interest
 15 and penalty unless the department determines, based on the
 16 criteria in section 6013(e) of the Internal Revenue Code,
 17 that a spouse is relieved of liability."

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

20 "15-30-142. Returns Filing of returns and payment of
 21 tax ~~penalty and interest~~ ~~refunds~~ ~~credits~~. (1) Every
 22 ~~single individual and every married individual not filing a~~
 23 ~~joint return with his or her spouse and having a gross~~
 24 ~~income for the taxable year of more than \$1,000, as adjusted~~
 25 ~~under the provisions of subsection (7), and married~~

1 individuals---not---filing---separate---returns---and---having---a
 2 combined-gross-income-for-the---taxable---year---of---more---than
 3 \$2,000,---as---adjusted-under-the-provisions-of-subsection-(7)
 4 subject to a tax pursuant to this chapter who is required by
 5 section 6012 of the Internal Revenue Code to file a federal
 6 income tax return or who receives income in excess of \$5,000
 7 from obligations of another state or a political subdivision
 8 thereof, shall be is liable for a return to be filed on such
 9 forms and according to such rules as the department may
 10 prescribe. The-gross---income---amounts---referred---to---in---the
 11 preceding---sentence---shall-be-increased-by-9000,---as-adjusted
 12 under-the-provisions---of---15-30-112(7)---and---(8),---for---each
 13 additional---personal---exemption---allowance---the---taxpayer-is
 14 entitled---to---claim---for---himself---and---his---spouse---under
 15 15-30-112(3)---and---(4).---A---nonresident-shall-be-required-to
 16 file-a-return-if-his---gross---income---for---the---taxable---year
 17 derived---from---sources---within-Montana-exceeds-the-amount-of
 18 the-exemption-deduction-he-is-entitled-to-claim-for---himself
 19 and---his---spouse---under-the-provisions-of-15-30-112(2),---(3),
 20 and-(4),---as-prorated-according-to-15-30-112(6).
 21 (2)---In-accordance-with-instructions-set-forth---by---the
 22 department,---every---taxpayer---who-is-married-and-living-with
 23 husband-or-wife-and-is-required-to-file-a-return-may,---at-his
 24 or-her-option,---file-a-joint-return-with-husband-or-wife-even
 25 though-one-of-the---spouses---has---neither---gross---income---nor

1 deductions.---If---a---joint---return---is-made,---the-tax-shall-be
 2 computed-on-the-aggregate-taxable-income-and---the---liability
 3 with---respect---to---the---tax-shall-be-joint-and-several.---if-a
 4 joint-return-has-been-filed-for-a-taxable-year,---the---spouses
 5 may---not---file-separate-returns-after-the-time-for-filing-the
 6 return-of---either---has---expired---unless---the---department---so
 7 consents.

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

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

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

1 amount of tax withheld and/or payment of estimated tax
2 exceeds by more than \$1 the amount of income tax as
3 computed, the taxpayer ~~shall be~~ is entitled to a refund of
4 the excess.

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

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

16 ~~{7}--By--November--1--of--each--year,--the--department--shall~~
17 ~~multiply--the--minimum--amount--of--gross--income--necessitating~~
18 ~~the--filing--of--a--return--by--the--inflation--factor--for--the~~
19 ~~taxable--year. These adjusted amounts are effective for that~~
20 ~~taxable--year,--and--persons--having--gross--incomes--less--than~~
21 ~~these--adjusted--amounts--are--not--required--to--file--a--return.~~

22 ~~{8}--Individual--income--tax--forms--distributed--by--the~~
23 ~~department--for--each--taxable--year--must--contain--instructions~~
24 ~~and--tables--based--on--the--adjusted--base--year--structure--for~~
25 ~~that--taxable--year."~~

1 Section 25. Section 15-30-144, MCA, is amended to
2 read:

3 "15-30-144. Time for filing -- extensions of time. (1)
4 Returns shall be made to the department on or before the
5 15th day of the 4th month following the close of the
6 taxpayer's fiscal year, or if the return is made on the
7 basis of the calendar year, then the return shall be made on
8 or before the 15th day of April following the close of the
9 calendar year. Each return shall set forth such facts as the
10 department considers necessary for the proper enforcement of
11 this chapter. There shall be annexed to such return the
12 affidavit or affirmation of the persons making the return to
13 the effect that the statements contained therein are true.
14 Blank forms of return shall be furnished by the department
15 upon application, but failure to secure the form shall not
16 relieve any taxpayer of the obligation to make any return
17 required under this law. ~~Every taxpayer liable for a tax~~
18 ~~under this law shall pay a minimum tax of \$1.~~

19 ~~{2}--An--automatic--6--month--extension--of--time--for--filing~~
20 ~~a--return--is--allowed,--provided--that--on--or--before--the--due--date~~
21 ~~of--the--return,--an--application--is--made--on--forms--available~~
22 ~~from--the--department--or--in--writing--to--the--department.~~

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

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

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

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

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

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

24 (4) A person granted an automatic extension under
 25 subsection (2) may be granted an additional extension, not

1 to exceed 4 months from the date for filing a return, if
 2 upon further application the person shows good cause to
 3 receive another extension. The filing of an appeal from a
 4 denial of the application for another extension does not
 5 stay the time for filing the return."

6 Section 26. Section 15-30-146, MCA, is amended to
 7 read:

8 "15-30-146. Tolling of statute of limitations. The
 9 running of the statute of limitations provided for under
 10 15-30-145 shall be suspended during any period that the
 11 federal statute of limitations for collection of federal
 12 income tax has been suspended by written agreement signed by
 13 the taxpayer or when the taxpayer has instituted an action
 14 which has the effect of suspending the running of the
 15 federal statute of limitations and for 1 additional year.
 16 If the taxpayer fails to file a record of changes in federal
 17 taxable income or an amended return as required by
 18 15-30-304, the statute of limitations shall not apply until
 19 5 years from the date the federal changes become final or
 20 the amended federal return was filed. If the taxpayer omits
 21 from gross income an amount properly includable therein
 22 which is in excess of 25% of the amount of adjusted--gross
 23 net taxable income stated in the return, the statute of
 24 limitations shall not apply for 2 additional years from the
 25 time specified in 15-30-145."

1 Section 27. Section 15-30-162, MCA, is amended to
2 read:

3 "15-30-162. Investment credit recapture. (1) There is
4 allowed as a credit against the tax imposed by 15-30-103 a
5 percentage of the credit allowed with respect to certain
6 depreciable property under section 38 of the Internal
7 Revenue Code of 1954, as amended, or as section 38 may be
8 renumbered or amended. However, rehabilitation costs as set
9 forth under section 46(a)(2)(F) of the Internal Revenue Code
10 of 1954, or as section 46(a)(2)(F) may be renumbered or
11 amended, are not to be included in the computation of the
12 investment credit. The credit is allowed for the purchase
13 and installation of certain qualified property defined by
14 section 38 of the Internal Revenue Code of 1954, as amended,
15 if the property meets all of the following qualifications:

16 (a) it was placed in service in Montana; and

17 (b) it was used for the production of Montana adjusted
18 gross income.

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

23 (3) Notwithstanding the provisions of subsection (2),
24 the investment credit allowed for the taxable year may not
25 exceed the taxpayer's tax liability for the taxable year or

1 \$500, whichever is less.

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

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

21 Section 28. Section 15-30-303, MCA, is amended to
22 read:

23 "15-30-303. Confidentiality of tax records. (1) Except
24 in accordance with proper judicial order or as otherwise
25 provided by law, it is unlawful for the department or any

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

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

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

24 (a) the delivery to a taxpayer or his duly authorized
 25 representative of a certified copy of any return or report

1 filed in connection with his tax;

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

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

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

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

21 (6) Notwithstanding the provisions of this section,
 22 the department may permit the commissioner of internal
 23 revenue of the United States or the proper officer of any
 24 state imposing a tax upon the incomes of individuals or the
 25 authorized representative of either such officer to inspect

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

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

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

20 (b) to the department of social and rehabilitation
 21 services information acquired under 15-30-301, pertaining to
 22 an applicant for public assistance, reasonably necessary for
 23 the prevention and detection of public assistance fraud and
 24 abuse, provided notice to the applicant has been given."

25 Section 29. Section 15-31-202, MCA, is amended to

1 read:

2 "15-31-202. Election by small business corporation.

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

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

7 (a) with respect to the taxable years of the
 8 corporation for which such election is in effect, such
 9 corporation is not subject to the taxes imposed by this
 10 chapter and, with respect to such taxable years and all
 11 succeeding taxable years, the provisions of this part apply
 12 to such corporation; and

13 (b) with respect to the taxable years of a shareholder
 14 of such corporation in which or with which the taxable years
 15 of the corporation for which such election is in effect end,
 16 the provisions of this part apply to such shareholder, and
 17 with respect to such taxable years and all succeeding
 18 taxable years, the provisions of this part apply to such
 19 shareholder.

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

23 (4) This election is not effective unless the
 24 corporate net income or loss of such electing corporation is
 25 included in the stockholders' adjusted gross income as

1 ~~defined in 15-30-111.~~

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

4 Section 30. Section 19-3-105, MCA, is amended to read:

5 "19-3-105. Exemption from ~~taxes and~~ legal process. The
6 right of a person to a retirement allowance or any other
7 benefit under this chapter and the moneys in the fund
8 created under this chapter is not:

9 {1} subject to execution, garnishment, attachment, or
10 any other process;

11 {2} ~~subject to state, county, or municipal taxes~~
12 ~~except for a refund paid under 19-3-703 of a member's~~
13 ~~contributions picked up by an employer after June 30, 1985,~~
14 ~~as provided in 19-3-701; or~~

15 {3} nor is it assignable except as in this chapter
16 specifically provided."

17 Section 31. Section 19-4-706, MCA, is amended to read:

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

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

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

3 {2} not subject to execution, garnishment, attachment
4 by trustee process or otherwise, in law or equity, or any
5 other process; and

6 {3} are unassignable except as specifically provided
7 in this chapter."

8 Section 32. 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~~
14 ~~except for a refund paid under 19-6-403 of a member's~~
15 ~~contributions picked up by an employer after June 30, 1985,~~
16 ~~as provided in 19-6-402;~~

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

19 {3} is unassignable except as specifically provided in
20 19-6-706."

21 Section 33. Section 53-2-101, MCA, is amended to read:

22 "53-2-101. Definitions. Unless the context requires
23 otherwise, in this chapter the following definitions apply:

24 (1) "Department" means the department of social and
25 rehabilitation services provided for in Title 2, chapter 15,

1 part 22.

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

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

8 (4) "Net monthly income" means one-twelfth of the
9 difference between the net taxable income for the taxable
10 year as the term net taxable income is defined in 15-30-101
11 and the state income tax paid as determined by the state
12 income tax return filed during the current year.

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

20 Section 34. Section 67-11-303, MCA, is amended to
21 read:

22 "67-11-303. Bonds and obligations. (1) An authority
23 may borrow money for any of its corporate purposes and issue
24 its bonds therefor, including refunding bonds, in such form
25 and upon such terms as it may determine, payable out of any

1 revenues of the authority, including revenues derived from:

2 (a) an airport or air navigation facility or
3 facilities;

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

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 such bonds may be issued at any time
12 if the total amount of principal and interest to become due
13 in any year on such bonds and on any then outstanding bonds
14 for which revenues from the same source or sources are
15 pledged exceeds the amount of such revenues to be received
16 in that year as estimated in the resolution authorizing the
17 issuance of the bonds. The authority shall take all action
18 necessary and possible to impose, maintain, and collect
19 rates, charges, rentals, and taxes, if any are pledged,
20 sufficient to make the revenues from the pledged source in
21 such year at least equal to the amount of such principal and
22 interest due in that 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 herein, any bonds

1 issued pursuant to this chapter 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 or municipality
 7 pursuant to the provisions of this chapter are declared to
 8 be issued for an essential public and governmental purpose
 9 by a political subdivision ~~within the meaning of~~
 10 15-30-111(2)(a) for purposes of tax exemption determinations
 11 under the Internal Revenue Code.

12 (5) For the security of any such bonds, the authority
 13 or municipality may by resolution make and enter into any
 14 covenant, agreement, or indenture and may exercise any
 15 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 chapter,
 20 prior to the payment of current costs of operation and
 21 maintenance of the facilities.

22 (6) Subject to the conditions stated in this
 23 subsection (6), the governing body of any municipality
 24 having a population in excess of 10,000, with respect to
 25 bonds issued pursuant to this chapter by the municipality or

1 by an authority in which the municipality is included, may
 2 by resolution covenant that in the event that at any time
 3 all revenues, including taxes, appropriated and collected
 4 for such bonds are insufficient to pay principal or interest
 5 then due, it will levy a general tax upon all of the taxable
 6 property in the municipality for the payment of such
 7 deficiency; and may further covenant that at any time a
 8 deficiency is likely to occur within 1 year for the payment
 9 of principal and interest due on such bonds, it will levy a
 10 general tax upon all the taxable property in the
 11 municipality for the payment of such deficiency, and such
 12 taxes are not subject to any limitation of rate or amount
 13 applicable to other municipal taxes but are limited to a
 14 rate estimated to be sufficient to produce the amount of the
 15 deficiency. In the event more than one municipality having a
 16 population in excess of 10,000 is included in an authority
 17 issuing bonds pursuant to this chapter, the municipalities
 18 may apportion the obligation to levy taxes for the payment
 19 of, or in anticipation of, a deficiency in the revenues
 20 appropriated for such bonds in such manner as the
 21 municipalities may determine. The resolution shall state the
 22 principal amount and purpose of the bonds and the substance
 23 of the covenant respecting deficiencies. No such resolution
 24 becomes effective until the question of its approval has
 25 been submitted to the qualified electors of the municipality

1 at a special election called for that purpose by the
 2 governing body of the municipality and a majority of the
 3 electors voting on the question have voted in favor thereof.
 4 The notice and conduct of the election is governed, to the
 5 extent applicable, as provided for municipal general
 6 obligation bonds in Title 7, chapter 7, part 42, for an
 7 election called by cities and towns, and as provided for
 8 county general obligation bonds in Title 7, chapter 7, part
 9 22, for an election called by counties. If a majority of the
 10 electors voting thereon vote against approval of the
 11 resolution, the municipality has no authority to make the
 12 covenant or to levy a tax for the payment of deficiencies
 13 pursuant to this section, but such municipality or authority
 14 may nevertheless issue bonds under this chapter payable
 15 solely from the sources referred to in subsection (1)
 16 above."

17 Section 35. Section 15-31-113, MCA, is amended to
 18 read:

19 "15-31-113. Gross income and net income. (1) The term
 20 "gross income" means all income recognized in determining
 21 the corporation's gross income for federal income tax
 22 purposes and:

23 (a) including:

- 24 (i) interest exempt from federal income tax;
 25 (ii) the portion of gain from a liquidation of the

1 reporting corporation not recognized for federal corporate
 2 income tax purposes pursuant to sections 331 through 337 338
 3 of the Internal Revenue Code ~~{as--those--sections--may--be~~
 4 ~~amended--or--renumbered}~~ attributable to stockholders, either
 5 individual or corporate, not subject to Montana income or
 6 license tax under Title 15, chapter 30 or chapter 31, as
 7 appropriate, on the gain passing through to the stockholders
 8 pursuant to federal law; and

9 (b) excluding gain recognized for federal tax purposes
 10 as a shareholder of a liquidating corporation pursuant to
 11 sections 331 through 337 338 of the Internal Revenue Code
 12 ~~{as--those--sections--may--be--amended--or--renumbered}~~ when the
 13 gain is required to be recognized by the liquidating
 14 corporation pursuant to subsection (1)(a)(ii) of this
 15 section.

16 (2) The term "net income" means the gross income of
 17 the corporation ~~less--the--deductions--set--forth--in~~ as adjusted
 18 by 15-31-114 and [section 37].

19 (3) No corporation is exempt from the corporation
 20 license tax unless specifically provided for under
 21 15-31-101(3) or 15-31-102. Any corporation not subject to or
 22 liable for federal income tax but not exempt from the
 23 corporation license tax under 15-31-101(3) or 15-31-102
 24 shall compute gross income for corporation license tax
 25 purposes in the same manner as a corporation that is subject

1 to or liable for federal income tax according to the
2 provisions for determining gross income in the federal
3 Internal Revenue Code in effect for the taxable year."

4 Section 36. Section 15-31-114, MCA, is amended to
5 read:

6 "15-31-114. Deductions allowed in computing income. In
7 computing the net income, the following deductions shall be
8 allowed from the gross income received by such corporation
9 within the year from all sources:

10 (1) All the ordinary and necessary expenses paid or
11 incurred during the taxable year in the maintenance and
12 operation of its business and properties, including
13 reasonable ~~allowance~~ deductions for salaries for personal
14 services actually rendered, subject to the limitation
15 hereinafter contained, rentals or other payments required to
16 be made as a condition to the continued use or possession of
17 property to which the corporation has not taken or is not
18 taking title or in which it has no equity. These deductions
19 shall be determined and calculated in accordance with the
20 Internal Revenue Code. No deduction shall be allowed for
21 salaries paid upon which the recipient thereof has not paid
22 Montana state income tax; provided, however, that where
23 domestic corporations are taxed on income derived from
24 without the state, salaries of officers paid in connection
25 with securing such income shall be deductible.

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

16 (b) (i) There shall be allowed as a deduction for the
17 taxable period a net operating loss deduction determined
18 according to the provisions of this subsection. The net
19 operating loss deduction is the aggregate of net operating
20 loss carryovers to such taxable period ~~plus--the--net~~
21 ~~operating--loss--carrybacks--to--such--taxable--period.~~ The term
22 "net operating loss" means the excess of the deductions
23 allowed by this section, 15-31-114, over the gross income,
24 with the modifications specified in (ii) of this subsection.
25 If for any taxable period ~~beginning-after-December-31-1970~~

1 a net operating loss is sustained, such loss ~~shall be a net~~
 2 ~~operating loss carryback to each of the three taxable~~
 3 ~~periods preceding the taxable period of such loss and~~ shall
 4 be a net operating loss carryover carryforward to each of
 5 the five three taxable periods following the taxable period
 6 of such loss. A net operating loss sustained for any taxable
 7 period ending after December 31, 1975, ~~in addition to being~~
 8 ~~and beginning before January 1, 1987, shall be~~ a net
 9 operating loss carryback to each of the three preceding
 10 taxable periods, ~~shall be~~ and a net operating loss carryover
 11 carryforward to each of the seven taxable periods following
 12 the taxable period of such loss. The portion of such loss
 13 which shall be carried to each of the other taxable years
 14 shall be the excess, if any, of the amount of such loss over
 15 the sum of the net income for each of the prior taxable
 16 periods to which such loss was carried. For purposes of the
 17 preceding sentence, the net income for such prior taxable
 18 period shall be computed with the modifications specified in
 19 (ii)(B) of this subsection and by determining the amount of
 20 the net operating loss deduction without regard to the net
 21 operating loss for the loss period or any taxable period
 22 thereafter, and the net income so computed shall not be
 23 considered to be less than zero.

24 (ii) The modifications referred to in (i) of this
 25 subsection shall be as follows:

1 (A) No net operating loss deduction shall be allowed.

2 (B) The deduction for depletion shall not exceed the
 3 amount which would be allowable if computed under the cost
 4 method.

5 (C) Any net operating loss carried over to any taxable
 6 years beginning after December 31, 1978, must be calculated
 7 under the provisions of this section effective for the
 8 taxable year for which the ~~return claiming the net operating~~
 9 ~~loss carryover is filed~~ loss occurred.

10 (iii) A net operating loss deduction shall be allowed
 11 only with regard to losses attributable to the business
 12 carried on within the state of Montana.

13 (iv) In the case of a merger of corporations, the
 14 surviving corporation shall not be allowed a net operating
 15 loss deduction for net operating losses sustained by the
 16 merged corporations prior to the date of merger. In the case
 17 of a consolidation of corporations, the new corporate entity
 18 shall not be allowed a deduction for net operating losses
 19 sustained by the consolidated corporations prior to the date
 20 of consolidation.

21 (v) Notwithstanding the provisions of 15-31-531,
 22 interest shall not be paid with respect to a refund of tax
 23 resulting from a net operating loss carryback or carryover
 24 carryforward.

25 ~~(vi) The net operating loss deduction shall not be~~

1 ~~allowed with respect to taxable periods which ended on or~~
 2 ~~before December 31, 1970, but shall be allowed only with~~
 3 ~~respect to taxable periods beginning on or after January 1,~~
 4 ~~1971.~~

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

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

22 (5) (a) Taxes paid within the year, except the
 23 following:

- 24 (i) Taxes imposed by this part.
 25 (ii) Taxes assessed against local benefits of a kind

1 tending to increase the value of the property assessed.

2 (iii) Taxes on or according to or measured by net
 3 income or profits imposed by authority of the government of
 4 the United States.

5 (iv) Taxes imposed by any other state or country upon
 6 or measured by net income or profits.

7 (b) Taxes deductible under this part shall be
 8 construed to include taxes imposed by any county, school
 9 district, or municipality of this state.

10 (6) Light vehicle license fees, as provided by
 11 61-3-532, and fees in lieu of taxes for motorcycles and
 12 quadricycles, as provided by 61-3-541, paid within the year.

13 ~~{7} That portion of an energy-related investment~~
 14 ~~allowed as a deduction under 15-32-103.~~

15 ~~{8}~~(7) (a) Except as provided in subsection (b),
 16 charitable contributions and gifts that qualify for
 17 deduction under section 170 of the Internal Revenue Code, ~~as~~
 18 ~~amended.~~

19 (b) The public service commission shall not allow in
 20 the rate base of a regulated corporation the inclusion of
 21 contributions made under this subsection.

22 ~~{9}~~(8) In lieu of the deduction allowed under
 23 subsection ~~{8}~~ (7), the taxpayer may deduct the fair market
 24 value, not to exceed 30% of the taxpayer's net income, of a
 25 computer or other sophisticated technological equipment or

1 apparatus intended for use with the computer donated to an
2 elementary, secondary, or accredited postsecondary school
3 located in Montana if:

4 (a) the contribution is made no later than 5 years
5 after the manufacture of the donated property is
6 substantially completed;

7 (b) the property is not transferred by the donee in
8 exchange for money, other property, or services; and

9 (c) the taxpayer receives a written statement from the
10 donee in which the donee agrees to accept the property and
11 representing that the use and disposition of the property
12 will be in accordance with the provisions of (b) of this
13 subsection ~~(9)~~ (8)."

14 NEW SECTION. Section 37. Deductions not allowed. In
15 computing net income, the following are not deductible from
16 gross income under this chapter:

17 (1) the election fee for a water's-edge election
18 pursuant to [section 49];

19 (2) the deductions allowed for dividends under
20 sections 243 through 245 of the Internal Revenue Code,
21 unless otherwise provided in this title.

22 Section 38. Section 15-31-121, MCA, is amended to
23 read:

24 "15-31-121. Rate of tax -- alternative minimum tax.

25 (1) The Except as provided in subsection (3), the percentage

1 of net income to be paid under 15-31-101 shall be ~~6-3/4%~~ 6%
2 of all net income for the taxable period. ~~The rate set forth~~
3 ~~in this part shall be effective for all taxable years ending~~
4 ~~on or after February 28, 1971. This rate is retroactive to~~
5 ~~and effective for all taxable years ending on or after~~
6 ~~February 28, 1971.~~

7 ~~(2) Every corporation subject to taxation under this~~
8 ~~part shall, in any event, pay a minimum tax of not less than~~
9 ~~\$50.~~

10 (2) (a) There is an alternative minimum tax imposed on
11 all corporations filing tax returns pursuant to this part.
12 The minimum tax is an alternative to the tax, if any,
13 computed in subsection (1). Taxable income for purposes of
14 the minimum tax is the corporation's alternative minimum
15 taxable income as calculated pursuant to the Internal
16 Revenue Code.

17 (b) If the corporation is required to apportion its
18 income pursuant to 15-31-305, the federal alternative
19 minimum taxable income shall be multiplied by the
20 apportionment factor for the corporation. If the corporation
21 allocates its income pursuant to 15-31-301(3), the
22 adjustments, preferences, and losses used to compute the
23 federal alternative minimum taxable income shall be
24 allocated on the same basis as its income and expenses.

25 (c) The alternative minimum tax shall be:

1 (i) 6% of the federal alternative minimum taxable
 2 income in the case of a corporation that does not apportion
 3 its income pursuant to 15-31-305 or allocate its income
 4 pursuant to 15-31-301; or

5 (ii) 6% of the amount computed under subsection (2)(b)
 6 in the case of a corporation that is subject to 15-31-301 or
 7 15-31-305.

8 (3) Each corporation shall compute its tax under both
 9 subsection (1) and subsection (2) and shall pay the higher
 10 amount or \$50, whichever is greater."

11 NEW SECTION. Section 39. Dividend credit. (1) A
 12 corporation subject to tax as provided in this chapter that
 13 receives a cash dividend from a member of the same
 14 affiliated group that is also subject to tax as provided in
 15 this chapter is entitled to a tax credit. The credit is
 16 equal to the tax rate provided in 15-31-121(1) multiplied by
 17 the amount of the dividend and, in the case of a multistate
 18 corporation, also multiplied by the Montana apportionment
 19 ratio of the payee corporation.

20 (2) The credit is refundable in the year it is
 21 claimed, to the extent that it exceeds what would otherwise
 22 be the tax liability of the recipient pursuant to this
 23 chapter.

24 (3) The term "affiliated group" as used in this
 25 section has the same meaning as used in section 1504(a)(1)

1 of the Internal Revenue Code.

2 Section 40. Section 15-31-305, MCA, is amended to
 3 read:

4 "15-31-305. Apportionment of business income. (1) All
 5 business income shall be apportioned to this state by
 6 multiplying the income by a fraction, the numerator of which
 7 is the property factor plus the payroll factor plus the
 8 sales factor and the denominator of which is 3.

9 (2) In the case of a parent corporation that is
 10 incorporated in a foreign country, neither the income nor
 11 the factors described in subsection (1) shall be considered
 12 for purposes of calculations under subsection (1) unless the
 13 corporation is subject to tax in this state as a separate
 14 taxable entity."

15 NEW SECTION. Section 41. Water's-edge election. (1) A
 16 corporation that is subject to apportionment as provided in
 17 15-31-305 may elect to determine its income derived from or
 18 attributable to sources within this state pursuant to a
 19 water's-edge election in accordance with the provisions of
 20 this part. A corporation that makes a water's-edge election
 21 shall take into account the income and apportionment factors
 22 of the following affiliated entities only:

23 (a) an affiliated corporation that is eligible to be
 24 included in a federal consolidated return as described in
 25 sections 1501 through 1505 of the Internal Revenue Code;

1 (b) any corporation, regardless of the place where it
2 is incorporated, if the average of its property, payroll,
3 and sales factors within the United States is 20% or more;

4 (c) a corporation that is incorporated in the United
5 States, excluding corporations described in sections 931
6 through 936 of the Internal Revenue Code, of which more than
7 50% of its stock is controlled directly or indirectly by the
8 same interests, which are not included in subsection (1)(a);

9 (d) a corporation that is not described in subsections
10 (1)(a) through (1)(c), but only to the extent of its income
11 derived from or attributable to sources within the United
12 States and its factors assignable to a location within the
13 United States. Income of such a corporation derived from or
14 attributable to sources within the United States is limited
15 to and determined from the books of account maintained by
16 the corporation with respect to its activities conducted
17 within the United States, as determined by federal income
18 tax law;

19 (e) an export trade corporation, as described in
20 sections 970 and 971 of the Internal Revenue Code;

21 (f) an affiliated corporation that is a "controlled
22 foreign corporation", as defined in section 957 of the
23 Internal Revenue Code, if all or part of the income of that
24 affiliate is defined in section 952 of the Internal Revenue
25 Code as "subpart F income". The income and apportionment

1 factors of an affiliate to be included under this subsection
2 (f) must be determined by multiplying the income and
3 apportionment factors of the affiliate without application
4 of this subsection by a fraction (not to exceed one), the
5 numerator of which is the "subpart F income" of the
6 corporation and the denominator of which is the "earnings
7 and profits" of the corporation, as defined in section 964
8 of the Internal Revenue Code.

9 (2) The income and factors of the corporations
10 enumerated in subsections (1)(a) through (1)(e) must be
11 taken into account only if the income and factors would have
12 been taken into account under 15-31-305 if this section had
13 not been enacted.

14 (3) For purposes of this section an "affiliated
15 corporation" is a corporation that is part of one or more
16 chains of corporations, connected through stock ownership,
17 with a common parent, if both of the following conditions
18 exist:

19 (a) over 50% of the voting stock of the corporation is
20 directly or indirectly owned or controlled by one or more of
21 the other corporations; and

22 (b) the common parent owns, directly or indirectly,
23 over 50% of the voting stock of at least one of the other
24 corporations.

25 NEW SECTION. Section 42. Qualifications for

1 water's-edge election. In order to qualify for the election
2 in [section 41], a corporation shall:

3 (1) file with the state tax return on which the
4 election is made written consent to the taking of
5 depositions from key domestic corporate individuals and to
6 the acceptance of subpoenas duces tecum requiring reasonable
7 production of documents to the department as required by the
8 state tax appeal board or by the courts of this state. The
9 consent remains in effect while the water's-edge election is
10 in effect. The consent is limited to providing information
11 necessary:

12 (a) to review or adjust income or deductions in a
13 manner authorized under sections 482, 861, and 951 through
14 964 of the Internal Revenue Code (or similar provisions of
15 the Internal Revenue Code), together with the regulations
16 adopted pursuant thereto; and

17 (b) for the conduct of an investigation with respect
18 to any unitary business in which the corporation may be
19 involved; and

20 (2) agree that for purposes of this chapter:

21 (a) dividends received by it, if it is a corporation
22 whose income and apportionment factors are taken into
23 account pursuant to 15-31-305, from either of the following
24 are considered to be functionally related dividends and are
25 presumed to be business income:

1 (i) a corporation that has more than 50% of the voting
2 stock owned, directly or indirectly, by members of the
3 unitary group and that is engaged in the same general line
4 of business; or

5 (ii) a corporation that:

6 (A) is either a significant source of supply for the
7 unitary business or a significant purchaser of the output of
8 the unitary business; or

9 (B) sells a significant part of its output or obtains
10 a significant part of its raw materials or input from the
11 unitary business;

12 (b) as used in subsection (2)(a)(ii), "significant"
13 means an amount of 15% or more of supply, raw materials,
14 input, or output;

15 (c) all other dividends are classified as business or
16 nonbusiness income.

17 NEW SECTION. Section 43. Laws and regulations of
18 other states. The definitions and locations of property,
19 payroll, and sales must be determined under the laws and
20 regulations that set forth the apportionment formulas used
21 by the individual states to assign net income subject to
22 taxes on or measured by net income. If a state does not
23 impose a tax on or measured by net income or does not have
24 laws or regulations with respect to the assignment of
25 property, payroll, and sales, the laws and regulations

1 provided in this chapter apply.

2 NEW SECTION. Section 44. Rejection of water's-edge
3 election. (1) A water's-edge election may be rejected by the
4 department only if a corporation fails to:

5 (a) comply substantially with [section 48] or any
6 federal law requiring the filing of domestic spreadsheets;
7 or

8 (b) do any of the following:

9 (i) retain and make available upon request the
10 documents and information, including any questionnaires
11 completed and submitted to the internal revenue service or
12 qualified states, that are necessary to audit issues
13 involving attribution of income to the United States or
14 foreign jurisdictions under sections 482, 861, 863, 902,
15 904, and 951 through 964 of the Internal Revenue Code (or
16 similar sections of the Internal Revenue Code);

17 (ii) identify, upon request, principal officers or
18 employees who have substantial knowledge of and access to
19 documents and records that address pricing policies, profit
20 centers, cost centers, and the methods of allocating income
21 and expenses among such centers. The information must
22 include the employees' titles and addresses.

23 (iii) (A) retain and make available upon request all:

24 (I) documents ordinarily available to a corporation
25 included in the water's-edge election that are submitted to

1 or obtained from the internal revenue service or foreign
2 countries or their territories or possessions; and

3 (II) competent authority pertaining to documents
4 described in (1)(b)(iii)(A)(I), including ruling requests,
5 rulings, settlement resolutions, and competing claims
6 involving jurisdictional assignment of income that affect
7 the assignment of income to the United States.

8 (B) The documents must include all ruling requests and
9 rulings on reorganizations involving foreign incorporation
10 of branches, all ruling requests and rulings on changing a
11 corporation's jurisdictional incorporation, and all
12 documents ordinarily available to a corporation included in
13 the water's-edge election that pertain to the determination
14 of foreign tax liability, including examination reports
15 issued by foreign taxing administrations. If the documents
16 have been translated, the translations must be furnished.

17 (iv) prepare and make available upon request, for each
18 corporation included in the disclosure spreadsheet referred
19 to in [section 48] in which the taxpayer is included, a list
20 of each state of the United States, the District of
21 Columbia, territories or possessions, and each foreign
22 country in which it has payroll, property, or sales. The
23 sales must be determined by destination, whether or not the
24 taxpayer is taxable in the destination jurisdiction.

25 (v) retain and make available upon request forms filed

1 with the internal revenue service to comply with sections
2 6038, 6038A, and 6041 of the Internal Revenue Code;

3 (vi) prepare and make available upon request, for each
4 corporation organized or created under the laws of the
5 United States or a political subdivision thereof, of which
6 corporation 50% or more of its voting stock is directly or
7 indirectly owned or controlled, the information that would
8 be included in the forms described in subsection (1)(b)(v)
9 if those forms were required for United States corporations;

10 (vii) retain and make available upon request all state
11 tax returns filed by each corporation included under
12 subsection (1)(b)(i) in each state and the District of
13 Columbia; or

14 (viii) comply with reasonable requests for discovery
15 directed at obtaining information necessary to determine or
16 verify its net income or apportionment factors or the
17 geographic source of that income, pursuant to the Internal
18 Revenue Code.

19 (2) For purposes of this section, information for any
20 year must be retained for that period of time in which the
21 taxpayer's income or license tax liability to this state may
22 be subject to adjustment, including all periods in which
23 additional income or license taxes may be assessed or during
24 which an appeal is pending before the state tax appeal board
25 or a lawsuit is pending in the courts of this state or the

1 United States with respect to a Montana income or license
2 tax.

3 (3) A failure to satisfy any of the requirements of
4 subsections (1) and (2) constitutes a willful failure to
5 retain and make available documents that are material to a
6 determination by the department of a qualified corporation's
7 tax under this chapter.

8 NEW SECTION. Section 45. Contract for water's-edge
9 election. (1) A water's-edge election must be made by
10 contract with the department in the original return for a
11 year and is effective only if every affiliated corporation
12 subject to tax under this chapter consents to the election.
13 Consent by the common parent of an affiliated group
14 constitutes consent of all members of the group. The form
15 and manner of making the water's-edge election must be
16 prescribed by the department. Each contract for a
17 water's-edge election must be for a term of 10 years. A
18 contract is conditioned by an agreement to pay the amount
19 specified in [section 49]. Except as provided in subsection
20 (2), the department shall enter into a contract as provided
21 by this section with any qualified corporation that wishes
22 to make a water's-edge election. An affiliated corporation
23 that becomes subject to tax under this chapter subsequent to
24 the water's-edge election is considered to have consented to
25 the election. No water's-edge election may be made for an

1 income year beginning prior to [the applicability date of
2 this section].

3 (2) A water's-edge election may be rejected by the
4 department as provided in [section 44] but it may not be
5 changed by a corporation prior to the end of the 10-year
6 period.

7 (3) When rejecting an election, the department shall
8 impose any conditions necessary to prevent the avoidance of
9 tax or necessary to clearly reflect income for the period
10 the election was or was purported to be in effect. These
11 conditions may include a requirement that income, including
12 dividends paid from income earned while a water's-edge
13 election was in effect, that would, except for the
14 water's-edge election, have been included in determining the
15 income of the corporation from sources within and without
16 this state pursuant to 15-31-305 must be included in income
17 for the year in which the election is changed or rejected.

18 (4) If the taxpayer desires at the end of the 10-year
19 term to renew the contract, the taxpayer shall serve written
20 notice of renewal of the contract upon the department 30
21 days in advance of the annual renewal date of the contract.
22 The renewal must be for an additional 10-year term.

23 NEW SECTION. Section 46. Penalties for failure to
24 supply information. (1) If a corporation electing under
25 [section 41] fails to supply any required information, in

1 addition to being subject to rejection by the department
2 pursuant to [section 44] and to any penalties otherwise
3 provided by this chapter, the corporation shall pay a
4 penalty of \$1,000 for each income year with respect to which
5 the failure occurs.

6 (2) If such failure continues after 90 days from the
7 date on which the department mails to the corporation notice
8 of the failure, the corporation shall pay, in addition to
9 the amount required under subsection (1), a penalty of
10 \$1,000 for each 30-day period or fraction thereof during
11 which the failure continues after expiration of the 90-day
12 period. No penalty under this subsection may exceed \$24,000.

13 (3) If the corporation fails to substantially comply
14 with any formal document request, as defined in subsection
15 (6), arising out of the examination of the tax treatment of
16 any item (hereinafter in this section referred to as the
17 "examined item") before the 90th day after the date of the
18 mailing of the request, the state tax appeal board or a
19 court having jurisdiction of a civil proceeding in which the
20 tax treatment of the examined item is an issue shall, upon
21 motion by the department, prohibit the introduction by the
22 corporation of any documentation, as defined in subsection
23 (9), covered by that request.

24 (4) For purposes of this section, the time in which
25 information is to be furnished (and the beginning of the

1 90-day period after notice by the department) must be
 2 treated as beginning not earlier than the last day on which
 3 reasonable cause existed for failure to furnish the
 4 information.

5 (5) This section does not apply with respect to any
 6 requested documentation if the taxpayer establishes that the
 7 failure to provide the documentation requested by the
 8 department is due to reasonable cause.

9 (6) For purposes of this section, the term "formal
 10 document request" means a request, made after the normal
 11 request procedures have failed to produce the requested
 12 documentation, for the production of documentation that is
 13 sent by certified mail to the corporation at its last-known
 14 address and that sets forth all of the following:

15 (a) the time and place for the production of the
 16 documentation;

17 (b) a statement of the reason any documentation
 18 previously produced is not sufficient;

19 (c) a description of the documentation being sought;
 20 and

21 (d) the consequences to the corporation of the failure
 22 to produce the documentation described in this section.

23 (7) Notwithstanding any other provision of law, a
 24 corporation to whom a formal document request is mailed may
 25 begin a proceeding to quash that request not later than the

1 90th day after the date the request was mailed. In any such
 2 proceeding the department may seek to compel compliance with
 3 the request.

4 (8) The state tax appeal board or the district court
 5 of the first judicial district has jurisdiction to hear a
 6 proceeding brought under subsection (7). An order denying
 7 the petition is considered a final order that may be
 8 appealed. The 90-day period referred to in subsection (2) is
 9 suspended for the time during which a proceeding brought
 10 under subsection (7) is pending.

11 (9) For purposes of this section, "documentation"
 12 means any evidence that may be relevant or material to the
 13 tax treatment of the examined item.

14 (10) The department, the state tax appeal board, and
 15 the court having jurisdiction over a proceeding under
 16 subsection (7) may extend the 90-day period referred to in
 17 subsection (2).

18 (11) If a corporation begins a proceeding as provided
 19 in subsection (7), the running of any period of limitations
 20 relating to the assessment and collection of tax or relating
 21 to criminal prosecutions with respect to the corporation
 22 must be suspended for the period during which the
 23 proceedings under subsection (7) and appeals thereto are
 24 pending.

25 NEW SECTION. Section 47. Admissibility of evidence.

1 (1) In any administrative or judicial proceeding, the
2 department may introduce into evidence the record of any
3 final court determination in another state involving the
4 same corporation or a unitary business of which the
5 corporation is alleged to be a member.

6 (2) Tax information pertaining to the examination of
7 multinational operations, including underlying data,
8 obtained from the internal revenue service or a foreign
9 government is admissible into evidence, without being
10 contestable as to its relevancy, in an administrative or
11 judicial proceeding involving a corporation's liability
12 under this chapter.

13 NEW SECTION. Section 48. Domestic disclosure
14 spreadsheet. A corporation required to file a United States
15 tax return or that could be included in a consolidated
16 federal tax return shall file with the department within 3
17 months after the corporation files its federal income tax
18 return a domestic disclosure spreadsheet if its and its
19 related corporation's payroll, property, or sales in a
20 foreign country exceed \$1 million or if its and its related
21 corporation's total assets exceed \$250 million or such
22 higher levels as may be subsequently established by
23 regulation. For purposes of this section, two corporations
24 are related if more than 50% of the voting stock of one
25 company is directly or indirectly owned or controlled by the

1 other or if more than 50% of the voting stock of both is
2 directly or indirectly owned or controlled by the same
3 interest. The spreadsheet must provide for full disclosure
4 of the income reported to each state, the state tax
5 liability, the method used for apportioning or allocating
6 income to the states, and any other information, as provided
7 for by regulations, necessary to properly determine the
8 amount of taxes due each state and to identify the corporate
9 parent and those of its affiliates of which more than 20% of
10 the voting stock is directly or indirectly owned or
11 controlled by the parent. The spreadsheet must be reviewed
12 by the department for completeness. If it is not properly
13 completed, the spreadsheet fails to comply with [section 44]
14 and may not be accepted by the department.

15 NEW SECTION. Section 49. Fee for water's-edge
16 election. (1) Each contract described in [section 45] must
17 provide that a corporation making a water's-edge election
18 pursuant to this chapter shall pay to the state an annual
19 election fee. The election fee is not deductible in
20 determining the net income of the corporation for purposes
21 of this chapter.

22 (2) The election fee is an amount equal to .0003
23 multiplied by the sum of the corporation's property,
24 payroll, and sales in this state, as defined in this
25 chapter, with the following adjustments:

1 (a) Intangibles may not be included in the property
2 factor.

3 (b) The property and payroll factors must be
4 calculated with respect to the income year ending during
5 calendar year 1986.

6 (c) The sum of the property, payroll, and sales must
7 be reduced by the cumulative amount expended after January
8 1, 1988, for investment in new plants or facilities in this
9 state, as defined in subsection (3), and must further be
10 reduced by the amount expended for new employees in this
11 state as provided in subsection (5).

12 (3) A new plant or facility includes an addition to
13 real property, whether land or improvements (including
14 fixtures), or a major rehabilitation of land or improvements
15 (including fixtures) that converts the property to a new
16 use. A major rehabilitation means an alteration of any kind
17 that is the substantial equivalent of a new improvement or
18 fixture. The property must be used for production of income
19 taxable under this chapter and must be placed in service
20 after January 1, 1988. A new plant or facility does not
21 include a reconstruction because of misfortune or calamity
22 or property that is a replacement, in whole or in part, for
23 an existing plant or facility in this state. A plant or
24 facility must be considered a replacement if the taxpayer or
25 an affiliated corporation as defined in [section 41] closes,

1 takes out of service, sells, or leases to an unrelated
2 party, in either the 3 immediately preceding or the 3
3 immediately succeeding years from the time the new plant or
4 facility is operational, a plant or facility with a cost
5 basis equal to 25% or more of the cost basis of the new
6 plant or facility.

7 (4) (a) The number of new employees in this state for
8 any income year is determined by comparing the total number
9 of work years in this state for the income year to the
10 greater of:

11 (i) the average of the total number of work years in
12 this state for the income years ending in 1985, 1986, or
13 1987; or

14 (ii) the total number of work years in this state for
15 the income year ending in 1987.

16 (b) A "work year" means, in the case of workers who
17 are paid an hourly wage, 2,000 paid hours or, in the case of
18 salaried employees, a total of 12 paid months.

19 (5) The amount expended for new employees is the
20 product of the number of new employees determined pursuant
21 to subsection (4) and the average wages paid for each work
22 year in this state for the income year.

23 (6) Each contract must provide that, without the
24 consent of the corporation, the amount of the election fee
25 determined in this section is not subject to any statutory

1 changes for the period the contract is in effect. A
 2 statutory change is applicable for any renewal year
 3 beginning 10 years after the date of that statutory change.

4 (7) Election fees determined pursuant to this section
 5 must be collected in the same manner as the taxes imposed by
 6 this chapter and are subject to interest and penalties as
 7 provided in this part.

8 (8) In no event may an election fee determined
 9 pursuant to this section be less than .0001 multiplied by
 10 the sum of the corporation's property, payroll, and sales in
 11 this state for the current year.

12 (9) The annual election fee otherwise determined
 13 pursuant to this section and payable under a contract
 14 described in [section 45] may not be imposed for an income
 15 year in which a corporation incurs no tax liability under
 16 15-31-121 other than the \$50 minimum.

17 Section 50. Section 15-31-554, MCA, is amended to
 18 read:

19 "15-31-554. Returns to which sections apply. The
 20 provisions of 15-31-551 through ~~15-31-553~~ and 15-31-552
 21 shall apply to all returns on file and all returns to be
 22 filed hereafter."

23 Section 51. Section 15-32-102, MCA, is amended to
 24 read:

25 "15-32-102. Definitions. As used in this part, the

1 following definitions apply:

2 (1) ~~"Building" means a single or multiple dwelling,~~
 3 ~~including a mobile home, or a building used for commercial,~~
 4 ~~industrial, or agricultural purposes, which is enclosed with~~
 5 ~~walls and a roof.~~

6 (2) ~~"Capital investment" means any material or~~
 7 ~~equipment purchased and installed in a building or land with~~
 8 ~~or without improvements.~~

9 (3) ~~"Energy conservation purpose" means one or more of~~
 10 ~~the following results of an investment: reducing the waste~~
 11 ~~or dissipation of energy or reducing the amount of energy~~
 12 ~~required to accomplish a given quantity of work.~~

13 (4) ~~"Passive solar system" means a direct thermal~~
 14 ~~energy system that uses the structure of a building and its~~
 15 ~~operable components to provide heating or cooling during the~~
 16 ~~appropriate times of the year by using the climate resources~~
 17 ~~available at the site; it includes only those portions and~~
 18 ~~components of a building that are expressly designed and~~
 19 ~~required for the collection, storage, and distribution of~~
 20 ~~solar energy and that are not standard components of a~~
 21 ~~conventional building.~~

22 (5) (1) "Low emission wood or biomass combustion
 23 device" means a stove or furnace or a catalytic converter
 24 added to a stove or furnace which burns wood or other
 25 nonfossil biomass and which has an emission rate of less

1 than 6 grams per hour when tested in conformance with the
 2 standard method for measuring the emissions and efficiencies
 3 of residential wood stoves as adopted by the department of
 4 health and environmental sciences pursuant to 15-32-203.

5 (2) "Passive solar system" means a direct thermal
 6 energy system that uses the structure of a building and its
 7 operable components to provide heating or cooling during
 8 appropriate times of the year by using the climate resources
 9 available at the site. It includes only those portions and
 10 components of a building that are expressly designed and
 11 required for the collection, storage, and distribution of
 12 solar energy and that are not standard components of a
 13 conventional building.

14 ~~(5)(3)~~ "Recognized nonfossil forms of energy
 15 generation" means a system for the utilization of solar
 16 energy, including passive solar systems, wind, solid wastes,
 17 or the decomposition of organic wastes for capturing energy
 18 or converting energy sources into usable sources, for the
 19 production of electric power from solid wood wastes, a low
 20 emission wood or biomass combustion device, and also means a
 21 small system for the utilization of water power by means of
 22 an impoundment not over 20 acres in surface area."

23 Section 52. Section 15-32-203, MCA, is amended to
 24 read:

25 "15-32-203. Department to make rules. ~~(1)~~ The

1 ~~department--of--revenue--shall--prescribe--rules--necessary--to~~
 2 ~~carry--out--the--purposes--of--this--part:~~

3 ~~(2)~~ The department of health and environmental
 4 sciences shall adopt rules establishing emission testing and
 5 emission certification standards for low emission wood or
 6 biomass combustion devices and maintain a list of such
 7 devices that are certified."

8 Section 53. Section 15-36-101, MCA, is amended to
 9 read:

10 "15-36-101. Definitions and rate of tax. (1) Every
 11 person engaging in or carrying on the business of producing
 12 petroleum, other mineral or crude oil, or natural gas within
 13 this state or engaging in or carrying on the business of
 14 owning, controlling, managing, leasing, or operating within
 15 this state any well or wells from which any merchantable or
 16 marketable petroleum, other mineral or crude oil, or natural
 17 gas is extracted or produced sufficient in quantity to
 18 justify the marketing of the same must, except as provided
 19 in 15-36-121, each year when engaged in or carrying on any
 20 such business in this state shall pay to the department of
 21 revenue for the exclusive use and benefit of the state of
 22 Montana a severance tax computed at the following rates:

23 ~~(a) except--as--provided--in--subsections--(1)(b)--and~~
 24 ~~(1)(c), 5% of the total gross value of all the petroleum and~~
 25 ~~other mineral or crude oil produced by such person from each~~

1 ~~lease or unit on or after April 1, 1981, and on or before~~
 2 ~~March 31, 1983, 6% of the total gross value of all the~~
 3 ~~petroleum and other mineral or crude oil produced by such~~
 4 ~~person from each lease or unit on or after April 1, 1983,~~
 5 ~~and on or before March 31, 1985, and 5% of the total gross~~
 6 ~~value of all the petroleum and other mineral or crude oil~~
 7 ~~produced by such person from each lease or unit thereafter;~~
 8 ~~but in determining the amount of such tax there shall be~~
 9 ~~excluded from consideration all petroleum or other crude or~~
 10 ~~mineral oil produced and used by such person during such~~
 11 ~~year in connection with his operations in prospecting for,~~
 12 ~~developing, and producing such petroleum or crude or mineral~~
 13 ~~oil;~~

14 (b) 2.65% of the total gross value of natural gas
 15 produced from each lease or unit; but in determining the
 16 amount of such tax there shall be excluded from
 17 consideration all gas produced and used by such person
 18 during such year in connection with his operations in
 19 prospecting for, developing, and producing such gas or
 20 petroleum or crude or mineral oil; and there shall also be
 21 excluded from consideration all gas, including carbon
 22 dioxide gas, recycled or reinjected into the ground;

23 (c) 2.5% of the total gross value of the incremental
 24 petroleum and other mineral or crude oil produced from each
 25 lease or unit in a tertiary recovery project after July 1,

1 1985, and before July 1, 1987. For purposes of this section,
 2 a tertiary recovery project, no matter when it was
 3 completed, must meet the following requirements:

4 (i) the project must be approved as a tertiary
 5 recovery project by the department of revenue. Such approval
 6 may be extended only after notice and hearing in accordance
 7 with Title 2, chapter 4.

8 (ii) the property to be affected by the project must be
 9 adequately delineated according to the specifications
 10 required by the department; and

11 (iii) the project must involve the application of one
 12 or more tertiary recovery methods that can reasonably be
 13 expected to result in an increase, determined by the
 14 department to be significant in light of all the facts and
 15 circumstances, in the amount of crude oil which may
 16 potentially be recovered. For the purpose of this section,
 17 tertiary recovery methods include but are not limited to:

- 18 (A) miscible fluid displacement;
- 19 (B) steam drive injection;
- 20 (C) micellar/emulsion flooding;
- 21 (D) in situ combustion;
- 22 (E) polymer augmented water flooding;
- 23 (F) cyclic steam injection;
- 24 (G) alkaline or caustic flooding;
- 25 (H) carbon dioxide water flooding;

1 (I) immiscible carbon dioxide displacement;

2 (J) any other method approved by the department as a
3 tertiary recovery method.

4 (d) 4% of the total gross value of all the petroleum
5 and other mineral or crude oil produced and sold from each
6 producing well in a tertiary recovery project in Montana on
7 or after July 1, 1987, as long as the price of oil for the
8 calendar year quarter in which the oil is produced is \$40
9 per barrel or less.

10 (e) 3% of the total gross value of all the petroleum
11 and other mineral or crude oil produced and sold from each
12 stripper well in Montana on or after July 1, 1987, as long
13 as the price of oil for the calendar year quarter in which
14 the oil is produced is \$20 per barrel or less. For purposes
15 of this subsection (1)(e):

16 (i) a "stripper well" is an oil well on a property
17 which has a total daily production that averages 10 barrels
18 of oil or less per well for the entire property for the 12
19 consecutive months immediately preceding the end of the
20 quarter for which a return is filed. Only wells actually
21 producing may be included. Each well on the property must
22 have been maintained at the maximum feasible rate of
23 production throughout the applicable 12-month period in
24 accordance with recognized conservation practices, and
25 production must not have been significantly curtailed by

1 reason of mechanical failure or other disruption in
2 production.

3 (ii) "property" means the right to produce domestic
4 crude oil that arises from a lease or from a fee interest. A
5 producer may treat as a separate property each separate and
6 distinct producing reservoir subject to the same right to
7 produce crude oil, provided that such reservoir is
8 recognized by the appropriate governmental regulatory
9 authority as a producing formation that is separate and
10 distinct from, and not in communication with, any other
11 producing formation.

12 (2) For purposes of this section, the term
13 "incremental petroleum and other mineral or crude oil" means
14 the amount of oil, as determined by the department of
15 revenue, to be in excess of what would have been produced by
16 primary and secondary methods. The determination arrived at
17 by the department must be made only after notice and hearing
18 and shall specify through the life of a tertiary project,
19 calendar year by calendar year, the combined amount of
20 primary and secondary production that must be used to
21 establish the incremental production from each lease or unit
22 in a tertiary recovery project.

23 (3) For purposes of subsections (1)(d) and (1)(e),
24 "the price of oil for the calendar year quarter" means the
25 price of West Texas intermediate crude, averaged on a

1 quarterly basis, less \$1.25 per barrel as a price
 2 differential for Montana oil.

3 ~~(3)~~(4) Nothing in this part may be construed as
 4 requiring laborers or employees hired or employed by any
 5 person to drill any oil well or to work in or about any oil
 6 well or prospect or explore for or do any work for the
 7 purpose of developing any petroleum or other mineral or
 8 crude oil to pay such severance tax, nor may any work done
 9 or the drilling of any well or wells for the purpose of
 10 prospecting or exploring for petroleum or other mineral or
 11 crude oils or for the purpose of developing same be
 12 considered to be the engaging in or carrying on of any such
 13 business. If, in the doing of any such work, in the drilling
 14 of any oil well, or in such prospecting, exploring, or
 15 development work, any merchantable or marketable petroleum
 16 or other mineral or crude oil in excess of the quantity
 17 required by such person for carrying on such operation is
 18 produced sufficient in quantity to justify the marketing of
 19 the same, such work, drilling, prospecting, exploring, or
 20 development work is considered to be the engaging in and
 21 carrying on of such business within this state within the
 22 meaning of this section.

23 ~~(4)~~(5) Every person required to pay such tax hereunder
 24 shall pay the same in full for his own account and for the
 25 account of each of the other owner or owners of the gross

1 proceeds in value or in kind of all the marketable petroleum
 2 or other mineral or crude oil or natural gas extracted and
 3 produced, including owner or owners of working interest,
 4 royalty interest, overriding royalty interest, carried
 5 working interest, net proceeds interest, production
 6 payments, and all other interest or interests owned or
 7 carved out of the total gross proceeds in value or in kind
 8 of such extracted marketable petroleum or other mineral or
 9 crude oil or natural gas, except that any of the aforesaid
 10 interests that are owned by the federal, state, county, or
 11 municipal governments shall be exempt from taxation under
 12 this chapter. Unless otherwise provided in a contract or
 13 lease, the pro rata share of any royalty owner or owners
 14 will be deducted from any settlements under said lease or
 15 leases or division of proceeds orders or other contracts."

16 Section 54. Section 15-35-103, MCA, is amended to
 17 read:

18 "15-35-103. Severance tax -- rates imposed --
 19 exemptions. (1) A severance tax is imposed on each ton of
 20 coal produced in the state prior to July 1, 1988, in
 21 accordance with the following schedule:

Heating quality	Surface	Underground
(Btu per pound	Mining	Mining
of coal):		
Under 7,000	12 cents or	5 cents or

1		20% of value	3% of value
2	7,000-8,000	22 cents or	8 cents or
3		30% of value	4% of value
4	8,000-9,000	34 cents or	10 cents or
5		30% of value	4% of value
6	Over 9,000	40 cents or	12 cents or
7		30% of value	4% of value
8	<u>(2) A severance tax is imposed on each ton of coal</u>		
9	<u>produced in the state from July 1, 1988, through June 30,</u>		
10	<u>1990, in accordance with the following schedule:</u>		
11	<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>
12	<u>(Btu per pound</u>	<u>Mining</u>	<u>Mining</u>
13	<u>of coal):</u>		
14	<u>Under 7,000</u>	<u>12 cents or</u>	<u>5 cents or</u>
15		<u>17% of value</u>	<u>3% of value</u>
16	<u>7,000-8,000</u>	<u>22 cents or</u>	<u>8 cents or</u>
17		<u>25% of value</u>	<u>4% of value</u>
18	<u>8,000-9,000</u>	<u>34 cents or</u>	<u>10 cents or</u>
19		<u>25% of value</u>	<u>4% of value</u>
20	<u>Over 9,000</u>	<u>40 cents or</u>	<u>12 cents or</u>
21		<u>25% of value</u>	<u>4% of value</u>
22	<u>(3) A severance tax is imposed on each ton of coal</u>		
23	<u>produced in the state after June 30, 1990, in accordance</u>		
24	<u>with the following schedule:</u>		
25	<u>Heating quality</u>	<u>Surface</u>	<u>Underground</u>

1	<u>(Btu per pound</u>	<u>Mining</u>	<u>Mining</u>
2	<u>of coal):</u>		
3	<u>Under 7,000</u>	<u>12 cents or</u>	<u>5 cents or</u>
4		<u>13% of value</u>	<u>3% of value</u>
5	<u>7,000-8,000</u>	<u>22 cents or</u>	<u>8 cents or</u>
6		<u>20% of value</u>	<u>4% of value</u>
7	<u>8,000-9,000</u>	<u>34 cents or</u>	<u>10 cents or</u>
8		<u>20% of value</u>	<u>4% of value</u>
9	<u>Over 9,000</u>	<u>40 cents or</u>	<u>12 cents or</u>
10		<u>20% of value</u>	<u>4% of value</u>

11 (4) "Value" means the contract sales price.

12 ~~(2)~~(5) The formula which yields the greater amount of

13 tax in a particular case shall be used at each point on this

14 schedule.

15 ~~(3)~~(6) A person is not liable for any severance tax

16 upon 50,000 tons of the coal he produces in a calendar year,

17 except that if he produces more than 50,000 tons of coal in

18 a calendar year, he will be liable for severance tax upon

19 all coal produced in excess of the first 20,000 tons.

20 ~~(4)~~(7) A new coal production incentive tax credit may

21 be claimed on certain coal as provided in 15-35-202."

22 Section 55. Section 15-35-202, MCA, is amended to

23 read:

24 "15-35-202. New coal production incentive tax credit

25 allowed -- application limited. (1) A coal mine operator is

1 entitled to a new coal production incentive tax credit of
 2 33 1/3% of the tax imposed under 15-35-103 on any
 3 incremental production produced and sold ~~during--calendar~~
 4 years from January 1, 1985, and 1986 through June 30, 1988.

5 (2) A coal mine operator is entitled to a new coal
 6 production incentive tax credit of ~~33-1/3%~~ 20% of the tax
 7 imposed under 15-35-103 on any incremental production for
 8 ~~the--entire--term--of--an--agreement;--except--as--provided--in~~
 9 ~~subsection-(3)-if-the-incremental-production-resulted--from~~
 10 ~~coal-purchases-under:~~

11 ~~(a)--an--existing--agreement--which--was--extended--between~~
 12 ~~January-17-1985--and-June-30-1987--for--at--least--a--5-year~~
 13 ~~period;--or~~

14 ~~(b)--a--new--agreement--that--was--executed--between--January~~
 15 ~~17--1985--and--June--30--1987~~ produced and sold from July 1,
 16 1988, through June 30, 1990.

17 (3) No credit may be claimed for coal produced prior
 18 to January 1, 1985, or after June 30, 1990."

19 Section 56. Section 15-35-203, MCA, is amended to
 20 read:

21 "15-35-203. Calculation and application of credit. (1)
 22 The amount of new coal production incentive tax credit that
 23 a coal mine operator may claim against the tax imposed in
 24 15-35-103 is calculated by:

25 (a) determining the incremental production for each of

1 his qualified purchasers that was produced each quarter
 2 during a calendar year;

3 (b) determining the arithmetic average severance tax
 4 per ton calculated prior to application of the credit on
 5 coal sold to each qualified purchaser each quarter during
 6 the calendar year;

7 (c) multiplying the incremental production for a
 8 ~~calendar--year~~ quarter for a purchaser by the average
 9 severance tax per ton for that purchaser and multiplying the
 10 total by ~~33-1/3%~~ the appropriate percentage as provided in
 11 15-35-202 for each quarter; and

12 (d) totaling the amount so calculated for all
 13 qualified purchasers for all four quarters of the calendar
 14 year.

15 (2) When filing the quarterly statement required in
 16 15-35-104, a coal mine operator may claim against the coal
 17 severance tax calculated for that quarter an amount equal to
 18 25% of the new coal production incentive tax credit allowed
 19 on incremental production that occurred during the previous
 20 calendar year.

21 (3) If in any calendar year a purchaser exceeds his
 22 base consumption level and he has purchased from more than
 23 one Montana coal mine operator during the year, the credit
 24 on the incremental production must be divided among the
 25 operators on a pro rata basis. To determine each coal mine

1 operator's pro rata share of the tax credit, each operator
2 shall divide his incremental production by the sum of all
3 coal mine operators' incremental production for that
4 purchaser and multiply the quotient by the purchases in
5 excess of the base consumption level for that purchaser.

6 (4) Neither a coal mine operator nor a purchaser is
7 entitled to a direct payment for the credit allowed in
8 15-35-202. A credit terminates if not taken during the year
9 following the year in which the incremental production
10 occurred.

11 (5) Each coal mine operator must reduce the delivered
12 price of coal sold to each qualified purchaser by an amount
13 equal to the credit received on incremental production sold
14 to that purchaser."

15 NEW SECTION. Section 57. Penalty for failure to file
16 and failure to pay tax on date required. (1) Unless
17 otherwise specified, the department shall add to the amount
18 of any tax due under Title 15, chapters 30, 31, 35 through
19 38, 50 through 53, 55, 70, and 71, Title 16, 69-1-225,
20 69-1-226, 82-11-131, and 82-11-132, a penalty equal to 5% of
21 the tax due or \$10, whichever is greater, for the failure to
22 file a return or statement required by law on the date due.
23 In addition, a penalty of 5% of the delinquent or estimated
24 tax due must be assessed for each 30-day period during which
25 the return remains unfiled following notification of

1 delinquency.

2 (2) Unless otherwise specified by another section of
3 this title, the department shall add to the amount of any
4 delinquent tax or any delinquent tax determined by an
5 estimate a penalty equal to 5% of the tax. In addition, a
6 penalty of 5% of the delinquent tax must be assessed for
7 each 30-day period during which the tax remains unpaid
8 following notification of delinquency.

9 (3) Interest must be assessed on any tax due at the
10 rate of 1% per month or part thereof from the date the tax
11 should have been paid until such time as the tax is paid.

12 (4) The maximum penalty under this section is 30%. In
13 no case for the same tax period or return may the department
14 impose the penalty for late payment of the tax if it imposed
15 a penalty for failure to file the return. The department
16 may not assess any penalty until the penalty equals \$10 or
17 more for any one tax period or the period covered by a
18 return or statement.

19 NEW SECTION. Section 58. Payments to be applied to
20 penalty and interest. All payments received by the
21 department for the payment of tax, penalty, and interest
22 must be first applied to the amount of interest due, then to
23 the penalty due, then to the tax due.

24 NEW SECTION. Section 59. Penalty for understatement
25 of tax. (1) If after examination of any return the

1 department determines that the taxpayer understated his tax
2 liability by 25% or more of the amount originally stated, a
3 penalty of 10% of the amount of tax difference must be added
4 to any tax delinquency.

5 (2) If at any time there is a final administrative
6 determination or a final judicial decision that there was no
7 understatement of tax liability of 25% or more and the
8 penalty has been paid, the amount paid must be refunded as
9 any other refund is made.

10 (3) The department may in its discretion waive the
11 assessment of this penalty for good cause shown and under
12 procedures established by the department.

13 NEW SECTION. Section 60. Publication of names of
14 delinquent taxpayers. (1) The department may in its
15 discretion publish the names of taxpayers that are
16 delinquent in the payment of any tax if the tax is
17 delinquent for 12 months or more.

18 (2) The department may in its discretion publish the
19 names of persons who failed to file a tax return or a
20 statement required by any section of this title if the
21 return or statement is overdue for 12 months or more.

22 (3) The publication of this return information by the
23 department does not constitute a violation of 15-30-303,
24 15-31-507, or 15-38-109.

25 NEW SECTION. Section 61. Procedure to compute tax in

1 absence of statement. (1) If a person fails, neglects, or
2 refuses to file any statement required by law to be filed
3 with the department within the time required or fails to pay
4 the required tax on or before the date payment is due, the
5 department of revenue shall proceed to determine the proper
6 amount of tax due for the period concerned, based upon
7 available information.

8 (2) The department shall compute the amount of taxes
9 due from the person and shall mail to the person a letter
10 and a tax assessment statement, setting forth the amount of
11 delinquent tax, penalty, and interest due. The letter shall
12 advise that if payment is not made, a warrant for distraint
13 may be filed.

14 Section 62. Section 15-1-206, MCA, is amended to read:

15 "15-1-206. Waiver and abatement of penalties --
16 interest. (1) The department may, in its discretion, waive
17 the assessment of penalty for the late filing of any tax
18 statement or return required to be filed with the department
19 when the filing is done within 5 days of the date specified
20 for filing the return or statement and for the late payment
21 of any tax collected by the department when the payment is
22 made within 5 days of the date specified for payment of the
23 tax.

24 (2) The department may in its discretion, subject to
25 subsection (1), waive the assessment of a penalty for late

1 filing of a return or statement or late payment of a tax
 2 upon a showing of reasonable cause by the taxpayer seeking
 3 waiver of the penalty.

4 ~~(2)~~(3) Whenever the department waives or abates a
 5 penalty provided for in this title, it also may, in its
 6 discretion, waive or abate interest not to exceed \$100 due
 7 upon the tax.

8 ~~(3)~~(4) Whenever the department is notified of a change
 9 in federal taxable income as the result of a federal
 10 adjustment or upon filing an amended federal return, as
 11 provided for in 15-30-304, the department shall abate the
 12 interest on the additional tax liability from the date the
 13 department is notified until the department sends the
 14 statement of increased tax liability to the taxpayer."

15 Section 63. Section 15-30-321, MCA, is amended to
 16 read:

17 "15-30-321. Penalties for violation of chapter. (1) If
 18 any person, without purposely or knowingly violating any
 19 requirement imposed by this chapter, fails to file a return
 20 of income on or before its due date (determined with regard
 21 to an extension of time granted for filing the return),
 22 there shall be imposed a penalty of 5% of any balance of tax
 23 unpaid with respect to such return as of its due date,--but
 24 ~~in--no--event--shall--the--penalty--for--failure--to--file--a--return~~
 25 ~~by--its--due--date--be--less--than--\$5:~~ or \$10, whichever is

1 greater. In addition, a penalty of 5% of any balance of tax
 2 unpaid with respect to the return must be assessed for each
 3 30-day period during which the tax remains unpaid following
 4 notification of delinquency, with a maximum 30% penalty. The
 5 department may abate the penalty if the taxpayer establishes
 6 that the failure to file on time was due to reasonable cause
 7 and was not due to neglect on his part. If any person,
 8 without purposely or knowingly violating any requirement
 9 imposed by this chapter, fails to pay any tax on or before
 10 its due date ~~(determined with regard to an extension of time~~
 11 ~~granted for the filing of a return)~~, there shall be added to
 12 the tax a penalty of ~~10%~~ 5% of said tax, ~~but not less than~~
 13 ~~\$5, and interest.~~ In addition, a penalty of 5% of the
 14 delinquent tax must be assessed for each 30-day period
 15 during which the tax remains unpaid following notification
 16 of delinquency, with a maximum 30% penalty. Interest shall
 17 accrue on the tax at the rate of ~~9% per annum~~ 3/4 of 1% per
 18 month for the entire period it remains unpaid. The
 19 department may abate the penalty if the taxpayer establishes
 20 that the failure to pay on time was due to reasonable cause
 21 and was not due to neglect on his part.

22 (2) If any person fails, purposely or knowingly
 23 violating any requirement imposed by this chapter, to make a
 24 return of income or to pay a tax if one is due at the time
 25 required by or under the provisions of this chapter, there

1 shall be added to the tax an additional amount equal to 25%
2 thereof, but such additional amount shall in no case be less
3 than \$25, and interest at 1% for each month or fraction of a
4 month during which the tax remains unpaid.

5 (3) Any individual, corporation, or partnership or any
6 officer or employee of any corporation or member or employee
7 of any partnership who, with intent to evade any tax or any
8 requirement of this chapter or any lawful requirement of the
9 department thereunder, purposely or knowingly, fails to pay
10 the tax or to make, render, or sign any return or to supply
11 any information within the time required by or under the
12 provisions of this chapter or who, with like intent,
13 purposely or knowingly makes, renders, or signs any false or
14 fraudulent return or statement or supplies any false or
15 fraudulent information shall be liable to a penalty of not
16 more than \$1,000, to be recovered by the attorney general in
17 the name of the state by action in any court of competent
18 jurisdiction, and shall also be guilty of a misdemeanor and
19 shall upon conviction be fined not to exceed \$1,000 or be
20 imprisoned not to exceed 1 year, or both, at the discretion
21 of the court.

22 (4) With respect to the imposition of a civil penalty,
23 evidence produced by the department to the effect that a tax
24 has not been paid, that a return has not been filed, or that
25 information has not been supplied as required under the

1 provisions of this chapter is prima facie evidence that the
2 tax has not been paid, the return has not been filed, or the
3 information has not been supplied.

4 (5) The department may not assess any penalty until
5 the penalty equals \$10 or more for any one tax period or the
6 period covered by a return or statement."

7 Section 64. Section 15-30-323, MCA, is amended to
8 read:

9 "15-30-323. Penalty for deficiency. (1) If the payment
10 required by 15-30-142(6) is not made within 60 days or if
11 the understatement is due to negligence on the part of the
12 taxpayer but without fraud, there shall be added to the
13 amount of the deficiency 5% thereof; ~~provided, however, that~~
14 ~~no deficiency penalty shall be less than \$27~~ of the tax. In
15 addition, a penalty of 5% of the delinquent tax must be
16 assessed for each 30-day period during which the tax remains
17 unpaid following notification of delinquency, with a maximum
18 30% penalty. Interest will be computed at the rate of 9% ~~per~~
19 ~~annum~~ 3/4 of 1% per month or fraction thereof on the
20 additional assessment. Except as otherwise expressly
21 provided in this subsection, the interest shall in all cases
22 be computed from the date the return and tax were originally
23 due as distinguished from the due date as it may have been
24 extended to the date of payment.

25 (2) If the time for filing a return is extended, the

1 taxpayer shall pay in addition interest thereon at the rate
2 of 9% per annum 3/4 of 1% per month from the time when the
3 return was originally required to be filed to the time of
4 payment.

5 (3) The department may not assess any penalty until
6 the penalty equals \$10 or more for any one tax period or the
7 period covered by a return or statement."

8 Section 65. Section 15-31-502, MCA, is amended to
9 read:

10 "15-31-502. Assessment and payment of tax, penalty,
11 and interest. (1) All taxpayers shall compute the amount of
12 tax payable under this chapter and shall remit such amount
13 to the department of revenue on or before the 15th day of
14 the 5th month following the close of the taxable period. If
15 the tax is not paid on or before the due date, there shall
16 be assessed a penalty of ~~10% of the amount of the tax unless~~
17 ~~it is shown that the failure was due to reasonable cause and~~
18 ~~not due to neglect.~~ 5% of the tax. In addition, a penalty of
19 5% of the delinquent tax must be assessed for each 30-day
20 period during which the tax remains unpaid following
21 notification of delinquency, with a maximum 30% penalty. If
22 any tax and penalty due under this chapter is not paid when
23 due, by reason of extension granted or otherwise, interest
24 shall be added thereto at the rate of ~~12% per annum~~ 1% a
25 month or fraction thereof from the due date until paid.

1 (2) Any corporation required to pay the minimum
2 license tax for the privilege of doing business in this
3 state shall be required to pay a minimum penalty of \$10 for
4 its failure to file the return required by this chapter or
5 pay the minimum \$50 fee on the date specified in this
6 chapter.

7 (3) The department may not assess any penalty until
8 the penalty equals \$10 or more for any one tax period or the
9 period covered by a return or statement."

10 Section 66. Section 15-36-105, MCA, is amended to
11 read:

12 "15-36-105. Statement to accompany payment -- records
13 -- collection of tax -- refunds. (1) Each and every person
14 must, within 60 days after the end of each following
15 quarter, make out on forms prescribed by the department of
16 revenue a statement showing the total number of barrels of
17 merchantable or marketable petroleum and other mineral or
18 crude oil or cubic feet of natural gas produced or extracted
19 by such person in the state during each month of such
20 quarter and during the whole quarter, the average value
21 thereof during each month, and the total value thereof for
22 the whole quarter, together with the total amount due to the
23 state as severance taxes for such quarter, and must within
24 such 60 days deliver such statement and, except as provided
25 in 15-36-121, pay to the department the amount of the taxes

1 shown by such statement to be due to the state for the
 2 quarter for which such statement is made. Such statement
 3 must be signed by the individual or the president,
 4 vice-president, treasurer, assistant treasurer, or managing
 5 agent in this state of the association, corporation,
 6 joint-stock company, or syndicate making the statement. Any
 7 such person engaged in carrying on such business at more
 8 than one place in this state or owning, leasing,
 9 controlling, or operating more than one oil or gas well in
 10 this state may include all thereof in one statement. The
 11 department shall receive and file all such statements and
 12 collect and receive from such person making and filing a
 13 statement the amount of tax payable by such person, if any,
 14 as the same shall appear from the face of the statement.

15 (2) It shall be the duty of the department to examine
 16 each of such statements and compute the taxes thereon, and
 17 the amount so computed by the department shall be the taxes
 18 imposed, assessed against, and payable by the taxpayer
 19 making the statement for the quarter for which the statement
 20 is filed. If the tax found to be due shall be greater than
 21 the amount paid, the excess shall be paid by the taxpayer to
 22 the department within 10 days after written notice of the
 23 amount of the deficiency shall be mailed by the department
 24 to such taxpayer. If the tax imposed shall be less than the
 25 amount paid, the difference must be applied as a credit

1 against tax liability for subsequent quarters or refunded if
 2 there is no subsequent tax liability.

3 ~~{3}--If--the--tax--is--not--paid--on--or--before--the--due--date--~~
 4 ~~there--shall--be--assessed--a--penalty--of--10%--of--the--amount--of--~~
 5 ~~the--tax--unless--it--is--shown--that--the--failure--was--due--to--~~
 6 ~~reasonable--cause--and--not--due--to--neglect--if--any--tax--under--~~
 7 ~~this--chapter--is--not--paid--when--due--interest--shall--be--added--~~
 8 ~~thereto--at--the--rate--of--1%--a--month--or--fraction--thereof--~~
 9 ~~computed--on--the--total--amount--of--severance--tax--and--penalty--~~
 10 ~~from--the--due--date--until--paid--"~~

11 Section 67. Section 15-37-104, MCA, is amended to
 12 read:

13 "15-37-104. Mine operator's statement of gross value
 14 -- reports and sampling. (1) Every person engaged in or
 15 carrying on the business of working or operating any mine or
 16 mining property in this state from which gold, silver,
 17 copper, lead, or any other metal or metals, precious or
 18 semiprecious gems or stones are produced must, not later
 19 than 60 days following the quarterly reporting date of each
 20 quarter when engaged in or carrying on any such business,
 21 work, or operation, make out a statement of the gross value
 22 of product from all mines and mining properties worked or
 23 operated by such person during the calendar quarter
 24 immediately preceding. If good cause is shown, the
 25 department may grant a reasonable extension of the time for

1 filing statements. The statement shall be in the form
2 prescribed by the department of revenue and shall show the
3 following:

4 (a) the name, address, and telephone number of the
5 owner, lessee, or operator of the mine or mining property;

6 (b) the mine's location by county and legal
7 description;

8 (c) the number of tons of ore, concentrate, or other
9 mineral products or deposits extracted from the mine or
10 mining property during the period covered by the statement;

11 (d) the name and location of the smelter, mill, or
12 reduction works to which such ore or concentrate has been
13 shipped or sold during the period covered by the statement
14 and such other information as the department may require;

15 (e) the gross yield of such ores, concentrates,
16 mineral products, or deposits in constituents of commercial
17 value, that is to say, the number of ounces of gold or
18 silver, pounds of copper, lead, or zinc, or other
19 commercially valuable constituents of said ores,
20 concentrates, or mineral products or deposits, measured by
21 standard units of measurement, during the period covered by
22 the statement;

23 (f) the quarterly gross value of product in dollars
24 and cents.

25 (2) This section applies regardless of the location of

1 any smelter, mill, or reduction works to which the ore or
2 concentrate is shipped.

3 (3) Any sampling, testing, or assaying made necessary
4 to comply with this section must be completed within this
5 state and prior to any mixture of the ore or concentrate to
6 be assayed with ore or concentrate from any other mine or
7 mining property.

8 ~~(4) If the quarterly statement of gross value~~
9 ~~described herein is not filed with the department within 60~~
10 ~~days following the calendar quarter ending, a penalty shall~~
11 ~~be assessed. The penalty shall be the greater of \$25 or 2%~~
12 ~~of the tax that would be due under this part if collected~~
13 ~~quarterly. If good cause is shown, the department may waive~~
14 ~~the penalty."~~

15 Section 68. Section 15-50-206, MCA, is amended to
16 read:

17 "15-50-206. Withholding license fee from payments --
18 refunds. (1) The prime contractor shall withhold the
19 additional 1% license fee from payments to his
20 subcontractors and inform the department of revenue on
21 prescribed forms of the amount of the additional 1% license
22 fee in his account to be allocated and transferred to the
23 subcontractor. The notification to transfer portions of the
24 additional 1% license fee must be filed within 30 days after
25 each payment is made to subcontractors. If any prime

1 contractor fails to file the required allocation and
 2 transfer report at the time required by or under the
 3 provisions of this chapter, a penalty computed at the rate
 4 of 10% of the additional 1% license fee withheld from
 5 subcontractors shall be due from the prime contractor may be
 6 imposed for such failure as provided in [section 57].

7 (2) The state, county, city, or any agency or
 8 department thereof, as described in 37-71-101(3) for whom
 9 the contractor is performing public work shall withhold, in
 10 addition to other amounts withheld as provided by law, 1% of
 11 all payments due the contractor and shall transmit such
 12 moneys to the department of revenue. In the event that the
 13 1% of gross receipts, as defined in 15-50-101, is not
 14 withheld as provided, the contractor shall make payment of
 15 these amounts to the department within 30 days after the
 16 date on which the contractor receives each increment of
 17 payment for work performed by the contractor.

18 (3) Any overpayment of the 1% of gross receipts, as
 19 defined in 15-50-101, withheld or paid by any contractor
 20 hereunder shall be refunded by the department of revenue at
 21 the end of the income year upon written application
 22 therefor."

23 Section 69. Section 15-51-103, MCA, is amended to
 24 read:

25 "15-51-103. Disposition of revenue ~~interest on~~

1 delinquency. The department of revenue shall issue a receipt
 2 therefor for the license tax and promptly turn the same tax
 3 over to the state treasurer. ~~Taxes not met on the due date~~
 4 ~~shall become delinquent, and a penalty of 10% plus interest~~
 5 ~~at the rate of 1% per month or fraction of a month computed~~
 6 ~~on the total of tax and penalty shall be charged."~~

7 Section 70. Section 15-55-108, MCA, is amended to
 8 read:

9 "15-55-108. ~~Penalty and interest for delinquency~~
 10 ~~waiver~~ Delinquent taxes. (1) License taxes due under this
 11 chapter become delinquent if not paid by March 1. ~~The~~
 12 ~~department shall add to the amount of all delinquent freight~~
 13 ~~line company license taxes a penalty of 10% of the amount of~~
 14 ~~license taxes plus interest at the rate of 1% per month or~~
 15 ~~fraction thereof computed on the total amount of license~~
 16 ~~taxes and penalty. Interest is computed from the date the~~
 17 ~~license taxes were due to the date of payment.~~

18 (2) ~~The 10% penalty may be waived by the department if~~
 19 ~~reasonable cause for the failure or neglect to file the~~
 20 ~~statement required by 15-55-103 or pay the tax due is~~
 21 ~~provided to the department."~~

22 Section 71. Section 15-70-210, MCA, is amended to
 23 read:

24 "15-70-210. ~~Tax~~ ~~penalty~~ Penalty for willful
 25 ~~delinquency. (1) Any license tax not paid within the time~~

1 ~~provided--shall-be-delinquent, and a penalty of 10% shall be~~
 2 ~~added to the tax and the tax shall bear interest at the rate~~
 3 ~~of 1% per month from the date of delinquency until paid.~~
 4 ~~Upon a showing of good cause by the distributor, the~~
 5 ~~department of revenue may waive penalty.~~

6 {2} If any distributor or other person subject to the
 7 payment of such license tax shall willfully fail, neglect,
 8 or refuse to make any statement required by this part or
 9 shall willfully fail to make payment of such license tax
 10 within the time provided, the department shall be authorized
 11 to revoke any license issued under this part.

12 {3} ~~In addition, the department shall inform itself~~
 13 ~~regarding the matters required to be in such statement and~~
 14 ~~determine the amount of the license tax due the state from~~
 15 ~~such distributor and shall add thereto a penalty of \$25 or~~
 16 ~~10% thereof, whichever is greater, together with interest at~~
 17 ~~the rate of 1% per month from the date such statements~~
 18 ~~should have been made and said license tax paid.~~

19 {4} ~~The state treasurer shall proceed to collect such~~
 20 ~~license tax, with penalties and interest. Upon the request~~
 21 ~~of the state treasurer, the attorney general shall commence~~
 22 ~~and prosecute to final determination in any court of~~
 23 ~~competent jurisdiction an action to collect such license~~
 24 ~~tax."~~

25 Section 72. Section 15-70-332, MCA, is amended to

1 read:

2 "15-70-332. Determination if no return made. (1) If
 3 any special fuel dealer or special fuel user, whether or not
 4 he is licensed as such, fails, neglects, or refuses to file
 5 a special fuel tax return when due, the department shall on
 6 the basis of information available to it determine the tax
 7 liability of the special fuel dealer or special fuel user
 8 for the period during which no return was filed, and to the
 9 tax as thus determined, the department shall add the penalty
 10 and interest provided in ~~15-70-330(i)~~ [section 57].

11 (2) An assessment made by the department pursuant to
 12 this section or to 15-70-331 shall be presumed to be
 13 correct, and in any case where the validity of the
 14 assessment is drawn in question, the burden shall be on the
 15 person who challenges the assessment to establish by a fair
 16 preponderance of the evidence that it is erroneous or
 17 excessive as the case may be."

18 Section 73. Section 16-1-409, MCA, is amended to read:

19 "16-1-409. Failure to make beer tax returns --
 20 penalties. (1) If any brewer or wholesaler subject to the
 21 payment of the tax provided for in 16-1-406 through 16-1-408
 22 shall fail, neglect, or refuse to make any return required
 23 by this code or shall fail to make payment of such tax
 24 within the time herein provided, the department shall,
 25 forthwith after such time has expired, proceed to inform

1 itself as best it may regarding the matters and things
2 required to be set forth in such return and, from such
3 information as it may be able to obtain, to make a statement
4 showing such matters and things and determine and fix the
5 amount of such tax due the state from such delinquent brewer
6 or wholesaler.

7 (2) The department shall add to the amount of tax due
8 a penalty of 5% thereof ~~for the first failure, willful~~
9 ~~neglect, or refusal; 10% for the second; 15% for the third;~~
10 ~~and 25% for the fourth and each subsequent failure, neglect,~~
11 ~~or refusal; which shall be in addition to the 5% penalty~~
12 ~~provided for nonpayment of such tax within the time~~
13 ~~provided of the tax. In addition, a penalty of 5% of the~~
14 delinquent tax must be assessed for each 30-day period
15 during which the tax remains unpaid following notification
16 of delinquency, with a maximum 30% penalty.

17 (3) Said tax and the penalties added thereto shall
18 bear interest at the rate of 1% per month or fraction
19 thereof from the date such returns should have been made and
20 said tax paid.

21 (4) The department shall then proceed to collect such
22 tax with penalties and interest. Upon request of the
23 department it shall be the duty of the attorney general to
24 commence and prosecute to final determination in any court
25 of competent jurisdiction an action to collect such tax.

1 (5) If all or part of the tax imposed upon a brewer or
2 wholesaler by this part is not paid when due, the department
3 may issue a warrant for distraint as provided in Title 15,
4 chapter 1, part 7. The resulting lien has precedence over
5 any other claim, lien, or demand thereafter filed or
6 recorded.

7 (6) No action shall be maintained to enjoin the
8 collection of such tax or any part thereof.

9 (7) ~~Any tax owed by a brewer or wholesaler under this~~
10 ~~code not paid within the time provided shall be delinquent,~~
11 ~~and a penalty of 5% shall be added thereto, and the whole~~
12 ~~thereof shall bear interest at the rate of 1% per month from~~
13 ~~the date of delinquency until paid.~~ Any brewer or wholesaler
14 who fails, neglects, or refuses to make the return to the
15 department provided for in 16-3-211 or 16-3-231 or refuses
16 to allow such examination as provided for in 16-3-211 or
17 16-3-231 or fails to make an accurate return according to
18 the manner prescribed shall be deemed guilty of having
19 committed a misdemeanor and upon conviction shall be fined
20 in an amount not exceeding \$1,000.

21 (8) The department may not assess any penalty until
22 the penalty equals \$10 or more for any one tax period or the
23 period covered by a return or statement."

24 Section 74. Section 16-11-143, MCA, is amended to
25 read:

1 "16-11-143. Penalty for unpaid cigarette tax. (1) If
 2 any person fails or refuses to pay the tax required by this
 3 part when due, the department shall proceed to determine the
 4 tax due from such information as the department can obtain
 5 and shall assess the tax so determined against such person
 6 and notify him of the amount. After such notice such tax
 7 shall become due and payable, together with a penalty of 5%
 8 ~~of such tax or \$5 per day for each day after the date of~~
 9 ~~such notice, whichever is greater,~~ of the tax. In addition,
 10 a penalty of 5% of the delinquent tax must be assessed for
 11 each 30-day period during which the tax remains unpaid
 12 following notification of delinquency, with a maximum 30%
 13 penalty.

14 (2) In the case of any violation of this chapter, the
 15 department shall be entitled to sue, in the district where
 16 the department maintains its principal office, for the
 17 amount of the unpaid tax and costs, including reasonable
 18 expense of the department in effecting collection of the
 19 unpaid tax. Where the court finds the failure to pay the tax
 20 has been willful, the court must, in addition, assess
 21 damages in treble the amount of the tax found to be due.

22 (3) The department may not assess any penalty until
 23 the penalty equals \$10 or more for any one tax period or the
 24 period covered by a return or statement."

25 Section 75. Section 69-1-225, MCA, is amended to read:

1 "69-1-225. Computation and collection of fee in
 2 absence of statement -- penalty and interest. (1) If a
 3 regulated company or an officer or employee of a regulated
 4 company fails, neglects, or refuses to file the statement
 5 required by 69-1-223(2), the department of revenue may after
 6 the time for filing has expired proceed to inform itself, as
 7 best it may, regarding the regulated company's gross
 8 operating revenue from all activities regulated by the
 9 commission within the state for the calendar quarter,
 10 quarters, or portion thereof and may determine and fix the
 11 amount of the consumer counsel fee due.

12 (2) The department may add to the amount of the fee
 13 computed under subsection (1), in addition to any other
 14 penalty provided by law, a penalty of ~~10% thereof plus~~
 15 ~~interest at the rate of 1% per month or fraction of month~~
 16 ~~computed on the total amount of fee and penalty,~~ 5% of the
 17 tax. In addition, a penalty of 5% of the delinquent tax must
 18 be assessed for each 30-day period during which the tax
 19 remains unpaid following notification of delinquency, with a
 20 maximum 30% penalty. Interest is computed from the date the
 21 fee is due to the date of payment.

22 (3) The department of revenue shall mail to the
 23 regulated company a letter setting forth the amount of the
 24 fee, penalty, and interest and notifying the company that
 25 payment of the full amount of the fee, penalty, and interest

1 must be remitted within 15 days of the regulated company's
2 receipt of the letter; otherwise a lien may be filed.

3 (4) The 10% penalty may be waived by the department of
4 revenue if reasonable cause for failure and neglect to file
5 the statement is provided to the department.

6 (5) The department may not assess a penalty until the
7 penalty equals \$10 or more for any one tax period or the
8 period covered by a return or statement."

9 Section 76. Section 69-1-226, MCA, is amended to read:

10 "69-1-226. Failure to pay fee -- penalty and interest
11 -- collection of fee. (1) If a regulated company or an
12 officer or employee of a regulated company files the
13 statement required by 69-1-223(2) but fails, neglects, or
14 refuses to pay the fee due within the time required, the
15 department of revenue may after the time for payment has
16 expired add to the fee due, in addition to any other penalty
17 provided by law, a penalty of ~~10% thereof plus interest at~~
18 ~~the rate of 1% per month or fraction of month computed on~~
19 ~~the total amount of the fee and penalty. 5% of the tax. In~~
20 addition, a penalty of 5% of the delinquent tax must be
21 assessed for each 30-day period during which the tax remains
22 unpaid following notification of delinquency, with a maximum
23 30% penalty. Interest is computed from the date the fee is
24 due to the date of payment.

25 (2) The department of revenue shall mail to the

1 regulated company a letter setting forth the amount of the
2 fee, penalty, and interest and notifying the company that
3 payment of the full amount of the fee, penalty, and interest
4 must be remitted within 15 days of the regulated company's
5 receipt of the letter; otherwise a warrant for distraint may
6 be filed.

7 (3) The 10% penalty may be waived by the department of
8 revenue if reasonable cause for failure and neglect to make
9 payment is provided to the department.

10 (4) The department may not assess any penalty until
11 the penalty equals \$10 or more for any one tax period or the
12 period covered by a return or statement."

13 Section 77. Section 90-8-202, MCA, is amended to read:

14 "90-8-202. Designation of qualified Montana capital
15 companies -- tax credit. (1) The board shall designate as
16 qualified Montana capital companies those certified
17 companies that have been privately capitalized at a minimum
18 level of \$200,000. A certified company seeking designation
19 as a qualified Montana capital company must make written
20 application to the board on forms provided by the board.
21 The application must contain the information required by
22 90-8-204 and such other information as the board requires.

23 (2) The total amount of tax credits authorized for a
24 single qualified company may not exceed ~~\$375,000~~ \$1,500,000.
25 In the event the capitalization of the company is later

1 increased, the company may apply for authorization of
 2 additional tax credits within the foregoing limitation. The
 3 total credits authorized for all companies may not exceed a
 4 total of \$1 million prior to June 30, 1985. The total
 5 credits authorized for all companies between July 1, 1985,
 6 and June 30, 1987, may not exceed \$1 million plus any
 7 portion of the \$1 million available for authorization before
 8 June 30, 1985, that is allocated to qualified companies.
 9 The total credits authorized for all companies between July
 10 1, 1987, and June 30, 1989, may not exceed \$3 million plus
 11 any portion of the credits available for authorization
 12 before July 1, 1987, that is allocated to qualified
 13 companies. The credits shall be allocated to qualified
 14 companies in the order that completed applications for
 15 designation as qualified capital companies are received by
 16 the board, and the board shall certify to each such company
 17 its appropriate allocation.

18 (3) Investors in a qualified Montana capital company
 19 are entitled to the tax credits provided for in subsection
 20 (4). Funds invested in a certified company prior to
 21 designation as a qualified Montana capital company may, at
 22 the discretion of the investor, be placed in an escrow
 23 account in a Montana financial institution pending
 24 designation of the company as a qualified Montana capital
 25 company.

1 (4) Subject to the provisions of subsection (2), an
 2 individual, small business corporation, partnership, or
 3 corporate taxpayer who makes a capital investment in a
 4 qualified Montana capital company is entitled to a tax
 5 credit equal to ~~25%~~ 50% of the investment, up to a maximum
 6 credit of ~~\$25,000~~ \$50,000 per taxpayer. The credit may be
 7 taken against the tax liability imposed on the investor
 8 pursuant to Title 15, chapter 30 or 31. The credit for
 9 investments by a small business corporation electing to be
 10 taxed under 15-31-202 or a partnership may be claimed by the
 11 small business corporation shareholders or the partners.

12 (5) The tax credit allowed under subsection (4) is to
 13 be credited against the taxpayer's income tax liability for
 14 the taxable year in which the investment in a qualified
 15 Montana capital company is made. If the amount of the tax
 16 credit exceeds the taxpayer's tax liability for the taxable
 17 year, the amount of the credit which exceeds the tax
 18 liability may be carried back or carried forward in
 19 accordance with the provisions of section 46(b) of the
 20 Internal Revenue Code ~~of 1954, as amended.~~

21 (6) The tax credit provided for in this section is
 22 available only to those taxpayers who invest in a qualified
 23 Montana capital company ~~within 5 years of April 18, 1983,~~
 24 before June 30, 1990. After that date the only credits
 25 available pursuant to this chapter are carryovers of unused

1 credits as provided in subsection (5)."

2 Section 78. Section 15-30-207, MCA, is amended to
3 read:

4 "15-30-207. Annual statement by employer. (1) Every
5 employer shall, on or before February ~~15~~ 28 in each year,
6 file with the department a wage and tax statement for each
7 employee in such form and summarizing such information as
8 the department requires, including the total wages paid to
9 the employee during the preceding calendar year or any part
10 thereof and showing the total amount of the federal income
11 tax deducted and withheld from such wages and the total
12 amount of the tax deducted and withheld therefrom under the
13 provisions of 15-30-201 through 15-30-209.

14 (2) The annual statement filed by an employer with
15 respect to the wage payments reported constitutes full
16 compliance with the requirements of 15-30-301 relating to
17 the duties of information agents, and no additional
18 information return is required with respect to such wage
19 payments.

20 (3) In addition to any other penalty provided by law,
21 the failure of an employer to furnish a statement as
22 required by subsection (1) subjects the employer to a
23 penalty of \$5 for each failure, provided that the minimum
24 penalty for failure to file the statements required on or
25 before February ~~15~~ 28 of each year shall be \$50. This

1 penalty may be abated by the department upon a showing of
2 good cause by the employer. The penalty may be collected in
3 the same manner as are other tax debts."

4 Section 79. Section 15-31-552, MCA, is amended to
5 read:

6 "15-31-552. Corporation license tax clearance
7 certificates furnished ~~---fee~~. Upon request of a corporation
8 ~~and-upon-the-payment-of-\$1~~, the department of revenue may
9 furnish to it a certificate to the effect that all taxes
10 have been paid, that a return has been filed, and that all
11 information has been supplied as required by the provisions
12 of this chapter."

13 Section 80. Section 15-70-203, MCA, is amended to
14 read:

15 "15-70-203. License to sell gasoline on which refund
16 may be claimed. (1) Any person other than a licensed
17 distributor shall obtain a license from the department of
18 revenue prior to selling gasoline on which a refund may be
19 claimed. The application for license shall contain the
20 applicant's name, address, place or places of business in
21 the state of Montana, and other information which may be
22 required by the department. Licenses issued shall bear a
23 license number and the date of issuance. The department
24 shall keep a record of all licenses issued, canceled, or
25 suspended. A nontransferable license shall be issued, ~~for--3~~

1 ~~years-upon-payment-of-a-fee-of-\$3--Licenses-must-be--renewed~~
 2 ~~and--the--fee-paid-every-3-years-from-date-of-issuance~~ which
 3 ~~shall be effective until canceled or suspended by the~~
 4 ~~department.~~

5 (2) Any person failing to comply with this section
 6 shall be subject to a fine of not less than \$25 or more than
 7 \$200 or imprisonment in the county jail for a period not
 8 less than 10 days or more than 60 days or both fine and
 9 imprisonment."

10 Section 81. Section 61-1-129, MCA, is amended to read:

11 "61-1-129. Camper. The term "camper" as used in
 12 ~~61-3-524~~ 61-3-523 and 61-3-525 includes but is not limited
 13 to truck camper, chassis-mounted camper, cab over, half cab
 14 over, non cab over, telescopic, and telescopic cab over, but
 15 does not include a truck canopy cover or topper weighing
 16 less than 300 pounds and having no accommodations attached."

17 Section 82. Section 61-3-523, MCA, is amended to read:

18 "61-3-523. Schedule of fees for travel trailers and
 19 campers -- decals. (1) The fee imposed by 61-3-521 on a
 20 travel trailer less than 3 years old is \$40. In all other
 21 cases the fee is \$15.

22 (2) The fee imposed by 61-3-521 on a camper less than
 23 3 years old is \$35. In all other cases the fee is \$15.

24 (3) The age of a travel trailer or camper is
 25 determined by subtracting the manufacturer's designated

1 model year from the current calendar year.

2 (4) The county treasurer shall, upon payment of the
 3 fee provided for in subsection (1) or (2), issue a decal to
 4 the person paying such fee as proof the fee in lieu of tax
 5 has been paid for the current year.

6 (5) No camper subject to taxation in Montana may be
 7 operated by any person on the public highways or streets in
 8 this state unless there is displayed in a conspicuous place
 9 thereon a decal as visual proof that the fee has been paid
 10 for the current year."

11 Section 83. Section 61-3-525, MCA, is amended to read:

12 "61-3-525. ~~Annual--application-for~~ Issuance of decals.
 13 Application may be made to the ~~department--of--revenue--or~~
 14 county treasurer for the issuance of camper decals annually
 15 when the motor vehicle to which the camper is customarily
 16 attached is registered."

17 Section 84. Section 61-3-606, MCA, is amended to read:

18 "61-3-606. Penalty for violation of camper decal
 19 requirement. Operation of a camper in violation of ~~61-3-524~~
 20 61-3-523(5) is a misdemeanor punishable by a fine not to
 21 exceed \$50."

22 Section 85. Section 15-2-301, MCA, is amended to read:

23 "15-2-301. Appeal of county tax appeal board
 24 decisions. (1) Any person or the department of revenue in
 25 behalf of the state or any municipal corporation aggrieved

1 by the action of any county tax appeal board may appeal to
 2 the state board by filing with the county tax appeal board a
 3 notice of appeal and a duplicate thereof with the state
 4 board within 20 calendar days after the receipt of the
 5 decision of the county board, which notice shall specify the
 6 action complained of and the reasons assigned for such
 7 complaint. The county tax appeal boards shall mail their
 8 decisions to the property assessment division of the
 9 department. Receipt, for purposes of appeal, by the
 10 department is when the county tax appeal board decision is
 11 received by the property assessment division of the
 12 department. The state board shall set such appeal for
 13 hearing either in its office in the capital or such county
 14 seat as the board considers advisable to facilitate the
 15 performance of its duties or to accommodate parties in
 16 interest and shall give to the appellant and to the county
 17 board at least 15 calendar days' notice of the time and
 18 place of such hearing.

19 (2) At the time of giving such notice, the state board
 20 may require the county board to certify to it the minutes of
 21 the proceedings resulting in such action and all testimony
 22 taken in connection therewith. The state board may, in its
 23 discretion, determine the appeal on such record if all
 24 parties receive a copy of the transcript and are permitted
 25 to submit additional sworn statements, or the state board

1 may hear further testimony. For the purpose of expediting
 2 its work, the state board may refer any such appeal to one
 3 of its members and the person so designated shall have and
 4 exercise all the powers of the board in conducting such
 5 hearings and shall, as soon as possible thereafter, report
 6 the proceedings, together with a transcript of the testimony
 7 received, to the board and the state board shall determine
 8 such appeal on the record so made.

9 (3) For the purpose of expediting its work, the state
 10 board may employ hearings examiners to hear appeals from the
 11 county tax appeal boards. The hearing examiner shall have
 12 and exercise all powers of the state board in conducting
 13 such hearings and shall, as soon as possible thereafter,
 14 report the proceedings, together with a transcript of the
 15 testimony received, to the board. The state board shall
 16 determine the appeal on the record made by the hearing
 17 examiner. The board in its discretion shall establish the
 18 qualifications for hearings examiners and may employ
 19 qualified members of county tax appeal boards. However, in
 20 no case may a member of a county tax appeal board serve as
 21 hearing examiner in a matter which he heard originally.

22 ~~(3)~~(4) On all hearings at county seats throughout the
 23 state, the state board or the member designated to conduct a
 24 hearing may employ the local court reporter or other
 25 competent stenographer to take and transcribe the testimony

1 received and the cost thereof may be paid out of the general
2 appropriation for the board.

3 ~~(4)~~(5) In connection with any appeal under this
4 section, the state board shall not be bound by common law
5 and statutory rules of evidence or rules of discovery and
6 may affirm, reverse, or modify any decision. The decision
7 of the state tax appeal board shall be final and binding
8 upon all interested parties unless reversed or modified by
9 judicial review. To the extent this section is in conflict
10 with the Montana Administrative Procedure Act, this section
11 shall supersede that act. The state tax appeal board may not
12 amend or repeal any administrative rule of the department.
13 The state tax appeal board must give an administrative rule
14 full effect unless the board finds any such rule arbitrary,
15 capricious, or otherwise unlawful."

16 NEW SECTION. Section 86. Repealer. Sections 15-30-112
17 through 15-30-117, MCA, are repealed.

18 NEW SECTION. Section 87. Repealer. Sections 15-30-121
19 through 15-30-123, MCA, are repealed.

20 NEW SECTION. Section 88. Repealer. Sections 15-30-125
21 and 15-30-126, MCA, are repealed.

22 NEW SECTION. Section 89. Repealer. Section 15-30-156,
23 MCA, is repealed.

24 NEW SECTION. Section 90. Repealer. Section 15-30-157,
25 MCA, is repealed.

1 NEW SECTION. Section 91. Repealer. Section 15-30-161,
2 MCA, is repealed.

3 NEW SECTION. Section 92. Repealer. Section 15-31-116,
4 MCA, is repealed.

5 NEW SECTION. Section 93. Repealer. Sections 15-31-124
6 through 15-31-127, MCA, are repealed.

7 NEW SECTION. Section 94. Repealer. Section 15-31-553,
8 MCA, is repealed.

9 NEW SECTION. Section 95. Repealer. Sections 15-31-601
10 and 15-31-602, MCA, are repealed.

11 NEW SECTION. Section 96. Repealer. Sections 15-31-604
12 through 15-31-607, MCA, are repealed.

13 NEW SECTION. Section 97. Repealer. Sections 15-32-101
14 and 15-32-103 through 15-32-106, MCA, are repealed.

15 NEW SECTION. Section 98. Repealer. Sections
16 15-32-108, 15-32-109, 15-32-201, 15-32-202, 15-32-301
17 through 15-32-303, and 15-32-401 through 15-32-407, MCA, are
18 repealed.

19 NEW SECTION. Section 99. Repealer. Section 15-35-105,
20 MCA, is repealed.

21 NEW SECTION. Section 100. Repealer. Section
22 15-36-107, MCA, is repealed.

23 NEW SECTION. Section 101. Repealer. Sections
24 15-37-201 through 15-37-207, 15-37-210 through 15-37-212,
25 and 15-37-221, MCA, are repealed.

1 NEW SECTION. Section 102. Repealer. Section
 2 15-38-107, MCA, is repealed.
 3 NEW SECTION. Section 103. Repealer. Section
 4 15-51-111, MCA, is repealed.
 5 NEW SECTION. Section 104. Repealer. Section
 6 15-53-111, MCA, is repealed.
 7 NEW SECTION. Section 105. Repealer. Section
 8 15-53-112, MCA, is repealed.
 9 NEW SECTION. Section 106. Repealer. Sections
 10 15-54-101 through 15-54-105, 15-54-111 through 15-54-113,
 11 MCA, are repealed.
 12 NEW SECTION. Section 107. Repealer. Sections
 13 15-56-101 through 15-56-108 and 15-56-111 through 15-56-113,
 14 MCA, are repealed.
 15 NEW SECTION. Section 108. Repealer. Sections
 16 15-57-101 through 15-57-110, MCA, are repealed.
 17 NEW SECTION. Section 109. Repealer. Sections
 18 15-58-101, 15-58-102, 15-58-104 through 15-58-111, and
 19 15-58-121 through 15-58-126, MCA, are repealed.
 20 NEW SECTION. Section 110. Repealer. Sections
 21 15-59-101, 15-59-102, 15-59-104 through 15-59-110, 15-59-112
 22 through 15-59-114, 15-59-121, 15-59-201, 15-59-203,
 23 15-59-210, 15-59-212 through 15-59-214, and 15-59-221, MCA,
 24 are repealed.
 25 NEW SECTION. Section 111. Repealer. Section

1 15-70-330, MCA, is repealed.
 2 NEW SECTION. Section 112. Repealer. Section
 3 16-11-101, MCA, is repealed.
 4 NEW SECTION. Section 113. Repealer. Section
 5 19-9-1005, MCA, is repealed.
 6 NEW SECTION. Section 114. Repealer. Sections 23-2-714
 7 and 23-2-715, MCA, are repealed.
 8 NEW SECTION. Section 115. Repealer. Section
 9 35-18-503, MCA, is repealed.
 10 NEW SECTION. Section 116. Repealer. Section 61-3-524,
 11 MCA, is repealed.
 12 NEW SECTION. Section 117. Repealer. Section
 13 82-11-133, MCA, is repealed.
 14 NEW SECTION. Section 118. Extension of authority. Any
 15 existing authority of the department of revenue and the
 16 state tax appeal board to make rules on the subject of the
 17 provisions of this act is extended to the provisions of this
 18 act.
 19 NEW SECTION. Section 119. Codification instructions.
 20 (1) Sections 16 and 19 are intended to be codified as an
 21 integral part of Title 15, chapter 30, part 1, and the
 22 provisions of Title 15, chapter 30, part 1, apply to
 23 sections 16 and 19.
 24 (2) Sections 37 and 39 are intended to be codified as
 25 an integral part of Title 15, chapter 31, part 1, and the

1 provisions of Title 15, chapter 31, part 1, apply to
2 sections 37 and 39.

3 (3) Sections 41 through 49 are intended to be codified
4 as an integral part of Title 15, chapter 31, part 3, and the
5 provisions of Title 15, chapter 31, apply to sections 41
6 through 49.

7 (4) Sections 57 through 61 are intended to be codified
8 as an integral part of Title 15, chapter 1, and the
9 provisions of Title 15 apply to sections 57 through 61. It
10 is also intended that section 15-1-206 be renumbered and
11 codified together with sections 57 through 61.

12 (5) Section 15-32-203 is intended to be renumbered and
13 codified as an integral part of Title 15, chapter 32, part
14 1.

15 NEW SECTION. Section 120. Severability. If a part of
16 this act is invalid, all valid parts that are severable from
17 the invalid part remain in effect. If a part of this act is
18 invalid in one or more of its applications, the part remains
19 in effect in all valid applications that are severable from
20 the invalid applications.

21 NEW SECTION. Section 121. Applicability. (1) Unless
22 otherwise specified or required by a particular section of
23 this act or this section, the provisions of this act shall
24 apply retroactively, within the meaning of 1-2-109, to tax
25 years beginning after December 31, 1986.

1 (2) Sections 1 through 3, 78 through 84, 101, 106
2 through 110, and 114 through 116, apply beginning January 1,
3 1988.

4 NEW SECTION. Section 122. Effective date. This act is
5 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

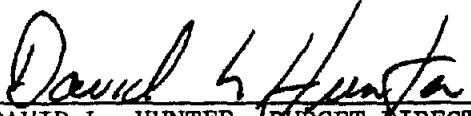
In compliance with a written request, there is hereby submitted a Fiscal Note for SB307, as introduced.

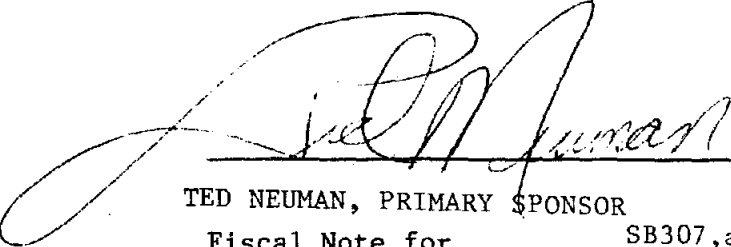
DESCRIPTION OF PROPOSED LEGISLATION:

An Act to stimulate and encourage the growth in the Montana economy by means of the Montana Economic and Tax Reform Act of 1987; and providing applicability dates and an immediate effective date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimates provide the basis for comparison, unless otherwise noted.
2. The taxable value of the state will be \$1,997,193,000 in FY88 and \$2,024,661,000 in FY89.
3. \$1,200,000 in local tax relief was granted to low income homeowners in tax year 1986. The proposal will increase the amount of relief by 38 percent in FY89 (DOR simulations).
4. Average mill levies that apply to low income taxpayers are 6 mills for the university levy, 45 mills for the foundation program and 289 mills for local governments.
5. Individual income tax collections will be \$208,088,000 in FY88 and \$229,991,000 in FY89.
6. The proposed individual income tax rate table was designed to raise an additional \$5,700,000 over current law estimates (DOR).
7. The proposed extension of the elderly homeowner/renter credit to all low income taxpayers will reduce individual income tax collections by \$5,500,000 in FY88. The proposed liberalization of the local tax relief for the low income will reduce the amount of additional credits to \$4,600,000 in FY89 (DOR simulations).
8. Corporate license tax collections will be \$53,063,000 in FY88 and \$58,995,000 in FY89. After adjusting for audits and minimum tax payments, \$46,300,000 of the FY88 collections and \$52,300,000 of the FY89 collections would potentially be affected by the proposed tax rate. Only 60 percent of the FY88 receipts will be at the proposed tax rate due to the applicability date of the proposal.
9. Financial institutions will pay 11.57 percent of the corporate license tax.
10. The elimination of the deduction for Section 243-245 dividends will increase corporate license tax revenues by \$5,000,000 when taxed for a full year at current law rates (average of last two years). The dividend credit will reduce the revenue gain by \$750,000 at current tax rates (DOR).
11. Based on a detailed review of all FY86 corporate tax returns of multistate/multinational corporations, it is estimated that the water's edge unitary proposal will reduce collections by \$260,000.
12. The proposed net operating loss carryover limits will increase revenues by \$2,500,000 if the limit applied to all returns filed in FY88 and by \$2,250,000 in FY89.

 DATE 2/14/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 17 Feb 87
TED NEUMAN, PRIMARY SPONSOR
Fiscal Note for SB307, as introduced.

SB 307

13. The proposed corporate alternative minimum tax will raise an estimated \$1,000,000 each year. The individual alternative minimum tax will raise an estimated \$2,000,000 each year (based on federal statistics).
14. \$1,500,000 in additional capital company credits will be claimed each year. Based on historical information, 43 percent of these credits will be claimed by individuals and the remainder will be claimed by financial institutions.
15. Oil severance tax collections will be \$19,212,000 in FY88 and \$20,821,000 in FY89. Ten percent of the state's oil production is from stripper wells (Independent Petroleum Association of America). The value of oil produced under tertiary production will be \$5,180,000 in FY88 and \$5,768,000 in FY89 (350,000 bbls.-- DNRC --valued at REAC prices). The reduced tax rates will apply to 3 quarters of FY88 receipts. It is assumed that the proposal will have no effect on the amount of severance taxes refunded to counties.
16. The proposed repeal of nuisance taxes will reduce revenues as follows (FY86 collections assumed constant).

<u>Tax</u>	<u>Collections</u>	<u>Distribution</u>
Camper Decal Fee	\$ 8,811	General Fund
Store License Tax	285,896	General Fund
R E Co-op and Tele Co-op License Tax	13,030	General Fund
Tramway Tax	18,318	Dept. of Commerce
Cement and Gypsum License Tax	117,213	General Fund
Micaceous Mines License Tax	8,941	General Fund
Retail Coal Dealer License Tax	16	General Fund
National Housing Tax	190	Local Govt's
Sleeping Car Tax	0	General Fund
Express Company Tax	0	General Fund
Total	\$ 452,415	

17. Coal severance tax collections will be \$78,996,000 in FY88 and \$81,856,000 in FY89. The proposal will have no effect on FY88 revenues. FY89 revenues will be reduced by \$10,416,000 through the reduction in the tax rate.
18. Public Employees' Retirement Division expenditures would be increased \$10,500 in FY88 and \$5,000 in FY89 due to the proposal.

Revenue Summary -- Changes from Current Law

	FY88			FY89		
	<u>Additional Revenue</u>	<u>Reduction in Revenue</u>	<u>Net Change</u>	<u>Additional Revenue</u>	<u>Reduction in Revenue</u>	<u>Net Change</u>
Individual Income Tax:						
Income Tax Reform	\$5,700,000			\$ 5,700,000		
Alternative Minimum Tax	\$2,000,000			\$ 2,000,000		
Property Tax Relief		\$5,500,000			\$ 4,600,000	
Capital Company Credit		\$ 645,000			\$ 645,000	
Subtotal -- Individual	\$7,700,000	\$6,145,000	\$1,555,000	\$ 7,700,000	\$ 5,245,000	\$ 2,455,000
Corporate License Tax:						
Section 243 Dividends	\$2,550,000			\$ 4,250,000		
Net Operating Losses	\$1,500,000			\$ 2,250,000		
Alternative Minimum Tax	\$ 600,000			\$ 1,000,000		
Water's Edge Unitary Rate Relief		\$ 156,000			\$ 260,000	
Capital Company Credit		\$3,537,000			\$ 6,005,000	
Subtotal -- Corporate	\$4,650,000	\$4,548,000	\$ 102,000	\$ 7,500,000	\$ 7,120,000	\$ 380,000
Oil Severance Tax:						
Stripper Relief		\$ 568,000			\$ 823,000	
Tertiary Relief		\$ 39,000			\$ 58,000	
Subtotal -- Oil		\$ 607,000	(\$ 607,000)		\$ 881,000	(\$ 881,000)
Coal Severance Tax*		\$ 0	\$ 0		\$10,416,000	(\$10,416,000)
Nuisance Taxes		\$ 452,000	(\$ 452,000)		\$ 452,000	(\$ 452,000)
Local Property Relief		\$ 0	\$ 0		\$ 68,400	(\$ 68,400)
Total of Proposal	\$12,350,000	\$11,752,000	\$ 598,000	\$15,200,000	\$24,182,400	(\$ 8,982,400)

*The Revenue Estimating Advisory Council assumptions are used as the basis of comparison. These assumptions do not reflect any increase in production due to the rate reduction.

FISCAL IM
Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Individual Income Tax	\$208,088,000	\$209,643,000	\$ 1,555,000	\$229,991,000	\$232,446,000	\$ 2,455,000
Corporate License Tax	53,063,000	53,165,000	102,000	58,995,000	59,375,000	380,000
Oil Severance Tax	19,212,000	18,605,000	(607,000)	20,821,000	19,940,000	(881,000)
Coal Severance Tax	78,663,000	78,663,000	0	81,856,000	71,440,000	(10,416,000)
"Nuisance" Taxes	452,000	0	(452,000)	452,000	0	(452,000)
University Levy	11,983,158	11,983,158	0	12,147,966	12,139,916	(8,050)
School Equalization	89,873,685	89,873,685	0	91,109,745	91,049,395	(60,350)
<u>Total</u>	<u>\$461,334,843</u>	<u>\$461,932,843</u>	<u>\$ 598,000</u>	<u>\$495,372,711</u>	<u>\$486,390,311</u>	<u>\$ (8,982,400)</u>

Expenditure Impact:Fund Information:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
State General Fund	\$189,811,184	\$190,414,943	\$603,759	\$208,868,313	\$208,326,136	(\$ 542,177)
School Equalization	156,922,629	157,485,879	563,250	165,101,523	165,496,765	395,242
University Levy	11,983,158	11,983,158	0	12,147,966	12,139,916	(8,050)
Debt Service Fund	28,186,290	28,434,120	247,830	31,187,750	31,562,366	374,616
Local Governments	5,181,190	4,585,000	(596,190)	5,730,190	5,159,400	(570,790)
Block Grant Program	6,403,936	6,201,605	(202,331)	6,940,264	6,646,600	(293,664)
Coal Tax Trust Fund	39,331,500	39,331,500	0	40,928,000	35,720,000	(5,208,000)
Alternative Energy	1,345,137	1,345,137	0	1,399,738	1,221,624	(178,114)
Local Impact	5,231,090	5,231,090	0	5,443,424	4,750,760	(692,664)
Education Trust	5,978,388	5,978,388	0	6,221,056	5,429,440	(791,616)
County Land Planning	298,920	298,920	0	311,052	271,472	(39,580)
Renewable Resource	377,582	377,582	0	392,909	342,912	(49,997)
Parks Acquis.	0	0	0	0	0	0
State Library Commis	298,919	298,919	0	311,053	271,472	(39,581)
Water Development	377,582	377,582	0	392,909	342,912	(49,997)
Conservation Districts	149,460	149,460	0	155,526	135,736	(19,790)
Highway Fund	9,439,560	9,439,560	0	9,822,720	8,572,800	(1,249,920)
Dept. of Admin.	18,318	0	(18,318)	18,318	0	(18,318)
<u>TOTAL</u>	<u>\$461,334,842</u>	<u>\$461,932,842</u>	<u>\$598,000</u>	<u>\$495,372,712</u>	<u>\$486,390,311</u>	<u>(\$ 8,982,401)</u>

Fiscal Note Request, SB 307, as introduced

Form BD-15

Page 5

EFFECT ON LOCAL REVENUE:

The proposed expansion of local tax relief for low income homeowners will reduce local government revenues by an estimated \$388,000 in FY89.

SB 307

APPROVED BY COMMITTEE
ON TAXATION

1 SENATE BILL NO. 307

2 INTRODUCED BY NEUMAN, HARP, REAM, ECK, BENGTON,

3 VAN VALKENBURG, SPAETH, PISTORIA, M. WILLIAMS,

4 BARDANOUE, WEEDING, PECK, KEENAN, KADAS, QUILICI, LORY,

5 HIRSCH, MANNING, BLAYLOCK, MANUEL

6 BY REQUEST OF THE GOVERNOR

7

8 A BILL FOR AN ACT ENTITLED: "AN ACT TO STIMULATE AND

9 ENCOURAGE THE GROWTH OF THE MONTANA ECONOMY BY MEANS OF THE

10 MONTANA ECONOMIC AND TAX REFORM ACT OF 1987; AMENDING

11 SECTIONS 1-1-207, 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121,

12 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201,

13 7-7-4202, 7-13-4103, 7-14-236, 7-14-1133, 7-14-2524,

14 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106,

15 7-31-107, 7-34-2131, 7-34-2416, 15-1-101, 15-1-206,

16 15-1-501, 15-2-301, ~~15-6-134, 15-6-142~~ 15-6-133 THROUGH

17 15-6-136, 15-6-143, 15-6-147, 15-6-151, 15-6-201, 15-6-207,

18 15-8-111, 15-8-205, 15-8-301, 15-8-404, 15-8-405, 15-8-706,

19 15-16-611, 15-24-301, 15-24-302, 15-24-1102, 15-24-1103,

20 15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-131,

21 15-30-132, 15-30-135, 15-30-136, 15-30-141, 15-30-142,

22 15-30-144, 15-30-146, 15-30-162, ~~15-30-171, 15-30-172,~~

23 ~~15-30-174, 15-30-176, 15-30-178~~ 15-30-207, 15-30-303,

24 15-30-321, 15-30-323, 15-31-113, 15-31-114, 15-31-121,

25 15-31-202, 15-31-204, 15-31-209, 15-31-305, 15-31-502,

1 15-31-552, THROUGH 15-31-554, 15-32-102, 15-32-203,

2 15-32-402, 15-35-103, 15-35-202, 15-35-203, 15-36-101,

3 15-36-105, 15-37-104, 15-50-206, 15-51-103, 15-55-108,

4 15-70-203, 15-70-210, 15-70-332, 16-1-409, 16-11-143,

5 17-5-408, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705,

6 19-8-805, 19-9-1005, 19-11-503, 19-11-504, 19-13-1003,

7 20-9-141, 20-9-318, 20-9-319, 20-9-331, 20-9-333, 20-9-343,

8 20-9-352, 20-9-406, 20-9-407, 20-9-501, 20-9-502, 20-10-144,

9 35-18-503, 37-7-407, 53-2-101, 61-1-129, 61-3-523, 61-3-525,

10 61-3-606, 67-3-201, 67-3-202, 67-11-303, 69-1-225, 69-1-226,

11 81-6-101, 81-6-104, 81-6-204, 81-6-209, 81-7-103, 81-7-104,

12 81-7-201, 81-7-202, 81-7-303, 81-7-305, 81-8-804, 85-7-2001,

13 AND 90-8-202, MCA; REPEALING SECTIONS 15-30-112 THROUGH

14 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, 15-31-116,

16 15-31-124 THROUGH 15-31-127, 15-31-201, 15-31-208,

17 ~~15-31-209~~, 15-31-551, ~~15-31-553~~ 15-31-553, 15-31-601,

18 15-31-602, 15-31-604 THROUGH 15-31-607, 15-32-101, 15-32-103

19 THROUGH 15-32-106, 15-32-108, 15-32-109, 15-32-201,

20 15-32-202, 15-32-301 THROUGH 15-32-303, 15-32-401 THROUGH

21 15-32-407, 15-35-105, 15-36-107, 15-37-201 THROUGH

22 15-37-207, 15-37-210 THROUGH 15-37-212, 15-37-221,

23 15-38-107, 15-51-111, 15-53-111, 15-53-112, 15-54-101

24 THROUGH 15-54-105, 15-54-111 THROUGH 15-54-113, 15-56-101

25 THROUGH 15-56-108, 15-56-111 THROUGH 15-56-113, 15-57-101

1 THROUGH 15-57-110, 15-58-101, 15-58-102, 15-58-104 THROUGH
 2 15-58-111, 15-58-121 THROUGH 15-58-126, 15-59-101,
 3 15-59-102, 15-59-104 THROUGH 15-59-110, 15-59-112 THROUGH
 4 15-59-114, 15-59-121, 15-59-201, 15-59-203, THROUGH
 5 15-59-210, 15-59-212 THROUGH 15-59-214, 15-59-221,
 6 15-70-330, 16-11-101, 19-9-1005, 23-2-714, 23-2-715,
 7 35-18-503, 61-3-524, AND 82-11-133, MCA; AND PROVIDING A
 8 RETROACTIVE APPLICABILITY DATE AND OTHER APPLICABILITY DATES
 9 AND AN IMMEDIATE EFFECTIVE DATE AND OTHER EFFECTIVE DATES."

10
 11 WHEREAS, the economy of Montana has suffered from
 12 external forces that have caused lower prices for its raw
 13 materials and farm products; and

14 WHEREAS, the Montana economy must grow by developing
 15 new industry and business, as well as by nurturing existing
 16 industry and business; and

17 WHEREAS, a key to economic growth is tax fairness; and

18 WHEREAS, the people of Montana have clearly spoken in
 19 favor of tax fairness and tax reform; and

20 WHEREAS, a simple, understandable tax system is
 21 essential to achieving tax fairness and reform; and

22 WHEREAS, the principles of tax fairness and reform
 23 require all Montana citizens and businesses to pay their
 24 fair share.

25 THEREFORE, the Legislature of the State of Montana

1 enacts the following economic and tax reform measure.

2
 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 ~~Section 17--Section 15-6-134, MCA, is amended to read:~~

5 ~~"15-6-134--Class--four--property-----description---~~
 6 ~~taxable-percentage--(1)--Class-four-property-includes:~~

7 ~~(a)--all-land--except--that--specifically--included--in~~
 8 ~~another-class;~~

9 ~~(b)--all---improvements---except---those---specifically~~
 10 ~~included-in-another-class;~~

11 ~~(c)--the-first-\$35,000-\$80,000-or-less--of--the--market~~
 12 ~~value--of--any--improvement-on-real-property-and-appurtenant~~
 13 ~~land-not-exceeding-5-acres-owned-or-under-contract-for--deed~~
 14 ~~and--actually--occupied-for-at-least-10-months-a-year-as-the~~
 15 ~~primary-residential--dwelling--of--any--person--whose--total~~
 16 ~~household---income--from--all--sources--including--otherwise~~
 17 ~~tax-exempt-income-of-all-types, as defined in 15-30-171(5),~~
 18 ~~is--not-more-than-\$10,000-for-a-single-person-or-\$12,000-for~~
 19 ~~a-married-couple;~~

20 ~~(d)--all-golf-courses, including-land-and--improvements~~
 21 ~~actually-and-necessarily-used-for-that-purpose, that-consist~~
 22 ~~of-at-least-9-holes-and-not-less-than-3,000-linear-yards.~~

23 ~~(2)--Class-four-property-is-taxed-as-follows:~~

24 ~~(a)--Except--as--provided--in-15-24-1402-or-15-24-150,~~
 25 ~~property-described-in-subsections-(1)(a)-and-(1)(b)-is-taxed~~

1 at-the-taxable-percentage-rate--"P"--3.86%--of--its--market
2 value:

3 {b)--Property--described--in-subsection-(1)(c)--is--taxed
4 at-the-taxable-percentage-rate--"P"--3.86%--of--its--market--value
5 multiplied-by--a--percentage--figure--based--on--income--and
6 determined-from-the-following-table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier
-\$0-----\$1,000	-\$0-----\$1,200	0%
1,001-----2,000	1,201-----2,400	10%
2,001-----3,000	2,401-----3,600	20%
3,001-----4,000	3,601-----4,800	30%
4,001-----5,000	4,801-----6,000	40%
5,001-----6,000	6,001-----7,200	50%
6,001-----7,000	7,201-----8,400	60%
7,001-----8,000	8,401-----9,600	70%
8,001-----9,000	9,601-----10,800	80%
9,001-----10,000	10,801-----12,000	90%

19 {c)--Property--described--in-subsection-(1)(d)--is--taxed
20 at-one-half-the-taxable-percentage-rate--"P"--established--in
21 subsection-(2)(a):

22 {3)--Until-January-17-1986,-the-taxable-percentage-rate
23 "P"--for-class-four-property-is-8.55%:

24 {4)--Prior--to--July-17-1986,-the-department-of-revenue
25 shall-determine-the-taxable-percentage-rate--"P"--applicable

1 to--class--four-property-for-the-revaluation-cycle-beginning
2 January-17-1986-as-follows:

3 {a)--The-director-of-the-department--of--revenue--shall
4 certify--to-the-governor-before-July-17-1986,-the-percentage
5 by-which-the-appraised-value-of-all-property--in--the--state
6 classified--under--class--four--as--of--January-17-1986,-has
7 increased-due-to-the-revaluation-conducted--under--15-7-iii.
8 This--figure-is-the-certified-statewide-percentage-increase:

9 {b)--The-taxable-value-of-property--in--class--four--is
10 determined--as--a--function--of--the--certified--statewide
11 percentage-increase--in--accordance--with--the--table--shown
12 below:

13 {c)--This--table--limits--the--statewide--increase--in
14 taxable-valuation--resulting--from--reappraisal--to--0%.--In
15 calculating--the-percentage-increase,-the-department-may-not
16 consider-changes-resulting-from-new-construction,-additions,
17 or-deletions-during-calendar-year-1985:

18 {d)--The--taxable--percentage--must--be--calculated--by
19 interpolation--to--coincide--with--the--nearest-whole-number
20 certified-statewide-percentage-increase-from--the--following
21 table:

Certified-Statewide Percentage-Increase	Class-Four-Taxable Percentage--"P"
0	8.55
10	7.97

1	20	7:12
2	30	6:57
3	40	6:10
4	50	5:70
5	60	5:34
6	70	5:02
7	80	4:75
8	90	4:50
9	100	4:27
10	110	4:07
11	120	3:80
12	130	3:71
13	140	3:56
14	150	3:42
15	160	3:28
16	170	3:16
17	180	3:05
18	190	2:94
19	200	2:05
20	210	2:75
21	220	2:67
22	230	2:59
23	240	2:51
24	250	2:44
25	260	2:37

1 270 2:31

2 280 2:25

3 290 2:19

4 300 2:13

5 (5)--After--July--17--1986--no--adjustment--may--be--made--by

6 the--department--to--the--taxable--percentage--rate--"P"--until--a

7 revaluation--has--been--made--as--provided--in--15-7-1117

8 (6)(3)--Within--the--meaning--of--comparable--property--as

9 defined--in--15-1-1017--property--assessed--as--commercial

10 property--is--comparable--only--to--other--property--assessed--as

11 commercial--property--and--property--assessed--as--other--than

12 commercial--property--is--comparable--only--to--other--property

13 assessed--as--other--than--commercial--property."

14 Section-2--Section-15-6-142--MCA--is--amended--to--read:

15 "15-6-142--Class--twelve--property--description--

16 taxable--percentage--(1)--Class--twelve--property--includes:

17 (a)--a--trailer--or--mobile--home--used--as--a--residence

18 except--when:

19 (i)--held--by--a--distributor--or--dealer--of--trailers--or

20 mobile--homes--as--his--stock--in--trade;--or

21 (ii)--specifically--included--in--another--class;

22 (b)--the--first--\$35,000--\$80,000--or--less--of--the--market

23 value--of--a--trailer--or--mobile--home--used--as--a--residence--and

24 actually--occupied--for--at--least--10--months--a--year--as--the

25 primary--residential--dwelling--of--any--person--whose--total

1 income--from--all--sources--including--otherwise--tax--exempt
2 income--of--all--types--is--not--more--than--\$10,000--for--a--single
3 person--or--\$12,000--for--a--married--couple;

4 (2)--Class--twelve--property--is--taxed--as--follows:

5 (a)--Property--described--in--subsection--(1)(a)--that--is
6 not--of--the--type--described--in--subsection--(1)(b)--is--taxed--at
7 the--taxable--percentage--rate--"P",--described--in--15-6-134,
8 3.86%--of--its--market--value;

9 (b)--Property--described--in--subsection--(1)(b)--is--taxed
10 at--the--taxable--percentage--rate--"P",--described--in--15-6-134,
11 3.86%--of--its--market--value--multiplied--by--a--percentage--figure
12 based--on--income--and--determined--from--the--table--established--in
13 subsection--(2)(b)--of--15-6-134."

14 Section--3.--Section--15-6-1517--MCA--is--amended--to--read:

15 "15-6-1517.--Application--for--certain--class--four
16 classifications.--(1)--A--person--applying--for--classification
17 of--property--described--in--subsection--(1)(c)--of--15-6-134--shall
18 make--an--affidavit--to--the--department--of--revenue--on--a--form
19 provided--by--the--department--without--cost--stating:

20 (a)--his--income;

21 (b)--the--fact--that--he--maintains--the--land--and
22 improvements--as--his--primary--residential--dwelling--where
23 applicable--and

24 (c)--such--other--information--as--is--relevant--to--the
25 applicant's--eligibility;

1 (2)--This--application--must--be--made--before--March--1--of
2 the--year--after--the--applicant--becomes--eligible.--The
3 application--remains--in--effect--in--subsequent--years--unless
4 there--is--a--change--in--the--applicant's--eligibility.--The
5 taxpayer--shall--inform--the--department--of--any--change--in
6 eligibility.--The--department--may--inquire--by--mail--whether--any
7 change--in--eligibility--has--taken--place--and--may--require--a--new
8 statement--of--eligibility--at--any--time--it--considers--necessary;

9 (3)(2)--The--affidavit--is--sufficient--if--the--applicant
10 signs--a--statement--affirming--the--correctness--of--the
11 information--supplied--whether--or--not--the--statement--is--signed
12 before--a--person--authorized--to--administer--oaths--and--ma^{is}
13 the--application--and--statement--to--the--department--of--revenue
14 on--or--before--April--15--of--the--year--for--which--relief--is
15 sought--This--signed--statement--shall--be--treated--as--a
16 statement--under--oath--or--equivalent--affirmation--for--the
17 purposes--of--45-7-202--relating--to--the--criminal--offense--of
18 false--swearing;

19 (3)--An--application--for--a--tax--credit--pursuant--to
20 15-30-171--filed--after--January--17--1988--may--also--be--an
21 application--for--relief--pursuant--to--this--section--if--the
22 taxpayer--states--on--the--form--that--he--wishes--it--to--be--an
23 application--for--relief--and--agrees--that--the--department--and
24 the--county--may--use--information--from--the--income--tax--return--as
25 appropriate--to--provide--relief--under--this--section--The

1 application must be received by April 15 of the year for
 2 which relief is sought, and the relief applies to the year
 3 in which the credit application is received by the
 4 department."

5 Section 4. Section 15-30-171 MCA is amended to read:

6 "15-30-171. Residential property tax credit for
 7 elderly ----- definitions. As used in 15-30-171 through
 8 15-30-179, the following definitions apply:

9 (1) "Income" means federal adjusted gross income,
 10 without regard to loss, as that quantity is defined in the
 11 Internal Revenue Code of the United States, plus all
 12 nontaxable income, including but not limited to:

13 (a) the gross amount of any pension or annuity
 14 (including Railroad Retirement Act benefits and veterans'
 15 disability benefits);

16 (b) the amount of capital gains excluded from adjusted
 17 gross income;

18 (c) alimony;

19 (d) support money;

20 (e) nontaxable strike benefits;

21 (f) cash public assistance and relief;

22 (g) payments and interest on federal, state, county,
 23 and municipal bonds; and

24 (h) all payments under federal social security;

25 (2)(i) "Claim period" means the tax year for

1 individuals required to file Montana individual income tax
 2 returns and the calendar year for individuals not required
 3 to file returns;

4 (3)(2) "Claimant" means an individual natural person
 5 who is eligible to file a claim under 15-30-172;

6 (4)(3) "Household" means an association of persons who
 7 live in the same dwelling, sharing its furnishings,
 8 facilities, accommodations, and expenses. The term does not
 9 include bona fide lessees, tenants, or roomers and boarders
 10 on contract;

11 (5)(4) "Gross household income" means all income
 12 received by all individuals of a household while they are
 13 members of the household, monetary benefits of any kind
 14 received by each individual member of the household, without
 15 regard to losses of any kind and without regard to whether
 16 such benefits are taxable income under state or federal
 17 income tax laws. Such income includes but is not limited to
 18 the following:

19 (a) 100% of the gains on all sales;

20 (b) alimony, child support, or any other type of
 21 maintenance payment;

22 (c) cash public assistance and relief;

23 (d) life insurance and endowment contracts;

24 (e) social security and the gross amount of any
 25 pension or annuity (including railroad retirement benefits

1 and veterans' disability benefits};
 2 {f} unemployment and workers' compensation benefits;
 3 {g} all tax refunds; and
 4 {h}{6} any monetary benefits defined as income in the
 5 Internal Revenue Code or by this chapter;
 6 {6}{5} "Household income" means \$0 or the amount
 7 obtained by subtracting \$4,000 from gross household income,
 8 whichever is greater less \$4,000, times the inflation factor
 9 provided for in this section, but in no case may it be less
 10 than \$8;
 11 {7}{6} "Homestead" means a single family dwelling or
 12 unit of a multiple unit dwelling that is subject to ad
 13 valorem taxes in Montana, owned and occupied as a residence
 14 by the owner for at least 6 months of the claim period or
 15 occupied as a dwelling of a renter or lessee for at least 6
 16 months of the claim period, and as much of the surrounding
 17 land, but not in excess of 1 acre, as is reasonably
 18 necessary for its use as a dwelling;
 19 {8}{7} "Department" means the department of revenue;
 20 {9}{8} "Gross rent" means the total rent in cash or
 21 its equivalent actually paid during the claim period by the
 22 renter or lessee for the right of occupancy of the homestead
 23 pursuant to an arm's length transaction with the landlord;
 24 {10}{9} "Property tax paid billed" means general ad
 25 valorem taxes, exclusive of special assessments, penalties,

1 or interest, levied against the homestead, exclusive of
 2 special assessments, penalties, or interest and paid during
 3 the claim period;
 4 {11}{10} "Rent equivalent tax paid" means 15% of the
 5 gross rent;
 6 {11} "Inflation factor" means a number determined by
 7 November 1 for each taxable year by dividing the consumer
 8 price index for June of the taxable year by the consumer
 9 price index for June 1987;"
 10 Section 5, Section 15-30-172, MCA, is amended to read:
 11 "15-30-172. Residential property tax credit for
 12 elderly eligibility. (1) In order to be eligible to make
 13 a claim under 15-30-171 through 15-30-179, an individual
 14 must have reached age 62 or older during the claim period
 15 for which relief is sought and must have resided in Montana
 16 for at least 9 months of that period, a household income of
 17 less than \$45,000 during the claim period and be a resident
 18 as defined in 15-30-101;
 19 (2) A person who has been a full-time student at an
 20 educational institution for 6 months or more of the taxable
 21 year is not eligible for the credit. "Educational
 22 institution" means one that normally maintains a regular
 23 faculty and curriculum and normally has a regularly
 24 organized body of students in attendance at the place where
 25 its educational activities are carried on. A person is a

1 full-time student if he is considered to be such by the
 2 educational institution or if the person claims such status
 3 for any other tax purpose."

4 Section 6, Section 15-30-174, MCA, is amended to read:

5 "15-30-174. Residential property tax credit for
 6 elderly --- filing date. (1) Except as provided in subsection
 7 (2), a claim for relief must be submitted at the same time
 8 the claimant's individual income tax return is due. For an
 9 individual not required to file a tax return, the claim must
 10 be submitted on or before April 15 of the year following the
 11 year for which relief is sought.

12 (2) The department may grant a reasonable extension
 13 for filing a claim whenever, in its judgment, good cause
 14 exists. However, the extension granted may not be longer
 15 than the statute of limitations provided in this chapter.

16 The department shall keep a record of each extension and the
 17 reason for granting the extension.

18 (3) In the event that an individual who would have a
 19 claim under 15-30-171 through 15-30-179 dies before filing
 20 the claim, the personal representative of the estate of the
 21 decedent may file the claim."

22 Section 7, Section 15-30-176, MCA, is amended to read:

23 "15-30-176. Residential property tax credit for
 24 elderly --- computation of relief. The amount of the tax
 25 credit granted under the provisions of 15-30-171 through

1 15-30-179 is computed as follows:

2 (1) In the case of a claimant who owns the homestead
 3 for which a claim is made, the credit is the amount of
 4 property tax paid billed less the deduction specified in
 5 subsection (4).

6 (2) In the case of a claimant who rents the homestead
 7 for which a claim is made, the credit is the amount of
 8 rent equivalent tax paid less the deduction specified in
 9 subsection (4).

10 (3) In the case of a claimant who both owns and rents
 11 the homestead for which a claim is made, the credit is:

12 (a) the amount of property tax paid billed on the
 13 owned portion of the homestead less the deduction specified
 14 in subsection (4), plus

15 (b) the amount of rent equivalent tax paid on the
 16 rented portion of the homestead, less

17 (c) the deduction specified in subsection (4).

18 (4) Property tax paid billed and rent equivalent tax
 19 paid are reduced according to the following schedule:

Household income	Amount of reduction
20 \$-----0-999	21 \$0
22 1,000-1,999	23 \$0
24 2,000-2,999	25 the product of .006 times the household income
3,000-3,999	the product of .016 times the household income
4,000-4,999	the product of .024 times the household income

1 5,000-5,999 the-product-of--028-times-the-household-income
2 6,000-6,999 the-product-of--032-times-the-household-income
3 7,000-7,999 the-product-of--035-times-the-household-income
4 8,000-8,999 the-product-of--039-times-the-household-income
5 9,000-9,999 the-product-of--042-times-the-household-income
6 10,000-10,999 the-product-of--045-times-the-household-income
7 11,000-11,999 the-product-of--048-times-the-household-income
8 12,000-~~a-over~~ the-product-of--050-times-the-household-income
9 ~~{5}--in-no-case-may-the-credit-granted-exceed-\$400;~~
10 ~~{6}--Property-taxes-billed-must--be--allocated--on--the~~
11 ~~basis-of-period-of-ownership-during-the-claim-period."~~
12 Section-07--Section-15-30-178, MCA, is amended to read:
13 "15-30-178. Residential property tax credit for
14 elderly---proof-of-claim--A-receipt--showing--property--tax
15 paid--or--a--receipt--showing--gross-rent-paid, whichever is
16 appropriate, must be filed with each claim. In addition,
17 each--Each--claimant-must, at the request of the department,
18 supply all additional information necessary to support his
19 claim."
20 Section 1. Section 1-1-207, MCA, is amended to read:
21 "1-1-207. Miscellaneous terms. Unless the context
22 requires otherwise, the following definitions apply in the
23 Montana Code Annotated:
24 (1) "Bribe" means anything of value or advantage,
25 present or prospective, or any promise or undertaking to

1 give anything of value or advantage, which is asked, given,
2 or accepted with a corrupt intent to unlawfully influence
3 the person to whom it is given in his action, vote, or
4 opinion in any public or official capacity.
5 (2) "Internal Revenue Code" means the Internal Revenue
6 Title enacted August 16, 1954, and redesignated as the
7 "Internal Revenue Code of 1986" by section 2 of Public Law
8 99-514, as amended.
9 {2}{3} "Peace officer" means any person described in
10 46-1-201(8).
11 {3}{4} "Vessel", when used in reference to shipping,
12 includes ships of all kinds, steamboats and steamships,
13 canal boats, and every structure adapted to be navigated
14 from place to place."
15 Section 2. Section 7-14-1133, MCA, is amended to read:
16 "7-14-1133. Bonds and obligations. (1) An authority
17 may borrow money for any of its corporate purposes and issue
18 bonds therefor, including refunding bonds, in such form and
19 upon such terms as it determines, payable out of any
20 revenues of the authority, including revenues derived from:
21 (a) any port or transportation and storage facility;
22 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
23 (c) grants or contributions from the federal
24 government; or
25 (d) other sources.

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

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

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

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

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

14 Section 3. Section 7-34-2416, MCA, is amended to read:
 15 "7-34-2416. Tax-exempt status of bonds. Bonds issued
 16 by a county pursuant to the provisions of 7-34-2411 through
 17 7-34-2418 are declared to be issued for an essential public
 18 and governmental purpose by a political subdivision ~~within~~
 19 ~~the meaning of 15-30-111(2)(a)~~ for purposes of tax exemption
 20 determinations under the Internal Revenue Code."

21 Section 4. Section 15-1-101, MCA, is amended to read:
 22 "15-1-101. Definitions. (1) Except as otherwise
 23 specifically provided, when terms mentioned in this section
 24 are used in connection with taxation, they are defined in
 25 the following manner:

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

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

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

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

17 (ii) The following types of property are not
18 commercial:

19 (A) agricultural lands;

20 (B) timberlands;

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

24 (D) mobile homes used exclusively as a residence
25 except when held by a distributor or dealer of trailers or

1 mobile homes as his stock in trade;

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

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

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

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

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

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

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

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

8 ~~f~~i}(j) The term "livestock" means cattle, sheep,
 9 swine, goats, horses, mules, and asses.

10 ~~f~~j}(k) The term "mobile home" means forms of housing
 11 known as "trailers", "housetrailer", or "trailer coaches"
 12 exceeding 8 feet in width or 45 feet in length, designed to
 13 be moved from one place to another by an independent power
 14 connected to them, or any "trailer", "housetrailer", or
 15 "trailer coach" up to 8 feet in width or 45 feet in length
 16 used as a principal residence.

17 ~~f~~k}(l) The term "personal property" includes
 18 everything that is the subject of ownership but that is not
 19 included within the meaning of the terms "real estate" and
 20 "improvements".

21 ~~f~~i}(m) The term "poultry" includes all chickens,
 22 turkeys, geese, ducks, and other birds raised in
 23 domestication to produce food or feathers.

24 ~~f~~m}(n) The term "property" includes moneys, credits,
 25 bonds, stocks, franchises, and all other matters and things,

1 real, personal, and mixed, capable of private ownership.
 2 This definition must not be construed to authorize the
 3 taxation of the stocks of any company or corporation when
 4 the property of such company or corporation represented by
 5 the stocks is within the state and has been taxed.

6 ~~f~~n}(o) The term "real estate" includes:

7 (i) the possession of, claim to, ownership of, or
 8 right to the possession of land;

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

14 ~~f~~o}(p) The term "taxable value" means the percentage
 15 of market or assessed value as provided for in 15-6-131
 16 through 15-6-140.

17 (2) The phrase "municipal corporation" or
 18 "municipality" or "taxing unit" shall be deemed to include a
 19 county, city, incorporated town, township, school district,
 20 irrigation district, drainage district, or any person,
 21 persons, or organized body authorized by law to establish
 22 tax levies for the purpose of raising public revenue.

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

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

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

11 (3) THE BALANCE IN THE INCOME TAX WINDFALL RESERVE
 12 ACCOUNT AT THE END OF THE 1989 FISCAL YEAR MUST BE
 13 TRANSFERRED TO THE GENERAL FUND AND INCLUDED IN THE ENDING
 14 GENERAL FUND BALANCE.

15 SECTION 6. SECTION 15-1-501, MCA, IS AMENDED TO READ:

16 "15-1-501. Disposition of moneys from certain
 17 designated license and other taxes. (1) The state treasurer
 18 shall deposit to the credit of the state general fund all
 19 moneys received by him from the collection of:

20 (a) fees from driver's licenses, motorcycle
 21 endorsements, and duplicate driver's licenses as provided in
 22 61-5-121;

23 (b) electrical energy producer's license taxes under
 24 chapter 51;

25 (c) severance taxes allocated to the general fund

1 under chapter 36;

2 (d) liquor license taxes under Title 16;

3 (e) telephone [company] license taxes under chapter
 4 53; and

5 (f) inheritance and estate taxes under Title 72,
 6 chapter 16.

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

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

24 (b) 10% to the credit of the debt service account for
 25 long-range building program bonds as described in 17-5-408;

1 and
 2 (c) 31.8% to the credit of the state special revenue
 3 fund for state equalization aid to the public schools of
 4 Montana as described in 20-9-343.
 5 (3) All moneys received from the collection of
 6 corporation license and income taxes under chapter 31 of
 7 this title, except as provided in 15-31-702, shall be
 8 deposited as follows:
 9 (a) 64% to the credit of the state general fund;
 10 (b) 11% to the credit of the debt service account for
 11 long-range building program bonds as described in 17-5-408;
 12 and
 13 (c) 25% to the credit of the state special revenue
 14 fund for state equalization aid to the public schools of
 15 Montana as described in 20-9-343.
 16 ~~(3)~~(4) The state treasurer shall also deposit to the
 17 credit of the state general fund all moneys received by him
 18 from the collection of license taxes, fees, and all net
 19 revenues and receipts from all other sources under the
 20 operation of the Montana Alcoholic Beverage Code.
 21 ~~(4)~~(5) Thirty-three and one-third percent of the total
 22 collections of the oil severance tax under chapter 36 shall
 23 be deposited into the local government block grant account
 24 within the state special revenue fund. After the
 25 distribution provided for in 15-36-112, the remainder of the

1 oil severance tax collections shall be deposited in the
 2 general fund."
 3 Section 7. Section 15-30-101, MCA, is amended to read:
 4 "15-30-101. Definitions. For the purpose of this
 5 chapter, unless otherwise required by the context, the
 6 following definitions apply:
 7 (1) "Base year structure" means the ~~following elements~~
 8 ~~of the income tax structure:~~
 9 ~~(a) the tax brackets established in 15-30-103, but~~
 10 ~~unadjusted by subsection (2) (3) of 15-30-103, in effect on~~
 11 ~~June 30 of the taxable year;~~
 12 ~~(b) the exemptions contained in 15-30-112, but~~
 13 ~~unadjusted by subsections (7) and (8) of 15-30-112, in~~
 14 ~~effect on June 30 of the taxable year;~~
 15 ~~(c) the maximum standard deduction provided in~~
 16 ~~15-30-122, but unadjusted by subsection (2) of 15-30-122, in~~
 17 ~~effect on June 30 of the taxable year.~~
 18 (2) "Consumer price index" means the consumer price
 19 index, United States city average, for all items, using the
 20 1967 base of 100 as published by the bureau of labor
 21 statistics of the U.S. department of labor.
 22 (3) "Department" means the department of revenue.
 23 (4) "Dividend" means any distribution made by a
 24 corporation out of its earnings or profits to its
 25 shareholders or members, whether in cash or in other

1 property or in stock of the corporation, other than stock
2 dividends as herein defined. "Stock dividends" means new
3 stock issued, for surplus or profits capitalized, to
4 shareholders in proportion to their previous holdings.

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

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

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

18 (8) "Inflation factor" means a number determined for
19 each taxable year by dividing the consumer price index for
20 June of the taxable year by the consumer price index for
21 June, ~~1980~~ 1987.

22 (9) "Information agents" includes all individuals,
23 corporations, associations, and partnerships, in whatever
24 capacity acting, including lessees or mortgagors of real or
25 personal property, fiduciaries, employers, and all officers

1 and employees of the state or of any municipal corporation
2 or political subdivision of the state, having the control,
3 receipt, custody, disposal, or payment of interest, rent,
4 salaries, wages, premiums, annuities, compensations,
5 remunerations, emoluments, or other fixed or determinable
6 annual or periodical gains, profits, and income with respect
7 to which any person or fiduciary is taxable under this
8 chapter.

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

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

16 (12) "Nonresident" refers to a person who has not
17 established a residence in this state during the taxable
18 year.

19 ~~{12}~~(13) "Paid", for the purposes of the deductions and
20 credits under this chapter, means paid or accrued or paid or
21 incurred, and the terms "paid or incurred" and "paid or
22 accrued" shall be construed according to the method of
23 accounting upon the basis of which the taxable income is
24 computed under this chapter.

25 (14) "Part-year resident" refers to a taxpayer who is a

1 resident of this state and another state during the
2 taxpayer's taxable year.

3 ~~{13}~~(15) "Purposely" is as defined in 45-2-101.

4 ~~{14}~~(16) "Received", for the purpose of computation of
5 taxable income under this chapter, means received or accrued
6 and the term "received or accrued" shall be construed
7 according to the method of accounting upon the basis of
8 which the taxable income is computed under this chapter.

9 ~~{15}~~(17) "Resident" applies only to natural persons and
10 includes, for the purpose of determining liability to the
11 tax imposed by this chapter with reference to the income of
12 any taxable year, any person domiciled in the state of
13 Montana and any other person who maintains a permanent place
14 of abode within the state even though temporarily absent
15 from the state and has not established a residence
16 elsewhere.

17 ~~{16}~~"Taxable income" means the adjusted gross income
18 of a taxpayer less the deductions and exemptions provided
19 for in this chapter.

20 ~~{17}~~(18) "Taxable year" means the taxpayer's taxable
21 year for federal income tax purposes.

22 ~~{18}~~(19) "Taxpayer" includes any person or fiduciary,
23 resident or nonresident, subject to a tax imposed by this
24 chapter and does not include corporations."

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

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

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

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

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

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

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

19 ~~{f}~~--on the next \$2,000 of taxable income or any part
20 thereof, 7%;

21 ~~{g}~~--on the next \$4,000 of taxable income or any part
22 thereof, 8%;

23 ~~{h}~~--on the next \$6,000 of taxable income or any part
24 thereof, 9%;

25 ~~{i}~~--on the next \$15,000 of taxable income or any part

1 ~~thereof, 10%;~~

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

4 (a) \$0 to \$4,500 of net taxable income, 4% 3% of net
5 taxable income;

6 (b) over \$4,500 to \$12,000 of net taxable income, \$100
7 \$135 plus 6% 5% of net taxable income over \$4,500;

8 (c) over \$12,000 of net taxable income, \$630 \$510 plus
9 8% 7% of net taxable income over \$12,000.

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

16 (a) \$0 to \$2,250 of net taxable income, 4% 3% of net
17 taxable income;

18 (b) over \$2,250 to \$6,000 of net taxable income, \$90
19 \$67.50 plus 6% 5% of net taxable income over \$2,250;

20 (c) over \$6,000 of net taxable income, \$315 \$255 plus
21 8% 7% of net taxable income over \$6,000.

22 ~~(2)(3)~~ By November 1 of each year, the department
23 shall multiply the bracket amount contained in subsection
24 subsections (1) and (2) by the inflation factor for that
25 taxable year and round the cumulative brackets to the

1 nearest \$100. The resulting adjusted brackets are effective
2 for that taxable year and shall be used as the basis for
3 imposition of the tax in subsection subsections (1) and (2)
4 of this section."

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

6 "15-30-105. Tax on nonresident -- alternative tax
7 based on gross sales. (1) A like tax is imposed upon every
8 person not resident of this state, which tax shall be
9 levied, collected, and paid annually at the rates specified
10 in 15-30-103 with respect to his entire net income as herein
11 defined from all property owned and from every business,
12 trade, profession, or occupation carried on in this state.

13 (2) Pursuant to the provisions of Article III, section
14 2, of the Multistate Tax Compact, every nonresident taxpayer
15 required to file a return and whose only activity in Montana
16 consists of making sales and who does not own or rent real
17 estate or tangible personal property within Montana and
18 whose annual gross volume of sales made in Montana during
19 the taxable year does not exceed \$100,000 may elect to pay
20 an income tax of 1/2 of 1% of the dollar volume of gross
21 sales made in Montana during the taxable year. Such tax
22 shall be in lieu of the ~~tax taxes~~ TAX imposed under
23 15-30-103 and {section-16}. The gross volume of sales made
24 in Montana during the taxable year shall be determined
25 according to the provisions of Article IV, sections 16 and

1 17, of the Multistate Tax Compact."
 2 ~~NEW SECTION--Section 16--Montana--alternative--minimum~~
 3 ~~tax--(1)--A--minimum--tax--shall--be--levied--collected--and--paid~~
 4 ~~for--each--taxable--year--commencing--on--or--after--December--31--~~
 5 ~~1986--upon--the--income--of--every--taxpayer--subject--to--the~~
 6 ~~provisions--of--this--chapter--~~
 7 ~~(2)--A--person--who--is--a--resident--of--Montana--shall--file--a~~
 8 ~~Montana--alternative--minimum--tax--return--if--he--~~
 9 ~~(a)--is--required--by--sections--SECTION--55--through--59--~~
 10 ~~Internal--Revenue--Code--to--file--PAY--a--federal--alternative~~
 11 ~~minimum--tax--return--or~~
 12 ~~(b)--has--received--interest--from--obligations--of--another~~
 13 ~~state--or--political--subdivision--thereof--that--are--exempt--from~~
 14 ~~taxation--pursuant--to--section--183(a)--of--the--Internal--Revenue~~
 15 ~~Code--and--the--amount--of--interest--exceeds--~~
 16 ~~(i)--\$40,000--if--married--filing--jointly--~~
 17 ~~(ii)--\$30,000--if--single--or--head--of--household--~~
 18 ~~(iii)--\$20,000--if--married--filing--separately--~~
 19 ~~(3)--A--person--who--is--a--nonresident--or--who--is--a~~
 20 ~~part--year--resident--of--Montana--shall--file--a--Montana~~
 21 ~~alternative--minimum--tax--return--if--he--has--one--or--more--tax~~
 22 ~~preference--items--as--defined--in--sections--55--through--59--of--the~~
 23 ~~Internal--Revenue--Code--that--are--attributable--to--income~~
 24 ~~derived--from--sources--in--this--state--and--that--income--exceeds--~~
 25 ~~(a)--\$40,000--if--married--filing--jointly--~~

1 ~~(b)--\$30,000--if--single--or--head--of--household--~~
 2 ~~(c)--\$20,000--if--married--filing--separately--~~
 3 ~~(4)--For--a--resident--the--taxpayer's--federal--alternative~~
 4 ~~minimum--taxable--income--LESS--THE--APPLICABLE--EXEMPTION--AMOUNT~~
 5 ~~PROVIDED--FOR--IN--SECTION--55--OF--THE--INTERNAL--REVENUE--CODE--~~
 6 ~~must--be--increased--by--the--amount--of--interest--received--from~~
 7 ~~obligations--of--another--state--or--political--subdivision~~
 8 ~~thereof--which--sum--shall--be--reduced--by--the--following--~~
 9 ~~(a)--all--interest--received--from--obligations--of--the~~
 10 ~~United--States--government--~~
 11 ~~(b)--all--railroad--retirement--benefits--and~~
 12 ~~(c)--all--income--earned--by--an--enrolled--member--of--a~~
 13 ~~federally--recognized--Indian--tribe--while--living--and--working~~
 14 ~~on--a--federally--established--Indian--reservation--~~
 15 ~~(5)--(a)--For--a--nonresident--or--part--year--resident--the~~
 16 ~~taxpayer's--federal--alternative--minimum--taxable--income--LESS~~
 17 ~~THE--APPLICABLE--EXEMPTION--AMOUNT--PROVIDED--FOR--IN--SECTION--55~~
 18 ~~OF--THE--INTERNAL--REVENUE--CODE--must--be--prorated--to--determine~~
 19 ~~his--Montana--alternative--minimum--taxable--income--The--prorated~~
 20 ~~income--is--arrived--at--by--dividing--the--Montana--adjusted--gross~~
 21 ~~income--determined--pursuant--to--15--30--131--or--(section--19)--by~~
 22 ~~the--federal--adjusted--gross--income--and--multiplying--this~~
 23 ~~percentage--by--the--taxpayer's--federal--alternative--minimum~~
 24 ~~taxable--income--~~
 25 ~~(b)--The--taxpayer's--prorated--Montana--alternative~~

1 minimum taxable income is then adjusted to include the
 2 interest received from obligations of another state or a
 3 political subdivision thereof, if the interest is used in a
 4 trade, occupation, or business carried on in this state;

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

7 (i) all interest received from obligations of the
 8 United States government;

9 (ii) all railroad retirement benefits; and

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

13 (d) For residents, nonresidents, and part-year
 14 residents, the rates provided for in 15-30-103 must A TAX
 15 RATE OF 5% SHALL be applied to the Montana alternative
 16 minimum taxable income. The taxpayer shall pay the greater
 17 amount of the Montana alternative minimum tax or the tax
 18 provided for in:

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

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

21 (iii) {section 19}, if a part-year resident;

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

25 Section 10. Section 15-30-111, MCA, is amended to

1 read:

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

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

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

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

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

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

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

3 (b) interest income earned by a taxpayer age 65 or
 4 older in a taxable year up to and including 1980 for a
 5 taxpayer filing a separate return and \$1,600 for each joint
 6 return;

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

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

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

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

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

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

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

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

1 from taxation by 19-9-1005;

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

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

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

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

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

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

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

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

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

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

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

23 (b) all railroad retirement benefits;

24 (c) ALL BENEFITS, NOT IN EXCESS OF \$3,600, RECEIVED AS
25 AN ANNUITY, PENSION, OR ENDOWMENT UNDER ANY PUBLIC, PRIVATE,

1 OR CORPORATE RETIREMENT PLAN OR SYSTEM OTHER THAN A RAILROAD
 2 RETIREMENT PLAN;

3 (c)(D) all income earned by an enrolled member of a
 4 federally recognized Indian tribe while living and working
 5 on a federally established Indian reservation;

6 (E) 40% OF CAPITAL GAINS ON THE SALE OR EXCHANGE OF
 7 CAPITAL ASSETS BEFORE DECEMBER 31, 1986, AS CAPITAL GAINS
 8 ARE DETERMINED UNDER SUBCHAPTER P OF CHAPTER 1 OF THE
 9 INTERNAL REVENUE CODE AS IT READ ON DECEMBER 31, 1986.

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 11. 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 7, 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 12. 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 13. 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 14. 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 15. 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 ~~chapter7---"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 ~~(c)--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--15-30-202--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 16. 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 17. 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 is liable for a return to be filed on such
 14 forms and according to such rules as the department may
 15 prescribe. The gross income amounts referred to in the
 16 preceding sentence shall be increased by \$800, as adjusted
 17 under the provisions of 15-30-112(7) and (8), for each
 18 additional personal exemption allowance the taxpayer is
 19 entitled to claim for himself and his spouse under
 20 15-30-112(3) and (4). A nonresident shall be required to
 21 file a return if his gross income for the taxable year
 22 derived from sources within Montana exceeds the amount of
 23 the exemption deduction he is entitled to claim for himself
 24 and his spouse under the provisions of 15-30-112(2)(3) and
 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 18. 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 2-month 4-MONTH extension of time for filing a
 5 return, 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 and be accompanied by a copy of the
 9 applicant's federal income tax form 4868 submitted to the
 10 internal revenue service for the same tax year and same
 11 extension of the return filing period.

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

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

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

24 (3) The department shall grant an application for
 25 extension of time for filing a return if the applicant

1 submits an application as set forth in subsection (2). The
 2 department need not notify an applicant of its determination
 3 unless it denies the application.

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

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

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

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

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

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

- 21 (a) it was placed in service in Montana, and
 22 (b) it was used for the production of Montana adjusted
 23 gross income.
 24 (2) The amount of the credit allowed for the taxable
 25 year is 5% of the amount of credit determined under section

1 46(a)(2) of the Internal Revenue Code of 1954, as amended,
 2 or as section 46(a)(2) may be renumbered or amended.

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

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

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

1 Section 21. Section 15-30-303, MCA, is amended to
2 read:

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

15 (2) The officers charged with the custody of such
16 reports and returns shall not be required to produce any of
17 them or evidence of anything contained in them in any action
18 or proceeding in any court, except in any action or
19 proceeding to which the department is a party under the
20 provisions of this chapter or any other taxing act or on
21 behalf of any party to any action or proceedings under the
22 provisions of this chapter or such other act when the
23 reports or facts shown thereby are directly involved in such
24 action or proceedings, in either of which events the court
25 may require the production of and may admit in evidence so

1 much of said reports or of the facts shown thereby as are
2 pertinent to the action or proceedings and no more.

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

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

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

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

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

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

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

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

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

25 (b) to the department of social and rehabilitation

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

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

7 "15-31-202. Election by small business corporation.
 8 (1) A small business corporation may elect THAT HAS MADE A
 9 VALID ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE
 10 INTERNAL REVENUE CODE IS not to be subject to the taxes
 11 imposed by this chapter.

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

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

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

1 shareholder-

2 ~~(3) An election under subsection (i) must be made in~~
3 ~~accordance with rules prescribed by the department of~~
4 ~~revenue-~~

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

18 (3) A SMALL BUSINESS CORPORATION THAT HAS MADE A VALID
19 ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE INTERNAL
20 REVENUE CODE MAY ELECT TO BE SUBJECT TO THE TAXES IMPOSED BY
21 THIS CHAPTER BY FILING AN ELECTION ON A FORM PROVIDED BY THE
22 DEPARTMENT. THE FORM MUST HAVE PRINTED ON IT A NOTIFICATION
23 THAT MAKING THE ELECTION WILL SUBJECT INCOME TO TAX UNDER
24 BOTH THIS CHAPTER AND CHAPTER 30. FOR TAX YEARS BEGINNING ON
25 OR AFTER JANUARY 1, 1987, BUT BEFORE MARCH 1, 1988, THE

1 ELECTION MUST BE FILED BY MAY 15, 1988. THEREAFTER THE
2 ELECTION MUST BE FILED BY THE 15TH DAY OF THE THIRD MONTH OF
3 THE TAXABLE YEAR FOR WHICH THE ELECTION IS TO BECOME
4 EFFECTIVE. THE ELECTION MAY BE REVOKED BY WRITTEN
5 NOTIFICATION TO THE DEPARTMENT. SUCH REVOCATION MUST BE
6 FILED BY THE 15TH DAY OF THE THIRD MONTH OF THE TAXABLE YEAR
7 FOR WHICH THE REVOCATION IS TO BE EFFECTIVE.

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

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

15 SECTION 23. SECTION 15-31-204, MCA, IS AMENDED TO
16 READ:

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

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

23 "15-31-209. Termination and revocation. If the
24 election under the provisions of Subchapter S is either
25 terminated or revoked for federal purposes, the corporation

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

9 SECTION 25. SECTION 15-32-402, MCA, IS AMENDED TO
 10 READ:

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

24 (a) manufacturing plants located in Montana that
 25 produce wind energy generating equipment;

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

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

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

13 (a) generating equipment;

14 (b) safety devices and storage components;

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

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

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

23 SECTION 26. SECTION 17-5-408, MCA, IS AMENDED TO READ:

24 "17-5-408. (Effective unless contingency occurs--see
 25 compiler's comments) Percentage of income, corporation

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

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

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

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

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

24 (b) ~~no~~ No more than ~~11%~~ the percentages described in
 25 subsection (1)(a) of such tax collections ~~shall-be-deemed-to~~

1 may be pledged for the purpose of 17-5-403(2). The pledge
2 and appropriation herein made shall be and remain at all
3 times a first and prior charge upon all money received from
4 the collection of said taxes.

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

22 Section 27. Section 19-3-105, MCA, is amended to read:
23 "19-3-105. Exemption from ~~taxes--and~~ TAXES AND legal
24 process. The right of a person to a retirement allowance or
25 any other benefit under this chapter and the moneys in the

1 fund created under this chapter is not: :

2 ~~(1)~~ (1) subject to execution, garnishment, attachment,
3 or any other process;

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

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

12 ~~(3)~~ (3) ~~not--is--it~~ assignable except as in this chapter
13 specifically provided."

14 Section 28. Section 19-4-706, MCA, is amended to read:
15 "19-4-706. Exemption from ~~taxation-and~~ TAXES AND legal
16 process. The pensions, annuities, or any other benefits
17 accrued or accruing to any person under the provisions of
18 the retirement system and the accumulated contributions and
19 cash and securities in the various funds of the retirement
20 system are: :

21 ~~(1)--exempted-from-any-state,--county,--or--municipal--tax~~
22 ~~of--the--state--of--Montana--except--for--a--refund--paid--under~~
23 ~~19-4-603--of--a--member's--contributions--picked--up--by--an~~
24 ~~employer-after-June-30,--1985,--as-provided-in-19-4-602;~~

25 (1) EXEMPTED FROM ANY STATE, COUNTY, OR MUNICIPAL TAX

1 OF THE STATE OF MONTANA TO THE EXTENT PROVIDED IN 15-30-111,
 2 EXCEPT FOR A REFUND PAID UNDER 19-4-603 OF A MEMBER'S
 3 CONTRIBUTIONS PICKED UP BY AN EMPLOYER AFTER JUNE 30, 1985,
 4 AS PROVIDED IN 19-4-602;

5 ~~(2)~~(2) not subject to execution, garnishment,
 6 attachment by trustee process or otherwise, in law or
 7 equity, or any other process; and

8 ~~(3)~~(3) are unassignable except as specifically
 9 provided in this chapter."

10 SECTION 29. SECTION 19-5-704, MCA, IS AMENDED TO READ:

11 "19-5-704. 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 shall be exempt from any state or municipal tax to the
 15 extent provided in 15-30-111 and from levy, sale,
 16 garnishment, attachment, or any other process whatsoever and
 17 shall be unassignable except as specifically provided in
 18 19-5-705."

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

20 "19-6-705. Exemption from ~~taxes--and~~ TAXES AND legal
 21 process. Any money received or to be paid as a member's
 22 annuity, state annuity, or return of deductions or the right
 23 of any of these is:

24 ~~(1)--exempt--from--any--state, county, or municipal tax~~
 25 ~~except-for-a--refund--paid--under--19-6-403--of--a--member's~~

1 ~~contributions--picked-up-by-an-employer-after-June-30, 1985,~~
 2 ~~as-provided-in-19-6-402;~~

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

8 ~~(2)~~(2) exempt from levy, sale, garnishment,
 9 attachment, or any other process; and

10 ~~(3)~~(3) ~~is~~ unassignable except as specifically provided
 11 in 19-6-706."

12 SECTION 31. SECTION 19-7-705, MCA, IS AMENDED TO READ:

13 "19-7-705. Exemption from taxes and legal process. Any
 14 money received or to be paid as a member's annuity, state
 15 annuity, or return of deductions or the right of any of
 16 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 19-7-304(1) of a member's contributions picked up by
 20 an employer after June 30, 1985, as provided in 19-7-403;

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

23 (3) unassignable except as specifically provided in
 24 19-7-706."

25 SECTION 32. SECTION 19-8-805, MCA, IS AMENDED TO READ:

1 "19-8-805. Exemption from taxes and legal process. Any
2 money received or to be paid as a member's annuity, state
3 annuity, or return of deductions or the right of any of
4 these is:

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

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

11 (3) unassignable except as specifically provided in
12 19-8-806."

13 SECTION 33. SECTION 19-9-1005, MCA, IS AMENDED TO
14 READ:

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

21 SECTION 34. SECTION 19-13-1003, MCA, IS AMENDED TO
22 READ:

23 "19-13-1003. Exemption from taxes. Any money received
24 as a retirement allowance in accordance with the provisions
25 of this chapter is exempt from any state or municipal tax to

1 the extent provided in 15-30-111."

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

3 "53-2-101. Definitions. Unless the context requires
4 otherwise, in this chapter the following definitions apply:

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

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

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

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

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

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

3 "67-11-303. Bonds and obligations. (1) An authority
4 may borrow money for any of its corporate purposes and issue
5 its bonds therefor, including refunding bonds, in such form
6 and upon such terms as it may determine, payable out of any
7 revenues of the authority, including revenues derived from:

8 (a) an airport or air navigation facility or
9 facilities;

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

12 (c) grants or contributions from the federal
13 government; or

14 (d) other sources.

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

1 sufficient to make the revenues from the pledged source in
2 such year at least equal to the amount of such principal and
3 interest due in that year.

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

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

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

1 prior to the payment of current costs of operation and
2 maintenance of the facilities.

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

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

23 SECTION 37. SECTION 20-9-318, MCA, IS AMENDED TO READ:
24 "20-9-318. Elementary school maximum budget schedule
25 for ~~1986-87~~ 1987-88 and succeeding years. For ~~1986-87~~

1 1987-88 and succeeding school years, the elementary school
2 maximum budget schedule is as follows:

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

6 (2) For schools with an ANB of 10 pupils but less than
7 18 pupils, the maximum shall be \$20,158 plus \$842.50 per
8 pupil on the basis of the average number belonging over
9 nine.

10 (3) For schools with an ANB of at least 14 pupils but
11 less than 18 pupils that qualify for instructional aide
12 funding under 20-9-322, the maximum shall be \$33,042 plus
13 \$842.50 per pupil on the basis of the average number
14 belonging over 14.

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

19 (5) For schools with an ANB of 18 pupils and employing
20 two full-time teachers, the maximum shall be \$44,290 plus
21 \$527.60 per pupil on the basis of the average number
22 belonging over 18, not to exceed an ANB of 50.

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

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

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

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

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

18 SECTION 38. SECTION 20-9-319, MCA, IS AMENDED TO READ:

19 "20-9-319. High school maximum budget schedule for
20 ~~1986-87~~ 1987-88 and succeeding years. For ~~1986-87~~ 1987-88
21 and succeeding school years, the high school maximum budget
22 schedule is as follows:

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

25 (2) For a secondary school having an ANB of more than

1 24 pupils, the maximum \$4,785 shall be decreased at the rate
2 of \$26.10 for each additional pupil until the ANB shall have
3 reached a total of 40 such pupils.

4 (3) For a school having an ANB of more than 40 pupils,
5 the maximum of \$4,368 shall be decreased at the rate of
6 \$26.10 for each additional pupil until the ANB shall have
7 reached 100 pupils.

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

12 (5) For a school having an ANB of more than 200
13 pupils, the maximum of \$2,365 shall be decreased by \$2.40
14 for each additional pupil until the ANB shall have reached
15 300 pupils.

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

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

21 (8) The maximum per pupil for all pupils (ANB) and for
22 all high schools shall be computed on the basis of the
23 amount allowed herein on account of the last eligible pupil
24 (ANB). All high schools and junior high schools which have
25 been approved and accredited as junior high schools,

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

4 SECTION 39. SECTION 20-9-343, MCA, IS AMENDED TO READ:

5 "20-9-343. Definition of and revenue for state
6 equalization aid. (1) As used in this title, the term "state
7 equalization aid" means those moneys deposited in the state
8 special revenue fund as required in this section plus any
9 legislative appropriation of moneys from other sources for
10 distribution to the public schools for the purpose of
11 equalization of the foundation program.

12 (2) The legislative appropriation for state
13 equalization aid shall be made in a single sum for the
14 biennium. The superintendent of public instruction has
15 authority to spend such appropriation, together with the
16 earmarked revenues provided in subsection (3), as required
17 for foundation program purposes throughout the biennium.

18 (3) The following shall be paid into the state special
19 revenue fund for state equalization aid to public schools of
20 the state:

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

23 (b) 25% of all moneys, except as provided in
24 15-31-702, received from the collection of corporation
25 license and income taxes under chapter 31 of Title 15, as

1 provided by 15-1-501;

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

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

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

10 (f) income from the local impact and education trust
11 fund account; and

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

16 (4) Any surplus revenue in the state equalization aid
17 account in the second year of a biennium may be used to
18 reduce the appropriation required for the next succeeding
19 biennium [or may be transferred to the state permissive
20 account if revenues in that fund are insufficient to meet
21 the state's permissive amount obligation]."

22 NEW SECTION. SECTION 40. SURTAX. AFTER THE AMOUNT OF
23 TAX LIABILITY HAS BEEN COMPUTED AS REQUIRED IN 15-30-103,
24 EACH PERSON FILING A MONTANA INDIVIDUAL INCOME TAX RETURN
25 SHALL ADD AS A SURTAX 22% OF THE TAX LIABILITY, AND THE

1 AMOUNT SO ARRIVED AT IS THE AMOUNT DUE THE STATE.

2 Section 41. Section 15-31-113, MCA, is amended to
3 read:

4 "15-31-113. Gross income and net income. (1) The term
5 "gross income" means all income recognized in determining
6 the corporation's gross income for federal income tax
7 purposes and:

8 (a) including:

9 (i) interest exempt from federal income tax;

10 (ii) the portion of gain from a liquidation of the
11 reporting corporation not recognized for federal corporate
12 income tax purposes pursuant to sections 331 through ~~337~~ 338
13 of the Internal Revenue Code ~~{as--those-sections-may-be~~
14 ~~amended-or-renumbered}~~ attributable to stockholders, either
15 individual or corporate, not subject to Montana income or
16 license tax under Title 15, chapter 30 or chapter 31, as
17 appropriate, on the gain passing through to the stockholders
18 pursuant to federal law; and

19 (b) excluding gain recognized for federal tax purposes
20 as a shareholder of a liquidating corporation pursuant to
21 sections 331 through ~~337~~ 338 of the Internal Revenue Code
22 ~~{as--those--sections--may-be-amended-or-renumbered}~~ when the
23 gain is required to be recognized by the liquidating
24 corporation pursuant to subsection (1)(a)(ii) of this
25 section.

1 (2) The term "net income" means the gross income of
 2 the corporation ~~less the deductions set forth in~~ as adjusted
 3 by 15-31-114 and [section 37 44 43].

4 (3) No corporation is exempt from the corporation
 5 license tax unless specifically provided for under
 6 15-31-101(3) or 15-31-102. Any corporation not subject to or
 7 liable for federal income tax but not exempt from the
 8 corporation license tax under 15-31-101(3) or 15-31-102
 9 shall compute gross income for corporation license tax
 10 purposes in the same manner as a corporation that is subject
 11 to or liable for federal income tax according to the
 12 provisions for determining gross income in the federal
 13 Internal Revenue Code in effect for the taxable year."

14 Section 42. Section 15-31-114, MCA, is amended to
 15 read:

16 "15-31-114. Deductions allowed in computing income. In
 17 computing the net income, the following deductions shall be
 18 allowed from the gross income received by such corporation
 19 within the year from all sources:

20 (1) All the ordinary and necessary expenses paid or
 21 incurred during the taxable year in the maintenance and
 22 operation of its business and properties, including
 23 reasonable ~~allowance~~ deductions for salaries for personal
 24 services actually rendered, subject to the limitation
 25 hereinafter contained, rentals or other payments required to

1 be made as a condition to the continued use or possession of
 2 property to which the corporation has not taken or is not
 3 taking title or in which it has no equity. These deductions
 4 shall be determined and calculated in accordance with the
 5 Internal Revenue Code. No deduction shall be allowed for
 6 salaries paid upon which the recipient thereof has not paid
 7 Montana state income tax; provided, however, that where
 8 domestic corporations are taxed on income derived from
 9 without the state, salaries of officers paid in connection
 10 with securing such income shall be deductible.

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

1 (b) (i) There shall be allowed as a deduction for the
 2 taxable period a net operating loss deduction determined
 3 according to the provisions of this subsection. The net
 4 operating loss deduction is the aggregate of net operating
 5 loss carryovers to such taxable period ~~plus--the--net~~
 6 ~~operating-loss-carrybacks-to-such-taxable--period~~ PLUS THE
 7 NET OPERATING LOSS CARRYBACKS TO SUCH TAXABLE PERIOD,
 8 SUBJECT TO A \$100,000 LIMIT ON NET OPERATING LOSS IN ANY ONE
 9 LOSS YEAR. The term "net operating loss" means the excess of
 10 the deductions allowed by this section, 15-31-114, over the
 11 gross income, with the modifications specified in (ii) of
 12 this subsection. If for any taxable period ~~beginning--after~~
 13 ~~December--31,--1975,~~ a net operating loss is sustained, NOT
 14 MORE THAN \$100,000 OF such loss ~~shall--be--a--net--operating~~
 15 ~~loss---carryback--to--each--of--the--three--taxable--periods~~
 16 ~~preceding-the-taxable-period-of-such-loss-and~~ SHALL BE A NET
 17 OPERATING LOSS CARRYBACK TO EACH OF THE THREE TAXABLE
 18 PERIODS PRECEDING THE TAXABLE PERIOD OF THE LOSS, AND THE
 19 AMOUNT OF THE LOSS NOT CARRIED BACK shall be a net operating
 20 loss carryover carryforward to each of the ~~five~~ three SEVEN
 21 taxable periods following the taxable period of such loss. A
 22 net operating loss sustained for any taxable period ending
 23 after December 31, 1975, ~~in-addition-to-being~~ and beginning
 24 before January 1, 1987, shall be a net operating loss
 25 carryback to each of the three preceding taxable periods;

1 ~~shall--be,~~ NOT SUBJECT TO THE \$100,000 CARRYBACK LIMITATION,
 2 and a net operating loss carryover carryforward to each of
 3 the seven taxable periods following the taxable period of
 4 such loss. ~~The~~ SUBJECT TO THE \$100,000 CARRYBACK LIMITATION
 5 FOR A LOSS YEAR, THE portion of such loss which shall be
 6 carried to each of the other taxable years shall be the
 7 excess, if any, of the amount of such loss over the sum of
 8 the net income for each of the prior taxable periods to
 9 which such loss was carried. For purposes of the preceding
 10 sentence, the net income for such prior taxable period shall
 11 be computed with the modifications specified in (ii)(B) of
 12 this subsection and by determining the amount of the net
 13 operating loss deduction without regard to the net operating
 14 loss for the loss period or any taxable period thereafter,
 15 and the net income so computed shall not be considered to be
 16 less than zero.

17 (ii) The modifications referred to in (i) of this
 18 subsection shall be as follows:

19 (A) No net operating loss deduction shall be allowed.

20 (B) The deduction for depletion shall not exceed the
 21 amount which would be allowable if computed under the cost
 22 method.

23 (C) Any net operating loss carried over to any taxable
 24 years beginning after December 31, 1978, must be calculated
 25 under the provisions of this section effective for the

1 taxable year for which the ~~return-claiming-the-net-operating~~
2 ~~loss-carryover-is-filed~~ loss occurred.

3 (iii) A net operating loss deduction shall be allowed
4 only with regard to losses attributable to the business
5 carried on within the state of Montana.

6 (iv) In the case of a merger of corporations, the
7 surviving corporation shall not be allowed a net operating
8 loss deduction for net operating losses sustained by the
9 merged corporations prior to the date of merger. In the case
10 of a consolidation of corporations, the new corporate entity
11 shall not be allowed a deduction for net operating losses
12 sustained by the consolidated corporations prior to the date
13 of consolidation.

14 (v) Notwithstanding the provisions of 15-31-531,
15 interest shall not be paid with respect to a refund of tax
16 resulting from a net operating loss carryback or ~~carryover~~
17 carryforward.

18 ~~(vi) The net operating loss deduction shall not be~~
19 ~~allowed with respect to taxable periods which ended on or~~
20 ~~before December 31, 1970, but shall be allowed only with~~
21 ~~respect to taxable periods beginning on or after January 1,~~
22 ~~1971.~~

23 (3) In the case of mines, other natural deposits, oil
24 and gas wells, and timber, a reasonable allowance for
25 depletion and for depreciation of improvements; such

1 reasonable allowance to be determined according to the
2 provisions of the Internal Revenue Code in effect for the
3 taxable year. All elections made under the Internal Revenue
4 Code with respect to capitalizing or expensing exploration
5 and development costs and intangible drilling expenses for
6 corporation license tax purposes shall be the same as the
7 elections made for federal income tax purposes.

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

15 (5) (a) Taxes paid within the year, except the
16 following:

17 (i) Taxes imposed by this part.

18 (ii) Taxes assessed against local benefits of a kind
19 tending to increase the value of the property assessed.

20 (iii) Taxes on or according to or measured by net
21 income or profits imposed by authority of the government of
22 the United States.

23 (iv) Taxes imposed by any other state or country upon
24 or measured by net income or profits.

25 (b) Taxes deductible under this part shall be

1 construed to include taxes imposed by any county, school
2 district, or municipality of this state.

3 (6) Light vehicle license fees, as provided by
4 61-3-532, and fees in lieu of taxes for motorcycles and
5 quadricycles, as provided by 61-3-541, paid within the year.

6 ~~{7}--That--portion--of--an--energy-related---investment
7 allowed-as-a-deduction-under-15-32-103-~~

8 ~~{8}{7}~~ (a) Except as provided in subsection (b),
9 charitable contributions and gifts that qualify for
10 deduction under section 170 of the Internal Revenue Code,~~as~~
11 ~~amended.~~

12 (b) The public service commission shall not allow in
13 the rate base of a regulated corporation the inclusion of
14 contributions made under this subsection.

15 ~~{9}{8}~~ In lieu of the deduction allowed under
16 subsection ~~{0}{7}~~ (7), the taxpayer may deduct the fair market
17 value, not to exceed 30% of the taxpayer's net income, of a
18 computer or other sophisticated technological equipment or
19 apparatus intended for use with the computer donated to an
20 elementary, secondary, or accredited postsecondary school
21 located in Montana if:

22 (a) the contribution is made no later than 5 years
23 after the manufacture of the donated property is
24 substantially completed;

25 (b) the property is not transferred by the donee in

1 exchange for money, other property, or services; and

2 (c) the taxpayer receives a written statement from the
3 donee in which the donee agrees to accept the property and
4 representing that the use and disposition of the property
5 will be in accordance with the provisions of (b) of this
6 subsection ~~{9}~~ (8)."

7 NEW SECTION. Section 43. Deductions not allowed. In
8 computing net income, ~~the-following-are-not-deductible--from~~
9 ~~gross-income-under-this-chapter:~~

10 ~~{1}--the--election--fee--for--a--water's-edge--election
11 pursuant-to-{section-49};~~

12 ~~{2}~~ the deductions allowed for dividends under
13 sections 243 through 245 of the Internal Revenue Code ARE
14 NOT DEDUCTIBLE FROM GROSS INCOME UNDER THIS CHAPTER, unless
15 otherwise provided in this title.

16 Section 44. Section 15-31-121, MCA, is amended to
17 read:

18 "15-31-121. Rate of tax -- alternative minimum tax.
19 (1) The Except as provided in subsection {3} (2) AND
20 {SECTION-44}, the percentage of net income to be paid under
21 15-31-101 shall be ~~6-3/4%~~ 6% 6 3/4% of all net income for
22 the taxable period. ~~The-rate-set-forth-in-this-part-shall-be~~
23 ~~effective-for-all-taxable-years-ending-on-or-after--February~~
24 ~~28,-1971.-This-rate-is-retroactive-to-and-effective-for-all~~
25 ~~taxable-years-ending-on-or-after-February-28,-1971-~~

1 ~~(2) Every corporation subject to taxation under this~~
 2 ~~part shall, in any event, pay a minimum tax of not less than~~
 3 ~~\$50.~~

4 ~~(2)(a) There is an alternative minimum tax imposed on~~
 5 ~~all corporations filing tax returns pursuant to this part IF~~
 6 ~~THEY ARE REQUIRED TO PAY A TAX PURSUANT TO SECTION 55 OF THE~~
 7 ~~INTERNAL REVENUE CODE. The minimum tax is an alternative to~~
 8 ~~the tax, if any, computed in subsection (1). Taxable income~~
 9 ~~for purposes of the minimum tax is the corporation's~~
 10 ~~alternative minimum taxable income as calculated pursuant to~~
 11 ~~the Internal Revenue Code, LESS THE APPLICABLE EXEMPTION~~
 12 ~~AMOUNT PROVIDED FOR IN SECTION 55 OF THE INTERNAL REVENUE~~
 13 ~~CODE.~~

14 ~~(b) If the corporation is required to apportion its~~
 15 ~~income pursuant to 15-31-305, the federal alternative~~
 16 ~~minimum taxable income shall be multiplied by the~~
 17 ~~apportionment factor for the corporation. If the corporation~~
 18 ~~allocates its income pursuant to 15-31-301(3), the~~
 19 ~~adjustments, preferences, and losses used to compute the~~
 20 ~~federal alternative minimum taxable income shall be~~
 21 ~~allocated on the same basis as its income and expenses.~~

22 ~~(c) The MONTANA alternative minimum tax shall be:~~

23 ~~(i) 6% 4% of the federal alternative minimum taxable~~
 24 ~~income in the case of a corporation that does not apportion~~
 25 ~~its income pursuant to 15-31-305 or allocate its income~~

1 ~~pursuant to 15-31-301 or~~
 2 ~~(ii) 6% 4% of the amount computed under subsection~~
 3 ~~(2)(b) in the case of a corporation that is subject to~~
 4 ~~15-31-301 or 15-31-305.~~

5 ~~(3)(2) Each corporation shall compute its tax under~~
 6 ~~both subsection (1) and subsection (2) and shall pay the~~
 7 ~~higher THAT amount or \$50, whichever is greater."~~

8 ~~NEW SECTION. Section 45. Dividend credit. (1) A~~
 9 ~~corporation subject to tax as provided in this chapter that~~
 10 ~~receives a cash dividend from a member of the same~~
 11 ~~affiliated group that is also subject to tax as provided in~~
 12 ~~this chapter is entitled to a tax credit. The credit is~~
 13 ~~equal to the tax rate provided in 15-31-121(1) multiplied by~~
 14 ~~the amount of the dividend and, in the case of a multistate~~
 15 ~~corporation, also multiplied by the Montana apportionment~~
 16 ~~ratio of the payee corporation.~~

17 ~~(2) The credit is refundable in the year it is~~
 18 ~~claimed, to the extent that it exceeds what would otherwise~~
 19 ~~be the tax liability of the recipient pursuant to this~~
 20 ~~chapter.~~

21 ~~(3) The term "affiliated group" as used in this~~
 22 ~~section has the same meaning as used in section 1504(a)(1)~~
 23 ~~of the Internal Revenue Code.~~

24 ~~Section 47, Section 15-31-305, MCA, is amended to~~
 25 ~~read:~~

1 ~~15-31-305~~ Appportionment of business income--(1) All
 2 business income shall be apportioned to this state by
 3 multiplying the income by a fraction, the numerator of which
 4 is the property factor plus the payroll factor plus the
 5 sales factor and the denominator of which is 3.

6 ~~(2) In the case of a parent corporation that is~~
 7 ~~incorporated in a foreign country, neither the income nor~~
 8 ~~the factors described in subsection (1) shall be considered~~
 9 ~~for purposes of calculations under subsection (1) unless the~~
 10 ~~corporation is subject to tax in this state as a separate~~
 11 ~~taxable entity.~~

12 ~~(3) In the case of a corporation subject to tax under~~
 13 ~~this chapter that receives dividend income from corporations~~
 14 ~~incorporated in a foreign country, the dividend income is~~
 15 ~~subject to apportionment only to the extent such income~~
 16 ~~constitutes business income as defined in 15-31-302.~~

17 ~~(4) In the first 5 years that a corporation is taxable~~
 18 ~~under this chapter, only 15% of dividend income described in~~
 19 ~~subsection (3) is taxable; thereafter, 100% of such dividend~~
 20 ~~income that constitutes business income as defined in~~
 21 ~~15-31-302 is taxable. The 15% taxability of dividend income~~
 22 ~~does not apply to a corporation that operates for the first~~
 23 ~~time in Montana merely as a result of a reorganization of an~~
 24 ~~existing corporation or unitary business operating in~~
 25 ~~Montana.~~"

1 ~~NEW SECTION: Section 48. Water's edge election--(1)~~
 2 ~~A corporation that is subject to apportionment as provided~~
 3 ~~in 15-31-305 may elect to determine its income derived from~~
 4 ~~or attributable to sources within this state pursuant to a~~
 5 ~~water's edge election in accordance with the provisions of~~
 6 ~~this part. A corporation that makes a water's edge election~~
 7 ~~shall take into account the income and apportionment factors~~
 8 ~~of the following affiliated entities only:~~

9 ~~(a) an affiliated corporation that is eligible to be~~
 10 ~~included in a federal consolidated return as described in~~
 11 ~~sections 1501 through 1505 of the Internal Revenue Code;~~

12 ~~(b) any corporation, regardless of the place where it~~
 13 ~~is incorporated, if the average of its property, payroll,~~
 14 ~~and sales factors within the United States is 20% or more;~~

15 ~~(c) a corporation that is incorporated in the United~~
 16 ~~States, excluding corporations described in sections 931~~
 17 ~~through 936 of the Internal Revenue Code, of which more than~~
 18 ~~50% of its stock is controlled directly or indirectly by the~~
 19 ~~same interests, which are not included in subsection (1)(a);~~

20 ~~(d) a corporation that is not described in subsections~~
 21 ~~(1)(a) through (1)(c), but only to the extent of its income~~
 22 ~~derived from or attributable to sources within the United~~
 23 ~~States and its factors assignable to a location within the~~
 24 ~~United States; income of such a corporation derived from or~~
 25 ~~attributable to sources within the United States is limited~~

1 to--and--determined--from--the--books--of--account--maintained--by
2 the--corporation--with--respect--to--its--activities--conducted
3 within--the--United--States,--as--determined--by--federal--income
4 tax--law;

5 (e)--an--export--trade--corporation,--as--described--in
6 sections--970--and--971--of--the--Internal--Revenue--Code;

7 (f)--an--affiliated--corporation--that--is--a--"controlled
8 foreign--corporation",--as--defined--in--section--957--of--the
9 Internal--Revenue--Code,--if--all--or--part--of--the--income--of--that
10 affiliate--is--defined--in--section--952--of--the--Internal--Revenue
11 Code--as--"subpart--F--income".--The--income--and--apportionment
12 factors--of--an--affiliate--to--be--included--under--this--subsection
13 (f)--must--be--determined--by--multiplying--the--income--and
14 apportionment--factors--of--the--affiliate--without--application
15 of--this--subsection--by--a--fraction--(not--to--exceed--one),--the
16 numerator--of--which--is--the--"subpart--F--income"--of--the
17 corporation--and--the--denominator--of--which--is--the--"earnings
18 and--profits"--of--the--corporation,--as--defined--in--section--964
19 of--the--Internal--Revenue--Code;

20 (2)--The--income--and--factors--of--the--corporations
21 enumerated--in--subsections--(1)(a)--through--(1)(e)--must--be
22 taken--into--account--only--if--the--income--and--factors--would--have
23 been--taken--into--account--under--15-31-305--if--this--section--had
24 not--been--enacted;

25 (3)--For--purposes--of--this--section--an--"affiliated

1 corporation"--is--a--corporation--that--is--part--of--one--or--more
2 chains--of--corporations,--connected--through--stock--ownership,
3 with--a--common--parent,--if--both--of--the--following--conditions
4 exist:

5 (a)--over--50%--of--the--voting--stock--of--the--corporation--is
6 directly--or--indirectly--owned--or--controlled--by--one--or--more--of
7 the--other--corporations,--and

8 (b)--the--common--parent--owns,--directly--or--indirectly,
9 over--50%--of--the--voting--stock--of--at--least--one--of--the--other
10 corporations;

11 NEW-SECTION:--Section--49--Qualifications-----for
12 water's--edge--election.--In--order--to--qualify--for--the--election
13 in--(section--41-48),--a--corporation--shall:

14 (1)--file--with--the--state--tax--return--on--which--the
15 election--is--made--written--consent--to--the--taking--of
16 depositions--from--key--domestic--corporate--individuals--and--to
17 the--acceptance--of--subpoenas--duces--tecum--requiring--reasonable
18 production--of--documents--to--the--department--as--required--by--the
19 state--tax--appeal--board--or--by--the--courts--of--this--state.--The
20 consent--remains--in--effect--while--the--water's--edge--election--is
21 in--effect.--The--consent--is--limited--to--providing--information
22 necessary;

23 (a)--to--review--or--adjust--income--or--deductions--in--a
24 manner--authorized--under--sections--482,--861,--and--951--through
25 964--of--the--Internal--Revenue--Code--(or--similar--provisions--of

1 the Internal Revenue Code), together with the regulations
 2 adopted pursuant thereto, and
 3 (b) for the conduct of an investigation with respect
 4 to any unitary business in which the corporation may be
 5 involved, and
 6 (2) agree that for purposes of this chapter:
 7 (a) dividends received by it, if it is a corporation
 8 whose income and apportionment factors are taken into
 9 account pursuant to 15-31-305, from either of the following
 10 are considered to be functionally related dividends and are
 11 presumed to be business income:
 12 (i) a corporation that has more than 50% of the voting
 13 stock owned, directly or indirectly, by members of the
 14 unitary group and that is engaged in the same general line
 15 of business; or
 16 (ii) a corporation that:
 17 (A) is either a significant source of supply for the
 18 unitary business or a significant purchaser of the output of
 19 the unitary business; or
 20 (B) sells a significant part of its output or obtains
 21 a significant part of its raw materials or input from the
 22 unitary business;
 23 (b) as used in subsection (2)(a)(i), "significant"
 24 means an amount of 15% or more of supply, raw materials,
 25 input, or output;

1 (c) all other dividends are classified as business or
 2 nonbusiness income.
 3 NEW SECTION: Section 50. Laws and regulations of
 4 other states. The definitions and locations of property,
 5 payroll, and sales must be determined under the laws and
 6 regulations that set forth the apportionment formulas used
 7 by the individual states to assign net income subject to
 8 taxes on or measured by net income. If a state does not
 9 impose a tax on or measured by net income or does not have
 10 laws or regulations with respect to the assignment of
 11 property, payroll, and sales, the laws and regulations
 12 provided in this chapter apply.
 13 NEW SECTION: Section 51. Rejection of water's edge
 14 election. (i) A water's edge election may be rejected by
 15 the department only if a corporation fails to:
 16 (a) comply substantially with {section 48-55} or any
 17 federal law requiring the filing of domestic spreadsheets;
 18 or
 19 (b) do any of the following:
 20 (i) retain and make available upon request the
 21 documents and information, including any questionnaires
 22 completed and submitted to the internal revenue service or
 23 qualified states, that are necessary to audit issues
 24 involving attribution of income to the United States or
 25 foreign jurisdictions under sections 482, 861, 863, 902,

1 9047 and 951 through 964 of the Internal Revenue Code for
2 similar sections of the Internal Revenue Code;
3 (ii) identify upon request principal officers or
4 employees who have substantial knowledge of and access to
5 documents and records that address pricing policies, profit
6 centers, cost centers, and the methods of allocating income
7 and expenses among such centers; the information must
8 include the employees' titles and addresses;
9 (iii) (A) retain and make available upon request all
10 (ii) documents ordinarily available to a corporation
11 included in the water's edge election that are submitted to
12 or obtained from the internal revenue service or foreign
13 countries or their territories or possessions; and
14 (iii) competent authority pertaining to documents
15 described in (i)(b)(iii)(A)(i) including ruling requests,
16 rulings, settlement resolutions, and competing claims
17 involving jurisdictional assignment of income that affect
18 the assignment of income to the United States;
19 (B) the documents must include all ruling requests and
20 rulings on reorganizations involving foreign incorporation
21 of branches, all ruling requests and rulings on changing a
22 corporation's jurisdictional incorporation; and all
23 documents ordinarily available to a corporation included in
24 the water's edge election that pertain to the determination
25 of foreign tax liability including examination reports

1 issued by foreign taxing administrations; if the documents
2 have been translated, the translations must be furnished;
3 (iv) prepare and make available upon request, for each
4 corporation included in the disclosure spreadsheet referred
5 to in section 40551 in which the taxpayer is included, a
6 list of each state of the United States, the District of
7 Columbia, territories or possessions, and each foreign
8 country in which it has payroll, property, or sales; the
9 sales must be determined by destination, whether or not the
10 taxpayer is taxable in the destination jurisdiction;
11 (v) retain and make available upon request forms filed
12 with the internal revenue service to comply with sections
13 60307-6030A7 and 6041 of the Internal Revenue Code;
14 (vi) prepare and make available upon request, for each
15 corporation organized or created under the laws of the
16 United States or a political subdivision thereof, of which
17 corporation 50% or more of its voting stock is directly or
18 indirectly owned or controlled, the information that would
19 be included in the forms described in subsection (i)(b)(v)
20 if those forms were required for United States corporations;
21 (vii) retain and make available upon request all state
22 tax returns filed by each corporation included under
23 subsection (i)(b)(i) in each state and the District of
24 Columbia; or
25 (viii) comply with reasonable requests for discovery

1 directed--at-obtaining-information-necessary-to-determine-or
2 verify-its-net-income-or-apportionment-factors-or-the
3 geographic-source-of-that-income, pursuant-to-the-Internal
4 Revenue-Code.

5 {2}--For-purposes-of-this-section, information-for-any
6 year--must--be-retained-for-that-period-of-time-in-which-the
7 taxpayer's-income-or-license-tax-liability-to-this-state-may
8 be-subject-to-adjustment, including-all-periods--in--which
9 additional-income-or-license-taxes-may-be-assessed-or-during
10 which-an-appeal-is-pending-before-the-state-tax-appeal-board
11 or--a-lawsuit-is-pending-in-the-courts-of-this-state-or-the
12 United-States-with-respect-to-a-Montana--income--or--license
13 tax.

14 {3}--A-failure--to--satisfy-any-of-the-requirements-of
15 subsections-(1)-and-(2)-constitutes--a--willful--failure--to
16 retain--and--make-available-documents-that-are-material-to-a
17 determination-by-the-department-of-a-qualified-corporation's
18 tax-under-this-chapter.

19 NEW-SECTION:--Section-52,--Contract--for--water's-edge
20 election,--(1)--A-water's-edge-election--must--be-made-by
21 contract-with-the-department-in-the-original--return--for--a
22 year--and--is-effective-only-if-every-affiliated-corporation
23 subject-to-tax-under-this-chapter-consents-to-the-election,
24 Consent--by--the--common--parent--of--an--affiliated--group
25 constitutes-consent-of-all-members-of-the--group,--The--form

1 and--manner--of--making--the--water's-edge--election--must--be
2 prescribed--by--the--department,--Each--contract--for--a
3 water's-edge--election--must--be--for--a-term-of-10-years,--A
4 contract-is-conditioned-by-an-agreement-to--pay--the--amount
5 specified--in--{section--49}-A-CORPORATION-LICENSE-OR-INCOME
6 TAX-AT-THE-RATE-OF-7.25%,--Except-as-provided-in--subsection
7 {2},--the-department-shall-enter-into-a-contract-as-provided
8 by-this-section-with-any-qualified-corporation--that--wishes
9 to--make--a-water's-edge-election,--An-affiliated-corporation
10 that-becomes-subject-to-tax-under-this-chapter-subsequent-to
11 the-water's-edge-election-is-considered-to-have-consented-to
12 the-election,--No-water's-edge-election-may-be--made--for--an
13 income--year--beginning--prior-to-{the-applicability-date-of
14 this-section}.

15 {2}--A-water's-edge-election-may-be--rejected--by--the
16 department--as-provided-in-{section-44-51}-but-it-may-not-be
17 changed-by-a-corporation-prior-to-the-end--of--the--10-year
18 period.

19 {3}--When--rejecting--an-election,--the-department-shall
20 impose-any-conditions-necessary-to-prevent-the-avoidance--of
21 tax--or--necessary--to-clearly-reflect-income-for-the-period
22 the-election-was-or-was-purported-to--be--in--effect,--These
23 conditions--may-include-a-requirement-that-income, including
24 dividends-paid--from--income--earned--while--a--water's-edge
25 election--was--in--effect,--that--would,--except--for--the

water's edge election, have been included in determining the income of the corporation from sources within and without this state pursuant to 15-31-305 must be included in income for the year in which the election is changed or rejected.

(4) If the taxpayer desires at the end of the 10-year term to renew the contract, the taxpayer shall serve written notice of renewal of the contract upon the department 30 days in advance of the annual renewal date of the contract. The renewal must be for an additional 10-year term.

NEW SECTION Section 53 Penalties for failure to supply information. (1) If a corporation electing under (section 41-48) fails to supply any required information, in addition to being subject to rejection by the department pursuant to (section 44-51) and to any penalties otherwise provided by this chapter, the corporation shall pay a penalty of \$1,000 for each income year with respect to which the failure occurs.

(2) If such failure continues after 90 days from the date on which the department mails to the corporation notice of the failure, the corporation shall pay, in addition to the amount required under subsection (1), a penalty of \$1,000 for each 30-day period or fraction thereof during which the failure continues after expiration of the 90-day period. No penalty under this subsection may exceed \$24,000.

(3) If the corporation fails to substantially comply

with any formal document request, as defined in subsection (6), arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the "examined item") before the 90th day after the date of the mailing of the request, the state tax appeal board or a court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue shall, upon motion by the department, prohibit the introduction by the corporation of any documentation, as defined in subsection (9), covered by that request.

(4) For purposes of this section, the time in which information is to be furnished (and the beginning of the 90-day period after notice by the department) must be treated as beginning not earlier than the last day on which reasonable cause existed for failure to furnish the information.

(5) This section does not apply with respect to any requested documentation if the taxpayer establishes that the failure to provide the documentation requested by the department is due to reasonable cause.

(6) For purposes of this section, the term "formal document request" means a request made after the normal request procedures have failed to produce the requested documentation, for the production of documentation that is sent by certified mail to the corporation at its last known

1 address-and-that-sets-forth-all-of-the-following:

2 (a)--the--time--and--place--for--the--production-of-the

3 documentation;

4 (b)--a--statement--of--the--reason--any--documentation

5 previously-produced-is-not-sufficient;

6 (c)--a--description--of--the--documentation-being-sought;

7 and

8 (d)--the--consequences-to-the-corporation-of-the-failure

9 to-produce-the-documentation-described-in-this-section;

10 (7)--Notwithstanding-any-other-provision-of-law, a

11 corporation--to-whom-a-formal-document-request-is-mailed-may

12 begin-a-proceeding-to-quash-that-request-not-later-than--the

13 90th-day-after-the-date-the-request-was-mailed,--in-any-such

14 proceeding-the-department-may-seek-to-compel-compliance-with

15 the-request;

16 (8)--The--state--tax-appeal-board-or-the-district-court

17 of-the-first-judicial-district-has-jurisdiction--to--hear--a

18 proceeding--brought--under--subsection-(7).--An-order-denying

19 the-petition--is--considered--a--final--order--that--may--be

20 appealed. The-90-day-period-referred-to-in-subsection-(2)-is

21 suspended--for--the--time--during-which-a-proceeding-brought

22 under-subsection-(7)-is-pending;

23 (9)--For--purposes--of--this--section,--"documentation"

24 means--any--evidence--that--may--be--relevant--or--material--to--the

25 tax-treatment-of-the-examined-item;

1 (10)--The-department, the-state-tax-appeal-board, and

2 the-court-having-jurisdiction-over-a-proceeding-under

3 subsection-(7)-may-extend-the-90-day-period-referred-to-in

4 subsection-(2);

5 (11)--If-a-corporation-begins-a-proceeding-as-provided

6 in-subsection-(7), the-running-of-any-period-of-limitations

7 relating-to-the-assessment-and-collection-of-tax-or-relating

8 to-criminal-prosecutions-with-respect-to-the-corporation

9 must-be-suspended-for-the-period-during-which-the

10 proceedings-under-subsection-(7)-and-appeals-thereto-are

11 pending;

12 NEW SECTION--Section-54--Admissibility-of-evidence.

13 (1)--In-any-administrative-or-judicial-proceeding, the

14 department-may-introduce-into-evidence--the--record--of--any

15 final-court-determination--in--another-state-involving-the

16 same-corporation--or--a-unitary-business--of--which--the

17 corporation-is-alleged-to-be-a-member.

18 (2)--Tax-information-pertaining-to-the-examination-of

19 multinational-operations, including-underlying-data,

20 obtained-from-the-internal-revenue-service-or-a-foreign

21 government-is-admissible-into-evidence, without-being

22 contestable-as-to-its-relevancy, in-an-administrative-or

23 judicial-proceeding-involving-a-corporation's-liability

24 under-this-chapter.

25 NEW SECTION--Section-55--Domestic-----disclosure

1 spreadsheet. A corporation required to file a United States
 2 tax return or that could be included in a consolidated
 3 federal tax return shall file with the department within 3
 4 months after the corporation files its federal income tax
 5 return a domestic disclosure spreadsheet if its and its
 6 related corporation's payroll, property, or sales in a
 7 foreign country exceed \$1 million or if its and its related
 8 corporation's total assets exceed \$250 million or such
 9 higher levels as may be subsequently established by
 10 regulation. For purposes of this section, two corporations
 11 are related if more than 50% of the voting stock of one
 12 company is directly or indirectly owned or controlled by the
 13 other or if more than 50% of the voting stock of both is
 14 directly or indirectly owned or controlled by the same
 15 interest. The spreadsheet must provide for full disclosure
 16 of the income reported to each state, the state tax
 17 liability, the method used for apportioning or allocating
 18 income to the states, and any other information as provided
 19 for by regulations, necessary to properly determine the
 20 amount of taxes due each state and to identify the corporate
 21 parent and those of its affiliates of which more than 20% of
 22 the voting stock is directly or indirectly owned or
 23 controlled by the parent. The spreadsheet must be reviewed
 24 by the department for completeness. If it is not properly
 25 completed, the spreadsheet fails to comply with [section 44

1 51] and may not be accepted by the department.

2 NEW SECTION. Section 49. Fee for water's edge
 3 election. (1) Each contract described in [section 45] must
 4 provide that a corporation making a water's edge election
 5 pursuant to this chapter shall pay to the state an annual
 6 election fee. The election fee is not deductible in
 7 determining the net income of the corporation for purposes
 8 of this chapter.

9 (2) The election fee is an amount equal to \$,000
 10 multiplied by the sum of the corporation's property,
 11 payroll, and sales in this state, as defined in this
 12 chapter, with the following adjustments:

13 (a) Intangibles may not be included in the property
 14 factor.

15 (b) The property and payroll factors must be
 16 calculated with respect to the income year ending during
 17 calendar year 1986.

18 (c) The sum of the property, payroll, and sales must
 19 be reduced by the cumulative amount expended after January
 20 1, 1988, for investment in new plants or facilities in this
 21 state, as defined in subsection (3), and must further be
 22 reduced by the amount expended for new employees in this
 23 state as provided in subsection (5).

24 (3) A new plant or facility includes an addition to
 25 real property, whether land or improvements (including

1 fixtures), or a major rehabilitation of land or improvements
 2 (including fixtures) that converts the property to a new
 3 use. A major rehabilitation means an alteration of any kind
 4 that is the substantial equivalent of a new improvement or
 5 fixture. The property must be used for production of income
 6 taxable under this chapter and must be placed in service
 7 after January 1, 1988. A new plant or facility does not
 8 include a reconstruction because of misfortune or calamity
 9 or property that is a replacement, in whole or in part, for
 10 an existing plant or facility in this state. A plant or
 11 facility must be considered a replacement if the taxpayer or
 12 an affiliated corporation as defined in {section 41} closes,
 13 takes out of service, sells, or leases to an unrelated
 14 party, in either the 3 immediately preceding or the 3
 15 immediately succeeding years from the time the new plant or
 16 facility is operational, a plant or facility with a cost
 17 basis equal to 25% or more of the cost basis of the new
 18 plant or facility.

19 (4) (a) The number of new employees in this state for
 20 any income year is determined by comparing the total number
 21 of work years in this state for the income year to the
 22 greater of:

23 (i) the average of the total number of work years in
 24 this state for the income years ending in 1985, 1986, or
 25 1987, or

1 (ii) the total number of work years in this state for
 2 the income year ending in 1987.

3 (b) A "work year" means, in the case of workers who
 4 are paid an hourly wage, 2,000 paid hours or, in the case of
 5 salaried employees, a total of 12 paid months.

6 (5) The amount expended for new employees is the
 7 product of the number of new employees determined pursuant
 8 to subsection (4) and the average wages paid for each work
 9 year in this state for the income year.

10 (6) Each contract must provide that, without the
 11 consent of the corporation, the amount of the election fee
 12 determined in this section is not subject to any statutory
 13 changes for the period the contract is in effect. A
 14 statutory change is applicable for any renewal year
 15 beginning 10 years after the date of that statutory change.

16 (7) Election fees determined pursuant to this section
 17 must be collected in the same manner as the taxes imposed by
 18 this chapter and are subject to interest and penalties as
 19 provided in this part.

20 (8) In no event may an election fee determined
 21 pursuant to this section be less than .0001 multiplied by
 22 the sum of the corporation's property, payroll, and sales in
 23 this state for the current year.

24 (9) The annual election fee otherwise determined
 25 pursuant to this section and payable under a contract

1 ~~described in (section 45) may not be imposed for an income~~
 2 ~~year in which a corporation incurs no tax liability under~~
 3 ~~15-31-121 other than the \$50 minimum.~~

4 Section 46. Section 15-31-554, MCA, is amended to
 5 read:

6 "15-31-554. Returns to which sections apply. The
 7 provisions of ~~15-31-551 through 15-31-553~~ and 15-31-552 ~~AND~~
 8 ~~15-31-553~~ shall apply to all returns on file and all returns
 9 to be filed hereafter."

10 Section 47. Section 15-32-102, MCA, is amended to
 11 read:

12 "15-32-102. Definitions. As used in this part, the
 13 following definitions apply:

14 ~~(1) "Building" means a single or multiple dwelling,~~
 15 ~~including a mobile home, or a building used for commercial,~~
 16 ~~industrial, or agricultural purposes, which is enclosed with~~
 17 ~~walls and a roof.~~

18 ~~(2) "Capital investment" means any material or~~
 19 ~~equipment purchased and installed in a building or land with~~
 20 ~~or without improvements.~~

21 ~~(3) "Energy conservation purpose" means one or more of~~
 22 ~~the following results of an investment: reducing the waste~~
 23 ~~or dissipation of energy or reducing the amount of energy~~
 24 ~~required to accomplish a given quantity of work.~~

25 ~~(4) "Passive solar system" means a direct thermal~~

1 ~~energy system that uses the structure of a building and its~~
 2 ~~operable components to provide heating or cooling during the~~
 3 ~~appropriate times of the year by using the climate resources~~
 4 ~~available at the site. It includes only those portions and~~
 5 ~~components of a building that are expressly designed and~~
 6 ~~required for the collection, storage, and distribution of~~
 7 ~~solar energy and that are not standard components of a~~
 8 ~~conventional building.~~

9 ~~(5)(1) "Low emission wood or biomass combustion~~
 10 ~~device" means a stove or furnace or a catalytic converter~~
 11 ~~added to a stove or furnace which burns wood or other~~
 12 ~~nonfossil biomass and which has an emission rate of less~~
 13 ~~than 6 grams per hour when tested in conformance with the~~
 14 ~~standard method for measuring the emissions and efficiencies~~
 15 ~~of residential wood stoves as adopted by the department of~~
 16 ~~health and environmental sciences pursuant to 15-32-203.~~

17 ~~(2) "Passive solar system" means a direct thermal~~
 18 ~~energy system that uses the structure of a building and its~~
 19 ~~operable components to provide heating or cooling during~~
 20 ~~appropriate times of the year by using the climate resources~~
 21 ~~available at the site. It includes only those portions and~~
 22 ~~components of a building that are expressly designed and~~
 23 ~~required for the collection, storage, and distribution of~~
 24 ~~solar energy and that are not standard components of a~~
 25 ~~conventional building.~~

1 ~~{6}~~{3} "Recognized nonfossil forms of energy
2 generation" means a system for the utilization of solar
3 energy, including passive solar systems, wind, solid wastes,
4 or the decomposition of organic wastes for capturing energy
5 or converting energy sources into usable sources, for the
6 production of electric power from solid wood wastes, a low
7 emission wood or biomass combustion device, and also means a
8 small system for the utilization of water power by means of
9 an impoundment not over 20 acres in surface area."

10 Section 48. Section 15-32-203, MCA, is amended to
11 read:

12 "15-32-203. Department to make rules. ~~{1}~~--The
13 department of revenue shall prescribe rules necessary to
14 carry out the purposes of this part.

15 ~~{2}~~ The department of health and environmental
16 sciences shall adopt rules establishing emission testing and
17 emission certification standards for low emission wood or
18 biomass combustion devices and maintain a list of such
19 devices that are certified."

20 Section 59. ~~Section 15-36-101, MCA, is amended to~~
21 read:

22 "15-36-101. Definitions and rate of tax. ~~{1}~~ Every
23 person engaging in or carrying on the business of producing
24 petroleum, other mineral or crude oil, or natural gas within
25 this state or engaging in or carrying on the business of

1 owning, controlling, managing, leasing, or operating within
2 this state any well or wells from which any merchantable or
3 marketable petroleum, other mineral or crude oil, or natural
4 gas is extracted or produced sufficient in quantity to
5 justify the marketing of the same must, except as provided
6 in 15-36-121, each year when engaged in or carrying on any
7 such business in this state shall pay to the department of
8 revenue for the exclusive use and benefit of the state of
9 Montana a severance tax computed at the following rates:

10 ~~{a}~~ except as provided in subsections ~~{1}~~~~{b}~~ and
11 ~~{1}~~~~{c}~~, 5% of the total gross value of all the petroleum and
12 other mineral or crude oil produced by such person from each
13 lease or unit on or after April 1, 1981, and on or before
14 March 31, 1983, 6% of the total gross value of all the
15 petroleum and other mineral or crude oil produced by such
16 person from each lease or unit on or after April 1, 1983,
17 and on or before March 31, 1985, and 5% of the total gross
18 value of all the petroleum and other mineral or crude oil
19 produced by such person from each lease or unit thereafter,
20 but in determining the amount of such tax there shall be
21 excluded from consideration all petroleum or other crude or
22 mineral oil produced and used by such person during such
23 year in connection with his operations in prospecting for,
24 developing, and producing such petroleum or crude or mineral
25 oil;

1 (b)--2.65%--of--the--total--gross--value--of--natural--gas
 2 produced--from--each--lease--or--unit;--but--in--determining--the
 3 amount--of--such--tax--there--shall--be--excluded--from
 4 consideration--all--gas--produced--and--used--by--such--person
 5 during--such--year--in--connection--with--his--operations--in
 6 prospecting--for;--developing;--and--producing--such--gas--or
 7 petroleum--or--crude--or--mineral--oil;--and--there--shall--also--be
 8 excluded--from--consideration--all--gas;--including--carbon
 9 dioxide--gas;--recycled--or--re-injected--into--the--ground;

10 (c)--2.5%--of--the--total--gross--value--of--the--incremental
 11 petroleum--and--other--mineral--or--crude--oil--produced--from--each
 12 lease--or--unit--in--a--tertiary--recovery--project--after--July--17
 13 1985;--and--before--July--17--1987;--For--purposes--of--this--section;
 14 a--tertiary--recovery--project;--no--matter--when--it--was
 15 completed;--must--meet--the--following--requirements:

16 (i)--the--project--must--be--approved--as--a--tertiary
 17 recovery--project--by--the--department--of--revenue--Such--approval
 18 may--be--extended--only--after--notice--and--hearing--in--accordance
 19 with--Title--2;--chapter--4;

20 (ii)--the--property--to--be--affected--by--the--project--must--be
 21 adequately--delineated--according--to--the--specifications
 22 required--by--the--department;--and

23 (iii)--the--project--must--involve--the--application--of--one
 24 or--more--tertiary--recovery--methods--that--can--reasonably--be
 25 expected--to--result--in--an--increase;--determined--by--the

1 department--to--be--significant--in--light--of--all--the--facts--and
 2 circumstances;--in--the--amount--of--crude--oil--which--may
 3 potentially--be--recovered;--For--the--purpose--of--this--section;
 4 tertiary--recovery--methods--include--but--are--not--limited--to:

5 (A)--miscible--fluid--displacement;
 6 (B)--steam--drive--injection;
 7 (C)--micellar/emulsion--flooding;
 8 (D)--in-situ--combustion;
 9 (E)--polymer--augmented--water--flooding;
 10 (F)--cyclic--steam--injection;
 11 (G)--alkaline--or--caustic--flooding;
 12 (H)--carbon--dioxide--water--flooding;
 13 (I)--immiscible--carbon--dioxide--displacement;
 14 (J)--any--other--method--approved--by--the--department--as--a
 15 tertiary--recovery--method;

16 (d)--4%--of--the--total--gross--value--of--all--the--petroleum
 17 and--other--mineral--or--crude--oil--produced--and--sold--from--each
 18 producing--well--in--a--tertiary--recovery--project--in--Montana--on
 19 or--after--July--17--1987;--as--long--as--the--price--of--oil--for--the
 20 calendar--year--quarter--in--which--the--oil--is--produced--is--\$40
 21 per--barrel--or--less;

22 (e)--3%--of--the--total--gross--value--of--all--the--petroleum
 23 and--other--mineral--or--crude--oil--produced--and--sold--from--each
 24 stripper--well--in--Montana--on--or--after--July--17--1987;--as--long
 25 as--the--price--of--oil--for--the--calendar--year--quarter--in--which

1 the oil is produced is \$20 per barrel or less. For purposes
 2 of this subsection (1)(e):

3 (1) a "stripper well" is an oil well on a property
 4 which has a total daily production that averages 10 barrels
 5 of oil or less per well for the entire property for the 12
 6 consecutive months immediately preceding the end of the
 7 quarter for which a return is filed. Only wells actually
 8 producing may be included. Each well on the property must
 9 have been maintained at the maximum feasible rate of
 10 production throughout the applicable 12-month period in
 11 accordance with recognized conservation practices, and
 12 production must not have been significantly curtailed by
 13 reason of mechanical failure or other disruption in
 14 production.

15 (2) "property" means the right to produce domestic
 16 crude oil that arises from a lease or from a fee interest. A
 17 producer may treat as a separate property each separate and
 18 distinct producing reservoir subject to the same right to
 19 produce crude oil, provided that such reservoir is
 20 recognized by the appropriate governmental regulatory
 21 authority as a producing formation that is separate and
 22 distinct from, and not in communication with, any other
 23 producing formation.

24 (3) For purposes of this section, the term
 25 "incremental petroleum and other mineral or crude oil" means

1 the amount of oil as determined by the department of
 2 revenue, to be in excess of what would have been produced by
 3 primary and secondary methods. The determination arrived at
 4 by the department must be made only after notice and hearing
 5 and shall specify through the life of a tertiary project,
 6 calendar year by calendar year, the combined amount of
 7 primary and secondary production that must be used to
 8 establish the incremental production from each lease or unit
 9 in a tertiary recovery project.

10 (3) For purposes of subsections (1)(d) and (1)(e),
 11 "the price of oil for the calendar year quarter" means the
 12 price of West Texas intermediate crude, averaged on a
 13 quarterly basis, less \$1.25 per barrel as a price
 14 differential for Montana oil.

15 (3)(4) Nothing in this part may be construed as
 16 requiring laborers or employees hired or employed by any
 17 person to drill any oil well or to work in or about any oil
 18 well or prospect or explore for or do any work for the
 19 purpose of developing any petroleum or other mineral or
 20 crude oil to pay such severance tax, nor may any work done
 21 or the drilling of any well or wells for the purpose of
 22 prospecting or exploring for petroleum or other mineral or
 23 crude oils or for the purpose of developing same be
 24 considered to be the engaging in or carrying on of any such
 25 business, if, in the doing of any such work, in the drilling

1 of any oil well, or in such prospecting, exploring or
 2 development work, any merchantable or marketable petroleum
 3 or other mineral or crude oil in excess of the quantity
 4 required by such person for carrying on such operation is
 5 produced sufficient in quantity to justify the marketing of
 6 the same, such work, drilling, prospecting, exploring, or
 7 development work is considered to be the engaging in and
 8 carrying on of such business within this state with the
 9 meaning of this section.

10 (4)(5) Every person required to pay such tax hereunder
 11 shall pay the same in full for his own account and for the
 12 account of each of the other owner or owners of the gross
 13 proceeds in value or in kind of all the marketable petroleum
 14 or other mineral or crude oil or natural gas extracted and
 15 produced, including owner or owners of working interest,
 16 royalty interest, overriding royalty interest, carried
 17 working interest, net proceeds interest, production
 18 payments, and all other interest or interests owned or
 19 carved out of the total gross proceeds in value or in kind
 20 of such extracted marketable petroleum or other mineral or
 21 crude oil or natural gas, except that any of the aforesaid
 22 interests that are owned by the federal, state, county, or
 23 municipal governments shall be exempt from taxation under
 24 this chapter, unless otherwise provided in a contract or
 25 lease, the pro-rata share of any royalty owner or owners

1 will be deducted from any settlements under said lease or
 2 leases or division of proceeds orders or other contracts."

3 Section 60, Section 15-35-103, MEA, is amended to
 4 read:

5 "15-35-103, Severance tax rates imposed
 6 exemptions: (1) A severance tax is imposed on each ton of
 7 coal produced in the state prior to duty 1, 1988 in
 8 accordance with the following schedule:

9 Heating quality	Surface--	Underground
10 (Btu per pound	Mining--	Mining--
11 ---of coal):	--	--
12 Under-7,000	12-cents or	5-cents or
13 --	20% of value	3% of value
14 7,000-8,700	22-cents or	8-cents or
15 --	30% of value	4% of value
16 8,700-9,700	34-cents or	10-cents or
17 --	30% of value	4% of value
18 Over-9,700	40-cents or	12-cents or
19 --	30% of value	4% of value

20 (2) A severance tax is imposed on each ton of coal
 21 produced in the state from duty 1, 1988 through June 30,
 22 1990, in accordance with the following schedule:

23 Heating quality	Surface--	Underground
24 (Btu per pound	Mining--	Mining--
25 ---of coal):	--	--

1	<u>Under-7,000</u>	<u>12-cents-or</u>	<u>5-cents-or</u>
2		<u>17%-of-value</u>	<u>3%-of-value</u>
3	<u>7,000-8,000</u>	<u>22-cents-or</u>	<u>8-cents-or</u>
4		<u>25%-of-value</u>	<u>4%-of-value</u>
5	<u>8,000-9,000</u>	<u>34-cents-or</u>	<u>10-cents-or</u>
6		<u>25%-of-value</u>	<u>4%-of-value</u>
7	<u>Over-9,000</u>	<u>40-cents-or</u>	<u>12-cents-or</u>
8		<u>25%-of-value</u>	<u>4%-of-value</u>

9 (3)--A--severance--tax--is--imposed--on--each--ton--of--coal
10 produced--in--the--state--after--June--30,--1990,--in--accordance
11 with--the--following--schedule:

12	<u>Heating-quality</u>	<u>Surface--</u>	<u>Underground</u>
13	<u>(Btu-per-pound</u>	<u>Mining--</u>	<u>Mining---</u>
14	<u>---of-coal):</u>	<u>--</u>	<u>--</u>
15	<u>Under-7,000</u>	<u>12-cents-or</u>	<u>5-cents-or</u>
16		<u>13%-of-value</u>	<u>3%-of-value</u>
17	<u>7,000-8,000</u>	<u>22-cents-or</u>	<u>8-cents-or</u>
18		<u>20%-of-value</u>	<u>4%-of-value</u>
19	<u>8,000-9,000</u>	<u>34-cents-or</u>	<u>10-cents-or</u>
20		<u>20%-of-value</u>	<u>4%-of-value</u>
21	<u>Over-9,000</u>	<u>40-cents-or</u>	<u>12-cents-or</u>
22		<u>20%-of-value</u>	<u>4%-of-value</u>

23 (4)--"Value"--means--the--contract--sales--price;
24 (2)(5)--The--formula--which--yields--the--greater--amount--of
25 tax--in--a--particular--case--shall--be--used--at--each--point--on--this

1 schedule:
2 (3)(6)--A--person--is--not--liable--for--any--severance--tax
3 upon--50,000--tons--of--the--coal--he--produces--in--a--calendar--year,
4 except--that--if--he--produces--more--than--50,000--tons--of--coal--in
5 a--calendar--year,--he--will--be--liable--for--severance--tax--upon
6 all--coal--produced--in--excess--of--the--first--20,000--tons;
7 (4)(7)--A--new--coal--production--incentive--tax--credit--may
8 be--claimed--on--certain--coal--as--provided--in--15-35-202."

9 Section--61,--Section--15-35-202,--MCA,--is--amended--to
10 read:

11 "15-35-202--New--coal--production--incentive--tax--credit
12 allowed---application--limited:--(1)--A--coal--mine--operator--is
13 entitled--to--a--new--coal--production--incentive--tax--credit--of
14 33-1/3%---of---the---tax--imposed--under--15-35-103--on--any
15 incremental--production--produced--and--sold--during--calendar
16 years--from--January--1,--1985,--and--1986--through--June--30,--1988;

17 (2)--A--coal--mine--operator--is--entitled--to--a--new--coal
18 production--incentive--tax--credit--of--33-1/3%--20%--of--the--tax
19 imposed--under--15-35-103--on--any--incremental--production--for
20 the--entire--term--of--an--agreement,--except--as--provided--in
21 subsection--(3);--if--the--incremental--production--resulted--from
22 coal--purchases--under:

23 (a)--an--existing--agreement--which--was--extended--between
24 January--1,--1985,--and--June--30,--1987,--for--at--least--a--5--year
25 period;--or

1 (b) ~~---a new agreement that was executed between January~~
 2 ~~17, 1985, and June 30, 1987 produced and sold from July 1,~~
 3 ~~1987 through June 30, 1990.~~

4 (3) ~~No credit may be claimed for coal produced prior~~
 5 ~~to January 17, 1985, or after June 30, 1990.~~"

6 Section 62, ~~Section 15-35-203, MCA, is amended to~~
 7 read:

8 "15-35-203. Calculation and application of credit:
 9 (1) The amount of new coal production incentive tax credit
 10 that a coal mine operator may claim against the tax imposed
 11 in 15-35-103 is calculated by:

12 (a) determining the incremental production for each of
 13 his qualified purchasers that was produced each quarter
 14 during a calendar year;

15 (b) determining the arithmetic average severance tax
 16 per ton calculated prior to application of the credit on
 17 coal sold to each qualified purchaser each quarter during
 18 the calendar year;

19 (c) multiplying the incremental production for a
 20 calendar year quarter for a purchaser by the average
 21 severance tax per ton for that purchaser and multiplying the
 22 total by 33 1/3% the appropriate percentage as provided in
 23 15-35-202 for each quarter; and

24 (d) totaling the amount so calculated for all
 25 qualified purchasers for all four quarters of the calendar

1 year.

2 (2) When filing the quarterly statement required in
 3 15-35-104, a coal mine operator may claim against the coal
 4 severance tax calculated for that quarter an amount equal to
 5 25% of the new coal production incentive tax credit allowed
 6 on incremental production that occurred during the previous
 7 calendar year.

8 (3) If in any calendar year a purchaser exceeds his
 9 base consumption level and he has purchased from more than
 10 one Montana coal mine operator during the year, the credit
 11 on the incremental production must be divided among the
 12 operators on a pro-rata basis. To determine each coal mine
 13 operator's pro-rata share of the tax credit, each operator
 14 shall divide his incremental production by the sum of all
 15 coal mine operators' incremental production for that
 16 purchaser and multiply the quotient by the purchases in
 17 excess of the base consumption level for that purchaser.

18 (4) Neither a coal mine operator nor a purchaser is
 19 entitled to a direct payment for the credit allowed in
 20 15-35-202. A credit terminates if not taken during the year
 21 following the year in which the incremental production
 22 occurred.

23 (5) Each coal mine operator must reduce the delivered
 24 price of coal sold to each qualified purchaser by an amount
 25 equal to the credit received on incremental production sold

1 ~~to-that-purchaser."~~

2 NEW SECTION. Section 49. Penalty for failure to file
3 and failure to pay tax on date required. (1) Unless
4 otherwise specified, the department shall add to the amount
5 of any tax due under Title 15, chapters 30, 31, 35 through
6 38, 50 through 53, 55, 70, and 71, Title 16, 69-1-225,
7 69-1-226, 82-11-131, and 82-11-132, a penalty equal to 5% of
8 the tax due or \$10, whichever is greater, for the failure to
9 file a return or statement required by law on the date due.
10 In addition, a penalty of 5% of the delinquent or estimated
11 tax due must be assessed for each 30-day period during which
12 the return remains unfiled following notification of
13 delinquency.

14 (2) Unless otherwise specified by another section of
15 this title, the department shall add to the amount of any
16 delinquent tax or any delinquent tax determined by an
17 estimate a penalty equal to 5% of the tax. In addition, a
18 penalty of 5% of the delinquent tax must be assessed for
19 each 30-day period during which the tax remains unpaid
20 following notification of delinquency.

21 (3) Interest must be assessed on any tax due at the
22 rate of 1% per month or part thereof from the date the tax
23 should have been paid until such time as the tax is paid.

24 (4) The maximum penalty under this section is ~~30%~~ 25%
25 15%. In no case for the same tax period or return may the

1 department impose the penalty for late payment of the tax if
2 it imposed a penalty for failure to file the return. The
3 department may not assess any penalty until the penalty
4 equals \$10 or more for any one tax period or the period
5 covered by a return or statement.

6 NEW SECTION. Section 50. Payments to be applied to
7 penalty and interest. All payments received by the
8 department for the payment of tax, penalty, and interest
9 must be first applied to the amount of interest due, then to
10 the penalty due, then to the tax due.

11 NEW SECTION. Section 51. Penalty for understatement
12 of tax. (1) If after examination of any return the
13 department determines that the taxpayer understated his tax
14 liability by 25% or more of the amount originally stated, a
15 penalty of 10% of the amount of tax difference must be added
16 to any tax delinquency.

17 (2) If at any time there is a final administrative
18 determination or a final judicial decision that there was no
19 understatement of tax liability of 25% or more and the
20 penalty has been paid, the amount paid must be refunded as
21 any other refund is made.

22 (3) The department may in its discretion waive the
23 assessment of this penalty for good cause shown and under
24 procedures established by the department.

25 NEW SECTION. Section 52. Publication of names of

1 delinquent taxpayers. (1) The department may in its
2 discretion, AFTER 30 DAYS' NOTICE TO THE AFFECTED PERSONS,
3 publish the names of taxpayers that are delinquent in the
4 payment of any tax if the tax is delinquent for 12 months or
5 more.

6 (2) The department may in its discretion, AFTER 30
7 DAYS' NOTICE TO THE AFFECTED PERSONS, publish the names of
8 persons who failed to file a tax return or a statement
9 required by any section of this title if the return or
10 statement is overdue for 12 months or more.

11 (3) The publication of this return information by the
12 department does not constitute a violation of 15-30-303,
13 15-31-507, or 15-38-109.

14 (4) THIS SECTION DOES NOT PERMIT PUBLICATION OF THE
15 NAME OF A TAXPAYER WHO HAS FILED A TAX APPEAL, PAID THE TAX
16 UNDER PROTEST, OR OTHERWISE LITIGATED THE TAX CONSIDERED
17 DELINQUENT FOR PURPOSES OF THIS SECTION. HOWEVER, SUCH A
18 TAXPAYER'S NAME MAY BE PUBLISHED UPON FAILURE TO SATISFY THE
19 DELINQUENCY, IF ANY, REMAINING AT THE CONCLUSION OF THE
20 APPEAL, PROTEST, OR LITIGATION, OR UPON FAILURE TO FILE A
21 RETURN OR SATISFY A TAX DELINQUENCY AS PROVIDED IN
22 SUBSECTIONS (1) AND (2) IN ANOTHER MATTER NOT APPEALED,
23 PROTESTED, OR LITIGATED.

24 NEW SECTION. Section 53. Procedure to compute tax in
25 absence of statement. (1) If a person fails, neglects, or

1 refuses to file any statement required by law to be filed
2 with the department within the time required or fails to pay
3 the required tax on or before the date payment is due, the
4 department of revenue shall proceed to determine the proper
5 amount of tax due for the period concerned, based upon
6 available information.

7 (2) The department shall compute the amount of taxes
8 due from the person and shall mail to the person a letter
9 and a tax assessment statement, setting forth the amount of
10 delinquent tax, penalty, and interest due. The letter shall
11 advise that if payment is not made, a warrant for distraint
12 may be filed.

13 Section 54. Section 15-1-206, MCA, is amended to read:
14 "15-1-206. Waiver and abatement of penalties --
15 interest. (1) The department may, in its discretion, waive
16 the assessment of penalty for the late filing of any tax
17 statement or return required to be filed with the department
18 when the filing is done within 5 days of the date specified
19 for filing the return or statement and for the late payment
20 of any tax collected by the department when the payment is
21 made within 5 days of the date specified for payment of the
22 tax.

23 (2) The department may in its discretion, subject to
24 subsection (1), waive the assessment of a penalty for late
25 filing of a return or statement or late payment of a tax

1 upon a showing of reasonable cause by the taxpayer seeking
 2 waiver of the penalty. THE DEPARTMENT SHALL ADJUST THE
 3 ASSESSMENT OF A PENALTY FOR LATE FILING OF A RETURN OR
 4 STATEMENT OR LATE PAYMENT OF A TAX UPON FINAL DISPOSITION OF
 5 A TAX APPEAL, PROTEST, OR OTHER LITIGATION, OR UPON
 6 ACCEPTANCE OF AN AMENDED RETURN, THAT RESULTS IN A
 7 CANCELLATION OR REDUCTION OF THE TAX.

8 ~~(2)~~(3) Whenever the department waives or abates a
 9 penalty provided for in this title, it also may, in its
 10 discretion, waive or abate interest ~~not-to-exceed--\$100~~ due
 11 upon the tax.

12 ~~(3)~~(4) Whenever the department is notified of a change
 13 in federal taxable income as the result of a federal
 14 adjustment or upon filing an amended federal return, as
 15 provided for in 15-30-304, the department shall abate the
 16 interest on the additional tax liability from the date the
 17 department is notified until the department sends the
 18 statement of increased tax liability to the taxpayer."

19 Section 55. Section 15-30-321, MCA, is amended to
 20 read:

21 "15-30-321. Penalties for violation of chapter. (1) If
 22 any person, without purposely or knowingly violating any
 23 requirement imposed by this chapter, fails to file a return
 24 of income on or before its due date (determined with regard
 25 to an extension of time granted for filing the return),

1 there shall be imposed a penalty of 5% of any balance of tax
 2 unpaid with respect to such return as of its due date, ~~but~~
 3 ~~in-no-event-shall-the-penalty-for-failure-to-file--a--return~~
 4 ~~by--its--due--date--be--less--than--\$57~~ or \$10, whichever is
 5 greater. In addition, a penalty of 5% of any balance of tax
 6 unpaid with respect to the return must be assessed for each
 7 30-day period during which the tax remains unpaid following
 8 notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 25%
 9 penalty. The department may abate the penalty if the
 10 taxpayer establishes that the failure to file on time was
 11 due to reasonable cause and was not due to neglect on his
 12 part. If any person, without purposely or knowingly
 13 violating any requirement imposed by this chapter, fails to
 14 pay any tax on or before its due date ~~(determined with~~
 15 ~~regard-to-an-extension-of-time-granted-for-the-filing-of--a~~
 16 ~~return)~~, there shall be added to the tax a penalty of ~~10%~~ 5%
 17 of said tax ~~--but--not--less--than--\$57--and--interest.~~ In
 18 addition, a penalty of 5% of the delinquent tax must be
 19 assessed for each 30-day period during which the tax remains
 20 unpaid following notification of delinquency, with a maximum
 21 ~~30%~~ ~~25%~~ 15% penalty. Interest shall accrue on the tax at the
 22 rate of ~~9%--per--annum~~ 3/4 of 1% per month for the entire
 23 period it remains unpaid. THE DEPARTMENT MAY NOT ASSESS A
 24 PENALTY FOR FAILURE TO PAY A TAX IF IT HAS ALREADY ASSESSED
 25 AGAINST THE SAME TAXPAYER FOR THE SAME PERIOD A PENALTY FOR

1 FAILURE TO FILE A RETURN. The department may abate the
 2 penalty if the taxpayer establishes that the failure to pay
 3 on time was due to reasonable cause and was not due to
 4 neglect on his part.

5 (2) If any person fails, purposely or knowingly
 6 violating any requirement imposed by this chapter, to make a
 7 return of income or to pay a tax if one is due at the time
 8 required by or under the provisions of this chapter, there
 9 shall be added to the tax an additional amount equal to 25%
 10 thereof, but such additional amount shall in no case be less
 11 than \$25, and interest at 1% for each month or fraction of a
 12 month during which the tax remains unpaid.

13 (3) Any individual, corporation, or partnership or any
 14 officer or employee of any corporation or member or employee
 15 of any partnership who, with intent to evade any tax or any
 16 requirement of this chapter or any lawful requirement of the
 17 department thereunder, purposely or knowingly fails to pay
 18 the tax or to make, render, or sign any return or to supply
 19 any information within the time required by or under the
 20 provisions of this chapter or who, with like intent,
 21 purposely or knowingly makes, renders, or signs any false or
 22 fraudulent return or statement or supplies any false or
 23 fraudulent information shall be liable to a penalty of not
 24 more than \$1,000, to be recovered by the attorney general in
 25 the name of the state by action in any court of competent

1 jurisdiction, and shall also be guilty of a misdemeanor and
 2 shall upon conviction be fined not to exceed \$1,000 or be
 3 imprisoned not to exceed 1 year, or both, at the discretion
 4 of the court.

5 (4) With respect to the imposition of a civil penalty,
 6 evidence produced by the department to the effect that a tax
 7 has not been paid, that a return has not been filed, or that
 8 information has not been supplied as required under the
 9 provisions of this chapter is prima facie evidence that the
 10 tax has not been paid, the return has not been filed, or the
 11 information has not been supplied.

12 (5) The department may not assess any penalty until
 13 the penalty equals \$10 or more for any one tax period or the
 14 period covered by a return or statement."

15 Section 56. Section 15-30-323, MCA, is amended to
 16 read:

17 "15-30-323. Penalty for deficiency. (1) If the payment
 18 required by 15-30-142(6) is not made within 60 days or if
 19 the understatement is due to negligence on the part of the
 20 taxpayer but without fraud, there shall be added to the
 21 amount of the deficiency 5% thereof; ~~provided, however, that~~
 22 ~~no deficiency penalty shall be less than \$27~~ of the tax. In
 23 addition, a penalty of 5% of the delinquent tax must be
 24 assessed for each 30-day period during which the tax remains
 25 unpaid following notification of delinquency, with a maximum

1 ~~30%~~ ~~25%~~ 15% penalty. Interest will be computed at the rate
 2 of ~~9%--per-annum~~ 3/4 of 1% per month or fraction thereof on
 3 the additional assessment. Except as otherwise expressly
 4 provided in this subsection, the interest shall in all cases
 5 be computed from the date the return and tax were originally
 6 due as distinguished from the due date as it may have been
 7 extended to the date of payment.

8 (2) If the time for filing a return is extended, the
 9 taxpayer shall pay in addition interest thereon at the rate
 10 of ~~9%--per-annum~~ 3/4 of 1% per month from the time when the
 11 return was originally required to be filed to the time of
 12 payment.

13 (3) The department may not assess any penalty until
 14 the penalty equals \$10 or more for any one tax period or the
 15 period covered by a return or statement."

16 Section 57. Section 15-31-502, MCA, is amended to
 17 read:

18 "15-31-502. Assessment and payment of tax, penalty,
 19 and interest. (1) All taxpayers shall compute the amount of
 20 tax payable under this chapter and shall remit such amount
 21 to the department of revenue on or before the 15th day of
 22 the 5th month following the close of the taxable period. If
 23 the tax is not paid on or before the due date, there shall
 24 be assessed a penalty of ~~10% of the amount of the tax unless~~
 25 ~~it is shown that the failure was due to reasonable cause and~~

1 ~~not-due-to-neglect:~~ 5% of the tax. In addition, a penalty of
 2 5% of the delinquent tax must be assessed for each 30-day
 3 period during which the tax remains unpaid following
 4 notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 15%
 5 penalty. If any tax ~~and penalty~~ due under this chapter is
 6 not paid when due, by reason of extension granted or
 7 otherwise, interest shall be added thereto at the rate of
 8 ~~12%--per--annum~~ 1% a month or fraction thereof from the due
 9 date until paid.

10 (2) Any corporation required BY THIS CHAPTER to pay
 11 the minimum license tax for the privilege of doing business
 12 in this state shall be required to pay a minimum penalty of
 13 \$10--for--its--failure--to--file--the--return--required--by--this
 14 chapter--or--pay--the--minimum--\$50--fee--on--the--date--specified--in
 15 this--chapter. THAT FAILS TO DO SO ON THE DATE REQUIRED OR
 16 FAILS TO FILE THE RETURN REQUIRED BY THIS CHAPTER MUST BE
 17 ASSESSED A PENALTY OF NOT LESS THAN \$10.

18 (3) The department may not assess any penalty until
 19 the penalty equals \$10 or more for any one tax period or the
 20 period covered by a return or statement."

21 Section 58. Section 15-36-105, MCA, is amended to
 22 read:

23 "15-36-105. Statement to accompany payment -- records
 24 -- collection of tax -- refunds. (1) Each and every person
 25 must, within 60 days after the end of each following

1 quarter, make out on forms prescribed by the department of
 2 revenue a statement showing the total number of barrels of
 3 merchantable or marketable petroleum and other mineral or
 4 crude oil or cubic feet of natural gas produced or extracted
 5 by such person in the state during each month of such
 6 quarter and during the whole quarter, the average value
 7 thereof during each month, and the total value thereof for
 8 the whole quarter, together with the total amount due to the
 9 state as severance taxes for such quarter, and must within
 10 such 60 days deliver such statement and, except as provided
 11 in 15-36-121, pay to the department the amount of the taxes
 12 shown by such statement to be due to the state for the
 13 quarter for which such statement is made. Such statement
 14 must be signed by the individual or the president,
 15 vice-president, treasurer, assistant treasurer, or managing
 16 agent in this state of the association, corporation,
 17 joint-stock company, or syndicate making the statement. Any
 18 such person engaged in carrying on such business at more
 19 than one place in this state or owning, leasing,
 20 controlling, or operating more than one oil or gas well in
 21 this state may include all thereof in one statement. The
 22 department shall receive and file all such statements and
 23 collect and receive from such person making and filing a
 24 statement the amount of tax payable by such person, if any,
 25 as the same shall appear from the face of the statement.

1 (2) It shall be the duty of the department to examine
 2 each of such statements and compute the taxes thereon, and
 3 the amount so computed by the department shall be the taxes
 4 imposed, assessed against, and payable by the taxpayer
 5 making the statement for the quarter for which the statement
 6 is filed. If the tax found to be due shall be greater than
 7 the amount paid, the excess shall be paid by the taxpayer to
 8 the department within 10 days after written notice of the
 9 amount of the deficiency shall be mailed by the department
 10 to such taxpayer. If the tax imposed shall be less than the
 11 amount paid, the difference must be applied as a credit
 12 against tax liability for subsequent quarters or refunded if
 13 there is no subsequent tax liability.

14 ~~{3}--if-the-tax-is-not-paid-on-or-before-the-due--date,~~
 15 ~~there--shall--be--assessed-a-penalty-of-10%-of-the-amount-of~~
 16 ~~the-tax,--unless-it-is-shown-that--the--failure--was--due--to~~
 17 ~~reasonable--cause--and--not-due-to-neglect--if-any-tax-under~~
 18 ~~this-chapter-is-not-paid-when-due,--interest-shall--be--added~~
 19 ~~thereto--at--the--rate--of--1%--a-month-or-fraction--thereof,~~
 20 ~~computed-on-the-total-amount-of-severance--tax--and--penalty~~
 21 ~~from-the-due-date-until-paid."~~

22 Section 59. Section 15-37-104, MCA, is amended to
 23 read:

24 "15-37-104. Mine operator's statement of gross value
 25 -- reports and sampling. (1) Every person engaged in or

1 carrying on the business of working or operating any mine or
 2 mining property in this state from which gold, silver,
 3 copper, lead, or any other metal or metals, precious or
 4 semiprecious gems or stones are produced must, not later
 5 than 60 days following the quarterly reporting date of each
 6 quarter when engaged in or carrying on any such business,
 7 work, or operation, make out a statement of the gross value
 8 of product from all mines and mining properties worked or
 9 operated by such person during the calendar quarter
 10 immediately preceding. If good cause is shown, the
 11 department may grant a reasonable extension of the time for
 12 filing statements. The statement shall be in the form
 13 prescribed by the department of revenue and shall show the
 14 following:

15 (a) the name, address, and telephone number of the
 16 owner, lessee, or operator of the mine or mining property;

17 (b) the mine's location by county and legal
 18 description;

19 (c) the number of tons of ore, concentrate, or other
 20 mineral products or deposits extracted from the mine or
 21 mining property during the period covered by the statement;

22 (d) the name and location of the smelter, mill, or
 23 reduction works to which such ore or concentrate has been
 24 shipped or sold during the period covered by the statement
 25 and such other information as the department may require;

1 (e) the gross yield of such ores, concentrates,
 2 mineral products, or deposits in constituents of commercial
 3 value, that is to say, the number of ounces of gold or
 4 silver, pounds of copper, lead, or zinc, or other
 5 commercially valuable constituents of said ores,
 6 concentrates, or mineral products or deposits, measured by
 7 standard units of measurement, during the period covered by
 8 the statement;

9 (f) the quarterly gross value of product in dollars
 10 and cents.

11 (2) This section applies regardless of the location of
 12 any smelter, mill, or reduction works to which the ore or
 13 concentrate is shipped.

14 (3) Any sampling, testing, or assaying made necessary
 15 to comply with this section must be completed within this
 16 state and prior to any mixture of the ore or concentrate to
 17 be assayed with ore or concentrate from any other mine or
 18 mining property.

19 ~~(4) If the quarterly statement of gross value~~
 20 ~~described herein is not filed with the department within 60~~
 21 ~~days following the calendar quarter ending, a penalty shall~~
 22 ~~be assessed. The penalty shall be the greater of \$25 or 2%~~
 23 ~~of the tax that would be due under this part if collected~~
 24 ~~quarterly. If good cause is shown, the department may waive~~
 25 ~~the penalty."~~

1 Section 60. Section 15-50-206, MCA, is amended to
2 read:

3 "15-50-206. Withholding license fee from payments --
4 refunds. (1) The prime contractor shall withhold the
5 additional 1% license fee from payments to his
6 subcontractors and inform the department of revenue on
7 prescribed forms of the amount of the additional 1% license
8 fee in his account to be allocated and transferred to the
9 subcontractor. The notification to transfer portions of the
10 additional 1% license fee must be filed within 30 days after
11 each payment is made to subcontractors. If any prime
12 contractor fails to file the required allocation and
13 transfer report at the time required by or under the
14 provisions of this chapter, a penalty ~~computed at the rate~~
15 ~~of 1% of the additional 1% license fee withheld from~~
16 ~~subcontractors shall be due from the prime contractor~~ may be
17 imposed for such failure as provided in [section 57 63 49].

18 (2) The state, county, city, or any agency or
19 department thereof, as described in 37-71-101(3) for whom
20 the contractor is performing public work shall withhold, in
21 addition to other amounts withheld as provided by law, 1% of
22 all payments due the contractor and shall transmit such
23 moneys to the department of revenue. In the event that the
24 1% of gross receipts, as defined in 15-50-101, is not
25 withheld as provided, the contractor shall make payment of

1 these amounts to the department within 30 days after the
2 date on which the contractor receives each increment of
3 payment for work performed by the contractor.

4 (3) Any overpayment of the 1% of gross receipts, as
5 defined in 15-50-101, withheld or paid by any contractor
6 hereunder shall be refunded by the department of revenue at
7 the end of the income year upon written application
8 therefor."

9 Section 61. Section 15-51-103, MCA, is amended to
10 read:

11 "15-51-103. Disposition of revenue ~~----interest--on~~
12 ~~delinquency.~~ The department of revenue shall issue a receipt
13 therefor for the license tax and promptly turn the same tax
14 over to the state treasurer. Taxes not met on the due date
15 shall become delinquent, and a penalty of 1% plus interest
16 at the rate of 1% per month or fraction of a month computed
17 on the total of tax and penalty shall be charged."

18 Section 62. Section 15-55-108, MCA, is amended to
19 read:

20 "15-55-108. ~~Penalty and interest for delinquency~~
21 ~~waiver~~ Delinquent taxes. ~~{}~~ License taxes due under this
22 chapter become delinquent if not paid by March 1. ~~The~~
23 ~~department shall add to the amount of all delinquent freight~~
24 ~~line company license taxes a penalty of 1% of the amount of~~
25 ~~license taxes plus interest at the rate of 1% per month or~~

fraction thereof computed on the total amount of license taxes and penalty. Interest is computed from the date the license taxes were due to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-55-103 or pay the tax due is provided to the department."

Section 63. Section 15-70-210, MCA, is amended to read:

"15-70-210. Tax penalty Penalty for willful delinquency. (1) Any license tax not paid within the time provided shall be delinquent, and a penalty of 10% shall be added to the tax and the tax shall bear interest at the rate of 1% per month from the date of delinquency until paid. Upon a showing of good cause by the distributor, the department of revenue may waive penalty.

(2) If any distributor or other person subject to the payment of such license tax shall willfully fail, neglect, or refuse to make any statement required by this part or shall willfully fail to make payment of such license tax within the time provided, the department shall be authorized to revoke any license issued under this part.

(3) In addition, the department shall inform itself regarding the matters required to be in such statement and determine the amount of the license tax due the state from

such distributor and shall add thereto a penalty of \$25 or 10% thereof, whichever is greater, together with interest at the rate of 1% per month from the date such statements should have been made and said license tax paid.

(4) The state treasurer shall proceed to collect such license tax, with penalties and interest. Upon the request of the state treasurer, the attorney general shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect such license tax."

Section 64. Section 15-70-332, MCA, is amended to read:

"15-70-332. Determination if no return made. (1) If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax return when due, the department shall on the basis of information available to it determine the tax liability of the special fuel dealer or special fuel user for the period during which no return was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in 15-70-330(1) [section 57 63 49].

(2) An assessment made by the department pursuant to this section or to 15-70-331 shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the

1 person who challenges the assessment to establish by a fair
2 preponderance of the evidence that it is erroneous or
3 excessive as the case may be."

4 Section 65. Section 16-1-409, MCA, is amended to read:

5 "16-1-409. Failure to make beer tax returns --
6 penalties. (1) If any brewer or wholesaler subject to the
7 payment of the tax provided for in 16-1-406 through 16-1-408
8 shall fail, neglect, or refuse to make any return required
9 by this code or shall fail to make payment of such tax
10 within the time herein provided, the department shall,
11 forthwith after such time has expired, proceed to inform
12 itself as best it may regarding the matters and things
13 required to be set forth in such return and, from such
14 information as it may be able to obtain, to make a statement
15 showing such matters and things and determine and fix the
16 amount of such tax due the state from such delinquent brewer
17 or wholesaler.

18 (2) The department shall add to the amount of tax due
19 a penalty of 5% thereof--for--the--first--failure, willful
20 neglect, or refusal; 10% for the second; 15% for the--third;
21 and 25% for the fourth and each subsequent failure, neglect,
22 or--refusal,--which--shall--be--in--addition--to--the--5% penalty
23 provided--for--nonpayment--of--such--tax--within--the--time
24 provided, of the tax. In addition, a penalty of 5% of the
25 delinquent tax must be assessed for each 30-day period

1 during which the tax remains unpaid following notification
2 of delinquency, with a maximum 30% 25% 15% penalty.

3 (3) Said tax ~~and the penalties added thereto~~ shall
4 bear interest at the rate of 1% per month or fraction
5 thereof from the date such returns should have been made and
6 said tax paid.

7 (4) The department shall then proceed to collect such
8 tax with penalties and interest. Upon request of the
9 department it shall be the duty of the attorney general to
10 commence and prosecute to final determination in any court
11 of competent jurisdiction an action to collect such tax.

12 (5) If all or part of the tax imposed upon a brewer or
13 wholesaler by this part is not paid when due, the department
14 may issue a warrant for distraint as provided in Title 15,
15 chapter 1, part 7. The resulting lien has precedence over
16 any other claim, lien, or demand thereafter filed or
17 recorded.

18 (6) No action shall be maintained to enjoin the
19 collection of such tax or any part thereof.

20 (7) ~~Any tax owed by a brewer or wholesaler under this~~
21 ~~code not paid within the time provided shall be delinquent,~~
22 ~~and a penalty of 5% shall be added thereto, and the whole~~
23 ~~thereof shall bear interest at the rate of 1% per month from~~
24 ~~the date of delinquency until paid.~~ Any brewer or wholesaler
25 who fails, neglects, or refuses to make the return to the

1 department provided for in 16-3-211 or 16-3-231 or refuses
2 to allow such examination as provided for in 16-3-211 or
3 16-3-231 or fails to make an accurate return according to
4 the manner prescribed shall be deemed guilty of having
5 committed a misdemeanor and upon conviction shall be fined
6 in an amount not exceeding \$1,000.

7 (8) The department may not assess any penalty until
8 the penalty equals \$10 or more for any one tax period or the
9 period covered by a return or statement."

10 Section 66. Section 16-11-143, MCA, is amended to
11 read:

12 "16-11-143. Penalty for unpaid cigarette tax. (1) If
13 any person fails or refuses to pay the tax required by this
14 part when due, the department shall proceed to determine the
15 tax due from such information as the department can obtain
16 and shall assess the tax so determined against such person
17 and notify him of the amount. After such notice such tax
18 shall become due and payable, together with a penalty of 5%
19 ~~of such tax or \$5 per day for each day after the date of~~
20 ~~such notice, whichever is greater,~~ of the tax. In addition,
21 a penalty of 5% of the delinquent tax must be assessed for
22 each 30-day period during which the tax remains unpaid
23 following notification of delinquency, with a maximum 30%
24 25% 15% penalty.

25 (2) In the case of any violation of this chapter, the

1 department shall be entitled to sue, in the district where
2 the department maintains its principal office, for the
3 amount of the unpaid tax and costs, including reasonable
4 expense of the department in effecting collection of the
5 unpaid tax. Where the court finds the failure to pay the tax
6 has been willful, the court must, in addition, assess
7 damages in treble the amount of the tax found to be due.

8 (3) The department may not assess any penalty until
9 the penalty equals \$10 or more for any one tax period or the
10 period covered by a return or statement."

11 Section 67. Section 69-1-225, MCA, is amended to read:

12 "69-1-225. Computation and collection of fee in
13 absence of statement -- penalty and interest. (1) If a
14 regulated company or an officer or employee of a regulated
15 company fails, neglects, or refuses to file the statement
16 required by 69-1-223(2), the department of revenue may after
17 the time for filing has expired proceed to inform itself, as
18 best it may, regarding the regulated company's gross
19 operating revenue from all activities regulated by the
20 commission within the state for the calendar quarter,
21 quarters, or portion thereof and may determine and fix the
22 amount of the consumer counsel fee due.

23 (2) The department may add to the amount of the fee
24 computed under subsection (1), in addition to any other
25 penalty provided by law, a penalty of ~~10% thereof plus~~

~~interest-at-the-rate-of-1%per-month-or--fraction--of--month
 computed--on--the-total-amount-of-fee-and-penalty; 5% of the
 tax. In addition, a penalty of 5% of the delinquent tax must
 be assessed for each 30-day period during which the tax
 remains unpaid following notification of delinquency, with a
 maximum 30% 25% 15% penalty. Interest is computed from the
 date the fee is due to the date of payment.~~

(3) The department of revenue shall mail to the regulated company a letter setting forth the amount of the fee, penalty, and interest and notifying the company that payment of the full amount of the fee, penalty, and interest must be remitted within 15 days of the regulated company's receipt of the letter; otherwise a lien may be filed.

(4) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to file the statement is provided to the department.

(5) The department may not assess a penalty until the penalty equals \$10 or more for any one tax period or the period covered by a return or statement."

Section 68. Section 69-1-226, MCA, is amended to read:

"69-1-226. Failure to pay fee -- penalty and interest -- collection of fee. (1) If a regulated company or an officer or employee of a regulated company files the statement required by 69-1-223(2) but fails, neglects, or refuses to pay the fee due within the time required, the

department of revenue may after the time for payment has expired add to the fee due, in addition to any other penalty provided by law, a penalty of ~~10%-thereof-plus-interest-at
 the-rate-of-1%per-month-or-fraction-of--month--computed--on
 the--total--amount-of-the-fee-and-penalty; 5% of the tax. In
 addition, a penalty of 5% of the delinquent tax must be
 assessed for each 30-day period during which the tax remains
 unpaid following notification of delinquency, with a maximum
 30% 25% 15% penalty. Interest is computed from the date the
 fee is due to the date of payment.~~

(2) The department of revenue shall mail to the regulated company a letter setting forth the amount of the fee, penalty, and interest and notifying the company that payment of the full amount of the fee, penalty, and interest must be remitted within 15 days of the regulated company's receipt of the letter; otherwise a warrant for distraint may be filed.

(3) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to make payment is provided to the department.

(4) The department may not assess any penalty until the penalty equals \$10 or more for any one tax period or the period covered by a return or statement."

~~Section-83,--Section-90-8-202,--MCA,--is-amended-to-read:~~

~~"90-8-202,--Designation-of--qualified--Montana--capital~~

1 companies-----tax-credit--(1)-The-board-shall-designate-as
 2 qualified--Montana--capital--companies--those--certified
 3 companies--that-have-been-privately-capitalized-at-a-minimum
 4 level-of-\$200,000--A-certified-company-seeking--designation
 5 as--a--qualified--Montana--capital-company-must-make-written
 6 application-to-the-board-on-forms--provided--by--the--board.
 7 The--application--must--contain--the-information-required-by
 8 90-8-204-and-such-other-information-as-the--board--requires.
 9 (2)--(A)--The-total-amount-of-tax-credits-authorized-for
 10 a--single--qualified--company--may--not--exceed--\$375,000
 11 \$1,500,000--in-the-event-the-capitalization-of--the--company
 12 is--later-increased,--the-company-may-apply-for-authorization
 13 of-additional-tax-credits-within-the--foregoing--limitation.
 14 (B)--The-total-credits-authorized-for-all-companies-may
 15 not-exceed-a-total-of-\$1-million-prior-to-June-30, 1985--The
 16 total--credits--authorized-for-all-companies-between-July-1,
 17 1985,--and-June-30, 1987,--may-not-exceed-\$1-million-plus--any
 18 portion-of-the-\$1-million-available-for-authorization-before
 19 June--30,--1985,--that--is-allocated-to-qualified-companies.
 20 The-total-credits-authorized-for-all-companies-between--July
 21 1,--1987,--and-June-30, 1989,--may-not-exceed-\$3-million-plus
 22 any-portion-of-the-credits-available-for--authorization
 23 before--July-1,--1987--that--is-allocated--to-qualified
 24 companies--THE-TOTAL-CREDITS-AUTHORIZED-FOR--ALL--COMPANIES
 25 BETWEEN--JULY--1,--1989,--AND-JUNE-30, 1991,--MAY-NOT-EXCEED-\$3

1 MILLION-PLUS--ANY--PORTION-OF--THE--CREDITS--AVAILABLE--FOR
 2 AUTHORIZATION--BEFORE--JUNE--30,--1989,--THAT-IS-ALLOCATED-TO
 3 QUALIFIED-COMPANIES.
 4 (3)--The-credits--shall--be--allocated--to--qualified
 5 companies--in--the--order--that--completed--applications-for
 6 designation-as-qualified-capital-companies-are--received--by
 7 the--board,--and-the-board-shall-certify-to-each-such-company
 8 its-appropriate-allocation.
 9 (3)(4)--Investors--in--a--qualified--Montana--capital
 10 company--are--entitled--to--the--tax-credits-provided-for-in
 11 subsection-(4)-(5),--Funds-invested-in-a-certified--company
 12 prior--to-designation-as-a-qualified-Montana-capital-company
 13 may,--at-the-discretion-of-the--investor,--be--placed--in--an
 14 escrow--account--in--a-Montana-financial-institution-pending
 15 designation-of-the-company-as-a-qualified--Montana--capital
 16 company.
 17 (4)(5)--Subject-to-the-provisions-of-subsection-(2),--an
 18 individual,--small--business--corporation,--partnership,--or
 19 corporate-taxpayer-who--makes--a--capital--investment--in--a
 20 qualified--Montana--capital--company--is--entitled--to-a-tax
 21 credit-equal-to-25%-50%--of-the-investment,--up-to--a--maximum
 22 credit--of--\$25,000-\$50,000-\$150,000-per-taxpayer--The-credit
 23 may-be-taken--against--the--tax-liability--imposed--on--the
 24 investor-pursuant-to-Title-15,--chapter-30--or--31--The-credit
 25 for--investments-by-a-small-business-corporation-electing-to

1 ~~be taxed under 15-31-202 or a partnership may be claimed by~~
 2 ~~the small-business-corporation-shareholders-or-the-partners.~~
 3 ~~(5)(6) The tax credit allowed under subsection (4) (5)~~
 4 ~~is to be credited against the taxpayer's income tax~~
 5 ~~liability for the taxable year in which the investment in a~~
 6 ~~qualified Montana capital company is made. If the amount of~~
 7 ~~the tax credit exceeds the taxpayer's tax liability for the~~
 8 ~~taxable year, the amount of the credit which exceeds the tax~~
 9 ~~liability may be carried back or carried forward in~~
 10 ~~accordance with the provisions of section 46(b) of the~~
 11 ~~Internal Revenue Code of 1954, as amended.~~

12 ~~(6)(7) The tax credit provided for in this section is~~
 13 ~~available only to those taxpayers who invest in a qualified~~
 14 ~~Montana capital company within 5 years of April 18, 1983,~~
 15 ~~before June 30, 1990. After that date the only credits~~
 16 ~~available pursuant to this chapter are carryovers of unused~~
 17 ~~credits as provided in subsection (5). WITHIN 4 YEARS OF~~
 18 ~~JUNE 17, 1987."~~

19 Section 69. Section 15-30-207, MCA, is amended to
 20 read:

21 "15-30-207. Annual statement by employer. (1) Every
 22 employer shall, on or before February 15 28 in each year,
 23 file with the department a wage and tax statement for each
 24 employee in such form and summarizing such information as
 25 the department requires, including the total wages paid to

1 the employee during the preceding calendar year or any part
 2 thereof and showing the total amount of the federal income
 3 tax deducted and withheld from such wages and the total
 4 amount of the tax deducted and withheld therefrom under the
 5 provisions of 15-30-201 through 15-30-209.

6 (2) The annual statement filed by an employer with
 7 respect to the wage payments reported constitutes full
 8 compliance with the requirements of 15-30-301 relating to
 9 the duties of information agents, and no additional
 10 information return is required with respect to such wage
 11 payments.

12 (3) In addition to any other penalty provided by law,
 13 the failure of an employer to furnish a statement as
 14 required by subsection (1) subjects the employer to a
 15 penalty of \$5 for each failure, provided that the minimum
 16 penalty for failure to file the statements required on or
 17 before February 15 28 of each year shall be \$50. This
 18 penalty may be abated by the department upon a showing of
 19 good cause by the employer. The penalty may be collected in
 20 the same manner as are other tax debts."

21 Section 70. Section 15-31-552, MCA, is amended to
 22 read:

23 "15-31-552. Corporation license tax clearance
 24 certificates furnished ---fee. Upon request of a corporation
 25 and upon the payment of \$1, the department of revenue may

1 furnish to it a certificate to the effect that all taxes
2 have been paid, that a return has been filed, and that all
3 information has been supplied as required by the provisions
4 of this chapter."

5 ~~SECTION 86. SECTION 15-31-553, MCA, IS AMENDED TO~~

6 READ:

7 "15-31-553. Fees to reimburse department for costs
8 deposit in general fund. All moneys collected under
9 15-31-551 and 15-31-552 shall be required to reimburse the
10 department of revenue for costs involved in the preparation
11 of the copies and certificates. All such moneys collected
12 shall go into the general fund."

13 Section 71. Section 15-70-203, MCA, is amended to
14 read:

15 "15-70-203. License to sell gasoline on which refund
16 may be claimed. (1) Any person other than a licensed
17 distributor shall obtain a license from the department of
18 revenue prior to selling gasoline on which a refund may be
19 claimed. The application for license shall contain the
20 applicant's name, address, place or places of business in
21 the state of Montana, and other information which may be
22 required by the department. Licenses issued shall bear a
23 license number and the date of issuance. The department
24 shall keep a record of all licenses issued, canceled, or
25 suspended. A nontransferable license shall be issued, for 3

1 years upon payment of a fee of \$3. Licenses must be renewed
2 and the fee paid every 3 years from date of issuance which
3 shall be effective until canceled or suspended by the
4 department.

5 (2) Any person failing to comply with this section
6 shall be subject to a fine of not less than \$25 or more than
7 \$200 or imprisonment in the county jail for a period not
8 less than 10 days or more than 60 days or both fine and
9 imprisonment."

10 Section 72. Section 61-1-129, MCA, is amended to read:

11 "61-1-129. Camper. The term "camper" as used in
12 61-3-524 61-3-523 and 61-3-525 includes but is not limited
13 to truck camper, chassis-mounted camper, cab over, half cab
14 over, non cab over, telescopic, and telescopic cab over, but
15 does not include a truck canopy cover or topper weighing
16 less than 300 pounds and having no accommodations attached."

17 SECTION 73. SECTION 35-18-503, MCA, IS AMENDED TO

18 READ:

19 "35-18-503. Annual fee to department of revenue
20 exemption Exemption from other taxes. Cooperatives Except as
21 provided in 10-4-201, cooperatives and foreign corporations
22 transacting business in this state pursuant to the
23 provisions of this chapter shall pay annually on or before
24 July 1, to the department of revenue a fee of \$10 for each
25 100 persons or fractions thereof to whom electricity or

1 ~~telephone service is supplied within the state but except~~
 2 ~~as provided in 10-4-2017, shall be~~ are exempt from all other
 3 excise and income taxes of whatsoever kind or nature."

4 Section 74. Section 61-3-523, MCA, is amended to read:

5 "61-3-523. Schedule of fees for travel trailers and
 6 campers -- decals. (1) The fee imposed by 61-3-521 on a
 7 travel trailer less than 3 years old is \$40. In all other
 8 cases the fee is \$15.

9 (2) The fee imposed by 61-3-521 on a camper less than
 10 3 years old is \$35. In all other cases the fee is \$15.

11 (3) The age of a travel trailer or camper is
 12 determined by subtracting the manufacturer's designated
 13 model year from the current calendar year.

14 (4) The county treasurer shall, upon payment of the
 15 fee provided for in subsection (1) or (2), issue a decal to
 16 the person paying such fee as proof the fee in lieu of tax
 17 has been paid for the current year. THE DEPARTMENT OF
 18 REVENUE SHALL FURNISH DECALS TO THE COUNTY TREASURERS AT NO
 19 CHARGE.

20 (5) No camper subject to taxation in Montana may be
 21 operated by any person on the public highways or streets in
 22 this state unless there is displayed in a conspicuous place
 23 thereon a decal as visual proof that the fee has been paid
 24 for the current year."

25 Section 75. Section 61-3-525, MCA, is amended to read:

1 "61-3-525. ~~Annual application for~~ Issuance of decals.
 2 Application may be made to the ~~department of revenue or~~
 3 county treasurer for the issuance of camper decals annually
 4 when the motor vehicle to which the camper is customarily
 5 attached is registered."

6 Section 76. Section 61-3-606, MCA, is amended to read:

7 "61-3-606. Penalty for violation of camper decal
 8 requirement. Operation of a camper in violation of ~~61-3-524~~
 9 61-3-523(5) is a misdemeanor punishable by a fine not to
 10 exceed \$50."

11 ~~Section 93, Section 15-2-301, MCA, is amended to read:~~

12 "15-2-301. ~~Appeal of county tax appeal board~~
 13 ~~decisions. (1) Any person or the department of revenue in~~
 14 ~~behalf of the state or any municipal corporation aggrieved~~
 15 ~~by the action of any county tax appeal board may appeal to~~
 16 ~~the state board by filing with the county tax appeal board a~~
 17 ~~notice of appeal and a duplicate thereof with the state~~
 18 ~~board within 20 calendar days after the receipt of the~~
 19 ~~decision of the county board, which notice shall specify the~~
 20 ~~action complained of and the reasons assigned for such~~
 21 ~~complaint. The county tax appeal boards shall mail their~~
 22 ~~decisions to the property assessment division of the~~
 23 ~~department. Receipt for purposes of appeal by the~~
 24 ~~department is when the county tax appeal board decision is~~
 25 ~~received by the property assessment division of the~~

1 department. The state board shall set such appeal for
2 hearing either in its office in the capital or such county
3 seat as the board considers advisable to facilitate the
4 performance of its duties or to accommodate parties in
5 interest and shall give to the appellant and to the county
6 board at least 15 calendar days notice of the time and
7 place of such hearing.

8 (2) At the time of giving such notice, the state board
9 may require the county board to certify to it the minutes of
10 the proceedings resulting in such action and all testimony
11 taken in connection therewith. The state board may, in its
12 discretion, determine the appeal on such record if all
13 parties receive a copy of the transcript and are permitted
14 to submit additional sworn statements, or the state board
15 may hear further testimony. For the purpose of expediting
16 its work, the state board may refer any such appeal to one
17 of its members and the person so designated shall have and
18 exercise all the powers of the board in conducting such
19 hearings and shall, as soon as possible thereafter, report
20 the proceedings, together with a transcript of the testimony
21 received, to the board and the state board shall determine
22 such appeal on the record so made.

23 (3) For the purpose of expediting its work, the state
24 board may employ hearings examiners to hear appeals from the
25 county tax appeal boards. The hearing examiner shall have

1 and exercise all powers of the state board in conducting
2 such hearings and shall, as soon as possible thereafter,
3 report the proceedings, together with a transcript OR A TAPE
4 RECORDING of the testimony received HEARING, to the board.
5 The state board shall determine the appeal on the record
6 made by the hearing examiner. The board in its discretion
7 shall establish the qualifications for hearings examiners
8 and may employ qualified members of county tax appeal
9 boards. However, in no case may a member of a county tax
10 appeal board serve as hearing examiner in a matter which he
11 heard originally.

12 (3)(4) On all hearings at county seats throughout the
13 state, the state board or the member designated to conduct a
14 hearing may employ the local court reporter or other
15 competent stenographer to take and transcribe the testimony
16 received and the cost thereof may be paid out of the general
17 appropriation for the board.

18 (4)(5) In connection with any appeal under this
19 section, the state board shall not be bound by common law
20 and statutory rules of evidence or rules of discovery and
21 may affirm, reverse, or modify any decision. The decision
22 of the state tax appeal board shall be final and binding
23 upon all interested parties unless reversed or modified by
24 judicial review. To the extent this section is in conflict
25 with the Montana Administrative Procedure Act, this section

~~1 shall supersede that act. The state tax appeal board may not
2 amend or repeal any administrative rule of the department.
3 The state tax appeal board must give an administrative rule
4 full effect unless the board finds any such rule arbitrary,
5 capricious, or otherwise unlawful.~~

6 NEW SECTION. Section 77. Repealer. Sections 15-30-112
7 through 15-30-117, MCA, are repealed.

8 NEW SECTION. Section 78. Repealer. Sections 15-30-121
9 through 15-30-123, MCA, are repealed.

10 NEW SECTION. Section 79. Repealer. Sections 15-30-125
11 and 15-30-126, MCA, are repealed.

12 NEW SECTION. Section 80. Repealer. Section 15-30-156,
13 MCA, is repealed.

14 NEW SECTION. Section 81. Repealer. Section 15-30-157,
15 MCA, is repealed.

16 NEW SECTION. Section 82. Repealer. Section 15-30-161,
17 MCA, is repealed.

18 NEW SECTION. Section 83. Repealer. Section 15-31-116,
19 MCA, is repealed.

20 NEW SECTION. Section 84. Repealer. Sections 15-31-124
21 through 15-31-127, MCA, are repealed.

22 NEW SECTION. SECTION 85. REPEALER. SECTIONS
23 15-31-201 AND 15-31-208, MCA, ARE REPEALED.

24 NEW SECTION. Section 86. Repealer. Section SECTIONS
25 15-31-553 15-31-551 AND 15-31-551, MCA, is repealed.

1 NEW SECTION. Section 87. Repealer. Sections 15-31-601
2 and 15-31-602, MCA, are repealed.

3 NEW SECTION. Section 88. Repealer. Sections 15-31-604
4 through 15-31-607, MCA, are repealed.

5 NEW SECTION. Section 89. Repealer. Sections 15-32-101
6 and 15-32-103 through 15-32-106, MCA, are repealed.

7 NEW SECTION. Section 90. Repealer. Sections
8 15-32-108, 15-32-109, 15-32-201, 15-32-202, 15-32-301
9 through 15-32-303, and 15-32-401 through 15-32-407, MCA, are
10 repealed.

11 NEW SECTION. Section 91. Repealer. Section 15-35-105,
12 MCA, is repealed.

13 NEW SECTION. Section 92. Repealer. Section 15-36-107,
14 MCA, is repealed.

15 NEW SECTION. Section 93. Repealer. Sections 15-37-201
16 through 15-37-207, 15-37-210 through 15-37-212, and
17 15-37-221, MCA, are repealed.

18 NEW SECTION. Section 94. Repealer. Section 15-38-107,
19 MCA, is repealed.

20 NEW SECTION. Section 95. Repealer. Section 15-51-111,
21 MCA, is repealed.

22 NEW SECTION. Section 96. Repealer. Section 15-53-111,
23 MCA, is repealed.

24 NEW SECTION. Section 97. Repealer. Section 15-53-112,
25 MCA, is repealed.

1 NEW SECTION. Section 98. Repealer. Sections 15-54-101
 2 through 15-54-105, 15-54-111 through 15-54-113, MCA, are
 3 repealed.

4 NEW SECTION. Section 99. Repealer. Sections 15-56-101
 5 through 15-56-108 and 15-56-111 through 15-56-113, MCA, are
 6 repealed.

7 NEW SECTION. Section 100. Repealer. Sections
 8 15-57-101 through 15-57-110, MCA, are repealed.

9 NEW SECTION. Section 101. Repealer. Sections
 10 15-58-101, 15-58-102, 15-58-104 through 15-58-111, and
 11 15-58-121 through 15-58-126, MCA, are repealed.

12 NEW SECTION. Section 102. Repealer. Sections
 13 15-59-101, 15-59-102, 15-59-104 through 15-59-110, 15-59-112
 14 through 15-59-114, 15-59-121, 15-59-201, 15-59-203, THROUGH
 15 15-59-210, 15-59-212 through 15-59-214, and 15-59-221, MCA,
 16 are repealed.

17 NEW SECTION. Section 103. Repealer. Section
 18 15-70-330, MCA, is repealed.

19 NEW SECTION. Section 104. Repealer. Section
 20 16-11-101, MCA, is repealed.

21 ~~NEW SECTION. Section 113. Repealer. Section~~
 22 ~~19-9-1005, MCA, is repealed.~~

23 NEW SECTION. Section 105. Repealer. Sections 23-2-714
 24 and 23-2-715, MCA, are repealed.

25 ~~NEW SECTION. Section 115. Repealer. Section~~

1 ~~35-18-503, MCA, is repealed.~~

2 NEW SECTION. Section 106. Repealer. Section 61-3-524,
 3 MCA, is repealed.

4 NEW SECTION. Section 107. Repealer. Section
 5 82-11-133, MCA, is repealed.

6 NEW SECTION. Section 108. Extension of authority. Any
 7 existing authority of the department of revenue ~~and--the~~
 8 ~~state--tax--appeal-board~~ to make rules on the subject of the
 9 provisions of ~~this act~~ SECTIONS 1 THROUGH 112 is extended to
 10 the provisions of this act.

11 NEW SECTION. Section 109. Codification instructions.
 12 (1) Sections ~~16~~ 12 and ~~19~~ 40 are intended to be codified as
 13 an integral part of Title 15, chapter 30, part 1, and the
 14 provisions of Title 15, chapter 30, part 1, apply to
 15 sections ~~16~~ 12 and ~~19~~ 40.

16 (2) Sections 37 ~~44~~ 43 and 39 ~~46~~ 45 are intended to be
 17 codified as an integral part of Title 15, chapter 31, part
 18 1, and the provisions of Title 15, chapter 31, part 1, apply
 19 to sections 37 ~~44~~ 43 and 39 ~~46~~ 45.

20 ~~{3}--Sections 41-48 through 49-55 are--intended--to--be~~
 21 ~~codified--as--an--integral--part--of--Title--15,--chapter--31,--part~~
 22 ~~37,--and--the--provisions--of--Title--15,--chapter--31,--apply--to~~
 23 ~~sections 41-48 through 49-55.~~

24 ~~{4}{3}~~ Sections 57 ~~63~~ 49 through 61 ~~67~~ 53 are intended
 25 to be codified as an integral part of Title 15, chapter 1,

1 and the provisions of Title 15 apply to sections 57 63 49
2 through 61 67 53. It is also intended that section 15-1-206
3 be renumbered and codified together with sections 57 63 49
4 through 61 67 53.

5 (5)(4) Section 15-32-203 is intended to be renumbered
6 and codified as an integral part of Title 15, chapter 32,
7 part 1.

8 NEW SECTION. Section 110. Severability. If a part of
9 ~~this act~~ SECTIONS 1 THROUGH 112 is invalid, all valid parts
10 that are severable from the invalid part remain in effect.
11 If a part of ~~this act~~ SECTIONS 1 THROUGH 112 is invalid in
12 one or more of its applications, the part remains in effect
13 in all valid applications that are severable from the
14 invalid applications.

15 ~~NEW SECTION.--SECTION-128.--COORDINATION--INSTRUCTION--~~
16 ~~IF-SENATE-BILL-NO.--1227--INCLUDING--THAT--SECTION--AMENDING~~
17 ~~15-2-3017--IS--PASSED--AND-APPROVED7-SECTION-85-OF-THIS-ACT7~~
18 ~~AMENDING-15-2-3017-IS-VOID7~~

19 NEW SECTION. Section 111. Applicability. (1) Unless
20 otherwise specified or required by a particular section of
21 ~~this act or this section~~ IN SECTIONS 1 THROUGH 112, the
22 provisions of ~~this act~~ SECTIONS 1 THROUGH 112 shall apply
23 retroactively, within the meaning of 1-2-109, to tax years
24 beginning after December 31, 1986.

25 (2) Sections ~~1--through--37~~ 78 84 69 through 84, ~~1017~~

1 ~~106~~ 92, ~~110~~, ~~115~~ 76, 93, 98 through ~~110~~ 119 102, and ~~114~~ 122
2 105 through ~~116~~ 123 AND 106, apply beginning January 1,
3 1988.

4 (3) SECTIONS 297--307--AND--31 22 THROUGH 25 APPLY
5 RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO ALL SMALL
6 BUSINESS CORPORATIONS THAT HAVE MADE A VALID ELECTION UNDER
7 SUBCHAPTER S OF CHAPTER 1 OF THE INTERNAL REVENUE CODE ON OR
8 BEFORE DECEMBER 31, 1986, AND FOR TAX YEARS ENDING AFTER
9 DECEMBER 31, 1986.

10 NEW SECTION. Section 112. Effective date --
11 TERMINATION DATE. (1) ~~this act is~~ SECTIONS 1 THROUGH 112 ARE
12 effective on passage and approval.

13 (2) SECTION 40 TERMINATES DECEMBER 31, 1989.

14 NEW SECTION. SECTION 113. DEFINITIONS. FOR PURPOSES
15 OF [SECTIONS 113 THROUGH 187] UNLESS THE CONTEXT REQUIRES
16 OTHERWISE, THE FOLLOWING DEFINITIONS APPLY:

17 (1) "BUYING", "SELLING", "BUY", "SELL", OR "SALE"
18 MEANS THE TRANSFER OF PROPERTY FOR CONSIDERATION OR THE
19 PERFORMANCE OF SERVICE FOR CONSIDERATION.

20 (2) "CONSTRUCTION" MEANS:

21 (A) THE BUILDING, ALTERING, REPAIRING, OR DEMOLISHING
22 IN THE ORDINARY COURSE OF BUSINESS OF ANY:

23 (I) ROAD, HIGHWAY, BRIDGE, PARKING AREA, OR RELATED
24 PROJECT;

25 (II) BUILDING, STADIUM, OR OTHER STRUCTURE;

1 (III) AIRPORT, SUBWAY, OR SIMILAR FACILITY;
 2 (IV) PARK, TRAIL, ATHLETIC FIELD, GOLF COURSE, OR
 3 SIMILAR FACILITY;
 4 (V) DAM, RESERVOIR, CANAL, DITCH, OR SIMILAR FACILITY;
 5 (VI) SEWAGE OR WATER TREATMENT FACILITY, POWER
 6 GENERATING PLANT, PUMP STATION, NATURAL GAS COMPRESSING
 7 STATION, GAS PROCESSING PLANT, COAL GASIFICATION PLANT,
 8 REFINERY, DISTILLERY, OR SIMILAR FACILITY;
 9 (VII) SEWAGE, WATER, GAS, OR OTHER PIPELINE;
 10 (VIII) TRANSMISSION LINE;
 11 (IX) RADIO, TELEVISION, OR OTHER TOWER;
 12 (X) WATER, OIL, OR OTHER STORAGE TANK;
 13 (XI) SHAFT, TUNNEL, OR OTHER MINING APPURTENANCE; OR
 14 (XII) MICROWAVE STATION OR SIMILAR FACILITY;
 15 (B) THE LEVELING OR CLEARING OF LAND;
 16 (C) THE EXCAVATING OF EARTH;
 17 (D) THE DRILLING OF WELLS OF ANY TYPE, INCLUDING
 18 SEISMOGRAPH SHOT HOLES OR CORE DRILLING; OR
 19 (E) ANY SIMILAR WORK.
 20 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.
 21 (4) "ENGAGING IN BUSINESS" MEANS CARRYING ON OR
 22 CAUSING TO BE CARRIED ON ANY ACTIVITY WITH THE PURPOSE OF
 23 DIRECT OR INDIRECT BENEFIT.
 24 (5) "FOOD PRODUCT FOR HUMAN CONSUMPTION":
 25 (A) MEANS AND INCLUDES:

1 (I) CEREALS AND CEREAL PRODUCTS, MARGARINE, MEAT AND
 2 MEAT PRODUCTS, FISH AND FISH PRODUCTS, EGGS AND EGG
 3 PRODUCTS, VEGETABLES AND VEGETABLE PRODUCTS, FRUIT AND FRUIT
 4 PRODUCTS, SPICES, SALT, SUGAR, SUGAR SUBSTITUTES, SUGAR
 5 PRODUCTS OTHER THAN CANDY AND CONFECTIONERIES, COFFEE AND
 6 COFFEE SUBSTITUTES, TEA, AND COCOA AND COCOA PRODUCTS OTHER
 7 THAN CANDY OR CONFECTIONERIES;
 8 (II) MILK AND CREAM AND THEIR PRODUCTS;
 9 (III) ALL FRUIT JUICES CONTAINING 15% OR MORE REAL
 10 FRUIT JUICE, VEGETABLE JUICES, AND OTHER BEVERAGES, EXCEPT
 11 BOTTLED WATER, SPIRITUOUS, MALT, OR VARIOUS OTHER LIQUORS,
 12 OR CARBONATED BEVERAGES, WHETHER LIQUID OR FROZEN; AND
 13 (B) DOES NOT MEAN OR INCLUDE MEDICINES OR
 14 PREPARATIONS, IN LIQUID, POWDERED, GRANULAR, BOTTLED,
 15 CAPSULE, LOZENGE, OR PILL FORM, SOLD AS A DIETARY SUPPLEMENT
 16 OR ADJUNCT NOT PRESCRIBED BY A LICENSED PHYSICIAN.
 17 (6) (A) "GROSS RECEIPTS", IN ADDITION TO THE OTHER
 18 MEANINGS PROVIDED IN THIS SUBSECTION (6), MEANS THE TOTAL
 19 AMOUNT OF MONEY OR THE VALUE OF OTHER CONSIDERATION RECEIVED
 20 FROM SELLING PROPERTY IN MONTANA, FROM LEASING PROPERTY USED
 21 IN MONTANA, OR FROM PERFORMING SERVICES IN MONTANA. THE TERM
 22 INCLUDES ALL RECEIPTS FROM THE SALE OF TANGIBLE PERSONAL
 23 PROPERTY HANDLED ON CONSIGNMENT BUT EXCLUDES CASH DISCOUNTS
 24 ALLOWED AND TAKEN AND ANY TYPE OF TIME-PRICE DIFFERENTIAL.
 25 (B) IN AN EXCHANGE IN WHICH THE MONEY OR OTHER

1 CONSIDERATION RECEIVED DOES NOT REPRESENT THE VALUE OF THE
 2 PROPERTY OR SERVICE EXCHANGED, GROSS RECEIPTS MEANS THE
 3 REASONABLE VALUE OF THE PROPERTY OR SERVICE EXCHANGED.

4 (C) (I) EXCEPT AS PROVIDED IN [SECTION 165], WHEN THE
 5 SALE OF PROPERTY OR SERVICE IS MADE UNDER ANY TYPE OF CHARGE
 6 OR CONDITIONAL OR TIME-SALES CONTRACT OR THE LEASING OF
 7 PROPERTY IS MADE UNDER A LEASING CONTRACT, THE SELLER OR
 8 LESSOR SHALL TREAT ALL RECEIPTS, EXCLUDING ANY TYPE OF
 9 TIME-PRICE DIFFERENTIAL, UNDER SUCH CONTRACTS AS GROSS
 10 RECEIPTS AT THE TIME OF THE SALE.

11 (II) IF THE SELLER OR LESSOR TRANSFERS HIS INTEREST IN
 12 ANY SUCH CONTRACT TO A THIRD PERSON, THE SELLER OR LESSOR
 13 SHALL PAY THE SALES TAX OR USE TAX UPON THE FULL SALE OR
 14 LEASING CONTRACT AMOUNT, EXCLUDING ANY TYPE OF TIME-PRICE
 15 DIFFERENTIAL.

16 (D) GROSS RECEIPTS INCLUDES ALL AMOUNTS PAID BY
 17 MEMBERS OF ANY COOPERATIVE ASSOCIATION OR SIMILAR
 18 ORGANIZATION FOR SALES OR LEASES OF PERSONAL PROPERTY OR
 19 PERFORMANCE OF SERVICES BY SUCH ORGANIZATION.

20 (7) "LEASE" OR "LEASING" MEANS AN ARRANGEMENT IN
 21 WHICH, FOR A CONSIDERATION, PROPERTY IS USED FOR OR BY A
 22 PERSON OTHER THAN THE OWNER OF THE PROPERTY.

23 (8) "MANUFACTURING" MEANS COMBINING OR PROCESSING
 24 COMPONENTS OR MATERIALS TO INCREASE THEIR VALUE FOR SALE IN
 25 THE ORDINARY COURSE OF BUSINESS. THE TERM DOES NOT INCLUDE

1 CONSTRUCTION.

2 (9) "MEDICAL SERVICES" MEANS A SERVICE PERFORMED BY A
 3 PERSON LICENSED TO PRACTICE MEDICINE, OSTEOPATHY, DENTISTRY,
 4 PODIATRY, OPTOMETRY, CHIROPRACTIC, OR PSYCHOLOGY AS A
 5 REGULAR PART OF HIS BUSINESS ACTIVITIES AND APPLIED
 6 EXTERNALLY OR INTERNALLY TO THE HUMAN BODY OR MIND FOR THE
 7 DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF
 8 DISEASE.

9 (10) "MEDICINE" OR "DRUG" MEANS AND INCLUDES ANY
 10 SUBSTANCE OR PREPARATION INTENDED FOR USE BY EXTERNAL OR
 11 INTERNAL APPLICATION TO THE HUMAN BODY OR MIND IN THE
 12 DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF
 13 DISEASE, WHICH SUBSTANCE OR PREPARATION IS REQUIRED BY LAW
 14 OR REGULATION TO BE PRESCRIBED BY A PERSON LICENSED TO
 15 PRESCRIBE SUCH DRUG OR MEDICINE.

16 (11) "PERMIT" MEANS A SELLER'S PERMIT AS DESCRIBED IN
 17 [SECTION 156].

18 (12) "PERSON" MEANS:

19 (A) AN INDIVIDUAL, ESTATE, TRUST, RECEIVER,
 20 COOPERATIVE ASSOCIATION, CLUB, CORPORATION, COMPANY, FIRM,
 21 PARTNERSHIP, JOINT VENTURE, SYNDICATE, OR OTHER ENTITY,
 22 INCLUDING ANY GAS, WATER, OR ELECTRIC UTILITY OWNED OR
 23 OPERATED BY A COUNTY, MUNICIPALITY, OR OTHER POLITICAL
 24 SUBDIVISION OF THE STATE; OR

25 (B) THE UNITED STATES OR ANY AGENCY OR INSTRUMENTALITY

1 OF THE UNITED STATES OR THE STATE OF MONTANA OR ANY
 2 POLITICAL SUBDIVISION OF THE STATE.

3 (13) "SALES TAX" AND "USE TAX" MEAN THE APPLICABLE TAX
 4 IMPOSED BY [SECTION 114].

5 (14) (A) "SERVICE" MEANS ANY ACTIVITY ENGAGED IN FOR
 6 ANOTHER PERSON FOR A CONSIDERATION, WHICH ACTIVITY INVOLVES
 7 THE PERFORMANCE OF A SERVICE AS DISTINGUISHED FROM THE SALE
 8 OR LEASE OF PROPERTY. THE TERM INCLUDES ACTIVITIES PERFORMED
 9 BY A PERSON FOR ITS MEMBERS OR SHAREHOLDERS AND CONSTRUCTION
 10 ACTIVITIES AND ALL TANGIBLE PERSONAL PROPERTY THAT WILL
 11 BECOME AN INGREDIENT OR COMPONENT PART OF A CONSTRUCTION
 12 PROJECT.

13 (B) IN DETERMINING WHAT A SERVICE IS, THE INTENDED
 14 USE, PRINCIPAL OBJECTIVE, OR ULTIMATE OBJECTIVE OF THE
 15 CONTRACTING PARTIES IS IRRELEVANT.

16 (15) "THERAPEUTIC AND PROSTHETIC DEVICES" INCLUDES BUT
 17 IS NOT LIMITED TO PRESCRIPTION EYEGLASSES, CONTACT LENSES,
 18 DENTURES, AND ARTIFICIAL LIMBS, PRESCRIBED OR ORDERED BY A
 19 PERSON LICENSED TO PRACTICE MEDICINE, OSTEOPATHY, DENTISTRY,
 20 PODIATRY, OPTOMETRY, OR CHIROPRACTIC.

21 (16) "USE" OR "USING" INCLUDES USE, CONSUMPTION, OR
 22 STORAGE OTHER THAN STORAGE FOR SUBSEQUENT SALE, IN THE
 23 ORDINARY COURSE OF BUSINESS, OR FOR USE SOLELY OUTSIDE THIS
 24 STATE.

25 NEW SECTION. SECTION 114. IMPOSITION AND RATE OF

1 SALES TAX AND USE TAX. (1) A SALES TAX OF 5% IS IMPOSED ON
 2 ALL GROSS RECEIPTS, AS DEFINED IN [SECTION 113], FOR THE
 3 PRIVILEGE OF ENGAGING IN BUSINESS IN THIS STATE.

4 (2) FOR THE PRIVILEGE OF USING PROPERTY IN THIS STATE,
 5 THERE IS IMPOSED ON THE PERSON USING THE PROPERTY A USE TAX
 6 EQUAL TO 5% OF THE VALUE OF THE PROPERTY THAT WAS:

7 (A) MANUFACTURED BY THE PERSON USING THE PROPERTY IN
 8 THIS STATE;

9 (B) ACQUIRED OUTSIDE THIS STATE AS THE RESULT OF A
 10 TRANSACTION THAT WOULD HAVE BEEN SUBJECT TO THE SALES TAX
 11 HAD IT OCCURRED WITHIN THIS STATE; OR

12 (C) ACQUIRED AS THE RESULT OF A TRANSACTION THAT WAS
 13 NOT INITIALLY SUBJECT TO THE USE TAX IMPOSED BY SUBSECTION
 14 (2)(B) OR THE SALES TAX IMPOSED BY SUBSECTION (1) BUT WHICH
 15 TRANSACTION, BECAUSE OF THE BUYER'S SUBSEQUENT USE OF THE
 16 PROPERTY, IS SUBJECT TO THE SALES TAX OR USE TAX.

17 (3) FOR THE PRIVILEGE OF USING SERVICES RENDERED IN
 18 THIS STATE, THERE IS IMPOSED ON THE PERSON USING SUCH
 19 SERVICES A USE TAX EQUAL TO 5% OF THE VALUE OF THE SERVICES
 20 AT THE TIME AT WHICH THEY WERE RENDERED. SERVICES TAXABLE
 21 UNDER THIS SECTION MUST HAVE BEEN RENDERED AS THE RESULT OF
 22 A TRANSACTION THAT WAS NOT INITIALLY SUBJECT TO THE SALES
 23 TAX OR USE TAX BUT WHICH TRANSACTION, BECAUSE OF THE BUYER'S
 24 SUBSEQUENT USE OF THE SERVICE, IS SUBJECT TO THE SALES TAX
 25 OR USE TAX.

1 (4) FOR PURPOSES OF THIS SECTION, THE VALUE OF
 2 PROPERTY MUST BE DETERMINED AS OF THE TIME OF ACQUISITION,
 3 INTRODUCTION INTO THIS STATE, OR CONVERSION TO USE,
 4 WHICHEVER IS LATER.

5 NEW SECTION. SECTION 115. PRESUMPTION OF TAXABILITY
 6 -- VALUE. (1) IN ORDER TO PREVENT EVASION OF THE SALES TAX
 7 OR USE TAX AND TO AID IN ITS ADMINISTRATION, IT IS PRESUMED
 8 THAT:

9 (A) ALL RECEIPTS OF A PERSON ENGAGING IN BUSINESS ARE
 10 SUBJECT TO THE SALES TAX OR USE TAX; AND

11 (B) ALL PROPERTY BOUGHT OR SOLD BY ANY PERSON FOR
 12 DELIVERY INTO THIS STATE IS BOUGHT OR SOLD FOR A TAXABLE USE
 13 IN THIS STATE.

14 (2) IN DETERMINING THE AMOUNT OF TAX DUE ON THE USE OF
 15 PROPERTY OR SERVICES, IT IS PRESUMED, IN THE ABSENCE OF
 16 PREPONDERANT EVIDENCE OF ANOTHER VALUE, THAT VALUE MEANS THE
 17 TOTAL AMOUNT OF PROPERTY OR THE REASONABLE VALUE OF OTHER
 18 CONSIDERATION PAID FOR THE USE OF THE PROPERTY OR SERVICE,
 19 EXCLUSIVE OF ANY TYPE OF TAX-PRICE DIFFERENTIAL. HOWEVER, IN
 20 AN EXCHANGE IN WHICH THE AMOUNT OF MONEY PAID DOES NOT
 21 REPRESENT THE VALUE OF THE PROPERTY OR SERVICE PURCHASED,
 22 THE USE TAX MUST BE IMPOSED ON THE REASONABLE VALUE OF THE
 23 PROPERTY OR SERVICE PURCHASED.

24 NEW SECTION. SECTION 116. SEPARATE STATEMENT OF TAX.

25 (1) IF THE SALES TAX OR USE TAX IS STATED SEPARATELY ON THE

1 BOOKS OF THE SELLER OR LESSOR AND THE TOTAL AMOUNT OF TAX
 2 STATED SEPARATELY ON TRANSACTIONS REPORTABLE WITHIN THE
 3 REPORTING PERIOD IS IN EXCESS OF THE AMOUNT OF SALES TAX OR
 4 USE TAX OTHERWISE PAYABLE ON THOSE TRANSACTIONS, THE EXCESS
 5 AMOUNT OF TAX OTHERWISE PAYABLE AND STATED ON THE
 6 TRANSACTIONS WITHIN THE REPORTING PERIOD MUST BE INCLUDED IN
 7 GROSS RECEIPTS.

8 (2) IF THE SALES TAX OR USE TAX IS NOT STATED
 9 SEPARATELY ON TRANSACTIONS, THE GROSS RECEIPTS FOR SALES TAX
 10 AND USE TAX PURPOSES INCLUDE THE TOTAL AMOUNTS RECEIVED,
 11 WITH NO DEDUCTION FOR THE SALES TAX OR USE TAX.

12 NEW SECTION. SECTION 117. LIABILITY OF USER FOR
 13 PAYMENT OF USE TAX. (1) A PERSON IN THIS STATE WHO USES
 14 PROPERTY IS LIABLE TO THE STATE FOR PAYMENT OF THE USE TAX
 15 IF THE TAX IS PAYABLE ON THE VALUE OF THE PROPERTY BUT HAS
 16 NOT BEEN PAID.

17 (2) THE LIABILITY IMPOSED BY THIS SECTION IS
 18 DISCHARGED IF THE BUYER HAS PAID THE USE TAX TO THE SELLER
 19 FOR PAYMENT TO THE DEPARTMENT.

20 NEW SECTION. SECTION 118. AGENTS FOR COLLECTION OF
 21 SALES TAX AND USE TAX. (1) (A) A PERSON WHO PERFORMS OR
 22 ATTEMPTS TO PERFORM AN ACTIVITY WITHIN THIS STATE THAT
 23 ATTEMPTS TO EXPLOIT THIS STATE'S MARKETS, WHO SELLS PROPERTY
 24 OR SERVICES FOR USE IN THIS STATE, AND WHO IS NOT SUBJECT TO
 25 THE SALES TAX OR USE TAX ON RECEIPTS FROM THESE SALES SHALL

1 COLLECT THE SALES TAX OR USE TAX FROM THE BUYER AND PAY THE
2 TAX COLLECTED TO THE DEPARTMENT.

3 (B) "ACTIVITY", FOR THE PURPOSES OF THIS SECTION,
4 INCLUDES BUT IS NOT LIMITED TO ENGAGING IN ANY OF THE
5 FOLLOWING IN THIS STATE:

6 (I) MAINTAINING AN OFFICE OR OTHER PLACE OF BUSINESS
7 THAT SOLICITS ORDERS THROUGH EMPLOYEES OR INDEPENDENT
8 CONTRACTORS;

9 (II) CANVASSING;

10 (III) DEMONSTRATING;

11 (IV) COLLECTING MONEY;

12 (V) WAREHOUSING OR STORING MERCHANDISE; OR

13 (VI) DELIVERING OR DISTRIBUTING PRODUCTS AS A
14 CONSEQUENCE OF AN ADVERTISING OR OTHER SALES PROGRAM
15 DIRECTED AT POTENTIAL CUSTOMERS.

16 (2) TO ENSURE ORDERLY AND EFFICIENT COLLECTION OF THE
17 TAX IMPOSED BY [SECTIONS 113 THROUGH 187], IF ANY
18 APPLICATION OF THIS SECTION IS HELD INVALID, THE SECTION'S
19 APPLICATION TO OTHER SITUATIONS OR PERSONS IS NOT AFFECTED.

20 NEW SECTION. SECTION 119. NONTAXABLE TRANSACTION
21 CERTIFICATE. (1) A NONTAXABLE TRANSACTION CERTIFICATE
22 EXECUTED BY A BUYER OR LESSEE MUST BE IN THE POSSESSION OF
23 THE SELLER OR LESSOR AT THE TIME A NONTAXABLE TRANSACTION
24 OCCURS.

25 (2) IF THE SELLER OR LESSOR IS NOT IN POSSESSION OF A

1 NONTAXABLE TRANSACTION CERTIFICATE WITHIN 60 DAYS FROM THE
2 DATE NOTICE OF THE REQUIREMENT FOR POSSESSION OF A
3 NONTAXABLE TRANSACTION CERTIFICATE IS GIVEN TO HIM BY THE
4 DEPARTMENT, ALL DEDUCTIONS CLAIMED BY HIM THAT REQUIRE
5 DELIVERY OF A NONTAXABLE TRANSACTION CERTIFICATE ARE
6 DISALLOWED.

7 (3) A NONTAXABLE TRANSACTION CERTIFICATE MUST CONTAIN
8 THE INFORMATION AND BE IN THE FORM PRESCRIBED BY THE
9 DEPARTMENT.

10 (4) ONLY A BUYER OR LESSEE WHO HAS REGISTERED WITH THE
11 DEPARTMENT AND WHOSE PERMIT IS NOT SUSPENDED OR REVOKED MAY
12 BE ALLOWED TO EXECUTE A NONTAXABLE TRANSACTION CERTIFICATE.

13 (5) IF THE SELLER OR LESSOR ACCEPTS A NONTAXABLE
14 TRANSACTION CERTIFICATE WITHIN THE REQUIRED TIME AND
15 BELIEVES IN GOOD FAITH THAT THE BUYER OR LESSEE WILL EMPLOY
16 THE PROPERTY OR SERVICE TRANSFERRED IN A NONTAXABLE MANNER,
17 THE PROPERLY EXECUTED NONTAXABLE TRANSACTION CERTIFICATE IS
18 CONSIDERED CONCLUSIVE EVIDENCE THAT THE PROCEEDS FROM THE
19 TRANSACTION ARE DEDUCTIBLE FROM THE SELLER'S OR LESSOR'S
20 GROSS RECEIPTS.

21 NEW SECTION. SECTION 120. GOVERNMENT AGENCIES AND
22 UTILITIES EXEMPT. (1) ALL RECEIPTS OF THE UNITED STATES OR
23 ANY AGENCY OR INSTRUMENTALITY OF THE UNITED STATES OR OF
24 THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE ARE
25 EXEMPTED FROM THE SALES TAX AND USE TAX.

1 (2) ALL RECEIPTS FROM THE SALE OF GAS, WATER,
 2 ELECTRICITY, ANY FUEL OR ENERGY USED TO PRODUCE HEATING,
 3 COOLING, OR LIGHTING, AND TELEPHONE SERVICE INCLUDING
 4 LONG-DISTANCE CHARGES AND ACCESS CHARGES ARE EXEMPT FROM THE
 5 SALES TAX AND USE TAX.

6 NEW SECTION. SECTION 121. EXEMPTION -- FOOD PRODUCTS.
 7 (1) EXCEPT AS PROVIDED IN SUBSECTION (2), RECEIPTS FROM
 8 SALES OF FOOD PRODUCTS FOR HUMAN CONSUMPTION ARE EXEMPT FROM
 9 THE SALES TAX.

10 (2) THE GROSS RECEIPTS FROM FOOD PRODUCTS SOLD IN THE
 11 FOLLOWING MANNER ARE NOT EXEMPT FROM THE SALES TAX:

12 (A) ANY FOOD PRODUCTS SERVED AS MEALS ON OR OFF THE
 13 PREMISES OF THE RETAILER;

14 (B) MILK OR CREAM SOLD AS BEVERAGES COMMONLY REFERRED
 15 TO AS MILK SHAKES, MALTED MILKS, OR ANY SIMILAR BEVERAGE;

16 (C) FOOD PRODUCTS FURNISHED, PREPARED, OR SERVED FOR
 17 CONSUMPTION AT TABLES, CHAIRS, OR COUNTERS OR FROM TRAYS,
 18 GLASSES, DISHES, OR OTHER TABLEWARE, WHETHER PROVIDED BY THE
 19 RETAILER OR BY A PERSON WITH WHOM THE RETAILER CONTRACTS TO
 20 FURNISH, PREPARE, OR SERVE FOOD PRODUCTS TO OTHERS;

21 (D) FOOD PRODUCTS SOLD FOR IMMEDIATE CONSUMPTION ON OR
 22 NEAR A LOCATION AT WHICH PARKING FACILITIES ARE PROVIDED
 23 PRIMARILY FOR THE EASE OF PATRONS IN CONSUMING THE PRODUCTS
 24 PURCHASED AT THE LOCATION, EVEN THOUGH SUCH PRODUCTS ARE
 25 SOLD ON A "TAKE OUT", "TO GO", OR "U-BAKE" ORDER AND ARE

1 ACTUALLY PACKAGED OR WRAPPED AND TAKEN FROM THE PREMISES OF
 2 THE RETAILER; OR

3 (E) FOOD PRODUCTS SOLD FOR CONSUMPTION WITHIN A PLACE
 4 THAT CHARGES AN ADMISSION FEE.

5 NEW SECTION. SECTION 122. EXEMPTION -- MEDICINES,
 6 DRUGS, AND MEDICAL SERVICES. (1) THE GROSS RECEIPTS FROM THE
 7 SALE OF MEDICINES, DRUGS, AND THERAPEUTIC AND PROSTHETIC
 8 DEVICES ARE EXEMPT FROM THE SALES TAX.

9 (2) THE GROSS RECEIPTS FROM THE SALE OF MEDICAL
 10 SERVICES ARE EXEMPT FROM THE SALES TAX.

11 NEW SECTION. SECTION 123. EXEMPTION -- WAGES. THE
 12 RECEIPTS OF AN EMPLOYEE FROM AN EMPLOYER FOR WAGES, SALARY,
 13 COMMISSIONS, OR ANY OTHER FORM OF REMUNERATION FOR PERSONAL
 14 SERVICES ARE EXEMPT FROM THE SALES TAX.

15 NEW SECTION. SECTION 124. EXEMPTION -- AGRICULTURAL
 16 PRODUCTS. THE RECEIPTS OF A GROWER, PRODUCER, TRAPPER, OR
 17 NONPROFIT MARKETING ASSOCIATION FROM THE SALE OF LIVESTOCK,
 18 LIVE POULTRY, UNPROCESSED AGRICULTURAL PRODUCTS, HIDES, OR
 19 PELTS ARE EXEMPT FROM THE SALES TAX. PERSONS ENGAGED IN THE
 20 BUSINESS OF BUYING AND SELLING WOOL OR MOHAIR OR OF BUYING
 21 AND SELLING LIVESTOCK ON THEIR OWN ACCOUNT AND WITHOUT THE
 22 SERVICES OF A BROKER, AUCTIONEER, OR OTHER AGENT ARE
 23 CONSIDERED PRODUCERS FOR THE PURPOSES OF THIS SECTION.

24 NEW SECTION. SECTION 125. EXEMPTION -- LIVESTOCK
 25 FEEDING. A PERSON'S RECEIPTS DERIVED FROM FEEDING,

1 PASTURING, PENNING, OR HANDLING OR THE TRAINING OF LIVESTOCK
 2 PRIOR TO SALE ARE EXEMPT FROM THE SALES TAX.

3 NEW SECTION. SECTION 126. EXEMPTION -- VEHICLES. THE
 4 RECEIPTS FROM THE SALE OF ANY VEHICLE UPON WHICH A TAX
 5 PURSUANT TO [SECTIONS 113 THROUGH 187] HAS BEEN PAID OR
 6 WHICH WAS PURCHASED PRIOR TO [THE APPLICABILITY DATE OF THIS
 7 ACT] ARE EXEMPT FROM THE SALES TAX. A REGISTRATION
 8 CERTIFICATE SHOWING THAT THE VEHICLE WAS REGISTERED IN THIS
 9 STATE PRIOR TO [THE APPLICABILITY DATE OF THIS ACT] IS
 10 CONCLUSIVE PROOF THAT IT WAS PURCHASED BEFORE IT WAS SUBJECT
 11 TO TAXATION UNDER [SECTIONS 113 THROUGH 187] AND IS EXEMPT
 12 UNDER THIS SECTION.

13 NEW SECTION. SECTION 127. EXEMPTION -- INSURANCE
 14 COMPANIES. THE RECEIPTS OF AN INSURANCE COMPANY OR ANY OF
 15 ITS AGENTS FROM PREMIUMS ARE EXEMPT FROM THE SALES TAX.

16 NEW SECTION. SECTION 128. EXEMPTION -- COMMISSIONS ON
 17 REAL ESTATE AND SECURITIES -- DIVIDENDS AND INTEREST. (1)
 18 THE RECEIPTS OF INTEREST ON MONEY LOANED OR DEPOSITED OR
 19 DIVIDENDS OR INTEREST FROM STOCKS, BONDS, OR SECURITIES OR
 20 FROM THE SALE OF STOCKS, BONDS, OR SECURITIES ARE EXEMPT
 21 FROM THE SALES TAX.

22 (2) THE RECEIPTS FROM COMMISSIONS OR FEES DERIVED FROM
 23 THE BUSINESS OF BUYING, SELLING, OR PROMOTING THE PURCHASE,
 24 SALE, OR LEASE OF ANY REAL PROPERTY, STOCK, BOND, OR
 25 SECURITY ARE EXEMPT FROM THE SALES TAX AND USE TAX.

1 NEW SECTION. SECTION 129. EXEMPTION -- FUEL. THE
 2 RECEIPTS FROM THE SALE OF GASOLINE, ETHANOL BLENDED FOR
 3 FUEL, OR SPECIAL FUEL ON WHICH THE MONTANA GASOLINE AND
 4 SPECIAL FUELS TAX HAS BEEN PAID UNDER TITLE 15, CHAPTER 70,
 5 ARE EXEMPT FROM THE SALES TAX AND USE TAX.

6 NEW SECTION. SECTION 130. EXEMPTION -- ISOLATED OR
 7 OCCASIONAL SALE OR LEASE OF PROPERTY OR SERVICES. THE
 8 RECEIPTS FROM THE ISOLATED OR OCCASIONAL SALE OR LEASE OF
 9 PROPERTY OR PERFORMANCE OF A SERVICE BY A PERSON WHO IS NOT
 10 REGULARLY ENGAGED IN OR WHO DOES NOT REPRESENT HIMSELF AS
 11 ENGAGED IN THE BUSINESS OF SELLING OR LEASING THE SAME OR A
 12 SIMILAR PROPERTY OR SERVICE ARE EXEMPT FROM THE SALES TAX.

13 NEW SECTION. SECTION 131. EXEMPTION -- OIL, GAS, AND
 14 MINERAL INTERESTS. THE RECEIPTS FROM THE SALE OR LEASE OF
 15 OIL, NATURAL GAS, OR MINERAL INTERESTS ARE EXEMPT FROM THE
 16 SALES TAX.

17 NEW SECTION. SECTION 132. EXEMPTION -- MINERALS. THE
 18 RECEIPTS FROM THE SALE OR USE OF A MINERAL AS DEFINED IN
 19 15-38-103 ARE EXEMPT FROM THE SALES TAX AND USE TAX.
 20 MINERALS REFINED, REDUCED, POLISHED, CUT, FACETED, OR
 21 OTHERWISE PROCESSED FOR THE PURPOSE OF BEING USED AS OR
 22 INTEGRATED INTO JEWELRY, ART, OR SCULPTURE, OR AS A
 23 DECORATIVE EMBELLISHMENT OR ADORNMENT IN THEIR OWN RIGHT OR
 24 TO OTHER PROPERTY ARE NOT INCLUDED IN THE EXEMPTION PROVIDED
 25 IN THIS SECTION.

1 NEW SECTION. SECTION 133. EXEMPTION -- GOVERNMENTAL
 2 AGENCIES. (1) THE USE OF PROPERTY BY THE UNITED STATES OR
 3 ANY AGENCY OR INSTRUMENTALITY OF THE UNITED STATES OR BY
 4 THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE IS
 5 EXEMPT FROM THE USE TAX.

6 (2) THE USE OF PROPERTY BY THE GOVERNING BODY OF AN
 7 INDIAN TRIBE ON A FEDERALLY RECOGNIZED INDIAN RESERVATION IS
 8 EXEMPT FROM THE USE TAX.

9 NEW SECTION. SECTION 134. EXEMPTION -- PERSONAL
 10 EFFECTS. THE USE BY AN INDIVIDUAL OF PERSONAL OR HOUSEHOLD
 11 EFFECTS BROUGHT INTO THE STATE FOR THE ESTABLISHMENT BY HIM
 12 OF AN INITIAL RESIDENCE IN THIS STATE AND THE USE OF
 13 PROPERTY BROUGHT INTO THE STATE BY A NONRESIDENT FOR HIS OWN
 14 NONBUSINESS USE WHILE TEMPORARILY WITHIN THIS STATE ARE
 15 EXEMPT FROM THE USE TAX.

16 NEW SECTION. SECTION 135. EXEMPTION -- ADVERTISING
 17 SERVICES. THE GROSS RECEIPTS FROM THE SALE OF ADVERTISING
 18 SERVICES, INCLUDING THE ACTUAL CREATION OR DEVELOPMENT OF
 19 THE ADVERTISING, ARE EXEMPT FROM THE SALES TAX. FOR THE
 20 PURPOSE OF THIS SECTION, "ADVERTISING SERVICE" INCLUDES BUT
 21 IS NOT LIMITED TO ALL ADVERTISING IN OR BY:

22 (A) ANY NEWSPAPER, MAGAZINE, OR OTHER PUBLICATION;

23 (B) RADIO OR TELEVISION;

24 (C) BILLBOARD, BANNER, SIGN, PLACARD, AND THE LIKE;

25 (D) HANDBILL; OR

1 (E) ANY OTHER ADVERTISING MEANS, MEDIA, OR METHOD.

2 NEW SECTION. SECTION 136. DEDUCTION -- SALE OF
 3 TANGIBLE PERSONAL PROPERTY FOR RESALE. RECEIPTS FROM THE
 4 SALE OF TANGIBLE PERSONAL PROPERTY MAY BE DEDUCTED FROM
 5 GROSS RECEIPTS IF:

6 (1) THE SALE IS MADE TO A BUYER WHO DELIVERS A
 7 NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER; AND

8 (2) THE BUYER RESELLS OR PLANS TO RESELL THE TANGIBLE
 9 PERSONAL PROPERTY EITHER BY ITSELF OR IN COMBINATION WITH
 10 OTHER TANGIBLE PERSONAL PROPERTY IN THE ORDINARY COURSE OF
 11 BUSINESS AND THE PROPERTY WILL SUBSEQUENTLY BE SUBJECT TO
 12 THE SALES TAX.

13 NEW SECTION. SECTION 137. DEDUCTION -- SALE OF
 14 SERVICE FOR RESALE. RECEIPTS FROM THE SALE OF A SERVICE FOR
 15 RESALE MAY BE DEDUCTED FROM GROSS RECEIPTS IF:

16 (1) THE SALE IS MADE TO A PERSON WHO DELIVERS A
 17 NONTAXABLE TRANSACTION CERTIFICATE;

18 (2) THE BUYER SEPARATELY STATES THE VALUE OF THE
 19 SERVICE PURCHASED IN HIS CHARGE FOR THE SERVICE ON ITS
 20 SUBSEQUENT SALE; AND

21 (3) THE SUBSEQUENT SALE IS IN THE ORDINARY COURSE OF
 22 BUSINESS AND SUBJECT TO THE USE TAX.

23 NEW SECTION. SECTION 138. DEDUCTION -- SALE TO
 24 MANUFACTURER. RECEIPTS FROM THE SALE OF TANGIBLE PERSONAL
 25 PROPERTY TO A BUYER ENGAGED IN THE BUSINESS OF MANUFACTURING

1 MAY BE DEDUCTED FROM GROSS RECEIPTS IF:

2 (1) THE BUYER DELIVERS A NONTAXABLE TRANSACTION
3 CERTIFICATE TO THE SELLER; AND

4 (2) THE BUYER INCORPORATES OR WILL INCORPORATE THE
5 TANGIBLE PERSONAL PROPERTY AS AN INGREDIENT OR COMPONENT
6 PART OF THE PRODUCT WHICH HE IS IN THE BUSINESS OF
7 MANUFACTURING.

8 NEW SECTION. SECTION 139. DEDUCTION -- SALE OF
9 TANGIBLE PERSONAL PROPERTY FOR LEASING. RECEIPTS FROM THE
10 SALE OF TANGIBLE PERSONAL PROPERTY, OTHER THAN FURNITURE OR
11 APPLIANCES, AND FROM THE RENTAL OR LEASE OF PROPERTY, OTHER
12 THAN COIN-OPERATED MACHINES AND MOBILE HOMES, THAT IS
13 DEDUCTIBLE UNDER [SECTIONS 113 THROUGH 187] MAY BE DEDUCTED
14 FROM GROSS RECEIPTS IF:

15 (1) THE SALE IS MADE TO A BUYER WHO DELIVERS A
16 NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER;

17 (2) THE BUYER IS ENGAGED IN A BUSINESS DERIVING MORE
18 THAN 50% OF ITS RECEIPTS FROM LEASING OR SELLING TANGIBLE
19 PERSONAL PROPERTY OF THE TYPE LEASED; AND

20 (3) THE BUYER DOES NOT USE THE PROPERTY IN ANY MANNER
21 OTHER THAN HOLDING IT FOR LEASE OR SALE OR LEASING OR
22 SELLING IT, EITHER BY ITSELF OR IN COMBINATION WITH OTHER
23 TANGIBLE PERSONAL PROPERTY, IN THE ORDINARY COURSE OF
24 BUSINESS.

25 NEW SECTION. SECTION 140. DEDUCTION -- LEASE FOR

1 SUBSEQUENT LEASE. RECEIPTS FROM THE LEASE OF TANGIBLE
2 PERSONAL PROPERTY, OTHER THAN FURNITURE OR APPLIANCES, AND
3 FROM THE RENTAL OR LEASE OF PROPERTY, OTHER THAN
4 COIN-OPERATED MACHINES AND MOBILE HOMES, THAT IS DEDUCTIBLE
5 UNDER [SECTIONS 113 THROUGH 187] MAY BE DEDUCTED FROM GROSS
6 RECEIPTS IF:

7 (1) THE LEASE IS MADE TO A LESSEE WHO DELIVERS A
8 NONTAXABLE TRANSACTION CERTIFICATE; AND

9 (2) THE LESSEE DOES NOT USE THE PROPERTY IN ANY MANNER
10 OTHER THAN FOR SUBSEQUENT LEASE IN THE ORDINARY COURSE OF
11 BUSINESS.

12 NEW SECTION. SECTION 141. DEDUCTION -- SALE OF
13 TANGIBLE PERSONAL PROPERTY TO PERSON ENGAGED IN CONSTRUCTION
14 BUSINESS. (1) RECEIPTS FROM THE SALE OF TANGIBLE PERSONAL
15 PROPERTY MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS
16 MADE TO A BUYER ENGAGED IN THE CONSTRUCTION BUSINESS WHO
17 DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER.

18 (2) RECEIPTS FROM THE SALE MAY BE DEDUCTED IF THE
19 BUYER INCORPORATES THE TANGIBLE PERSONAL PROPERTY AS:

20 (A) AN INGREDIENT OR COMPONENT PART OF A CONSTRUCTION
21 PROJECT THAT IS SUBJECT TO THE SALES TAX OR USE TAX UPON ITS
22 COMPLETION OR UPON THE COMPLETION OF THE OVERALL
23 CONSTRUCTION PROJECT OF WHICH IT IS A PART; OR

24 (B) AN INGREDIENT OR COMPONENT PART OF A CONSTRUCTION
25 PROJECT THAT IS SUBJECT TO THE SALES TAX OR USE TAX UPON THE

1 SALE IN THE ORDINARY COURSE OF BUSINESS OF THE REAL PROPERTY
2 UPON WHICH IT WAS CONSTRUCTED.

3 NEW SECTION. SECTION 142. DEDUCTION -- MACHINERY AND
4 EQUIPMENT USED IN TRADE OR BUSINESS. (1) THE RECEIPTS FROM
5 THE SALE OR USE OF MACHINERY OR EQUIPMENT USED IN A TRADE OR
6 BUSINESS MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE BUYER:

7 (A) DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO
8 THE SELLER; OR

9 (B) BRINGS THE MACHINERY AND EQUIPMENT INTO THIS STATE
10 FOR USE IN A TRADE OR BUSINESS.

11 (2) RECEIPTS FROM THE SALE OR USE OF MACHINERY OR
12 EQUIPMENT MAY BE DEDUCTED IF THE BUYER USES THE PROPERTY AS
13 EQUIPMENT OR MACHINERY IN HIS BUSINESS. FOR PURPOSES OF THIS
14 SECTION, "EQUIPMENT AND MACHINERY" MEANS TANGIBLE PERSONAL
15 PROPERTY THAT WILL NOT BE CONSUMED IN OR MADE A PART OF ANY
16 PRODUCT OR SERVICE.

17 NEW SECTION. SECTION 143. DEDUCTION -- SALE OF
18 CONSTRUCTION SERVICE TO PERSON ENGAGED IN CONSTRUCTION
19 BUSINESS. (1) RECEIPTS FROM THE SALE OF A CONSTRUCTION
20 SERVICE MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS
21 MADE TO A BUYER ENGAGED IN THE CONSTRUCTION BUSINESS AND HE
22 DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE PERSON
23 PERFORMING THE CONSTRUCTION SERVICE.

24 (2) RECEIPTS FROM THE SERVICE MAY BE DEDUCTED IF THE
25 BUYER HAS THE CONSTRUCTION SERVICES PERFORMED UPON:

1 (A) A CONSTRUCTION PROJECT THAT IS SUBJECT TO THE
2 SALES TAX OR USE TAX UPON ITS COMPLETION OR UPON THE
3 COMPLETION OF THE OVERALL CONSTRUCTION PROJECT OF WHICH IT
4 IS A PART; OR

5 (B) A CONSTRUCTION PROJECT THAT IS SUBJECT TO THE
6 SALES TAX OR USE TAX UPON THE SALE IN THE ORDINARY COURSE OF
7 BUSINESS OF THE REAL PROPERTY UPON WHICH IT WAS CONSTRUCTED.

8 NEW SECTION. SECTION 144. DEDUCTION -- SALE OR LEASE
9 OF REAL PROPERTY AND LEASE OF MOBILE HOMES. (1) (A) RECEIPTS
10 FROM THE SALE OR LEASE OF REAL PROPERTY EXCEPT AS PROVIDED
11 IN SUBSECTION (B), FROM THE LEASE OF A MOBILE HOME, OR FROM
12 THE RENTAL OF A MOBILE HOME FOR A PERIOD OF AT LEAST 1 MONTH
13 MAY BE DEDUCTED FROM GROSS RECEIPTS.

14 (B) THE PORTION OF THE GROSS RECEIPTS FROM THE SALE OF
15 REAL PROPERTY THAT IS ATTRIBUTABLE TO IMPROVEMENTS
16 CONSTRUCTED ON THE REAL PROPERTY BY THE SELLER IN THE
17 ORDINARY COURSE OF HIS CONSTRUCTION BUSINESS MAY NOT BE
18 DEDUCTED FROM GROSS RECEIPTS.

19 (2) RECEIPTS ATTRIBUTABLE TO THE INCLUSION OF
20 FURNITURE OR APPLIANCES FURNISHED BY THE LANDLORD OR LESSOR
21 AS PART OF A LEASED OR RENTED DWELLING, HOUSE, MOBILE HOME,
22 CABIN, CONDOMINIUM, OR APARTMENT MAY BE DEDUCTED FROM GROSS
23 RECEIPTS.

24 (3) RECEIPTS RECEIVED BY HOTELS, MOTELS,
25 ROOMINGHOUSES, CAMPGROUNDS, GUEST RANCHES, TRAILER PARKS, OR

1 SIMILAR FACILITIES ARE NOT RECEIPTS FROM LEASING REAL
 2 PROPERTY FOR PURPOSES OF THIS SECTION IF SUCH RECEIPTS ARE
 3 TAXABLE UNDER A LODGING OR ACCOMMODATION TYPE TAX ON EITHER
 4 THE OPERATOR OR THE USER.

5 NEW SECTION. SECTION 145. DEDUCTION -- TRANSACTION IN
 6 INTERSTATE COMMERCE. (1) RECEIPTS FROM A TRANSACTION IN
 7 INTERSTATE COMMERCE MAY BE DEDUCTED FROM GROSS RECEIPTS TO
 8 THE EXTENT THAT THE IMPOSITION OF THE SALES TAX OR USE TAX
 9 WOULD BE UNLAWFUL UNDER THE UNITED STATES CONSTITUTION.

10 (2) (A) RECEIPTS FROM TRANSMITTING MESSAGES OR
 11 CONVERSATIONS BY RADIO, IF ORIGINATED FROM A POINT OUTSIDE
 12 THIS STATE TO ANOTHER POINT WITHIN THIS STATE, AND RECEIPTS
 13 FROM THE SALE OF RADIO OR TELEVISION BROADCAST TIME IF THE
 14 ADVERTISING MESSAGE IS SUPPLIED BY OR ON BEHALF OF A
 15 NATIONAL OR REGIONAL SELLER OR AN ADVERTISER NOT HAVING ITS
 16 PRINCIPAL PLACE OF BUSINESS IN OR BEING INCORPORATED UNDER
 17 THE LAWS OF THIS STATE MAY BE DEDUCTED FROM GROSS RECEIPTS.

18 (B) COMMISSIONS RECEIVED BY AN ADVERTISING AGENCY FOR
 19 PERFORMING SERVICES IN THIS STATE MAY NOT BE DEDUCTED FROM
 20 GROSS RECEIPTS UNDER THIS SECTION.

21 NEW SECTION. SECTION 146. DEDUCTION -- INTRASTATE
 22 TRANSPORTATION AND SERVICES IN INTERSTATE COMMERCE. (1)
 23 RECEIPTS FROM THE TRANSPORT OF PERSONS OR PROPERTY FROM ONE
 24 POINT WITHIN THIS STATE TO ANOTHER POINT WITHIN THIS STATE
 25 MAY BE DEDUCTED FROM GROSS RECEIPTS IF SUCH PERSONS OR

1 PROPERTY, INCLUDING ANY REASONABLY NECESSARY SERVICES, ARE
 2 BEING TRANSPORTED IN INTERSTATE OR FOREIGN COMMERCE UNDER A
 3 SINGLE CONTRACT.

4 (2) RECEIPTS FROM HANDLING, STORAGE, DRAYAGE, OR
 5 PACKING OF PROPERTY OR ANY OTHER ACCESSORIAL SERVICES ON
 6 PROPERTY MAY BE DEDUCTED FROM GROSS RECEIPTS IF:

7 (A) THE PROPERTY HAS BEEN OR WILL BE MOVED IN
 8 INTERSTATE OR FOREIGN COMMERCE;

9 (B) THE SERVICES ARE PERFORMED BY A LOCAL AGENT FOR A
 10 CARRIER OR BY A CARRIER; AND

11 (C) THE SERVICES ARE PERFORMED UNDER A SINGLE CONTRACT
 12 IN RELATION TO TRANSPORTATION SERVICES.

13 NEW SECTION. SECTION 147. DEDUCTION -- SALE OF
 14 CERTAIN SERVICES TO OUT-OF-STATE BUYER. (1) RECEIPTS FROM
 15 PERFORMING A SERVICE, OTHER THAN A LEGAL OR ACCOUNTING
 16 SERVICE, MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE OF
 17 THE SERVICE IS MADE TO A BUYER WHO DELIVERS TO THE SELLER
 18 EITHER A NONTAXABLE TRANSACTION CERTIFICATE OR OTHER
 19 EVIDENCE ACCEPTABLE TO THE DEPARTMENT THAT THE TRANSACTION
 20 MEETS THE CONDITIONS SET OUT IN SUBSECTION (3).

21 (2) THE PERSON WHO DELIVERS THE NONTAXABLE TRANSACTION
 22 CERTIFICATE OR OTHER EVIDENCE ACCEPTABLE TO THE DEPARTMENT
 23 MUST MEET THE CONDITIONS SET OUT IN SUBSECTION (3).

24 (3) RECEIPTS FROM THE PERFORMANCE OF A SERVICE ARE
 25 SUBJECT TO THE DEDUCTION PROVIDED IN THIS SECTION IF THE

1 BUYER OF THE SERVICE, ANY OF HIS EMPLOYEES, OR ANY PERSON IN
2 PRIVITY WITH HIM:

3 (A) DOES NOT MAKE INITIAL USE OF THE PRODUCT OR THE
4 SERVICE IN THIS STATE;

5 (B) DOES NOT TAKE DELIVERY OF THE PRODUCT OR THE
6 SERVICE IN THIS STATE; OR

7 (C) CONCURRENT WITH THE PERFORMANCE OF THE SERVICE,
8 DOES NOT HAVE A REGULAR PLACE OF WORK IN THIS STATE OR SPEND
9 MORE THAN BRIEF AND OCCASIONAL PERIODS OF TIME IN THIS STATE
10 AND:

11 (I) DOES NOT HAVE ANY COMMUNICATION IN THIS STATE
12 RELATED IN ANY WAY TO THE SUBJECT MATTER, PERFORMANCE, OR
13 ADMINISTRATION OF THE SERVICE WITH THE PERSON PERFORMING THE
14 SERVICE; OR

15 (II) DOES NOT HIMSELF PERFORM WORK IN THIS STATE
16 RELATED TO THE SUBJECT MATTER OF THE SERVICE.

17 (4) RECEIPTS FROM PERFORMING A SERVICE THAT INITIALLY
18 QUALIFIED FOR THE DEDUCTION PROVIDED IN THIS SECTION BUT
19 WHICH NO LONGER MEETS THE CRITERIA SET FORTH IN SUBSECTION

20 (3) IS DEDUCTIBLE FOR THE PERIOD PRIOR TO THE
21 DISQUALIFICATION.

22 NEW SECTION. SECTION 148. DEDUCTION -- FEED,
23 FERTILIZERS, AND AGRICULTURAL SUPPLIES -- LIVESTOCK
24 AUCTIONEERS. (1) RECEIPTS FROM THE SALE OF FEED FOR
25 LIVESTOCK, FISH RAISED FOR HUMAN CONSUMPTION, POULTRY,

1 ANIMALS RAISED FOR THEIR HIDES OR PELTS, SEMEN USED IN
2 ANIMAL HUSBANDRY, SEEDS, ROOTS, BULBS, SOIL CONDITIONERS,
3 FERTILIZERS, INSECTICIDES, INSECTS USED TO CONTROL THE
4 POPULATION OF OTHER INSECTS, FUNGICIDES, WEEDICIDES,
5 HERBICIDES, OR WATER FOR IRRIGATION PURPOSES MAY BE DEDUCTED
6 FROM GROSS RECEIPTS IF THE SALE IS MADE TO A PERSON WHO
7 STATES IN WRITING THAT HE IS REGULARLY ENGAGED IN THE
8 BUSINESS OF FARMING, RANCHING, OR THE RAISING OF ANIMALS FOR
9 THEIR HIDES OR PELTS.

10 (2) RECEIPTS OF AUCTIONEERS FROM SELLING LIVESTOCK OR
11 OTHER AGRICULTURAL PRODUCTS AT AUCTION MAY BE DEDUCTED FROM
12 GROSS RECEIPTS.

13 NEW SECTION. SECTION 149. DEDUCTION -- CERTAIN
14 CHEMICALS AND REAGENTS. (1) RECEIPTS FROM THE SALE OF
15 CHEMICALS OR REAGENTS TO ANY MINING CONCERN OR MILLING
16 COMPANY FOR USE IN PROCESSING ORES OR OIL IN A MILL,
17 SMELTER, OR REFINERY OR IN ACIDIZING OIL WELLS AND RECEIPTS
18 FROM THE SALE OF CHEMICALS OR REAGENTS IN AN AMOUNT IN
19 EXCESS OF 18 TONS MAY BE DEDUCTED FROM GROSS RECEIPTS.

20 (2) RECEIPTS FROM THE SALE OF EXPLOSIVES, BLASTING
21 MATERIAL, OR DYNAMITE MAY NOT BE DEDUCTED FROM GROSS
22 RECEIPTS.

23 NEW SECTION. SECTION 150. DEDUCTION -- TRADE-IN
24 ALLOWANCE. THAT PORTION OF THE RECEIPTS OF A SELLER THAT IS
25 REPRESENTED BY A TRADE-IN OF TANGIBLE PERSONAL PROPERTY OF

1 THE SAME TYPE AS THE PROPERTY BEING SOLD MAY BE DEDUCTED
2 FROM GROSS RECEIPTS.

3 NEW SECTION. SECTION 151. DEDUCTION -- SPECIAL FUEL.
4 (1) RECEIPTS FROM THE SALE OF SPECIAL FUEL, AS DEFINED IN
5 15-70-301, MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE
6 PURCHASER USES THE SPECIAL FUEL IN AGRICULTURE, OR TO
7 OPERATE MACHINERY, EQUIPMENT, OR VEHICLES USED IN A TRADE OR
8 BUSINESS.

9 (2) RECEIPTS FROM THE SALE OF SPECIAL FUEL USED TO
10 HEAT BUILDINGS FOR HUMAN COMFORT ARE NOT DEDUCTIBLE.

11 NEW SECTION. SECTION 152. DEDUCTION -- SALE OF
12 CERTAIN SERVICES PERFORMED DIRECTLY ON PRODUCT MANUFACTURED.
13 RECEIPTS FROM SALE OF THE SERVICE OF COMBINING OR PROCESSING
14 COMPONENTS OR MATERIALS MAY BE DEDUCTED FROM GROSS RECEIPTS
15 IF THE SALE IS MADE TO A BUYER WHO IS ENGAGED IN THE
16 BUSINESS OF MANUFACTURING AND DELIVERS A NONTAXABLE
17 TRANSACTION CERTIFICATE TO THE SELLER. THE RECEIPTS FROM THE
18 SERVICE MAY BE DEDUCTED IF THE BUYER HAS THE SERVICE
19 PERFORMED DIRECTLY UPON TANGIBLE PERSONAL PROPERTY THAT HE
20 IS IN THE BUSINESS OF MANUFACTURING OR UPON INGREDIENTS OR
21 COMPONENT PARTS OF SUCH PROPERTY.

22 NEW SECTION. SECTION 153. DEDUCTION -- CERTAIN MOBILE
23 HOMES. RECEIPTS FROM THE RESALE OF A MOBILE HOME MAY BE
24 DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS OF A MOBILE HOME
25 THAT WAS SUBJECT TO THE SALES TAX OR USE TAX UPON ITS

1 INITIAL SALE OR USE IN THIS STATE OR WAS INITIALLY SOLD OR
2 USED IN THIS STATE PRIOR TO [THE APPLICABILITY DATE OF THIS
3 ACT]. THE RECEIPTS FROM THE RESALE MAY BE DEDUCTED IF THE
4 SELLER RETAINS AND FURNISHES PROOF SATISFACTORY TO THE
5 DEPARTMENT THAT THE SALES TAX OR USE TAX WAS PAID UPON THE
6 INITIAL SALE OR USE IN THIS STATE OF THE MOBILE HOME. IN THE
7 ABSENCE OF SUCH PROOF, IT IS PRESUMED THAT THE TAX WAS NOT
8 PAID. PROOF THAT A MONTANA CERTIFICATE OF TITLE WAS ISSUED
9 FOR A MOBILE HOME PRIOR TO [THE APPLICABILITY DATE OF THIS
10 ACT] IS PROOF THAT THE MOBILE HOME WAS INITIALLY SOLD OR
11 USED IN THIS STATE PRIOR TO [THE APPLICABILITY DATE OF THIS
12 ACT] AND EXEMPT UNDER THIS SECTION.

13 NEW SECTION. SECTION 154. DEDUCTION -- USE OF
14 TANGIBLE PERSONAL PROPERTY FOR LEASING. (1) EXCEPT AS
15 PROVIDED IN SUBSECTION (2), THE VALUE OF LEASED PROPERTY MAY
16 BE DEDUCTED IN COMPUTING THE USE TAX DUE IF THE PERSON
17 HOLDING THE TANGIBLE PERSONAL PROPERTY FOR LEASE:

18 (A) IS ENGAGED IN A BUSINESS THAT DERIVES A
19 SUBSTANTIAL PORTION OF ITS RECEIPTS FROM LEASING OR SELLING
20 PROPERTY OF THE TYPE LEASED;

21 (B) DOES NOT USE THE PROPERTY IN ANY MANNER OTHER THAN
22 HOLDING IT FOR LEASE OR SALE OR LEASING OR SELLING IT EITHER
23 BY ITSELF OR IN COMBINATION WITH OTHER TANGIBLE PERSONAL
24 PROPERTY IN THE ORDINARY COURSE OF BUSINESS; AND

25 (C) DOES NOT USE THE PROPERTY IN A MANNER INCIDENTAL

1 TO THE PERFORMANCE OF A SERVICE.

2 (2) THE DEDUCTION PROVIDED IN SUBSECTION (1) DOES NOT
 3 APPLY TO THE VALUE OF FURNITURE OR APPLIANCES FURNISHED BY
 4 THE LANDLORD OR LESSOR AS PART OF A LEASED OR RENTED
 5 DWELLING, HOUSE, CABIN, CONDOMINIUM, OR APARTMENT OR TO THE
 6 LEASE OF COIN-OPERATED MACHINES OR MOBILE HOMES.

7 NEW SECTION. SECTION 155. CREDIT -- OUT-OF-STATE
 8 TAXES. (1) IF A GROSS RECEIPTS, SALES, USE, OR SIMILAR TAX
 9 HAS BEEN LEVIED BY ANOTHER STATE OR A POLITICAL SUBDIVISION
 10 OF ANOTHER STATE ON PROPERTY BOUGHT OUTSIDE THIS STATE BUT
 11 WHICH WILL BE USED OR CONSUMED IN THIS STATE AND THE TAX WAS
 12 PAID, THE AMOUNT OF TAX PAID MAY BE CREDITED AGAINST ANY USE
 13 TAX DUE THIS STATE ON THE SAME PROPERTY.

14 (2) IF THE RECEIPTS FROM THE SALE OF IMPROVEMENTS TO
 15 REAL PROPERTY CONSTRUCTED BY A PERSON IN THE ORDINARY COURSE
 16 OF HIS CONSTRUCTION BUSINESS ARE SUBJECT TO THE SALES TAX OR
 17 USE TAX, THE AMOUNT OF TAX PAID BY THE PERSON UNDER
 18 SUBSECTION (1) ON MATERIALS THAT BECAME AN INGREDIENT OR
 19 COMPONENT PART OF THE CONSTRUCTION PROJECT AND ON
 20 CONSTRUCTION SERVICES PERFORMED UPON THE CONSTRUCTION
 21 PROJECT MAY BE CREDITED AGAINST THE SALES TAX OR USE TAX DUE
 22 ON THE SALE.

23 NEW SECTION. SECTION 156. SELLER'S PERMIT. UPON AN
 24 APPLICANT'S COMPLIANCE WITH [SECTIONS 113 THROUGH 187], THE
 25 DEPARTMENT SHALL ISSUE TO THE APPLICANT A SEPARATE, NUMBERED

1 SELLER'S PERMIT FOR EACH PLACE OF BUSINESS WITHIN MONTANA. A
 2 PERMIT IS VALID UNTIL REVOKED OR SUSPENDED BUT IS NOT
 3 ASSIGNABLE. A PERMIT IS VALID ONLY FOR THE PERSON IN WHOSE
 4 NAME IT IS ISSUED AND FOR THE TRANSACTION OF BUSINESS AT THE
 5 PLACE DESIGNATED. THE PERMIT MUST BE CONSPICUOUSLY DISPLAYED
 6 AT ALL TIMES AT THE PLACE FOR WHICH IT IS ISSUED.

7 NEW SECTION. SECTION 157. PERMIT APPLICATION --
 8 GENERALLY -- VENDING MACHINES -- FORM. (1) A PERSON DESIRING
 9 TO ENGAGE IN THE BUSINESS OF MAKING RETAIL SALES OR
 10 PROVIDING SERVICES IN MONTANA SHALL FILE WITH THE DEPARTMENT
 11 AN APPLICATION FOR A PERMIT. IF THE PERSON HAS MORE THAN ONE
 12 PLACE OF BUSINESS, AN APPLICATION MUST BE FILED FOR EACH
 13 PLACE OF BUSINESS. A VENDING MACHINE OPERATOR WHO HAS MORE
 14 THAN ONE VENDING MACHINE LOCATION IS CONSIDERED TO HAVE ONLY
 15 ONE PLACE OF BUSINESS FOR PURPOSES OF THIS SECTION. AN
 16 APPLICANT WHO HAS NO REGULAR PLACE OF BUSINESS AND WHO MOVES
 17 FROM PLACE TO PLACE IS CONSIDERED TO HAVE ONLY ONE PLACE OF
 18 BUSINESS AND SHALL ATTACH THE PERMIT TO HIS CART, STAND,
 19 TRUCK, OR OTHER MERCHANDISING DEVICE. EACH PERSON OR CLASS
 20 OF PERSONS OBLIGATED TO FILE A RETURN UNDER [SECTIONS 113
 21 THROUGH 187] IS REQUIRED TO FILE APPLICATION FOR A PERMIT.

22 (2) EACH APPLICATION FOR A PERMIT MUST BE ON A FORM
 23 PRESCRIBED BY THE DEPARTMENT AND MUST SET FORTH THE NAME
 24 UNDER WHICH THE APPLICANT INTENDS TO TRANSACT BUSINESS, THE
 25 LOCATION OF HIS PLACE OR PLACES OF BUSINESS, AND SUCH OTHER

1 INFORMATION AS THE DEPARTMENT MAY REQUIRE. THE APPLICATION
 2 MUST BE FILED BY THE OWNER IF THE OWNER IS A NATURAL PERSON,
 3 BY A MEMBER OR PARTNER IF THE OWNER IS AN ASSOCIATION OR
 4 PARTNERSHIP, OR BY A PERSON AUTHORIZED TO SIGN THE
 5 APPLICATION IF THE OWNER IS A CORPORATION.

6 NEW SECTION. SECTION 158. SPECIAL ACTIVITIES --
 7 PERMITS -- PENALTY. (1) THE OPERATOR OF A FLEA MARKET, CRAFT
 8 SHOW, ANTIQUE SHOW, COIN SHOW, STAMP SHOW, COMIC BOOK SHOW,
 9 CONVENTION EXHIBIT AREA, OR SIMILAR SELLING EVENT, AS A
 10 PREREQUISITE TO RENTING OR LEASING SPACE ON THE PREMISES
 11 OWNED OR CONTROLLED BY THE OPERATOR TO A PERSON DESIRING TO
 12 ENGAGE IN OR CONDUCT BUSINESS AS A SELLER, SHALL OBTAIN
 13 EVIDENCE THAT THE SELLER IS THE HOLDER OF A VALID SELLER'S
 14 PERMIT ISSUED PURSUANT TO [SECTION 156] OR A WRITTEN
 15 STATEMENT FROM THE SELLER THAT HE IS NOT OFFERING FOR SALE
 16 ANY ITEM THAT IS TAXABLE UNDER [SECTIONS 113 THROUGH 187].

17 (2) "FLEA MARKET, CRAFT SHOW, ANTIQUE SHOW, COIN SHOW,
 18 STAMP SHOW, COMIC BOOK SHOW, CONVENTION EXHIBIT AREA, OR
 19 SIMILAR SELLING EVENT", AS USED IN THIS SECTION, MEANS AN
 20 ACTIVITY THAT INVOLVES A SERIES OF SALES SUFFICIENT IN
 21 NUMBER, SCOPE, AND CHARACTER TO CONSTITUTE A REGULAR COURSE
 22 OF BUSINESS BUT DOES NOT QUALIFY AS AN ISOLATED OR
 23 OCCASIONAL SALE PURSUANT TO [SECTION 130].

24 (3) AN OPERATOR WHO FAILS OR REFUSES TO COMPLY WITH
 25 THE PROVISIONS OF THIS SECTION IS SUBJECT TO A PENALTY,

1 PAYABLE TO THE DEPARTMENT, OF \$100 PER DAY PER SELLER AT
 2 EACH SELLING EVENT AT WHICH THE OPERATOR FAILS TO OBTAIN
 3 EVIDENCE THAT A SELLER IS THE HOLDER OF A VALID SELLER'S
 4 PERMIT ISSUED PURSUANT TO [SECTION 156].

5 NEW SECTION. SECTION 159. REVOCATION OR SUSPENSION OF
 6 PERMIT -- HEARING -- NOTICE. (1) SUBJECT TO THE PROVISIONS
 7 OF SUBSECTION (2), THE DEPARTMENT MAY, FOR REASONABLE CAUSE,
 8 REVOKE OR SUSPEND ANY PERMIT HELD BY A PERSON WHO FAILS TO
 9 COMPLY WITH THE PROVISIONS OF [SECTIONS 113 THROUGH 187].

10 (2) (A) THE DEPARTMENT SHALL HOLD A HEARING ON THE
 11 PROPOSED REVOCATION OR SUSPENSION AFTER GIVING THE PERSON 30
 12 DAYS' NOTICE IN WRITING, SPECIFYING THE TIME AND PLACE OF
 13 THE HEARING AND THE REASON FOR THE PROPOSED REVOCATION OR
 14 SUSPENSION.

15 (B) THE NOTICE MUST INCLUDE A REQUIREMENT THAT THE
 16 PERSON SHOW CAUSE WHY THE PERMIT OR PERMITS SHOULD NOT BE
 17 REVOKED OR SUSPENDED.

18 (C) THE NOTICE MUST BE SERVED PERSONALLY OR BY
 19 CERTIFIED MAIL.

20 (3) AFTER REVOCATION, THE DEPARTMENT MAY NOT ISSUE A
 21 NEW PERMIT EXCEPT UPON APPLICATION ACCOMPANIED BY REASONABLE
 22 EVIDENCE OF THE INTENTION OF THE APPLICANT TO COMPLY WITH
 23 THE PROVISIONS OF [SECTIONS 113 THROUGH 187]. THE DEPARTMENT
 24 MAY REQUIRE SECURITY IN ADDITION TO THAT AUTHORIZED BY
 25 [SECTION 167] IN AN AMOUNT REASONABLY NECESSARY TO ENSURE

1 COMPLIANCE WITH [SECTIONS 113 THROUGH 187] AS A CONDITION
 2 FOR THE ISSUANCE OF A NEW PERMIT TO SUCH AN APPLICANT.

3 (4) A PERSON AGGRIEVED BY THE DEPARTMENT'S FINAL
 4 DECISION TO REVOKE A PERMIT AS PROVIDED IN SUBSECTION (1)
 5 MAY APPEAL THE DECISION TO THE STATE TAX APPEAL BOARD WITHIN
 6 30 DAYS FOLLOWING THE DATE ON WHICH THE DEPARTMENT ISSUED
 7 ITS FINAL DECISION.

8 (5) A DECISION OF THE STATE TAX APPEAL BOARD MAY BE
 9 APPEALED TO A COURT OF COMPETENT JURISDICTION.

10 NEW SECTION. SECTION 160. NONTAXABLE TRANSACTION
 11 CERTIFICATE -- FORM. (1) THE DEPARTMENT SHALL PROVIDE FOR A
 12 UNIFORM NONTAXABLE TRANSACTION CERTIFICATE. IN ORDER TO
 13 OBTAIN A DEDUCTION UNDER [SECTIONS 113 THROUGH 187], A
 14 PURCHASER MUST USE THE CERTIFICATE WHEN PURCHASING GOODS OR
 15 SERVICES FOR RESALE.

16 (2) AT A MINIMUM, THE CERTIFICATE MUST PROVIDE:

17 (A) THE NUMBER OF THE PERMIT ISSUED TO THE PURCHASER
 18 AS PROVIDED IN [SECTION 156 OR 157];

19 (B) THE GENERAL CHARACTER OF PROPERTY OR SERVICE SOLD
 20 BY THE PURCHASER IN THE REGULAR COURSE OF BUSINESS;

21 (C) THE PROPERTY OR SERVICE PURCHASED FOR RESALE;

22 (D) THE NAME AND ADDRESS OF THE PURCHASER; AND

23 (E) A SIGNATURE LINE FOR THE PURCHASER.

24 NEW SECTION. SECTION 161. IMPROPER USE OF SUBJECT OF
 25 PURCHASE OBTAINED WITH NONTAXABLE TRANSACTION CERTIFICATE --

1 PENALTY. (1) IF A PURCHASER WHO USES A NONTAXABLE
 2 TRANSACTION CERTIFICATE UTILIZES THE SUBJECT OF THE PURCHASE
 3 OTHER THAN FOR A PURPOSE ALLOWED AS A DEDUCTION UNDER
 4 [SECTIONS 113 THROUGH 187], SUCH USE IS CONSIDERED A TAXABLE
 5 SALE BY THE PURCHASER AS OF THE TIME OF FIRST USE BY HIM AND
 6 THE SALE PRICE HE RECEIVES IS CONSIDERED THE GROSS RECEIPTS
 7 FROM THE SALE. IF THE SOLE NONEXEMPT USE IS RENTAL WHILE
 8 HOLDING FOR SALE, THE PURCHASER SHALL INCLUDE IN HIS GROSS
 9 RECEIPTS THE AMOUNT OF THE RENTAL CHARGED. UPON SUBSEQUENT
 10 SALE OF THE PROPERTY, THE SELLER SHALL INCLUDE THE ENTIRE
 11 AMOUNT OF GROSS RECEIPTS RECEIVED FROM THE RESALE, WITHOUT
 12 DEDUCTION OF AMOUNTS PREVIOUSLY RECEIVED AS RENTALS.

13 (2) A PERSON WHO USES A CERTIFICATE FOR PROPERTY THAT
 14 WILL BE UTILIZED FOR PURPOSES OTHER THAN THE PURPOSE CLAIMED
 15 IS SUBJECT TO A PENALTY, PAYABLE TO THE DEPARTMENT, OF \$100
 16 FOR EACH TRANSACTION IN WHICH AN IMPROPER USE OF AN
 17 EXEMPTION CERTIFICATE HAS OCCURRED.

18 (3) UPON A SHOWING OF GOOD CAUSE, THE DEPARTMENT MAY
 19 ABATE OR WAIVE THE PENALTY OR A PORTION OF THE PENALTY.

20 NEW SECTION. SECTION 162. COMMINGLING NONTAXABLE
 21 CERTIFICATE GOODS. IF A PURCHASER USES A NONTAXABLE
 22 TRANSACTION CERTIFICATE WITH RESPECT TO THE PURCHASE OF
 23 FUNGIBLE GOODS AND THEREAFTER COMMINGLES THESE GOODS WITH
 24 FUNGIBLE GOODS NOT SO PURCHASED BUT OF SUCH SIMILARITY THAT
 25 THE IDENTITY OF THE GOODS IN THE COMMINGLED MASS CANNOT BE

1 DETERMINED, SALES FROM THE MASS OF COMMINGLED GOODS ARE
 2 CONSIDERED TO BE SALES OF THE GOODS PURCHASED WITH THE
 3 CERTIFICATE UNTIL THE QUANTITY OF COMMINGLED GOODS SOLD
 4 EQUALS THE QUANTITY OF GOODS ORIGINALLY PURCHASED UNDER THE
 5 CERTIFICATE.

6 NEW SECTION. SECTION 163. COLLECTION AND PAYMENT --
 7 PENALTY. (1) LIABILITY FOR THE PAYMENT OF THE SALES TAX AND
 8 USE TAX IS NOT EXTINGUISHED UNTIL THE TAXES HAVE BEEN PAID
 9 TO THE DEPARTMENT.

10 (2) A RETAILER WHO DOES NOT MAINTAIN A PLACE OF
 11 BUSINESS IN THIS STATE IS LIABLE FOR THE SALES TAX OR USE
 12 TAX AND SHALL FURNISH, IN ACCORDANCE WITH [SECTIONS 113
 13 THROUGH 187], ADEQUATE SECURITY TO ENSURE COLLECTION AND
 14 PAYMENT OF THE TAXES. WHEN SO AUTHORIZED AND EXCEPT AS
 15 OTHERWISE PROVIDED IN [SECTIONS 113 THROUGH 187], THE
 16 RETAILER IS LIABLE FOR THE TAXES UPON ALL TANGIBLE PROPERTY
 17 SOLD THAT IS TO BE USED WITHIN THIS STATE IN THE SAME MANNER
 18 AS A RETAILER WHO MAINTAINS A PLACE OF BUSINESS WITHIN THIS
 19 STATE. THE PERMIT PROVIDED FOR IN SUBSECTION (3) MAY BE
 20 CANCELED AT ANY TIME IF THE DEPARTMENT CONSIDERS THE
 21 SECURITY INADEQUATE OR BELIEVES THAT THE TAXES CAN BE
 22 COLLECTED MORE EFFECTIVELY IN ANOTHER MANNER.

23 (3) NO AGENT, CANVASSER, OR EMPLOYEE OF A RETAILER
 24 DOING BUSINESS IN THIS STATE WHO IS NOT AUTHORIZED BY PERMIT
 25 FROM THE DEPARTMENT MAY SELL, SOLICIT ORDERS FOR, OR DELIVER

1 ANY TANGIBLE PERSONAL PROPERTY IN MONTANA. IF SUCH AN AGENT,
 2 CANVASSER, OR EMPLOYEE VIOLATES THE PROVISIONS OF [SECTIONS
 3 113 THROUGH 187], HE IS SUBJECT TO A FINE OF NOT MORE THAN
 4 \$100 FOR EACH SEPARATE TRANSACTION OR EVENT.

5 NEW SECTION. SECTION 164. COMMON CARRIERS AS
 6 RETAILERS. A PERSON ENGAGED IN THE BUSINESS OF INTRASTATE OR
 7 INTERSTATE TRANSPORTATION BY MOTOR VEHICLE OF TANGIBLE
 8 PERSONAL PROPERTY OR PASSENGERS SHALL REGISTER AS A RETAILER
 9 AND PAY THE TAXES IMPOSED BY [SECTIONS 113 THROUGH 187].

10 NEW SECTION. SECTION 165. APPLICATION FOR PERMISSION
 11 TO REPORT ON ACCRUAL BASIS. (1) A PERSON HAVING A PERMIT
 12 PURSUANT TO [SECTION 156] MAY APPLY TO THE DEPARTMENT FOR
 13 PERMISSION TO REPORT AND PAY THE SALES TAX OR USE TAX ON AN
 14 ACCRUAL BASIS.

15 (2) THE APPLICATION MUST BE MADE ON A FORM PRESCRIBED
 16 BY THE DEPARTMENT THAT CONTAINS SUCH INFORMATION AS THE
 17 DEPARTMENT MAY REQUIRE.

18 (3) NO PERSON MAY REPORT OR PAY THE SALES TAX OR USE
 19 TAX ON AN ACCRUAL BASIS UNLESS HE HAS FIRST RECEIVED WRITTEN
 20 PERMISSION FROM THE DEPARTMENT.

21 NEW SECTION. SECTION 166. RETURNS -- AUTHORITY OF
 22 DEPARTMENT. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), ON OR
 23 BEFORE THE 25TH DAY OF EACH MONTH IN WHICH THE TAX IMPOSED
 24 BY [SECTIONS 113 THROUGH 187] IS PAYABLE, A RETURN FOR THE
 25 PRECEDING MONTH MUST BE FILED WITH THE DEPARTMENT, ON A FORM

1 PROVIDED BY THE DEPARTMENT. EACH RETURN MUST CONTAIN A
 2 CONFESSION OF JUDGMENT FOR THE AMOUNT OF THE TAX SHOWN DUE,
 3 TO THE EXTENT NOT TIMELY PAID. A PERSON MAKING SALES AT
 4 RETAIL AT TWO OR MORE PLACES OF BUSINESS MAY FILE A
 5 CONSOLIDATED RETURN, SUBJECT TO RULES PRESCRIBED BY THE
 6 DEPARTMENT.

7 (2) (A) FOR THE PURPOSES OF THE SALES TAX OR USE TAX,
 8 A RETURN MUST BE FILED BY:

9 (I) A RETAILER REQUIRED TO PAY SUCH TAX; AND

10 (II) A PERSON:

11 (A) PURCHASING ANY ITEMS THE STORAGE, USE, OR OTHER
 12 CONSUMPTION OF WHICH IS SUBJECT TO THE SALES TAX OR USE TAX;
 13 AND

14 (B) WHO HAS NOT PAID THE TAX TO A RETAILER REQUIRED TO
 15 PAY THE TAX.

16 (B) EACH RETURN MUST BE SIGNED BY THE PERSON FILING
 17 THE RETURN OR BY HIS AGENT DULY AUTHORIZED IN WRITING.

18 (3) (A) A PERSON LIABLE FOR THE TAXES IMPOSED BY
 19 [SECTIONS 113 THROUGH 187] SHALL KEEP RECORDS, RENDER
 20 STATEMENTS, MAKE RETURNS, AND COMPLY WITH THE PROVISIONS OF
 21 [SECTIONS 113 THROUGH 187] AND THE RULES PRESCRIBED BY THE
 22 DEPARTMENT. EACH RETURN OR STATEMENT MUST INCLUDE THE
 23 INFORMATION REQUIRED BY THE RULES OF THE DEPARTMENT.

24 (B) FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THE
 25 PROVISIONS OF THIS SECTION, THE DEPARTMENT IS AUTHORIZED TO

1 EXAMINE OR CAUSE TO BE EXAMINED ANY BOOKS, PAPERS, RECORDS,
 2 OR MEMORANDA RELEVANT TO MAKING A DETERMINATION OF THE
 3 AMOUNT OF TAX DUE, WHETHER THE BOOKS, PAPERS, RECORDS, OR
 4 MEMORANDA ARE THE PROPERTY OF OR IN THE POSSESSION OF THE
 5 PERSON FILING THE RETURN OR ANOTHER PERSON. THE DEPARTMENT
 6 MAY ALSO:

7 (I) REQUIRE THE ATTENDANCE OF A PERSON HAVING
 8 KNOWLEDGE OR INFORMATION RELEVANT TO A RETURN;

9 (II) COMPEL THE PRODUCTION OF BOOKS, PAPERS, RECORDS,
 10 OR MEMORANDA BY A PERSON REQUIRED TO ATTEND;

11 (III) TAKE TESTIMONY ON MATTERS MATERIAL TO THE
 12 DETERMINATION; AND

13 (IV) ADMINISTER OATHS OR AFFIRMATIONS.

14 (4) THE RETURNS DUE FOR JUNE, JULY, AND AUGUST OF 1988
 15 ARE DUE ON OR BEFORE SEPTEMBER 25, 1988.

16 NEW SECTION. SECTION 167. SECURITY -- LIMITATIONS --
 17 SALE OF SECURITY DEPOSIT AT AUCTION -- BOND. (1) THE
 18 DEPARTMENT MAY REQUIRE A RETAILER TO DEPOSIT WITH THE
 19 DEPARTMENT SECURITY IN A FORM AND AMOUNT AS THE DEPARTMENT
 20 DETERMINES APPROPRIATE. THE DEPOSIT MAY NOT BE MORE THAN
 21 TWICE THE ESTIMATED AVERAGE LIABILITY FOR THE PERIOD FOR
 22 WHICH THE RETURN IS REQUIRED TO BE FILED OR \$10,000,
 23 WHICHEVER IS LESS. THE AMOUNT OF SECURITY MAY BE INCREASED
 24 OR DECREASED BY THE DEPARTMENT, SUBJECT TO THE LIMITATIONS
 25 PROVIDED IN THIS SECTION.

1 (2) (A) IF NECESSARY, THE DEPARTMENT MAY SELL PROPERTY
 2 DEPOSITED AS SECURITY AT PUBLIC AUCTION TO RECOVER ANY SALES
 3 TAX OR USE TAX OR AMOUNT REQUIRED TO BE COLLECTED, INCLUDING
 4 INTEREST AND PENALTIES.

5 (B) NOTICE OF THE SALE MUST BE SERVED PERSONALLY UPON
 6 THE PERSON WHO DEPOSITED THE SECURITY OR BY CERTIFIED MAIL.

7 (C) AFTER THE SALE, ANY SURPLUS ABOVE THE AMOUNT DUE
 8 THAT IS NOT REQUIRED AS SECURITY UNDER THIS SECTION MUST BE
 9 RETURNED TO THE PERSON WHO DEPOSITED THE SECURITY.

10 (3) IN LIEU OF SECURITY, THE DEPARTMENT MAY REQUIRE A
 11 RETAILER TO FILE A BOND, ISSUED BY A SURETY COMPANY
 12 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, TO GUARANTEE
 13 SOLVENCY AND RESPONSIBILITY.

14 (4) FOR PERSONS DOING BUSINESS AS A CORPORATION IN
 15 ADDITION TO DOING BUSINESS UNDER THE REQUIREMENTS OF THIS
 16 SECTION, THE DEPARTMENT MAY REQUIRE THE CORPORATE OFFICERS,
 17 DIRECTORS, OR SHAREHOLDERS TO PROVIDE A PERSONAL GUARANTY
 18 AND ASSUMPTION OF LIABILITY FOR THE PAYMENT OF THE TAX DUE
 19 UNDER [SECTIONS 113 THROUGH 187].

20 NEW SECTION. SECTION 168. EXTENSIONS. (1) THE
 21 DEPARTMENT MAY EXTEND THE TIME FOR FILING A RETURN AND
 22 REMITTANCE OF TAX, DEFICIENCIES, AND PENALTIES FOR A PERIOD
 23 NOT TO EXCEED 60 DAYS FROM THE DATE A RETURN WAS DUE AND MAY
 24 REQUIRE BOTH AN ESTIMATED RETURN AT THE TIME FIXED FOR
 25 FILING THE REGULARLY REQUIRED RETURN AND THE PAYMENT OF TAX

1 ON THE BASIS OF THE ESTIMATED RETURN.

2 (2) IF AN EXTENSION OF TIME FOR PAYMENT HAS BEEN
 3 GRANTED UNDER THIS SECTION, INTEREST AT THE RATE PROVIDED IN
 4 [SECTION 173(2)] IS PAYABLE FROM THE DATE ON WHICH SUCH
 5 PAYMENT WAS FIRST DUE WITHOUT EXTENSION UNTIL THE TAX IS
 6 PAID.

7 NEW SECTION. SECTION 169. EXAMINATION OF RETURN --
 8 ADJUSTMENTS -- DELIVERY OF NOTICES AND DEMANDS. (1) THE
 9 DEPARTMENT MAY EXAMINE A RETURN AND MAKE ANY INVESTIGATION
 10 OR EXAMINATION OF THE RECORDS AND ACCOUNTS OF THE PERSON
 11 MAKING THE RETURN THAT THE DEPARTMENT CONSIDERS NECESSARY TO
 12 DETERMINE THE ACCURACY OF THE RETURN.

13 (2) TO DETERMINE THE ACCURACY OF A RETURN, THE
 14 DEPARTMENT MAY EXAMINE THE RETURNS OR RECORDS USING
 15 STATISTICAL OR OTHER SAMPLING TECHNIQUES CONSISTENT WITH
 16 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

17 (3) IF THE DEPARTMENT DETERMINES THAT THE AMOUNT OF
 18 TAX DUE IS DIFFERENT FROM THE AMOUNT REPORTED, THE AMOUNT OF
 19 TAX COMPUTED ON THE BASIS OF THE EXAMINATION CONDUCTED
 20 PURSUANT TO SUBSECTIONS (1) AND (2) CONSTITUTES THE TAX TO
 21 BE PAID.

22 (4) IF THE TAX DUE EXCEEDS THE AMOUNT OF TAX REPORTED
 23 AS DUE ON THE TAXPAYER'S RETURN, THE EXCESS MUST BE PAID TO
 24 THE DEPARTMENT WITHIN 60 DAYS AFTER NOTICE OF THE AMOUNT AND
 25 DEMAND FOR PAYMENT IS MAILED TO THE PERSON MAKING THE

1 RETURN. IF THE AMOUNT OF THE TAX FOUND DUE BY THE
 2 DEPARTMENT IS LESS THAN THAT REPORTED AS DUE ON THE RETURN
 3 AND HAS BEEN PAID, THE EXCESS MUST BE REFUNDED TO THE PERSON
 4 MAKING THE RETURN IN THE MANNER PROVIDED IN 15-1-503.

5 (5) THE NOTICES AND DEMANDS PROVIDED FOR IN THIS
 6 SECTION MUST CONTAIN A STATEMENT OF THE COMPUTATION OF THE
 7 TAX AND MUST BE SENT BY MAIL TO THE PERSON MAKING THE RETURN
 8 AT THE ADDRESS GIVEN IN HIS RETURN, IF ANY, OR TO HIS
 9 LAST-KNOWN ADDRESS, OR A WRITTEN STATEMENT OF THE
 10 COMPUTATION OF THE TAX MAY BE SERVED PERSONALLY UPON THE
 11 TAXPAYER.

12 NEW SECTION. SECTION 170. PENALTIES FOR VIOLATION.

13 (1) (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (1)(B), IF A
 14 PERSON, WITHOUT PURPOSELY OR KNOWINGLY VIOLATING ANY
 15 REQUIREMENT IMPOSED BY [SECTIONS 113 THROUGH 187], FAILS TO
 16 FILE A RETURN OR PAY THE TAX DUE ON OR BEFORE THE DATE THE
 17 RETURN OR TAX IS DUE (DETERMINED WITH REGARD TO ANY
 18 EXTENSION OF TIME GRANTED FOR FILING THE RETURN), THERE MUST
 19 IMMEDIATELY BE IMPOSED A PENALTY OF 5% OF ANY TAX DUE ON THE
 20 RETURN. THE PENALTY INCREASES BY THE AMOUNT OF 5% OF THE TAX
 21 DUE FOR EACH 30-DAY PERIOD OR PORTION THEREOF THAT THE
 22 RETURN REMAINS UNFILED AFTER NOTIFICATION OF FAILURE TO
 23 FILE.

24 (B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2),
 25 THE TOTAL AMOUNT OF THE PENALTY MAY NOT EXCEED 25% OF THE

1 TOTAL TAX DUE.

2 (C) INTEREST ACCRUES ON THE UNPAID TAX AT THE RATE OF
 3 1% FOR EACH MONTH OR PART THEREOF DURING WHICH THE TAX
 4 REMAINS UNPAID.

5 (D) THE DEPARTMENT MAY NOT ASSESS A PENALTY UNTIL SUCH
 6 TIME AS THE PENALTY EQUALS \$10 OR MORE FOR ANY ONE TAX
 7 PERIOD OR THE PERIOD COVERED BY ANY RETURN OR STATEMENT.

8 (2) (A) IF A PERSON PURPOSELY OR KNOWINGLY VIOLATES
 9 ANY REQUIREMENT IMPOSED BY [SECTIONS 113 THROUGH 187], FAILS
 10 TO MAKE A RETURN, OR FAILS TO PAY A TAX, IF ONE IS DUE, AT
 11 THE TIME REQUIRED UNDER THE PROVISIONS OF [SECTIONS 113
 12 THROUGH 187], THERE IS ADDED TO THE TAX AN ADDITIONAL AMOUNT
 13 EQUAL TO 25% OF THE TAX. SUCH ADDITIONAL AMOUNT MAY IN NO
 14 CASE BE LESS THAN \$25.

15 (B) INTEREST ACCRUES ON THE UNPAID TAX AT THE RATE OF
 16 1% FOR EACH MONTH OR PART THEREOF DURING WHICH THE TAX
 17 REMAINS UNPAID.

18 (3) (A) ANY INDIVIDUAL, CORPORATION, OR PARTNERSHIP,
 19 ANY OFFICER OR EMPLOYEE OF A CORPORATION, OR ANY MEMBER OR
 20 EMPLOYEE OF A PARTNERSHIP WHO, WITH INTENT TO EVADE ANY
 21 REQUIREMENT OF [SECTIONS 113 THROUGH 187] OR ANY LAWFUL
 22 REQUIREMENT OF THE DEPARTMENT ADOPTED PURSUANT TO [SECTIONS
 23 113 THROUGH 187], PURPOSELY OR KNOWINGLY FAILS TO PAY THE
 24 TAX OR TO MAKE, RENDER, OR SIGN ANY RETURN OR TO SUPPLY ANY
 25 INFORMATION WITHIN THE TIME REQUIRED UNDER THE PROVISIONS OF

1 [SECTIONS 113 THROUGH 187] OR WHO, WITH LIKE INTENT,
 2 PURPOSELY OR KNOWINGLY MAKES, RENDERS, OR SIGNS ANY FALSE OR
 3 FRAUDULENT RETURN OR STATEMENT OR SUPPLIES ANY FALSE OR
 4 FRAUDULENT INFORMATION IS SUBJECT TO A CIVIL PENALTY OF NOT
 5 MORE THAN \$5,000.

6 (B) A PENALTY IMPOSED BY SUBSECTION (3)(A) MUST BE
 7 RECOVERED BY THE DEPARTMENT IN THE NAME OF THE STATE BY
 8 ACTION IN A COURT OF COMPETENT JURISDICTION.

9 (4) THE DEPARTMENT MAY ABATE OR WAIVE ALL OR A PORTION
 10 OF THE PENALTIES IMPOSED IN SUBSECTION (1) IF THE TAXPAYER
 11 ESTABLISHES TO THE SATISFACTION OF THE DEPARTMENT THAT HIS
 12 FAILURE TO FILE OR TO PAY ON TIME WAS DUE TO REASONABLE
 13 CAUSE AND WAS NOT DUE TO NEGLIGENCE ON HIS PART.

14 NEW SECTION. SECTION 171. WARRANTS FOR DISTRAINT. IF
 15 A TAX IMPOSED BY [SECTIONS 113 THROUGH 187] OR ANY PORTION
 16 OF SUCH TAX IS NOT PAID WHEN DUE, THE DEPARTMENT MAY ISSUE A
 17 WARRANT FOR DISTRAINT AS PROVIDED IN TITLE 15, CHAPTER 1,
 18 PART 7.

19 NEW SECTION. SECTION 172. AUTHORITY TO COLLECT
 20 DELINQUENT TAXES. (1) THE DEPARTMENT SHALL COLLECT TAXES
 21 THAT ARE DELINQUENT AS DETERMINED UNDER [SECTIONS 113
 22 THROUGH 187].

23 (2) TO COLLECT DELINQUENT TAXES AFTER THE TIME FOR
 24 APPEAL HAS EXPIRED, THE DEPARTMENT MAY DIRECT THE OFFSET OF
 25 TAX REFUNDS OR OTHER FUNDS DUE THE TAXPAYER FROM THE STATE,

1 EXCEPT WAGES SUBJECT TO THE PROVISIONS OF 25-13-614 AND
 2 RETIREMENT BENEFITS.

3 (3) AS PROVIDED IN 15-1-705, THE TAXPAYER HAS THE
 4 RIGHT TO A HEARING ON THE TAX LIABILITY PRIOR TO ANY OFFSET
 5 BY THE DEPARTMENT.

6 (4) THE DEPARTMENT MAY FILE A CLAIM FOR STATE FUNDS ON
 7 BEHALF OF THE TAXPAYER IF A CLAIM IS REQUIRED BEFORE FUNDS
 8 ARE AVAILABLE FOR OFFSET.

9 (5) THE DEPARTMENT SHALL PROVIDE THE TAXPAYER WITH
 10 WRITTEN NOTICE OF THE RIGHT TO REQUEST A HEARING UNDER THE
 11 CONTESTED CASE PROCEDURES OF TITLE 2, CHAPTER 4, ON THE
 12 MATTER OF THE OFFSET ACTION OR THE DEPARTMENT'S INTENT TO
 13 FILE A CLAIM ON BEHALF OF THE TAXPAYER. A WRITTEN REQUEST
 14 FOR A HEARING MUST BE MADE WITHIN 30 DAYS OF THE DATE OF THE
 15 NOTICE, AND SUCH HEARING MUST BE HELD WITHIN 30 DAYS
 16 FOLLOWING RECEIPT BY THE DEPARTMENT OF THE WRITTEN REQUEST.

17 NEW SECTION. SECTION 173. PENALTY FOR DEFICIENCY.
 18 (1) (A) IF THE PAYMENT OF A TAX DEFICIENCY IS NOT MADE
 19 WITHIN 60 DAYS AFTER IT IS DUE AND PAYABLE AND IF THE
 20 DEFICIENCY IS DUE TO NEGLIGENCE ON THE PART OF THE TAXPAYER
 21 BUT WITHOUT FRAUD, THERE MUST BE ADDED TO THE AMOUNT OF THE
 22 DEFICIENCY A PENALTY OF 5% OF THE TAX.

23 (B) IN ADDITION, A PENALTY OF 5% OF THE DELINQUENT TAX
 24 SHALL BE ASSESSED FOR EACH 30-DAY PERIOD OR PORTION THEREOF
 25 THAT THE TAX REMAINS UNPAID FOLLOWING NOTIFICATION OF

1 DELINQUENCY.
 2 (C) INTEREST ACCRUES ON THE UNPAID TAXES AT THE RATE
 3 OF 1% FOR EACH MONTH OR PART THEREOF DURING WHICH UNPAID
 4 TAXES REMAIN UNPAID. THE INTEREST MUST BE COMPUTED FROM THE
 5 DATE THE RETURN AND TAX WERE ORIGINALLY DUE, AS
 6 DISTINGUISHED FROM THE DUE DATE AS IT MAY HAVE BEEN EXTENDED
 7 TO THE DATE OF PAYMENT.
 8 (D) IN NO EVENT MAY THE PENALTIES IMPOSED UNDER
 9 SUBSECTIONS (1)(A) AND (1)(B) EXCEED 25% OF THE TOTAL TAX
 10 DUE.
 11 (2) IF THE TIME FOR FILING A RETURN IS EXTENDED, THE
 12 TAXPAYER SHALL PAY, IN ADDITION TO THE TAX DUE, INTEREST
 13 THEREON AT THE RATE OF 1% FOR EACH MONTH OR PART THEREOF
 14 FROM THE DATE THE RETURN WAS ORIGINALLY REQUIRED TO BE FILED
 15 TO THE TIME OF PAYMENT.
 16 (3) THE DEPARTMENT MAY NOT ASSESS A PENALTY UNTIL SUCH
 17 TIME AS THE PENALTY EQUALS \$10 OR MORE FOR ANY ONE TAX
 18 PERIOD OR THE PERIOD COVERED BY ANY RETURN OR STATEMENT.
 19 NEW SECTION. SECTION 174. LIMITATIONS. EXCEPT IN THE
 20 CASE OF A PERSON WHO, WITH INTENT TO EVADE THE TAX,
 21 PURPOSELY OR KNOWINGLY FILES A FALSE OR FRAUDULENT RETURN
 22 VIOLATING THE PROVISIONS OF [SECTIONS 113 THROUGH 187], THE
 23 AMOUNT OF TAX DUE UNDER ANY RETURN MUST BE DETERMINED BY THE
 24 DEPARTMENT WITHIN 5 YEARS AFTER THE RETURN WAS MADE. THE
 25 DEPARTMENT IS BARRED FROM REVISING A RETURN OR RECOMPUTING

1 THE TAX DUE THEREON, AND NO PROCEEDING IN COURT FOR THE
 2 COLLECTION OF THE TAX MAY BE INSTITUTED UNLESS NOTICE OF AN
 3 ADDITIONAL TAX WAS PROVIDED WITHIN THE PERIOD DESCRIBED IN
 4 THIS SECTION.
 5 NEW SECTION. SECTION 175. REFUNDS. A CLAIM FOR A
 6 REFUND MADE FOR TAXES COLLECTED UNDER [SECTIONS 113 THROUGH
 7 187] MUST BE IN ACCORDANCE WITH THE PROCEDURE AND TIME
 8 LIMITS PROVIDED IN 15-1-503.
 9 NEW SECTION. SECTION 176. ADMINISTRATION -- RULES.
 10 THE DEPARTMENT SHALL:
 11 (1) ADMINISTER AND ENFORCE THE PROVISIONS OF [SECTIONS
 12 113 THROUGH 187];
 13 (2) CAUSE TO BE PREPARED AND DISTRIBUTED SUCH FORMS
 14 AND INFORMATION AS MAY BE NECESSARY TO ADMINISTER THE
 15 PROVISIONS OF [SECTIONS 113 THROUGH 187]; AND
 16 (3) PROMULGATE SUCH RULES AS MAY BE APPROPRIATE TO
 17 ADMINISTER AND ENFORCE THE PROVISIONS OF [SECTIONS 113
 18 THROUGH 187].
 19 NEW SECTION. SECTION 177. REVOCATION OF CORPORATE
 20 LICENSE. (1) IF A CORPORATION AUTHORIZED TO DO BUSINESS IN
 21 THIS STATE AND REQUIRED TO PAY THE TAXES IMPOSED UNDER
 22 [SECTIONS 113 THROUGH 187] FAILS TO COMPLY WITH ANY OF THE
 23 PROVISIONS OF [SECTIONS 113 THROUGH 187] OR ANY RULE OF THE
 24 DEPARTMENT, THE DEPARTMENT MAY, FOR REASONABLE CAUSE,
 25 CERTIFY TO THE SECRETARY OF STATE A COPY OF AN ORDER FINDING

1 THAT THE CORPORATION HAS FAILED TO COMPLY WITH SPECIFIC
 2 STATUTORY PROVISIONS OR RULES.

3 (2) THE SECRETARY OF STATE SHALL, UPON RECEIPT OF THE
 4 CERTIFICATION, REVOKE THE LICENSE AUTHORIZING THE
 5 CORPORATION TO DO BUSINESS IN THIS STATE AND MAY ISSUE A NEW
 6 LICENSE ONLY WHEN THE CORPORATION HAS OBTAINED FROM THE
 7 DEPARTMENT AN ORDER FINDING THAT THE CORPORATION HAS
 8 COMPLIED WITH ITS OBLIGATIONS UNDER [SECTIONS 113 THROUGH
 9 187].

10 (3) NO ORDER AUTHORIZED IN THIS SECTION MAY BE MADE
 11 UNTIL THE CORPORATION IS GIVEN AN OPPORTUNITY TO BE HEARD
 12 AND TO SHOW CAUSE AT A CONTESTED CASE HEARING BEFORE THE
 13 DEPARTMENT WHY SUCH ORDER SHOULD NOT BE MADE. THE
 14 CORPORATION MUST BE GIVEN 30 DAYS' NOTICE OF THE TIME AND
 15 PLACE OF THE HEARING AND THE REASON FOR THE PROPOSED ORDER.

16 NEW SECTION. SECTION 178. TAX AS DEBT. (1) THE TAXES
 17 IMPOSED BY [SECTIONS 113 THROUGH 187] AND RELATED INTEREST
 18 AND PENALTIES BECOME A PERSONAL DEBT OF THE PERSON REQUIRED
 19 TO FILE A RETURN FROM THE TIME THE LIABILITY ARISES,
 20 REGARDLESS OF WHEN THE TIME FOR PAYMENT OF SUCH LIABILITY
 21 OCCURS.

22 (2) IN THE CASE OF AN EXECUTOR OR ADMINISTRATOR OF THE
 23 ESTATE OF A DECEDENT OR IN THE CASE OF A FIDUCIARY, THE DEBT
 24 IS THAT OF THE PERSON IN HIS OFFICIAL OR FIDUCIARY CAPACITY
 25 ONLY, UNLESS HE HAS VOLUNTARILY DISTRIBUTED THE ASSETS HELD

1 IN SUCH CAPACITY WITHOUT RESERVING SUFFICIENT ASSETS TO PAY
 2 THE TAXES, INTEREST, AND PENALTIES, IN WHICH EVENT HE IS
 3 PERSONALLY LIABLE FOR ANY DEFICIENCY.

4 (3) THIS SECTION ALSO APPLIES TO THOSE CORPORATE
 5 OFFICERS, DIRECTORS, OR SHAREHOLDERS REQUIRED BY THE
 6 DEPARTMENT TO PERSONALLY GUARANTEE THE PAYMENT OF THE TAXES
 7 FOR THEIR CORPORATIONS.

8 NEW SECTION. SECTION 179. INFORMATION --
 9 CONFIDENTIALITY -- AGREEMENTS. (1) (A) EXCEPT AS PROVIDED IN
 10 SUBSECTION (1)(B), IT IS UNLAWFUL FOR AN EMPLOYEE OF THE
 11 DEPARTMENT OR ANY OTHER PUBLIC OFFICIAL OR PUBLIC EMPLOYEE
 12 TO DIVULGE OR OTHERWISE MAKE KNOWN ANY INFORMATION DISCLOSED
 13 IN A REPORT OR RETURN REQUIRED TO BE FILED UNDER [SECTIONS
 14 113 THROUGH 187] OR ANY INFORMATION CONCERNING THE AFFAIRS
 15 OF THE PERSON MAKING THE RETURN THAT IS ACQUIRED FROM HIS
 16 RECORDS, OFFICERS, OR EMPLOYEES IN AN EXAMINATION OR AUDIT.

17 (B) SUBSECTION (1)(A) DOES APPLY TO INFORMATION
 18 OBTAINED FROM THE TAXPAYER MAKING THE REPORT OR RETURN IN
 19 CONNECTION WITH A PROCEEDING INVOLVING TAXES DUE UNDER
 20 [SECTIONS 113 THROUGH 187] OR TO COMPLY WITH THE PROVISIONS
 21 OF SUBSECTION (2).

22 (C) NOTHING IN THIS SECTION MAY BE CONSTRUED TO
 23 PROHIBIT THE DEPARTMENT FROM PUBLISHING STATISTICS SO
 24 CLASSIFIED AS TO NOT DISCLOSE THE IDENTITY OF ANY PARTICULAR
 25 RETURN OR RETURNS OR REPORTS AND THE CONTENT THEREOF. A

1 PERSON VIOLATING THE PROVISIONS OF THIS SECTION IS SUBJECT
 2 TO THE PENALTY PROVIDED FOR VIOLATING THE CONFIDENTIALITY OF
 3 INDIVIDUAL INCOME TAX INFORMATION AS PROVIDED IN 15-30-303.

4 (2) (A) THE DEPARTMENT MAY ENTER INTO AN AGREEMENT
 5 WITH THE TAXING OFFICIALS OF ANOTHER STATE FOR THE
 6 INTERPRETATION AND ADMINISTRATION OF THE LAWS OF THEIR STATE
 7 THAT PROVIDE FOR THE COLLECTION OF SALES TAXES OR USE TAXES
 8 IN ORDER TO PROMOTE FAIR AND EQUITABLE ADMINISTRATION OF
 9 SUCH LAWS AND TO ELIMINATE DOUBLE TAXATION.

10 (B) THE DEPARTMENT, IN ORDER TO IMPLEMENT THE
 11 PROVISIONS OF [SECTIONS 113 THROUGH 187], MAY FURNISH
 12 INFORMATION ON A RECIPROCAL BASIS TO THE TAXING OFFICIALS OF
 13 ANOTHER STATE OR TO THE TAXING OFFICIALS OF A MUNICIPALITY
 14 OF THIS STATE THAT HAS A LOCAL SALES TAX OR USE TAX.

15 (3) IN ORDER TO FACILITATE PROCESSING OF RETURNS AND
 16 PAYMENTS OF TAXES REQUIRED BY [SECTIONS 113 THROUGH 187],
 17 THE DEPARTMENT MAY CONTRACT WITH VENDORS AND MAY DISCLOSE
 18 DATA TO THE VENDORS. THE DATA DISCLOSED MUST BE ADMINISTERED
 19 BY THE VENDOR IN A MANNER CONSISTENT WITH THIS SECTION.

20 NEW SECTION. SECTION 180. SALES AND USE TAX ACCOUNT
 21 -- ADMINISTRATION AND ENFORCEMENT ACCOUNT. (1) THERE IS
 22 WITHIN THE STATE SPECIAL REVENUE FUND A SALES AND USE TAX
 23 ACCOUNT.

24 (2) ALL MONEY COLLECTED UNDER [SECTIONS 113 THROUGH
 25 180] MUST BE PAID BY THE DEPARTMENT INTO THE SALES AND USE

1 TAX ACCOUNT.

2 NEW SECTION. SECTION 181. SPECIAL PURPOSE LOCAL
 3 OPTION RETAIL SALES AND USE TAX. AS REQUIRED BY 7-1-112,
 4 [SECTIONS 181 THROUGH 187] SPECIFICALLY DELEGATE TO THE
 5 ELECTORS OF ANY LOCAL GOVERNMENT, AS DEFINED IN
 6 7-12-1103(6), THE POWER TO AUTHORIZE THEIR LOCAL GOVERNMENT
 7 TO IMPOSE A SPECIAL PURPOSE RETAIL SALES AND USE TAX WITHIN
 8 THE CORPORATE BOUNDARY OF THE LOCAL GOVERNMENT.

9 NEW SECTION. SECTION 182. LIMIT ON TAX RATE -- GOODS
 10 AND SERVICES SUBJECT TO TAX. (1) THE RATE OF THE SPECIAL
 11 PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX MUST BE
 12 ESTABLISHED BY THE ELECTION PETITION PROVIDED FOR IN
 13 [SECTION 183], BUT THE RATE MAY NOT EXCEED 1%.

14 (2) THE TAX IMPOSED UNDER [SECTIONS 181 THROUGH 187]
 15 IS IN ADDITION TO THE SALES TAX AND USE TAX IMPOSED BY
 16 [SECTION 114].

17 (3) THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND
 18 USE TAX IS A TAX ON THE RETAIL VALUE OF ALL GOODS AND
 19 SERVICES SOLD EXCEPT THOSE SPECIFICALLY EXEMPTED OR EXCLUDED
 20 UNDER [SECTIONS 120 THROUGH 135] OR DEDUCTIBLE UNDER
 21 [SECTIONS 136 THROUGH 154<>].

22 NEW SECTION. SECTION 183. ELECTION REQUIRED TO IMPOSE
 23 OR REPEAL SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE
 24 TAX. (1) A LOCAL GOVERNMENT UNIT MAY IMPOSE OR REPEAL A TAX
 25 AUTHORIZED BY [SECTION 181] ONLY AFTER APPROVAL BY A SIMPLE

1 MAJORITY OF THE ELECTORS VOTING ON THE QUESTION WHO ARE
 2 RESIDENTS OF THE JURISDICTION THAT IS OR WILL BE SUBJECT TO
 3 THE TAX.

4 (2) THE BALLOT ISSUE MAY BE PRESENTED TO THE ELECTORS
 5 OF THE LOCAL GOVERNMENT BY:

6 (A) A PETITION SIGNED BY 15% OF THE ELECTORS; OR

7 (B) A RESOLUTION OF THE GOVERNING BODY.

8 (3) UPON THE RECEIPT OF A PETITION OR A RESOLUTION
 9 REQUESTING AN ELECTION, THE QUESTION ON THE SPECIAL PURPOSE
 10 LOCAL TAX MUST BE PLACED ON THE BALLOT AT THE NEXT REGULARLY
 11 SCHEDULED ELECTION.

12 (4) THE QUESTION MUST INCLUDE THE INFORMATION REQUIRED
 13 BY [SECTION 185] AND BE PRESENTED IN SUBSTANTIALLY THE
 14 FOLLOWING FORM:

15 FOR THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND
 16 USE TAX.

17 AGAINST THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES

18 AND USE TAX.

19 (5) THE QUESTION OF IMPOSITION OF A SPECIAL PURPOSE
 20 LOCAL OPTION RETAIL SALES AND USE TAX MAY NOT BE PLACED
 21 BEFORE THE ELECTORS MORE THAN ONE TIME IN ANY FISCAL YEAR.

22 NEW SECTION. SECTION 184. RATE OF SPECIAL PURPOSE
 23 RETAIL SALES AND USE TAX. (1) THE RATE OF THE SPECIAL
 24 PURPOSE RETAIL SALES AND USE TAX MUST BE DETERMINED BY THE
 25 ELECTORS WHEN VOTING ON THE QUESTION. THE GOVERNING BODY OF

1 THE LOCAL GOVERNMENT UNIT SHALL CERTIFY THE RATE OF THE TAX
 2 TO THE DEPARTMENT ON OR BEFORE OCTOBER 1 OF THE FIRST YEAR
 3 IN WHICH THE TAX IS TO BE IMPOSED.

4 (2) THE TAX IMPOSED BY [SECTIONS 181 THROUGH 187] IS
 5 IN ADDITION TO THE SALES TAX AND USE TAX IMPOSED BY [SECTION
 6 114].

7 NEW SECTION. SECTION 185. SPECIFIC PURPOSE OF SPECIAL
 8 PURPOSE RETAIL SALES AND USE TAX. (1) THE PROJECT FOR WHICH
 9 THE SPECIAL PURPOSE SALES AND USE TAX WILL BE USED MUST BE
 10 DETERMINED BY THE ELECTORS WHEN VOTING ON THE QUESTION.

11 (2) THE PROJECT MUST BE IDENTIFIED ON THE BALLOT.

12 NEW SECTION. SECTION 186. ADMINISTRATION OF LOCAL
 13 OPTION RETAIL SALES AND USE TAXES -- ROLE OF DEPARTMENT. (1)
 14 THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAXES
 15 AUTHORIZED UNDER [SECTIONS 181 THROUGH 187] MUST BE
 16 ADMINISTERED BY THE DEPARTMENT UNDER RULES ADOPTED BY THE
 17 DEPARTMENT. THE RULES FOR THE ADMINISTRATION OF THE STATE
 18 RETAIL SALES AND USE TAX APPLY TO THE SPECIAL PURPOSE LOCAL
 19 OPTION RETAIL SALES AND USE TAXES EXCEPT WHEN, IN THE
 20 JUDGMENT OF THE DEPARTMENT, THE RULES WOULD BE INCONSISTENT
 21 OR NOT FEASIBLE FOR PROPER ADMINISTRATION.

22 (2) MONEY COLLECTED PURSUANT TO [SECTIONS 181 THROUGH
 23 187] MUST BE ACCOUNTED FOR SEPARATELY BY TAXING JURISDICTION
 24 AND MUST BE CREDITED TO A SEPARATE SPECIAL PURPOSE LOCAL
 25 RETAIL SALES AND USE TAX ACCOUNT IN THE STATE TREASURY.

1 (3) THE DEPARTMENT MAY DEDUCT FROM THE MONEY COLLECTED
 2 AN AMOUNT NOT EXCEEDING 1% TO COVER NECESSARY COSTS INCURRED
 3 BY THE DEPARTMENT IN ADMINISTERING THE SPECIAL PURPOSE LOCAL
 4 RETAIL SALES AND USE TAXES.

5 NEW SECTION. SECTION 187. DISTRIBUTION OF SPECIAL
 6 PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX COLLECTIONS.

7 (1) ALL MONEY COLLECTED PURSUANT TO [SECTIONS 181 THROUGH
 8 187] MUST BE DISTRIBUTED BY THE DEPARTMENT TO THE LOCAL
 9 GOVERNMENT UNIT OF ORIGIN IN MAY AND NOVEMBER OF EACH YEAR,
 10 AFTER DEDUCTING THE COSTS OF ADMINISTERING THE TAX.

11 (2) THE DEPARTMENT SHALL PROVIDE THE NECESSARY REVENUE
 12 INFORMATION FOR THE PROPER DISTRIBUTION OF THE REVENUES TO
 13 THE COUNTY FINANCE ADMINISTRATOR.

14 NEW SECTION. SECTION 188. RENTERS' PROPERTY TAX
 15 CREDIT -- DEFINITIONS. AS USED IN [SECTIONS 188 THROUGH
 16 196], THE FOLLOWING DEFINITIONS APPLY:

17 (1) "CLAIMANT" MEANS AN INDIVIDUAL NATURAL PERSON WHO
 18 IS ELIGIBLE TO FILE A CLAIM UNDER [SECTION 189].

19 (2) "CLAIM PERIOD" MEANS THE TAX YEAR FOR INDIVIDUALS
 20 REQUIRED TO FILE MONTANA INDIVIDUAL INCOME TAX RETURNS AND
 21 THE CALENDAR YEAR FOR INDIVIDUALS NOT REQUIRED TO FILE
 22 RETURNS.

23 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

24 (4) "GROSS HOUSEHOLD INCOME" MEANS ALL INCOME RECEIVED
 25 BY ALL INDIVIDUALS OF A HOUSEHOLD WHILE THEY ARE MEMBERS OF

1 THE HOUSEHOLD.

2 (5) "GROSS RENT" MEANS THE TOTAL RENT IN CASH OR ITS
 3 EQUIVALENT ACTUALLY PAID DURING THE CLAIM PERIOD BY THE
 4 RENTER OR LESSEE FOR THE RIGHT OF OCCUPANCY OF THE HOMESTEAD
 5 PURSUANT TO AN ARM'S LENGTH TRANSACTION WITH THE LANDLORD.

6 (6) "HOMESTEAD" MEANS A SINGLE-FAMILY DWELLING OR UNIT
 7 OF A MULTIPLE-UNIT DWELLING THAT IS SUBJECT TO AD VALOREM
 8 TAXES IN MONTANA AND AS MUCH OF THE SURROUNDING LAND, BUT
 9 NOT IN EXCESS OF 1 ACRE, AS IS REASONABLY NECESSARY FOR ITS
 10 USE AS A DWELLING.

11 (7) "HOUSEHOLD" MEANS AN ASSOCIATION OF PERSONS WHO
 12 LIVE IN THE SAME DWELLING, SHARING ITS FURNISHINGS,
 13 FACILITIES, ACCOMMODATIONS, AND EXPENSES. THE TERM DOES NOT
 14 INCLUDE BONA FIDE LESSEES, TENANTS, OR ROOMERS AND BOARDERS
 15 ON CONTRACT.

16 (8) "HOUSEHOLD INCOME" MEANS \$0 OR THE AMOUNT OBTAINED
 17 BY SUBTRACTING \$4,000 FROM GROSS HOUSEHOLD INCOME, WHICHEVER
 18 IS GREATER.

19 (9) "INCOME" MEANS FEDERAL ADJUSTED GROSS INCOME,
 20 WITHOUT REGARD TO LOSS, AS THAT QUANTITY IS DEFINED IN THE
 21 INTERNAL REVENUE CODE OF THE UNITED STATES, PLUS ALL
 22 NONTAXABLE INCOME, INCLUDING BUT NOT LIMITED TO:

23 (A) THE GROSS AMOUNT OF ANY PENSION OR ANNUITY
 24 (INCLUDING RAILROAD RETIREMENT ACT BENEFITS AND VETERANS'
 25 DISABILITY BENEFITS);

1 (B) THE AMOUNT OF CAPITAL GAINS EXCLUDED FROM ADJUSTED
2 GROSS INCOME;
3 (C) ALIMONY;
4 (D) SUPPORT MONEY;
5 (E) NONTAXABLE STRIKE BENEFITS;
6 (F) CASH PUBLIC ASSISTANCE AND RELIEF;
7 (G) PAYMENTS AND INTEREST ON FEDERAL, STATE, COUNTY,
8 AND MUNICIPAL BONDS; AND
9 (H) ALL PAYMENTS UNDER FEDERAL SOCIAL SECURITY.
10 (10) "PROPERTY TAX PAID" MEANS GENERAL AD VALOREM TAXES
11 LEVIED AGAINST THE HOMESTEAD, EXCLUSIVE OF SPECIAL
12 ASSESSMENTS, PENALTIES, OR INTEREST AND PAID DURING THE
13 CLAIM PERIOD.
14 (11) "RENT-EQUIVALENT TAX PAID" MEANS 15% OF THE GROSS
15 RENT.
16 NEW SECTION. SECTION 189. RENTERS' PROPERTY TAX
17 CREDIT -- ELIGIBILITY. (1) IN ORDER TO BE ELIGIBLE TO MAKE A
18 CLAIM UNDER [SECTIONS 188 THROUGH 196], AN INDIVIDUAL:
19 (A) MUST HAVE RESIDED IN MONTANA FOR AT LEAST 9 MONTHS
20 OF THAT PERIOD; AND
21 (B) MUST HAVE OCCUPIED ONE OR MORE DWELLINGS IN
22 MONTANA AS A RENTER OR LESSEE FOR AT LEAST 6 MONTHS OF THE
23 CLAIM PERIOD.
24 (2) A PERSON IS NOT DISQUALIFIED AS A CLAIMANT IF HE
25 CHANGES RESIDENCES DURING THE CLAIM PERIOD, PROVIDED THAT HE

1 OCCUPIES ONE OR MORE DWELLINGS IN MONTANA AS A RENTER OR
2 LESSEE FOR AT LEAST 6 MONTHS DURING THE CLAIM PERIOD.
3 NEW SECTION. SECTION 190. RENTERS' PROPERTY TAX
4 CREDIT -- DISALLOWANCE OR ADJUSTMENT OF CERTAIN CLAIMS. IF
5 THE LANDLORD AND TENANT HAVE NOT DEALT AT ARM'S LENGTH AND
6 THE DEPARTMENT JUDGES THE GROSS RENT CHARGED TO BE
7 EXCESSIVE, THE DEPARTMENT MAY ADJUST THE GROSS RENT TO A
8 REASONABLE AMOUNT.
9 NEW SECTION. SECTION 191. RENTERS' PROPERTY TAX
10 CREDIT -- FILING DATE. (1) EXCEPT AS PROVIDED IN SUBSECTION
11 (2), A CLAIM FOR RELIEF MUST BE SUBMITTED AT THE SAME TIME
12 THE CLAIMANT'S INDIVIDUAL INCOME TAX RETURN IS DUE. FOR AN
13 INDIVIDUAL NOT REQUIRED TO FILE A TAX RETURN, THE CLAIM MUST
14 BE SUBMITTED ON OR BEFORE APRIL 15 OF THE YEAR FOLLOWING THE
15 YEAR FOR WHICH RELIEF IS SOUGHT.
16 (2) THE DEPARTMENT MAY GRANT A REASONABLE EXTENSION
17 FOR FILING A CLAIM WHENEVER, IN ITS JUDGMENT, GOOD CAUSE
18 EXISTS. THE DEPARTMENT SHALL KEEP A RECORD OF EACH EXTENSION
19 AND THE REASON FOR GRANTING THE EXTENSION.
20 (3) IN THE EVENT THAT AN INDIVIDUAL WHO WOULD HAVE A
21 CLAIM UNDER [SECTIONS 188 THROUGH 196] DIES BEFORE FILING
22 THE CLAIM, THE PERSONAL REPRESENTATIVE OF THE ESTATE OF THE
23 DECEDENT MAY FILE THE CLAIM.
24 NEW SECTION. SECTION 192. RENTERS' PROPERTY TAX
25 CREDIT -- FORM OF RELIEF. RELIEF UNDER [SECTIONS 188 THROUGH

1 196] IS A CREDIT AGAINST THE CLAIMANT'S MONTANA INDIVIDUAL
 2 INCOME TAX LIABILITY FOR THE CLAIM PERIOD. IF THE AMOUNT OF
 3 THE CREDIT EXCEEDS THE CLAIMANT'S LIABILITY UNDER THIS
 4 CHAPTER, THE AMOUNT OF THE EXCESS MUST BE REFUNDED TO THE
 5 CLAIMANT. THE CREDIT MAY BE CLAIMED EVEN THOUGH THE CLAIMANT
 6 HAS NO INCOME TAXABLE UNDER THIS CHAPTER.

7 NEW SECTION. SECTION 193. RENTERS' PROPERTY TAX
 8 CREDIT -- COMPUTATION OF RELIEF. THE AMOUNT OF THE TAX
 9 CREDIT GRANTED UNDER THE PROVISIONS OF [SECTIONS 188 THROUGH
 10 196] IS COMPUTED AS FOLLOWS:

11 (1) IN THE CASE OF A CLAIMANT WHO RENTS A HOMESTEAD
 12 FOR WHICH A CLAIM IS MADE, THE CREDIT IS THE AMOUNT OF
 13 RENT-EQUIVALENT TAX PAID LESS THE DEDUCTION SPECIFIED IN
 14 SUBSECTION (3).

15 (2) IN THE CASE OF A CLAIMANT WHO BOTH OWNS AND RENTS
 16 THE HOMESTEAD FOR WHICH A CLAIM IS MADE, THE CREDIT IS THE
 17 AMOUNT OF RENT-EQUIVALENT TAX PAID ON THE RENTED PORTION OF
 18 THE HOMESTEAD LESS THE DEDUCTION SPECIFIED IN SUBSECTION
 19 (3).

20 (3) RENT-EQUIVALENT TAX PAID IS REDUCED ACCORDING TO
 21 THE FOLLOWING SCHEDULE:

<u>HOUSEHOLD INCOME</u>	<u>AMOUNT OF REDUCTION</u>
<u>\$ 0-1,999</u>	<u>\$0</u>
<u>2,000-2,999</u>	<u>THE PRODUCT OF .006 TIMES THE HOUSEHOLD INCOME</u>
<u>3,000-3,999</u>	<u>THE PRODUCT OF .016 TIMES THE HOUSEHOLD INCOME</u>

<u>1 4,000-4,999</u>	<u>THE PRODUCT OF .024 TIMES THE HOUSEHOLD INCOME</u>
<u>2 5,000-5,999</u>	<u>THE PRODUCT OF .028 TIMES THE HOUSEHOLD INCOME</u>
<u>3 6,000-6,999</u>	<u>THE PRODUCT OF .032 TIMES THE HOUSEHOLD INCOME</u>
<u>4 7,000-7,999</u>	<u>THE PRODUCT OF .035 TIMES THE HOUSEHOLD INCOME</u>
<u>5 8,000-8,999</u>	<u>THE PRODUCT OF .039 TIMES THE HOUSEHOLD INCOME</u>
<u>6 9,000-9,999</u>	<u>THE PRODUCT OF .042 TIMES THE HOUSEHOLD INCOME</u>
<u>7 10,000-10,999</u>	<u>THE PRODUCT OF .045 TIMES THE HOUSEHOLD INCOME</u>
<u>8 11,000-11,999</u>	<u>THE PRODUCT OF .048 TIMES THE HOUSEHOLD INCOME</u>
<u>9 12,000 & OVER</u>	<u>THE PRODUCT OF .050 TIMES THE HOUSEHOLD INCOME</u>

10 (4) IN NO CASE MAY THE CREDIT GRANTED EXCEED \$200.

11 NEW SECTION. SECTION 194. RENTERS' PROPERTY TAX
 12 CREDIT -- LIMITATIONS. (1) ONLY ONE CLAIMANT PER HOUSEHOLD
 13 IN A CLAIM PERIOD UNDER THE PROVISIONS OF [SECTIONS 188
 14 THROUGH 196] IS ENTITLED TO RELIEF.

15 (2) NO CLAIM FOR RELIEF MAY BE ALLOWED FOR ANY PORTION
 16 OF RENT-EQUIVALENT TAXES PAID THAT IS DERIVED FROM A PUBLIC
 17 RENT OR TAX SUBSIDY PROGRAM.

18 (3) NO CLAIM FOR RELIEF MAY BE ALLOWED ON RENTED LANDS
 19 OR RENTED DWELLINGS THAT ARE NOT SUBJECT TO AD VALOREM
 20 TAXATION IN MONTANA DURING THE CLAIM PERIOD.

21 NEW SECTION. SECTION 195. RENTERS' PROPERTY TAX
 22 CREDIT -- PROOF OF CLAIM. A RECEIPT SHOWING GROSS RENT PAID
 23 MUST BE FILED WITH EACH CLAIM. IN ADDITION, EACH CLAIMANT
 24 SHALL, AT THE REQUEST OF THE DEPARTMENT, SUPPLY ALL
 25 ADDITIONAL INFORMATION NECESSARY TO SUPPORT HIS CLAIM.

1 NEW SECTION. SECTION 196. RENTERS' PROPERTY TAX
 2 CREDIT -- DENIAL OF CLAIM. A PERSON FILING A FALSE OR
 3 FRAUDULENT CLAIM UNDER THE PROVISIONS OF [SECTIONS 188
 4 THROUGH 196] MUST BE CHARGED WITH THE OFFENSE OF UNSWORN
 5 FALSIFICATION TO AUTHORITIES PURSUANT TO 45-7-203. IF A
 6 FALSE OR FRAUDULENT CLAIM HAS BEEN PAID, THE AMOUNT PAID MAY
 7 BE RECOVERED AS ANY OTHER DEBT OWED TO THE STATE. AN
 8 ADDITIONAL 10% MAY BE ADDED TO THE AMOUNT DUE AS A PENALTY.
 9 THE UNPAID DEBT BEARS INTEREST, AT THE RATE OF 1% PER MONTH,
 10 FROM THE DATE OF THE ORIGINAL PAYMENT OF CLAIM UNTIL PAID.

11 NEW SECTION. SECTION 197. PER CAPITA FEE FOR EXPENSES
 12 OF ENFORCING LIVESTOCK AND POULTRY LAWS. (1) IN ADDITION TO
 13 APPROPRIATIONS MADE FOR SUCH PURPOSES, A PER CAPITA FEE IS
 14 AUTHORIZED AND DIRECTED TO BE PAID ON ALL LIVESTOCK AND
 15 POULTRY IN THIS STATE FOR THE PURPOSE OF AIDING IN THE
 16 PAYMENT OF THE EXPENSES, INCLUDING SALARIES, CONNECTED WITH
 17 THE ADMINISTRATION AND ENFORCEMENT OF THE LIVESTOCK AND
 18 POULTRY LAWS OF THE STATE, FOR PREDATOR CONTROL, AND FOR THE
 19 PAYMENT OF BOUNTIES ON WILD ANIMALS.

20 (2) AS USED IN THIS SECTION, "LIVESTOCK" MEANS CATTLE,
 21 SHEEP, SWINE, GOATS, HORSES, MULES, AND ASSES.

22 NEW SECTION. SECTION 198. BOARD OF LIVESTOCK TO
 23 PRESCRIBE PER CAPITA FEE. (1) THE BOARD OF LIVESTOCK SHALL
 24 ANNUALLY PRESCRIBE THE PER CAPITA FEE FOR LIVESTOCK AND
 25 POULTRY OF ALL CLASSES FOR THE PAYMENT OF THE EXPENSES,

1 INCLUDING SALARIES, CONNECTED WITH THE ADMINISTRATION AND
 2 ENFORCEMENT OF THE LIVESTOCK AND POULTRY LAWS OF THE STATE,
 3 THE COLLECTION OF THE PER CAPITA FEE, AND THE PAYMENT OF
 4 BOUNTIES ON WILD ANIMALS.

5 (2) THE PER CAPITA FEE MUST BE CALCULATED EACH YEAR TO
 6 PROVIDE NOT MORE THAN 110% OF THE AVERAGE ANNUAL REVENUE
 7 GENERATED IN THE 3 PREVIOUS YEARS, BEGINNING WITH REVENUE
 8 GENERATED IN TAXABLE YEARS 1985, 1986, AND 1987 BY
 9 15-24-922, 81-7-104, AND 81-7-118, AS THOSE SECTIONS READ IN
 10 THOSE YEARS. THE CALCULATION MUST INCLUDE A FACTOR TO
 11 ACCOUNT FOR NONPAYMENT AND LATE PAYMENT OF FEES AND FOR THE
 12 COLLECTION COSTS OF THE PER CAPITA FEE.

13 NEW SECTION. SECTION 199. COLLECTION OF FEE. (1) ON
 14 OR BEFORE JANUARY 15 OF EACH YEAR, AN OWNER OF LIVESTOCK OR
 15 POULTRY OR HIS AGENT SHALL MAKE AND DELIVER TO THE BOARD OF
 16 LIVESTOCK A VERIFIED STATEMENT SHOWING AS OF JANUARY 1 THE
 17 NUMBER OF EACH KIND OF LIVESTOCK OR POULTRY WITHIN THE STATE
 18 BELONGING TO HIM OR UNDER HIS CHARGE, WITH THE LIVESTOCK'S
 19 MARKS AND BRANDS AND THE COUNTY IN WHICH THE MAJORITY OF THE
 20 LIVESTOCK OR POULTRY IS LOCATED.

21 (2) UPON DETERMINATION OF THE NUMBERS OF EACH CLASS OF
 22 LIVESTOCK AND POULTRY AND ASSESSMENT OF THE AMOUNT OF THE
 23 LEVY SET BY THE BOARD OF LIVESTOCK, THE COUNTY TREASURER
 24 SHALL SEND TO EACH OWNER OR AGENT WHO FILED A REPORT A
 25 STATEMENT INDICATING THE TOTAL FEE DUE FOR THE YEAR, THE

1 FACT THAT PAYMENT IS TO BE MADE TO THE COUNTY TREASURER ON
2 OR BEFORE JUNE 1 FOLLOWING ASSESSMENT OF THE FEE, AND THE
3 PENALTY AND LIEN PROVISIONS THAT APPLY.

4 (3) THE COUNTY TREASURER MAY WITHHOLD 2% OF THE MONEY
5 RECEIVED FOR THE PER CAPITA FEE FOR LIVESTOCK AND POULTRY AS
6 REIMBURSEMENT TO THE COUNTY FOR THE COLLECTION OF THE FEE ON
7 LIVESTOCK AND POULTRY.

8 NEW SECTION. SECTION 200. TRANSMISSION OF FEES FROM
9 COUNTY TO STATE TREASURER; EXCEPT FOR THE MONEY WITHHELD BY
10 THE COUNTY, THE FEES LEVIED AND THE MONEY COLLECTED PURSUANT
11 TO THE PROVISIONS OF [SECTIONS 197 THROUGH 201] MUST BE
12 TRANSMITTED TO THE STATE TREASURER BY THE COUNTY TREASURER
13 OF EACH COUNTY, AS PROVIDED IN 15-1-504 BUT NOT LATER THAN
14 JULY 1 FOLLOWING ASSESSMENT. THE COUNTY TREASURER SHALL
15 DESIGNATE THE AMOUNT RECEIVED FROM THE FEE PAID ON POULTRY,
16 THE AMOUNT RECEIVED FROM THE FEE PAID ON SHEEP, AND THE
17 AMOUNT RECEIVED FROM THE FEE PAID ON ALL OTHER LIVESTOCK AND
18 SHALL SPECIFY THE SEPARATE AMOUNTS IN HIS REPORT TO THE
19 STATE TREASURER. THE MONEY, WHEN RECEIVED BY THE STATE
20 TREASURER, MUST BE DEPOSITED TO THE CREDIT OF THE DEPARTMENT
21 OF LIVESTOCK.

22 NEW SECTION. SECTION 201. PENALTY FOR FAILURE TO FILE
23 STATEMENT ON LIVESTOCK OR POULTRY -- LIEN UPON REAL AND
24 PERSONAL PROPERTY. (1) IF A PERSON WHO IS THE OWNER OF
25 LIVESTOCK OR POULTRY WITHIN THE STATE FAILS TO FILE OR HAVE

1 HIS AGENT FILE THE STATEMENT REQUIRED IN [SECTION 199], THE
2 COUNTY TREASURER SHALL, AFTER 10 DAYS' NOTICE TO THE PERSON
3 WHO FAILED TO FILE THE STATEMENT, ASSESS THE FEE IMPOSED BY
4 [SECTIONS 197 THROUGH 201] BASED ON THE BOARD OF LIVESTOCK'S
5 ESTIMATE OF THE NUMBER OF LIVESTOCK OR POULTRY OWNED BY THE
6 PERSON IN THE STATE. THE COUNTY TREASURER SHALL ADD A 10%
7 PENALTY TO THE ASSESSMENT.

8 (2) THE FEE IMPOSED PURSUANT TO [SECTIONS 197 THROUGH
9 201] IS A LIEN UPON THE REAL AND PERSONAL PROPERTY OF THE
10 LIVESTOCK OR POULTRY OWNER WHO FAILS TO PAY THE FEES ON OR
11 BEFORE JUNE 1 FOLLOWING ASSESSMENT AND IS TO BE COLLECTED
12 UNDER THE TAX LIEN ENFORCEMENT PROVISIONS OF TITLE 15.

13 NEW SECTION. SECTION 202. CREDIT FOR SALES AND USE
14 TAX. (1) THERE IS A CREDIT AGAINST TAX LIABILITY UNDER THIS
15 CHAPTER AS PROVIDED IN SUBSECTION (2).

16 (2) FOR EACH EXEMPTION CLAIMED UNDER 15-30-112, A
17 CREDIT IS ALLOWED ACCORDING TO THE FOLLOWING SCHEDULE:

<u>GROSS HOUSEHOLD INCOME</u>	<u>CREDIT PER EXEMPTION</u>
<u>\$ 0 - 4,999</u>	<u>\$30</u>
<u>5,000 - 5,999</u>	<u>27</u>
<u>6,000 - 6,999</u>	<u>24</u>
<u>7,000 - 7,999</u>	<u>21</u>
<u>8,000 - 8,999</u>	<u>19</u>
<u>9,000 - 9,999</u>	<u>16</u>
<u>10,000 - 10,999</u>	<u>13</u>

1	<u>11,000 - 11,999</u>	<u>11</u>
2	<u>12,000 - 12,999</u>	<u>9</u>
3	<u>13,000 - 13,999</u>	<u>7</u>
4	<u>14,000 - 19,999</u>	<u>5</u>
5	<u>20,000 OR MORE</u>	<u>0</u>

6 (3) FOR THE PURPOSE OF THIS SECTION, "GROSS HOUSEHOLD
7 INCOME" IS DEFINED AS PROVIDED IN [SECTION 188].

8 (4) IF THE AMOUNT OF CREDIT ALLOWED IN THIS SECTION
9 EXCEEDS THE AMOUNT OF TAX LIABILITY UNDER THIS CHAPTER BY \$1
10 OR MORE, THE DEPARTMENT SHALL REFUND THE AMOUNT IN EXCESS.
11 IF THE EXCESS IS LESS THAN \$1, THE DEPARTMENT MAY NOT MAKE A
12 REFUND.

13 SECTION 203. SECTION 7-1-2111, MCA, IS AMENDED TO
14 READ:

15 "7-1-2111. Classification of counties. (1) For the
16 purpose of regulating the compensation and salaries of all
17 county officers, not otherwise provided for, and for fixing
18 the penalties of officers' bonds, the several counties of
19 this state shall be classified according to that percentage
20 of the true and full valuation of the property therein upon
21 which the tax levy is made, as follows:

22 (a) first class--all counties having such a taxable
23 valuation of \$50 million or over;

24 (b) second class--all counties having such a taxable
25 valuation of more than \$30 million and less than \$50

1 million;

2 (c) third class--all counties having such a taxable
3 valuation of more than \$20 million and less than \$30
4 million;

5 (d) fourth class--all counties having such a taxable
6 valuation of more than \$15 million and less than \$20
7 million;

8 (e) fifth class--all counties having such a taxable
9 valuation of more than \$10 million and less than \$15
10 million;

11 (f) sixth class--all counties having such a taxable
12 valuation of more than \$5 million and less than \$10 million;

13 (g) seventh class--all counties having such a taxable
14 valuation of less than \$5 million.

15 (2) As used in this section, taxable valuation means
16 the taxable value of taxable property in the county as of
17 the time of determination plus:

18 (a) that portion of the taxable value of the county on
19 December 31, 1981, attributable to automobiles and trucks
20 having a rated capacity of three-quarters of a ton or less;
21 and

22 (b) the amount of new production taxes levied, as
23 provided in 15-23-607, divided by the appropriate tax rates
24 described in 15-23-607(2)(a) or (2)(b) and multiplied by
25 60%; and

1 (c) 19.03% of the total taxable value of the county on
 2 December 31, 1986."

3 SECTION 204. SECTION 7-3-1321, MCA, IS AMENDED TO

4 READ:

5 "7-3-1321. Authorization to incur indebtedness --
 6 limitation. (1) The consolidated municipality may borrow
 7 money or issue bonds for any municipal purpose to the extent
 8 and in the manner provided by the constitution and laws of
 9 Montana for the borrowing of money or issuing of bonds by
 10 counties and cities and towns.

11 (2) The municipality may not become indebted in any
 12 manner or for any purpose to an amount, including existing
 13 indebtedness, in' the aggregate exceeding ~~28%~~ 33% of the
 14 taxable value of the taxable property therein, as
 15 ascertained by the last assessment for state and county
 16 taxes prior to incurring such indebtedness. All warrants,
 17 bonds, or obligations in excess of such amount given by or
 18 on behalf of the municipality shall be void."

19 SECTION 205. SECTION 7-6-2211, MCA, IS AMENDED TO

20 READ:

21 "7-6-2211. Authorization to conduct county business on
 22 a cash basis. (1) In case the total indebtedness of a
 23 county, lawful when incurred, exceeds the limit of ~~29%~~ 27%
 24 established in 7-7-2101 by reason of great diminution of
 25 taxable value, the county may conduct its business affairs

1 on a cash basis and pay the reasonable and necessary current
 2 expenses of the county out of the cash in the county
 3 treasury derived from its current revenue and under such
 4 restrictions and regulations as may be imposed by the board
 5 of county commissioners of the county by a resolution duly
 6 adopted and included in the minutes of the board.

7 (2) Nothing in this section restricts the right of the
 8 board to make the necessary tax levies for interest and
 9 sinking fund purposes, and nothing in this section affects
 10 the right of any creditor of the county to pursue any remedy
 11 now given him by law to obtain payment of his claim."

12 SECTION 206. SECTION 7-6-4121, MCA, IS AMENDED TO

13 READ:

14 "7-6-4121. Authorization to conduct municipal business
 15 on a cash basis. (1) In case the total indebtedness of a
 16 city or town has reached ~~17%~~ 20% of the total taxable value
 17 of the property of the city or town subject to taxation, as
 18 ascertained by the last assessment for state and county
 19 taxes, the city or town may conduct its affairs and business
 20 on a cash basis as provided by subsection (2).

21 (2) (a) Whenever a city or town is conducting its
 22 business affairs on a cash basis, the reasonable and
 23 necessary current expenses of the city or town may be paid
 24 out of the cash in the city or town treasury and derived
 25 from its current revenues, under such restrictions and

1 regulations as the city or town council may by ordinance
2 prescribe.

3 (b) In the event that payment is made in advance, the
4 city or town may require a cash deposit as collateral
5 security and indemnity, equal in amount to such payment, and
6 may hold the same as a special deposit with the city
7 treasurer or town clerk, in package form, as a pledge for
8 the fulfillment and performance of the contract or
9 obligation for which the advance is made.

10 (c) Before the payment of the current expenses
11 mentioned above, the city or town council shall first set
12 apart sufficient money to pay the interest upon its legal,
13 valid, and outstanding bonded indebtedness and any sinking
14 funds therein provided for and shall be authorized to pay
15 all valid claims against funds raised by tax especially
16 authorized by law for the purpose of paying such claims."

17 SECTION 207. SECTION 7-6-4254, MCA, IS AMENDED TO
18 READ:

19 "7-6-4254. Limitation on amount of emergency budgets
20 and appropriations. (1) The total of all emergency budgets
21 and appropriations made therein in any one year and to be
22 paid from any city fund may not exceed ~~38%~~ 45% of the total
23 amount which could be produced for such city fund by a
24 maximum levy authorized by law to be made for such fund, as
25 shown by the last completed assessment roll of the county.

1 (2) The term "taxable property", as used herein, means
2 the percentage of the value at which such property is
3 assessed and which percentage is used for the purposes of
4 computing taxes and does not mean the assessed value of such
5 property as the same appears on the assessment roll."

6 SECTION 208. SECTION 7-7-107, MCA, IS AMENDED TO READ:

7 "7-7-107. Limitation on amount of bonds for
8 city-county consolidated units. (1) Except as provided in
9 7-7-108, no city-county consolidated local government may
10 issue bonds for any purpose which, with all outstanding
11 indebtedness, may exceed ~~39%~~ 46% of the taxable value of the
12 property therein subject to taxation as ascertained by the
13 last assessment for state and county taxes.

14 (2) The issuing of bonds for the purpose of funding or
15 refunding outstanding warrants or bonds is not the incurring
16 of a new or additional indebtedness but is merely the
17 changing of the evidence of outstanding indebtedness."

18 SECTION 209. SECTION 7-7-108, MCA, IS AMENDED TO READ:

19 "7-7-108. Authorization for additional indebtedness
20 for water or sewer systems. (1) For the purpose of
21 constructing a sewer system or procuring a water supply or
22 constructing or acquiring a water system for a city-county
23 consolidated government which shall own and control such
24 water supply and water system and devote the revenues
25 therefrom to the payment of the debt, a city-county

1 consolidated government may incur an additional indebtedness
2 by borrowing money or issuing bonds.

3 (2) The additional indebtedness which may be incurred
4 by borrowing money or issuing bonds for the construction of
5 a sewer system or for the procurement of a water supply or
6 for both such purposes may not in the aggregate exceed 10%
7 over and above the ~~39%~~ 46% referred to in 7-7-107 of the
8 taxable value of the property therein subject to taxation as
9 ascertained by the last assessment for state and county
10 taxes."

11 SECTION 210. SECTION 7-7-2101, MCA, IS AMENDED TO

12 READ:

13 "7-7-2101. Limitation on amount of county
14 indebtedness. (1) No county may become indebted in any
15 manner or for any purpose to an amount, including existing
16 indebtedness, in the aggregate exceeding ~~29%~~ 27% of the
17 total of the taxable value of the property therein subject
18 to taxation, plus the amount of new production taxes levied
19 divided by the appropriate tax rates described in
20 15-23-607(2)(a) or (2)(b) and multiplied by 60%, as
21 ascertained by the last assessment for state and county
22 taxes previous to the incurring of such indebtedness.

23 (2) No county may incur indebtedness or liability for
24 any single purpose to an amount exceeding \$500,000 without
25 the approval of a majority of the electors thereof voting at

1 an election to be provided by law, except as provided in
2 7-21-3413 and 7-21-3414.

3 (3) Nothing in this section shall apply to the
4 acquisition of conservation easements as set forth in Title
5 76, chapter 6."

6 SECTION 211. SECTION 7-7-2203, MCA, IS AMENDED TO

7 READ:

8 "7-7-2203. Limitation on amount of bonded
9 indebtedness. (1) Except as provided in subsections (2)
10 through (4), no county may issue general obligation bonds
11 for any purpose which, with all outstanding bonds and
12 warrants except county high school bonds and emergency
13 bonds, will exceed ~~11-25%~~ 13.4% of the total of the taxable
14 value of the property therein, plus the amount of new
15 production taxes levied divided by the appropriate tax rates
16 described in 15-23-607(2)(a) or (2)(b) and multiplied by
17 60%, to be ascertained by the last assessment for state and
18 county taxes prior to the proposed issuance of bonds.

19 (2) In addition to the bonds allowed by subsection
20 (1), a county may issue bonds which, with all outstanding
21 bonds and warrants, will not exceed ~~27-75%~~ 33% of the total
22 of the taxable value of the property in the county subject
23 to taxation, plus the amount of new production taxes levied
24 divided by the appropriate tax rates described in
25 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when

1 necessary to do so, for the purpose of acquiring land for a
2 site for county high school buildings and for erecting or
3 acquiring buildings thereon and furnishing and equipping the
4 same for county high school purposes.

5 (3) In addition to the bonds allowed by subsections
6 (1) and (2), a county may issue bonds for the construction
7 or improvement of a jail which will not exceed ~~12.5%~~ 15% of
8 the taxable value of the property in the county subject to
9 taxation.

10 (4) The limitation in subsection (1) shall not apply
11 to refunding bonds issued for the purpose of paying or
12 retiring county bonds lawfully issued prior to January 1,
13 1932."

14 SECTION 212. SECTION 7-7-4201, MCA, IS AMENDED TO

15 READ:

16 "7-7-4201. Limitation on amount of bonded
17 indebtedness. (1) Except as otherwise provided, no city or
18 town may issue bonds or incur other indebtedness for any
19 purpose in an amount which with all outstanding and unpaid
20 indebtedness will exceed ~~28%~~ 33% of the taxable value of the
21 property therein subject to taxation, to be ascertained by
22 the last assessment for state and county taxes.

23 (2) The issuing of bonds for the purpose of funding or
24 refunding outstanding warrants or bonds is not the incurring
25 of a new or additional indebtedness but is merely the

1 changing of the evidence of outstanding indebtedness."

2 SECTION 213. SECTION 7-7-4202, MCA, IS AMENDED TO

3 READ:

4 "7-7-4202. Special provisions relating to water and
5 sewer systems. (1) Notwithstanding the provisions of
6 7-7-4201, for the purpose of constructing a sewer system,
7 procuring a water supply, or constructing or acquiring a
8 water system for a city or town which owns and controls the
9 water supply and water system and devotes the revenues
10 therefrom to the payment of the debt, a city or town may
11 incur an additional indebtedness by borrowing money or
12 issuing bonds.

13 (2) The additional total indebtedness that may be
14 incurred by borrowing money or issuing bonds for the
15 construction of a sewer system, for the procurement of a
16 water supply, or for both such purposes, including all
17 indebtedness theretofore contracted which is unpaid or
18 outstanding, may not in the aggregate exceed 55% over and
19 above the ~~28%~~ 33%, referred to in 7-7-4201, of the taxable
20 value of the property therein subject to taxation as
21 ascertained by the last assessment for state and county
22 taxes."

23 SECTION 214. SECTION 7-13-4103, MCA, IS AMENDED TO

24 READ:

25 "7-13-4103. Limitation on indebtedness for acquisition

1 of natural gas system. The total amount of indebtedness
 2 authorized to be contracted in any form, including the
 3 then-existing indebtedness, must not at any time exceed ~~17%~~
 4 20% of the total taxable value of the property of the city
 5 or town subject to taxation as ascertained by the last
 6 assessment for state and county taxes."

7 SECTION 215. SECTION 7-14-236, MCA, IS AMENDED TO
 8 READ:

9 "7-14-236. Limitation on bonded indebtedness. The
 10 amount of bonds issued to provide funds for the district and
 11 outstanding at any time shall not exceed ~~20%~~ 33% of the
 12 taxable value of taxable property therein as ascertained by
 13 the last assessment for state and county taxes previous to
 14 the issuance of such bonds."

15 SECTION 216. SECTION 7-14-2524, MCA, IS AMENDED TO
 16 READ:

17 "7-14-2524. Limitation on amount of bonds issued --
 18 excess void. (1) Except as otherwise provided hereafter and
 19 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,
 20 with all outstanding bonds and warrants except county high
 21 school bonds and emergency bonds, will exceed ~~11-25%~~ 13.4%
 22 of the total of the taxable value of the property therein,
 23 plus the amount of new production taxes levied divided by
 24 the appropriate tax rates described in 15-23-607(2)(a) or
 25 (2)(b) and multiplied by 60%. The taxable property and the

1 amount of new production taxes levied shall be ascertained
 2 by the last assessment for state and county taxes prior to
 3 the issuance of such bonds.

4 (2) A county may issue bonds which, with all
 5 outstanding bonds and warrants except county high school
 6 bonds, will exceed ~~11-25%~~ 13.4% but will not exceed ~~22-5%~~
 7 26.5% of the total of the taxable value of such property,
 8 plus the amount of new production taxes levied divided by
 9 the appropriate tax rates described in 15-23-607(2)(a) or
 10 (2)(b) and multiplied by 60%, when necessary for the purpose
 11 of replacing, rebuilding, or repairing county buildings,
 12 bridges, or highways which have been destroyed or damaged by
 13 an act of God, disaster, catastrophe, or accident.

14 (3) The value of the bonds issued and all other
 15 outstanding indebtedness of the county, except county high
 16 school bonds, shall not exceed ~~22-5%~~ 26.5% of the total of
 17 the taxable value of the property within the county, plus
 18 the amount of new production taxes levied divided by the
 19 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
 20 and multiplied by 60%, as ascertained by the last preceding
 21 general assessment."

22 SECTION 217. SECTION 7-14-2525, MCA, IS AMENDED TO
 23 READ:

24 "7-14-2525. Refunding agreements and refunding bonds
 25 authorized. (1) Whenever the total indebtedness of a county

1 exceeds ~~22.5%~~ 26.5% of the total of the taxable value of the
 2 property therein, plus the amount of new production taxes
 3 levied divided by the appropriate tax rates described in
 4 15-23-607(2)(a) or (2)(b) and multiplied by 60%, and the
 5 board determines that the county is unable to pay such
 6 indebtedness in full, the board may:

7 (a) negotiate with the bondholders for an agreement
 8 whereby the bondholders agree to accept less than the full
 9 amount of the bonds and the accrued unpaid interest thereon
 10 in satisfaction thereof;

11 (b) enter into such agreement;

12 (c) issue refunding bonds for the amount agreed upon.

13 (2) These bonds may be issued in more than one series,
 14 and each series may be either amortization or serial bonds.

15 (3) The plan agreed upon between the board and the
 16 bondholders shall be embodied in full in the resolution
 17 providing for the issue of the bonds."

18 SECTION 218. SECTION 7-14-4402, MCA, IS AMENDED TO

19 READ:

20 "7-14-4402. Limit on indebtedness to provide bus
 21 service. The total amount of indebtedness authorized under
 22 7-14-4401(1) to be contracted in any form, including the
 23 then-existing indebtedness, may not at any time exceed ~~28%~~
 24 33% of the total taxable value of the property of the city
 25 or town subject to taxation as ascertained by the last

1 assessment for state and county taxes. No money may be
 2 borrowed or bonds issued for the purposes specified in
 3 7-14-4401(1) until the proposition has been submitted to the
 4 vote of the taxpayers of the city or town and the majority
 5 vote cast in its favor."

6 SECTION 219. SECTION 7-16-2327, MCA, IS AMENDED TO

7 READ:

8 "7-16-2327. Indebtedness for park purposes. (1)
 9 Subject to the provisions of subsection (2), a county park
 10 board, in addition to powers and duties now given under law,
 11 shall have the power and duty to contract an indebtedness in
 12 behalf of a county, upon the credit thereof, for the
 13 purposes of 7-16-2321(1) and (2).

14 (2) (a) The total amount of indebtedness authorized to
 15 be contracted in any form, including the then-existing
 16 indebtedness, must not at any time exceed ~~13%~~ 15% of the
 17 total of the taxable value of the taxable property in the
 18 county, plus the amount of new production taxes levied
 19 divided by the appropriate tax rates described in
 20 15-23-607(2)(a) or (2)(b) and multiplied by 60%, ascertained
 21 by the last assessment for state and county taxes previous
 22 to the incurring of such indebtedness.

23 (b) No money may be borrowed on bonds issued for the
 24 purchase of lands and improving same for any such purpose
 25 until the proposition has been submitted to the vote of

1 those qualified under the provisions of the state
2 constitution to vote at such election in the county affected
3 thereby and a majority vote is cast in favor thereof."

4 SECTION 220. SECTION 7-16-4104, MCA, IS AMENDED TO
5 READ:

6 "7-16-4104. Authorization for municipal indebtedness
7 for various cultural, social, and recreational purposes. (1)
8 A city or town council or commission may contract an
9 indebtedness on behalf of the city or town, upon the credit
10 thereof, by borrowing money or issuing bonds:

11 (a) for the purpose of purchasing and improving lands
12 for public parks and grounds;

13 (b) for procuring by purchase, construction, or
14 otherwise swimming pools, athletic fields, skating rinks,
15 playgrounds, museums, a golf course, a site and building for
16 a civic center, a youth center, or combination thereof; and

17 (c) for furnishing and equipping the same.

18 (2) The total amount of indebtedness authorized to be
19 contracted in any form, including the then-existing
20 indebtedness, may not at any time exceed ~~16.5%~~ 19.5% of the
21 taxable value of the taxable property of the city or town as
22 ascertained by the last assessment for state and county
23 taxes previous to the incurring of such indebtedness. No
24 money may be borrowed on bonds issued for the purchase of
25 lands and improving the same for any such purpose until the

1 proposition has been submitted to the vote of the qualified
2 electors of the city or town and a majority vote is cast in
3 favor thereof."

4 SECTION 221. SECTION 7-31-106, MCA, IS AMENDED TO
5 READ:

6 "7-31-106. Authorization for county to issue bonds --
7 election required. (1) If the petition is presented to the
8 board of county commissioners, it shall be the duty of the
9 board, for the purpose of raising money to meet the payments
10 under the terms and conditions of said contract and other
11 necessary and proper expenses in and about the same and for
12 the approval or disapproval thereof:

13 (a) to ascertain, within 30 days after submission of
14 the petition, the existing indebtedness of the county in the
15 aggregate; and

16 (b) to submit, within 60 days after ascertaining the
17 same, to the electors of such county the proposition to
18 approve or disapprove the contract and the issuance of bonds
19 necessary to carry out the same.

20 (2) The amount of the bonds authorized by this section
21 may not exceed ~~22.5%~~ 26% of the taxable value of the taxable
22 property therein, inclusive of the existing indebtedness
23 thereof, to be ascertained by the last assessment for state
24 and county taxes previous to the issuance of said bonds and
25 incurring of said indebtedness."

SECTION 222. SECTION 7-31-107, MCA, IS AMENDED TO

READ:

"7-31-107. Authorization for municipality to issue bonds -- election required. (1) If said petition is presented to the council of any incorporated city or town, the council, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) shall ascertain, within 30 days after submission of the petition, the aggregate indebtedness of such city or town; and

(b) shall submit, within 60 days after ascertaining the same, to the electors of such city or town the proposition to approve or disapprove said contract and the issuance of bonds necessary to carry out the same.

(2) The amount of the bonds authorized by this section may not exceed ~~±6-5%~~ 19.5% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained in the manner provided in this part."

SECTION 223. SECTION 7-34-2131, MCA, IS AMENDED TO

READ:

"7-34-2131. Hospital district bonds authorized. (1) A hospital district may borrow money by the issuance of its

bonds to provide funds for payment of part or all of the cost of acquisition, furnishing, equipment, improvement, extension, and betterment of hospital facilities and to provide an adequate working capital for a new hospital.

(2) The amount of bonds issued for such purpose and outstanding at any time may not exceed ~~22-5%~~ 26% of the taxable value of the property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds.

(3) Such bonds shall be authorized, sold, and issued and provisions made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of second- or third-class school districts by Title 20, chapter 9, part 4.

(4) Nothing herein shall be construed to preclude the provisions of Title 50, chapter 6, part 1, allowing the state to apply for and accept federal funds."

SECTION 224. SECTION 20-9-406, MCA, IS AMENDED TO

READ:

"20-9-406. Limitations on amount of bond issue. (1) The maximum amount for which each school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is ~~45%~~ 54% of the taxable value of the property subject to taxation as ascertained by

1 the last completed assessment for state, county, and school
 2 taxes previous to the incurring of such indebtedness. The
 3 ~~45%~~ 54% maximum, however, may not pertain to indebtedness
 4 imposed by special improvement district obligations or
 5 assessments against the school district. All bonds issued in
 6 excess of such amount shall be null and void, except as
 7 provided in this section.

8 (2) When the total indebtedness of a school district
 9 has reached the ~~45%~~ 54% limitation prescribed in this
 10 section, the school district may pay all reasonable and
 11 necessary expenses of the school district on a cash basis in
 12 accordance with the financial administration provisions of
 13 this chapter.

14 (3) Whenever bonds are issued for the purpose of
 15 refunding bonds, any moneys to the credit of the debt
 16 service fund for the payment of the bonds to be refunded are
 17 applied towards the payment of such bonds and the refunding
 18 bond issue is decreased accordingly."

19 SECTION 225. SECTION 20-9-407, MCA, IS AMENDED TO
 20 READ:

21 "20-9-407. Industrial facility agreement for bond
 22 issue in excess of maximum. (1) In a school district within
 23 which a new major industrial facility which seeks to qualify
 24 for taxation as class five property under 15-6-135 is being
 25 constructed or is about to be constructed, the school

1 district may require, as a precondition of the new major
 2 industrial facility qualifying as class five property, that
 3 the owners of the proposed industrial facility enter into an
 4 agreement with the school district concerning the issuing of
 5 bonds in excess of the ~~45%~~ 54% limitation prescribed in
 6 20-9-406. Under such an agreement, the school district may,
 7 with the approval of the voters, issue bonds which exceed
 8 the limitation prescribed in this section by a maximum of
 9 ~~45%~~ 54% of the estimated taxable value of the property of
 10 the new major industrial facility subject to taxation when
 11 completed. The estimated taxable value of the property of
 12 the new major industrial facility subject to taxation shall
 13 be computed by the department of revenue when requested to
 14 do so by a resolution of the board of trustees of the school
 15 district. A copy of the department's statement of estimated
 16 taxable value shall be printed on each ballot used to vote
 17 on a bond issue proposed under this section.

18 (2) Pursuant to the agreement between the new major
 19 industrial facility and the school district and as a
 20 precondition to qualifying as class five property, the new
 21 major industrial facility and its owners shall pay, in
 22 addition to the taxes imposed by the school district on
 23 property owners generally, so much of the principal and
 24 interest on the bonds provided for under this section as
 25 represents payment on an indebtedness in excess of the

1 limitation prescribed in 20-9-406. After the completion of
 2 the new major industrial facility and when the indebtedness
 3 of the school district no longer exceeds the limitation
 4 prescribed in this section, the new major industrial
 5 facility shall be entitled, after all the current
 6 indebtedness of the school district has been paid, to a tax
 7 credit over a period of no more than 20 years. The credit
 8 shall as a total amount be equal to the amount which the
 9 facility paid the principal and interest of the school
 10 district's bonds in excess of its general liability as a
 11 taxpayer within the district.

12 (3) A major industrial facility is a facility subject
 13 to the taxing power of the school district, whose
 14 construction or operation will increase the population of
 15 the district, imposing a significant burden upon the
 16 resources of the district and requiring construction of new
 17 school facilities. A significant burden is an increase in
 18 ANB of at least 20% in a single year."

19 SECTION 226. SECTION 15-1-101, MCA, IS AMENDED TO
 20 READ:

21 "15-1-101. Definitions. (1) Except as otherwise
 22 specifically provided, when terms mentioned in this section
 23 are used in connection with taxation, they are defined in
 24 the following manner:

25 (a) The term "agricultural" refers to the raising of

1 livestock, poultry, bees, and other species of domestic
 2 animals and wildlife in domestication or a captive
 3 environment, and the raising of field crops, fruit, and
 4 other animal and vegetable matter for food or fiber.

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

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

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

16 (ii) The following types of property are not
 17 commercial:

18 (A) agricultural lands;

19 (B) timberlands;

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

23 (D) mobile homes used exclusively as a residence
 24 except when held by a distributor or dealer of trailers or
 25 mobile homes as his stock in trade; and

1 (E) all property described in 15-6-135.
 2 ~~(F) all property described in 15-6-136, and~~
 3 ~~(G) all property described in 15-6-146.~~

4 (e) The term "comparable property" means property that
 5 has similar use, function, and utility; that is influenced
 6 by the same set of economic trends and physical,
 7 governmental, and social factors; and that has the potential
 8 of a similar highest and best use.

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

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

22 (h) The term "leasehold improvements" means
 23 improvements to mobile homes and mobile homes located on
 24 land owned by another person. This property is assessed
 25 under the appropriate classification and the taxes are due

1 and payable in two payments as provided in ~~15-24-202~~
 2 15-16-102. Delinquent taxes on such leasehold improvements
 3 are a lien only on such leasehold improvements.

4 (i) The term "livestock" means cattle, sheep, swine,
 5 goats, horses, mules, and asses.

6 (j) The term "mobile home" means forms of ~~housing~~
 7 shelter known as "trailers", "housetrainers", or "trailer
 8 coaches" exceeding 8 feet in width or 45 feet in length,
 9 designed to be moved from one place to another by an
 10 independent power connected to them, or any "trailer",
 11 "housetrailer", or "trailer coach" up to 8 feet in width or
 12 45 feet in length used as a principal residence.

13 (k) The term "personal property" includes everything
 14 that is the subject of ownership but that is not included
 15 within the meaning of the terms "real estate" and
 16 "improvements".

17 (l) The term "poultry" includes all chickens, turkeys,
 18 geese, ducks, and other birds raised in domestication to
 19 produce food or feathers.

20 (m) The term "property" includes moneys, credits,
 21 bonds, stocks, franchises, and all other matters and things,
 22 real, personal, and mixed, capable of private ownership.
 23 This definition must not be construed to authorize the
 24 taxation of the stocks of any company or corporation when
 25 the property of such company or corporation represented by

1 the stocks is within the state and has been taxed.

2 (n) The term "real estate" includes:

3 (i) the possession of, claim to, ownership of, or
4 right to the possession of land;

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

10 (o) The term "taxable value" means the percentage of
11 market or assessed value as provided for in ~~15-6-131~~ through
12 ~~15-6-140~~ this title.

13 (2) The phrase "municipal corporation" or
14 "municipality" or "taxing unit" shall be deemed to include a
15 county, city, incorporated town, township, school district,
16 irrigation district, drainage district, or any person,
17 persons, or organized body authorized by law to establish
18 tax levies for the purpose of raising public revenue.

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

22 SECTION 227. SECTION 15-6-133, MCA, IS AMENDED TO

23 READ:

24 "15-6-133. Class three property -- description --
25 taxable percentage. (1) Class three property includes

1 agricultural land as defined in 15-7-202.

2 (2) Class three property is taxed at the--taxable
3 percentage--rate--"P" 25% of its productive capacity.

4 ~~(3)--Until--July--17--1986, the taxable percentage rate~~
5 ~~"P" for class three property is 30%.~~

6 ~~(4)--Prior to July 17, 1986, the department--of--revenue~~
7 ~~shall--determine--the taxable percentage rate--"P"--applicable~~
8 ~~to class three property for the revaluation cycle--beginning~~
9 ~~January 17, 1986, as follows:~~

10 ~~(a)--The--director--of--the department of revenue shall~~
11 ~~certify to the governor before July 17, 1986, the--percentage~~
12 ~~by--which--the appraised value of all property in the state~~
13 ~~classified under class three as--of--January--17--1986,--has~~
14 ~~increased--due--to the revaluation conducted under 15-7-111.~~
15 ~~This--figure--is--the--"certified--statewide--percentage~~
16 ~~increase".~~

17 ~~(b)--The--taxable--value--of property in class three is~~
18 ~~determined--as--a--function--of--the--certified--statewide~~
19 ~~percentage--increase--in--accordance--with--the--table shown~~
20 ~~below:~~

21 ~~(c)--This--table--limits--the--statewide--increase--in~~
22 ~~taxable--valuation--resulting--from--reappraisal--to--0%--in~~
23 ~~calculating the percentage increase, the department may--not~~
24 ~~consider agricultural use changes during calendar year 1985.~~

25 ~~(d)--The--taxable--percentage--must--be--calculated--by~~

1 interpolation-to-coincide--with--the--nearest--whole--number
2 certified--statewide--percentage-increase-from-the-following
3 table:

4 Certified-Statewide	5 Class-Three-Taxable
6 Percentage-Increase	7 Percentage-"P"
8 -0	9 30-00
10 ±0	11 27-27
12 20	13 25-00
14 30	15 23-00
16 40	17 21-43
18 50	19 20-00

20 (5)--After-July-17-19867-no-adjustment-may-be--made--by
21 the--department--to--the-taxable-percentage-rate-"P"--until-a
22 revaluation-has-been-made-as-provided-in-15-7-iii."

23 SECTION 228. SECTION 15-6-134, MCA, IS AMENDED TO

24 READ:

25 "15-6-134. Class four property -- description --
taxable percentage. (1) Class four property includes:

(a) all land except that specifically included in
another class;

(b) all improvements except those specifically
included in another class;

(c) the first \$35,000 or less of the market value of
any improvement on real property and appurtenant land not
exceeding 5 acres owned or under contract for deed and

1 actually occupied for at least 10 months a year as t
2 primary residential dwelling of any person whose tot
3 income from all sources including otherwise tax-exem
4 income of all types is not more than \$10,000 for a sing
5 person or \$12,000 for a married couple;

(d) all golf courses, including land and improvemen
actually and necessarily used for that purpose, that consi
of at least 9 holes and not less than 3,000 lineal yards.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-150
property described in subsections (1)(a) and (1)(b) is tax
at the--taxable--percentage--rate--"P" 2.75% of its mark
value.

(b) Property described in subsection (1)(c) is tax
at the--taxable--percentage--rate--"P" 2.75% of its market val
multiplied by a percentage figure based on income a
determined from the following table:

18 Income	19 Income	20 Percentage
21 Single Person	22 Married Couple	23 Multiplier
24 \$0 - \$1,000	25 \$0 - \$1,200	0%
1,001 - 2,000	1,201 - 2,400	10%
2,001 - 3,000	2,401 - 3,600	20%
3,001 - 4,000	3,601 - 4,800	30%
4,001 - 5,000	4,801 - 6,000	40%
5,001 - 6,000	6,001 - 7,200	50%

1	6,001 - 7,000	7,201 - 8,400	60%
2	7,001 - 8,000	8,401 - 9,600	70%
3	8,001 - 9,000	9,601 - 10,800	80%
4	9,001 - 10,000	10,801 - 12,000	90%

5 (c) Property described in subsection (1)(d) is taxed
 6 at one-half two-thirds of the taxable percentage rate "P"
 7 established in subsection (2)(a).

8 (3) ~~Until January 17, 1986, the taxable percentage rate~~
 9 ~~"P" for class four property is 8.55%.~~

10 (4) ~~Prior to July 17, 1986, the department of revenue~~
 11 ~~shall determine the taxable percentage rate "P" applicable~~
 12 ~~to class four property for the revaluation cycle beginning~~
 13 ~~January 17, 1986, as follows:~~

14 (a) ~~The director of the department of revenue shall~~
 15 ~~certify to the governor before July 17, 1986, the percentage~~
 16 ~~by which the appraised value of all property in the state~~
 17 ~~classified under class four as of January 17, 1986, has~~
 18 ~~increased due to the revaluation conducted under 15-7-111.~~
 19 ~~This figure is the certified statewide percentage increase.~~

20 (b) ~~The taxable value of property in class four is~~
 21 ~~determined as a function of the certified statewide~~
 22 ~~percentage increase in accordance with the table shown~~
 23 ~~below:~~

24 (c) ~~This table limits the statewide increase in~~
 25 ~~taxable valuation resulting from reappraisal to 0% in~~

1 calculating the percentage increase, the department may not
 2 consider changes resulting from new construction, additions,
 3 or deletions during calendar year 1985.

4 (d) ~~The taxable percentage must be calculated by~~
 5 ~~interpolation to coincide with the nearest whole number~~
 6 ~~certified statewide percentage increase from the following~~
 7 ~~table:~~

8	Certified Statewide	Class Four Taxable
9	Percentage Increase	Percentage "P"
10	0	8.55
11	10	7.77
12	20	7.12
13	30	6.57
14	40	6.10
15	50	5.70
16	60	5.34
17	70	5.02
18	80	4.75
19	90	4.50
20	100	4.27
21	110	4.07
22	120	3.88
23	130	3.71
24	140	3.56
25	150	3.42

1	160	3-20
2	170	3-16
3	180	3-05
4	190	2-94
5	200	2-85
6	210	2-75
7	220	2-67
8	230	2-59
9	240	2-51
10	250	2-44
11	260	2-37
12	270	2-31
13	280	2-25
14	290	2-19
15	300	2-13

~~{5}--After July 17, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a revaluation has been made as provided in 15-7-111.~~

{6}{3} Within the meaning of comparable property as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property, and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property.

{4} For the purposes of this section, all mobile homes

1 are considered to be improvements."

2 SECTION 229. SECTION 15-6-135, MCA, IS AMENDED TO

3 READ:

4 "15-6-135. Class five property -- description --
5 taxable percentage. (1) Class five property includes:

6 (a) all property used and owned by cooperative rural
7 electrical and cooperative rural telephone associations
8 organized under the laws of Montana, except property owned
9 by cooperative organizations described in ~~subsection--(1)(e)~~
10 ~~of 15-6-137~~ 15-6-136(1)(d);

11 (b) air and water pollution control equipment as
12 defined in this section;

13 (c) new industrial property as defined in this
14 section;

15 (d) any personal or real property used primarily in
16 the production of gasohol during construction and for the
17 first 3 years of its operation.

18 (2) (a) "Air and water pollution equipment" means
19 facilities, machinery, or equipment used to reduce or
20 control water or atmospheric pollution or contamination by
21 removing, reducing, altering, disposing, or storing
22 pollutants, contaminants, wastes, or heat. The department of
23 health and environmental sciences shall determine if such
24 utilization is being made.

25 (b) The department of health and environmental

1 sciences' determination as to air and water pollution
2 equipment may be appealed to the board of health and
3 environmental sciences and may not be appealed to either a
4 county tax appeal board or the state tax appeal board.
5 However, the appraised value of the equipment as determined
6 by the department of revenue may be appealed to the county
7 tax appeal board and the state tax appeal board.

8 (3) "New industrial property" means any new industrial
9 plant, including land, buildings, machinery, and fixtures,
10 used by new industries during the first 3 years of their
11 operation. The property may not have been assessed within
12 the state of Montana prior to July 1, 1961.

13 (4) (a) "New industry" means any person, corporation,
14 firm, partnership, association, or other group that
15 establishes a new plant in Montana for the operation of a
16 new industrial endeavor, as distinguished from a mere
17 expansion, reorganization, or merger of an existing
18 industry.

19 (b) New industry includes only those industries that:

20 (i) manufacture, mill, mine, produce, process, or
21 fabricate materials;

22 (ii) do similar work, employing capital and labor, in
23 which materials unserviceable in their natural state are
24 extracted, processed, or made fit for use or are
25 substantially altered or treated so as to create commercial

1 products or materials; or

2 (iii) engage in the mechanical or chemical
3 transformation of materials or substances into new products
4 in the manner defined as manufacturing in the 1972 Standard
5 Industrial Classification Manual prepared by the United
6 States office of management and budget.

7 (5) New industrial property does not include:

8 (a) property used by retail or wholesale merchants,
9 commercial services of any type, agriculture, trades, or
10 professions;

11 (b) a plant that will create adverse impact on
12 existing state, county, or municipal services; or

13 (c) property used or employed in any industrial plant
14 that has been in operation in this state for 3 years or
15 longer.

16 (6) Class five property is taxed at 3% of its market
17 value."

18 SECTION 230. SECTION 15-6-136, MCA, IS AMENDED TO
19 READ:

20 "15-6-136. Class six property -- description --
21 taxable percentage. (1) Class six property includes:

22 ~~(a) --livestock, --poultry, --bees, --and--other-species-of~~
23 ~~domestic-animals-and-wildlife-raised-in-domestication--or--a~~
24 ~~captive--environment, --except--for--cats, --dogs, --and--other~~
25 ~~household-pets-not-raised-for-profit, --and--the-unprocessed~~

1 ~~products of such animals and wildlife;~~
2 ~~(b) all unprocessed agricultural products on the farm~~
3 ~~or in storage except all perishable fruits and vegetables in~~
4 ~~farm storage and owned by the producer;~~
5 ~~(c)(a) all items of personal property, including goods~~
6 ~~and equipment, intended for rent or lease in the ordinary~~
7 ~~course of business, provided each item of personal property~~
8 ~~satisfies all of the following: except personal property~~
9 ~~specifically included in another class;~~
10 ~~(i) the full and true value of the personal property~~
11 ~~is less than \$5,000;~~
12 ~~(ii) the personal property is owned by a business whose~~
13 ~~primary business income is from rental or lease of personal~~
14 ~~property to individuals wherein no one customer of the~~
15 ~~business accounts for more than 10% of the total rentals or~~
16 ~~leases during a calendar year; and~~
17 ~~(iii) the lease of the personal property is generally~~
18 ~~on an hourly, daily, or weekly basis;~~
19 ~~(b) all property used and owned by persons, firms,~~
20 ~~corporations, or other organizations that are engaged in the~~
21 ~~business of furnishing telephone communications exclusively~~
22 ~~to rural areas or to rural areas and cities and towns of 800~~
23 ~~persons or less;~~
24 ~~(c) subject to the provisions of subsection (2), all~~
25 ~~property owned by cooperative rural electrical and~~

1 cooperative rural telephone associations that serve less
2 than 95% of the electricity consumers or telephone users
3 within the incorporated limits of a city or town;
4 (d) electric transformers and meters; electric light
5 and power substation machinery; natural gas measuring and
6 regulating station equipment, meters, and compressor station
7 machinery owned by noncentrally assessed public utilities;
8 and tools used in the repair and maintenance of such
9 property;
10 (e) tools, implements, and machinery that are not
11 hand-held and that are used to repair and maintain machinery
12 not used for manufacturing and mining purposes;
13 (f) all agricultural implements and equipment;
14 (g) all mining machinery, fixtures, equipment, tools,
15 and supplies except those included in class five;
16 (h) all manufacturing machinery, fixtures, equipment,
17 tools, and supplies except those included in class five;
18 (i) all other machinery except that specifically
19 included in another class;
20 (j) all trailers, including those prorated under
21 15-24-102 but not including those subject to a fee in lieu
22 of property tax;
23 (k) truck toppers weighing more than 300 pounds;
24 (l) furniture, fixtures, and equipment, except that
25 specifically included in another class, used in commercial

1 establishments as defined in this section;
 2 (m) x-ray and medical and dental equipment;
 3 (n) citizens' band radios and mobile telephones;
 4 (o) radio and television broadcasting and transmitting
 5 equipment;
 6 (p) cable television systems;
 7 (q) coal and ore haulers;
 8 (r) trucks having a rated capacity of more than
 9 three-quarters of a ton, including those prorated under
 10 15-24-102 but not including those subject to a fee in lieu
 11 of property tax;
 12 (s) theater projectors and sound equipment; and
 13 (t) all other property not included in any other class
 14 in this part except that property subject to a fee in lieu
 15 of property tax.
 16 (2) To qualify as class six property, the average
 17 circuit miles for each station on a telephone communication
 18 system described in subsection (1)(c) must be more than 1
 19 mile.
 20 (3) "Commercial establishment" includes any hotel;
 21 motel; office; petroleum marketing station; or service,
 22 wholesale, retail, or food-handling business.
 23 (4) Class six property is taxed at 4% 5% of its
 24 market value."
 25 SECTION 231. SECTION 15-6-143, MCA, IS AMENDED TO

1 READ:
 2 "15-6-143. (Effective January 1, 1986) Class thirteen
 3 property -- description -- taxable percentage. (1) Class
 4 thirteen property includes all timberland.
 5 (2) Timberland is contiguous land exceeding 15 acres
 6 in one ownership that is capable of producing timber that
 7 can be harvested in commercial quantity.
 8 (3) Class thirteen property is taxed at the percentage
 9 rate--"P" 2.75% of the combined appraised value of the
 10 standing timber and grazing productivity of the property.
 11 ~~(4) For taxable years beginning January 1, 1986 and~~
 12 ~~thereafter, the taxable percentage rate "P" applicable to~~
 13 ~~class thirteen property is 30%/B, where B is the certified~~
 14 ~~statewide percentage increase to be determined by the~~
 15 ~~department of revenue as provided in subsection (5). The~~
 16 ~~taxable percentage rate "P" shall be rounded downward to the~~
 17 ~~nearest 0.01% and shall be calculated by the department~~
 18 ~~before July 1, 1986.~~
 19 ~~(5) (a) Prior to July 1, 1986, the department shall~~
 20 ~~determine the certified statewide percentage increase for~~
 21 ~~class thirteen property using the formula B = X/Y, where:~~
 22 ~~(i) X is the appraised value, as of January 1, 1986,~~
 23 ~~of all property in the state, excluding use changes~~
 24 ~~occurring during the preceding year, classified under class~~
 25 ~~thirteen as class thirteen is described in this section; and~~

1 ~~(ii) Y is the appraised value, as of January 17, 1985,~~
 2 ~~of all property in the state that, as of January 17, 1986,~~
 3 ~~would be classified under class thirteen as class thirteen~~
 4 ~~is described in this section.~~

5 ~~(b) B shall be rounded downward to the nearest~~
 6 ~~0.0001%.~~

7 ~~(6) After July 17, 1986, no adjustment may be made by~~
 8 ~~the department to the taxable percentage rate "P" until a~~
 9 ~~valuation has been made as provided in 15-7-111. (Terminates~~
 10 ~~January 1, 1991--sec. 10, Ch. 681, L. 1985.)"~~

11 SECTION 232. SECTION 15-6-147, MCA, IS AMENDED TO
 12 READ:

13 "15-6-147. Class seventeen property -- description --
 14 taxable percentage. (1) Class seventeen property includes
 15 all airline transportation property as described in the Tax
 16 Equity and Fiscal Responsibility Act of 1982 as it read on
 17 January 1, 1986.

18 (2) For the taxable years 1986 through 1990 class
 19 seventeen property is taxed at 12%, and for each taxable
 20 year thereafter, class seventeen property is taxed at the
 21 lesser of 12% or the taxable percentage rate for class
 22 fifteen property without adjustment.

23 (3) For the purpose of complying with the Tax Equity
 24 and Fiscal Responsibility Act of 1982, as it read on January
 25 1, 1986, the taxable percentage rate "R" referred to in this

1 section subsection (2) is the equalized average tax rate
 2 generally applicable to commercial and industrial property,
 3 except class seventeen property, as commercial property is
 4 defined in 15-1-101(1)(d)."

5 SECTION 233. SECTION 15-6-201, MCA, IS AMENDED TO
 6 READ:

7 "15-6-201. Exempt categories. (1) The following
 8 categories of property are exempt from taxation:

9 (a) the property of:

10 (i) the United States, the state, counties, cities,
 11 towns, school districts, except, if congress passes
 12 legislation that allows the state to tax property owned by
 13 an agency created by congress to transmit or distribute
 14 electrical energy, the property constructed, owned, or
 15 operated by a public agency created by the congress to
 16 transmit or distribute electric energy produced at privately
 17 owned generating facilities (not including rural electric
 18 cooperatives);

19 (ii) irrigation districts organized under the laws of
 20 Montana and not operating for profit;

21 (iii) municipal corporations; and

22 (iv) public libraries;

23 (b) buildings, with land they occupy and furnishings
 24 therein, owned by a church and used for actual religious
 25 worship or for residences of the clergy, together with

1 adjacent land reasonably necessary for convenient use of
2 such buildings;

3 (c) property used exclusively for agricultural and
4 horticultural societies, for educational purposes, and for
5 hospitals;

6 (d) property that meets the following conditions:

7 (i) is owned and held by any association or
8 corporation organized under Title 35, chapter 2, 3, 20, or
9 21;

10 (ii) is devoted exclusively to use in connection with a
11 cemetery or cemeteries for which a permanent care and
12 improvement fund has been established as provided for in
13 Title 35, chapter 20, part 3; and

14 (iii) is not maintained and operated for private or
15 corporate profit;

16 (e) institutions of purely public charity;

17 (f) evidence of debt secured by mortgages of record
18 upon real or personal property in the state of Montana;

19 (g) public art galleries and public observatories not
20 used or held for private or corporate profit;

21 (h) all household goods and furniture, including but
22 not limited to clocks, musical instruments, sewing machines,
23 and wearing apparel of members of the family, used by the
24 owner for personal and domestic purposes or for furnishing
25 or equipping the family residence;

1 (i) a truck canopy cover or topper weighing less than
2 300 pounds and having no accommodations attached. Such
3 property is also exempt from the fee in lieu of tax.

4 (j) a bicycle, as defined in 61-1-123, used by the
5 owner for personal transportation purposes;

6 (k) automobiles and trucks having a rated capacity of
7 three-quarters of a ton or less;

8 (l) motorcycles and quadricycles;

9 (m) fixtures, buildings, and improvements owned by a
10 cooperative association or nonprofit corporation organized
11 to furnish potable water to its members or customers for
12 uses other than the irrigation of agricultural land;

13 (n) the right of entry that is a property right
14 reserved in land or received by mesne conveyance (exclusive
15 of leasehold interests), devise, or succession to enter land
16 whose surface title is held by another to explore, prospect,
17 or dig for oil, gas, coal, or minerals;

18 (o) property owned and used by a corporation or
19 association organized and operated exclusively for the care
20 of the developmentally disabled, mentally ill, or
21 vocationally handicapped as defined in 18-5-101, which is
22 not operated for gain or profit; and

23 (p) all farm buildings with a market value of less
24 than \$500 and all agricultural implements and machinery with
25 a market value of less than \$100-;

1 (q) the first \$16,500 or less of the market value of
 2 any single-family owner-occupied residence, exclusive of
 3 land and appurtenant improvements;

4 (r) all tools, implements, and machinery that are
 5 customarily hand-held and that are used to:

6 (i) construct, repair, and maintain improvements to
 7 real property; or

8 (ii) repair and maintain machinery, equipment,
 9 appliances, and other personal property not used for
 10 manufacturing and mining purposes;

11 (s) all aircraft that are not considered airline
 12 transportation property as described in the Tax Equity and
 13 Fiscal Responsibility Act of 1982 and thereby included in
 14 15-6-147;

15 (t) all watercraft; and

16 (u) all all-terrain vehicles.

17 (2) (a) The term "institutions of purely public
 18 charity" includes organizations owning and operating
 19 facilities for the care of the retired or aged or
 20 chronically ill, which are not operated for gain or profit.

21 (b) The terms "public art galleries" and "public
 22 observatories" include only those art galleries and
 23 observatories, whether of public or private ownership, that
 24 are open to the public without charge at all reasonable
 25 hours and are used for the purpose of education only.

1 (3) The following portions of the appraised value of a
 2 capital investment made after January 1, 1979, in a
 3 recognized nonfossil form of energy generation, as defined
 4 in 15-32-102, are exempt from taxation for a period of 10
 5 years following installation of the property:

6 (a) \$20,000 in the case of a single-family residential
 7 dwelling;

8 (b) \$100,000 in the case of a multifamily residential
 9 dwelling or a nonresidential structure. (Subsection (1)(p)
 10 applicable to taxable years beginning after December 31,
 11 1985--sec. 4, Ch. 463, L. 1985.)"

12 SECTION 234. SECTION 15-6-207, MCA, IS AMENDED TO
 13 READ:

14 "15-6-207. Agricultural exemptions. (1) The following
 15 agricultural products are exempt from taxation:

16 (a) all unprocessed, perishable fruits and vegetables
 17 in farm storage and owned by the producer;

18 (b) all nonperishable unprocessed agricultural
 19 products,--except--livestock,--held--in--possession--of--the
 20 original-producer-for-less-than-7-months-following--harvest;
 21 and

22 (c) ~~except-as-provided-in-subsection-(1)(d)-livestock~~
 23 ~~which--have--not--attained--the--age--of--9--months--as--of--the--last~~
 24 ~~day--of--any--month--if--assessed--on--the--average--inventory--basis~~
 25 ~~or--on--March--1--if--assessed--as--provided--in--15-24-911(a)-~~

1 and

2 ~~(d)--swine-which-have-not-attained-the-age-of-3--months~~
 3 ~~as--of--January--1-~~ all livestock, poultry, bees, and other
 4 species of domestic animals and wildlife raised in
 5 domestication or a captive environment, except:

6 (i) the unprocessed products of such animals and
 7 wildlife; and

8 (ii) cats, dogs, and other household pets not raised
 9 for profit.

10 (2) Any beet digger, beet topper, beet defoliator,
 11 beet thinner, beet cultivator, beet planter, or beet top
 12 saver designed exclusively to plant, cultivate, and harvest
 13 sugar beets is exempt from taxation if such implement has
 14 not been used to plant, cultivate, or harvest sugar beets
 15 for the 2 years immediately preceding the current assessment
 16 date and there are no available sugar beet contracts in the
 17 sugar beet grower's marketing area."

18 SECTION 235. SECTION 15-8-111, MCA, IS AMENDED TO

19 READ:

20 "15-8-111. Assessment -- market value standard --
 21 exceptions. (1) All taxable property must be assessed at
 22 100% of its market value except as provided in subsection
 23 (5) of this section and in 15-7-111 through 15-7-114.

24 (2) (a) Market value is the value at which property
 25 would change hands between a willing buyer and a willing

1 seller, neither being under any compulsion to buy or to sell
 2 and both having reasonable knowledge of relevant facts.

3 (b) Except as provided in subsection (3), the market
 4 value of all motor trucks; agricultural tools, implements,
 5 and machinery; and vehicles of all kinds, ~~including-but-not~~
 6 ~~limited-to-aircraft-and-boats-and--all--watercraft,~~ is the
 7 average wholesale value shown in national appraisal guides
 8 and manuals or the value of the vehicle before
 9 reconditioning and profit margin. The department of revenue
 10 shall prepare valuation schedules showing the average
 11 wholesale value when no national appraisal guide exists.

12 (3) The department of revenue or its agents may not
 13 adopt a lower or different standard of value from market
 14 value in making the official assessment and appraisal of the
 15 value of property in 15-6-134 through 15-6-140 ~~--and~~
 16 15-6-136, 15-6-141, 15-6-145, and 15-6-147 through 15-6-149,
 17 except:

18 (a) the wholesale value for agricultural implements
 19 and machinery is the loan value as shown in the Official
 20 Guide, Tractor and Farm Equipment, published by the national
 21 farm and power equipment dealers association, St. Louis,
 22 Missouri; and

23 (b) for agricultural implements and machinery not
 24 listed in the official guide, the department shall prepare a
 25 supplemental manual where the values reflect the same

1 depreciation as those found in the official guide.

2 (4) For purposes of taxation, assessed value is the
3 same as appraised value.

4 (5) The taxable value for all property in classes four
5 through ~~eleven~~ and six, eleven, fifteen, and seventeen
6 through nineteen is the percentage of market value
7 established for each class of property in 15-6-134 through
8 ~~15-6-141~~ and 15-6-136, 15-6-141, 15-6-145, and 15-6-147
9 through 15-6-149.

10 (6) The assessed value of properties in 15-6-131
11 through 15-6-133 is as follows:

12 (a) Properties in 15-6-131, under class one, are
13 assessed at 100% of the annual net proceeds after deducting
14 the expenses specified and allowed by 15-23-503.

15 (b) Properties in 15-6-132, under class two, are
16 assessed at 100% of the annual gross proceeds.

17 (c) Properties in 15-6-133, under class three, are
18 assessed at 100% of the productive capacity of the lands
19 when valued for agricultural purposes or at 100% of the
20 combined appraised value of the standing timber and grazing
21 productivity of the land when valued as timberland. All
22 lands that meet the qualifications of 15-7-202 are valued as
23 agricultural lands for tax purposes.

24 ~~(d) Properties in 15-6-143, under class thirteen, are~~
25 ~~assessed at 100% of the combined appraised value of the~~

1 ~~standing timber and grazing productivity of the land when~~
2 ~~valued as timberland.~~

3 (7) Land and the improvements thereon are separately
4 assessed when any of the following conditions occur:

5 (a) ownership of the improvements is different from
6 ownership of the land;

7 (b) the taxpayer makes a written request; or

8 (c) the land is outside an incorporated city or town.

9 (8) The taxable value of all property in 15-6-131 and
10 classes two and three, ~~and thirteen~~ is the percentage of
11 assessed value established in 15-6-131(2), 15-6-132, and
12 15-6-133 ~~and 15-6-143~~ for each class of property.
13 (Subsections (3)(a) and (3)(b) applicable to tax years
14 beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.
15 Subsection (6)(d) [now part of (6)(c)] and references in (8)
16 to class thirteen [now deleted] and 15-6-143 [now deleted]
17 terminate January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

18 SECTION 236. SECTION 15-8-205, MCA, IS AMENDED TO

19 READ:

20 "15-8-205. Initial assessment of ~~class-twelve-property~~
21 ~~when mobile homes.~~ The county assessor shall assess all
22 ~~class-twelve-property mobile homes~~ immediately upon their
23 arrival in the county if the taxes have not been previously
24 paid for that year in another county in Montana."

25 SECTION 237. SECTION 15-8-301, MCA, IS AMENDED TO

1 READ:
 2 "15-8-301. Statement -- what to contain. (1) The
 3 department of revenue or its agent must require from each
 4 person a statement under oath setting forth specifically all
 5 the real and personal property owned by such person or in
 6 his possession or under his control at midnight on January
 7 1. Such statement must be in writing, showing separately:
 8 (a) all property belonging to, claimed by, or in the
 9 possession or under the control or management of such
 10 person;
 11 (b) all property belonging to, claimed by, or in the
 12 possession or under the control or management of any firm of
 13 which such person is a member;
 14 (c) all property belonging to, claimed by, or in the
 15 possession or under the control or management of any
 16 corporation of which such person is president, secretary,
 17 cashier, or managing agent;
 18 (d) the county in which such property is situated or
 19 in which it is liable to taxation and (if liable to taxation
 20 in the county in which the statement is made) also the city,
 21 town, school district, road district, or other revenue
 22 districts in which it is situated;
 23 (e) an exact description of all lands in parcels or
 24 subdivisions not exceeding 640 acres each and the sections
 25 and fractional sections of all tracts of land containing

1 more than 640 acres which have been sectionized by the
 2 United States government; improvements and personal
 3 property,---including---all---vessels,---steamers,---and---other
 4 ~~watercraft~~; all taxable state, county, city, or other
 5 municipal or public bonds and the taxable bonds of any
 6 person, firm, or corporation and deposits of money, gold
 7 dust, or other valuables and the names of the persons with
 8 whom such deposits are made and the places in which they may
 9 be found; all mortgages, deeds of trust, contracts, and
 10 other obligations by which a debt is secured and the
 11 property in the county affected thereby;
 12 (f) all solvent credits, secured or unsecured, due or
 13 owing to such person or any firm of which he is a member or
 14 due or owing to any corporation of which he is president,
 15 secretary, cashier, or managing agent;
 16 (g) all depots, shops, stations, buildings, and other
 17 structures erected on the space covered by the right-of-way
 18 and all other property owned by any person owning or
 19 operating any railroad within the county.
 20 (2) Whenever one member of a firm or one of the proper
 21 officers of a corporation has made a statement showing the
 22 property of the firm or corporation, another member of the
 23 firm or another officer need not include such property in
 24 the statement made by him but this statement must show the
 25 name of the person or officer who made the statement in

1 which such property is included.

2 (3) The fact that such statement is not required or
3 that a person has not made such statement, under oath or
4 otherwise, does not relieve his property from taxation."

5 SECTION 238. SECTION 15-8-404, MCA, IS AMENDED TO

6 READ:

7 "15-8-404. Property of particular types of firms. (1)
8 The personal property belonging to the business of a
9 merchant or of a manufacturer must be listed in the town or
10 district where his business is carried on.

11 (2) The personal property of express, transportation,
12 and stage companies, ~~steamboats, vessels, and other~~
13 ~~watercraft~~ must be listed and assessed in the county, town,
14 or district where such property is usually kept.

15 (3) The personal property and franchises of gas and
16 water companies must be listed and assessed in the county,
17 town, or district where the principal works are located.
18 Gas and water mains and pipes laid in roads, streets, or
19 alleys are personal property."

20 SECTION 239. SECTION 15-8-405, MCA, IS AMENDED TO

21 READ:

22 "15-8-405. Street railroads, and bridges, ~~and ferries.~~
23 Street railroads and bridges ~~and ferries~~ and their
24 franchises owned by persons or corporations must be listed
25 and assessed in the county, town, or district where such

1 property or any portion thereof is located, and the track
2 the railroad and the bridge are personal property."

3 SECTION 240. SECTION 15-8-706, MCA, IS AMENDED

4 READ:

5 "15-8-706. Statement by agent to the department.
6 On the second Monday in July in each year, the agent of
7 department of revenue in each county must transmit to
8 department a statement showing:

9 (a) the several kinds of personal property;

10 (b) the average and total value of each kind;

11 (c) the number of livestock, ~~number of bushels of~~
12 ~~grain, number of pounds or tons of any article sold by~~
13 ~~pound or ton; and~~

14 (d) when practicable, the separate value of each cla
15 of land, specifying the classes and the number of acres
16 each.

17 (2) An agent of the department who purposely
18 negligently fails to perform his duty under this section
19 a deputy or member of the agent's staff delegated such dut
20 who purposely or negligently fails to perform such duty i
21 guilty of official misconduct under 45-7-401."

22 SECTION 241. SECTION 15-16-611, MCA, IS AMENDED T

23 READ:

24 "15-16-611. Reduction of property tax for propert
25 destroyed by natural disaster. (1) The department of revenu

1 shall, upon showing by a taxpayer that some or all of the
 2 improvements on his real property or a trailer or mobile
 3 home ~~as described in 15-6-142~~ have been destroyed to such an
 4 extent that such improvements have been rendered unsuitable
 5 for their previous use by natural disaster, adjust the
 6 taxable value on the property, accounting for the
 7 destruction.

8 (2) The county treasurer shall adjust the tax due and
 9 payable for the current year on the property under 15-16-102
 10 as provided in subsection (3) of this section.

11 (3) To determine the amount of tax due for destroyed
 12 property, the county treasurer shall:

13 (a) multiply the amount of tax levied and assessed on
 14 the original taxable value of the property for the year by
 15 the ratio that the number of days in the year that the
 16 property existed before destruction bears to 365; and

17 (b) multiply the amount of tax levied and assessed on
 18 the adjusted taxable value of the property for the remainder
 19 of the year by the ratio that the number of days remaining
 20 in the year after the destruction of the property bears to
 21 365.

22 (4) This section does not apply to delinquent taxes
 23 owed on the destroyed property for a year prior to the year
 24 in which the property was destroyed.

25 (5) For the purposes of this section, "natural

1 disaster" includes but is not limited to fire, flood,
 2 earthquake, or wind."

3 SECTION 242. SECTION 15-24-301, MCA, IS AMENDED TO
 4 READ:

5 "15-24-301. Personal property brought into the state
 6 -- assessment -- exceptions -- custom combine equipment. (1)
 7 Except as provided in subsections (2) through (6), property
 8 in the following cases is subject to taxation and assessment
 9 for all taxes levied that year in the county in which it is
 10 located:

11 (a) any personal property ~~(including--livestock)~~
 12 brought, driven, or coming into this state at any time
 13 during the year that is used in the state for hire,
 14 compensation, or profit;

15 (b) property whose owner or user is engaged in gainful
 16 occupation or business enterprise in the state; or

17 (c) property which comes to rest and becomes a part of
 18 the general property of the state.

19 (2) The taxes on this property are levied in the same
 20 manner and to the same extent, except as otherwise provided,
 21 as though the property had been in the county on the regular
 22 assessment date, provided that the property has not been
 23 regularly assessed for the year in some other county of the
 24 state.

25 (3) Nothing in this section shall be construed to levy

1 a tax against a merchant or dealer within this state on
2 goods, wares, or merchandise brought into the county to
3 replenish the stock of the merchant or dealer.

4 (4) Any motor vehicle not subject to the light vehicle
5 license fee or a fee in lieu of tax brought, driven, or
6 coming into this state by any nonresident person temporarily
7 employed in Montana and used exclusively for transportation
8 of such person is subject to taxation and assessment for
9 taxes as follows:

10 (a) The motor vehicle is taxed by the county in which
11 it is located.

12 (b) One-fourth of the annual tax liability of the
13 motor vehicle must be paid for each quarter or portion of a
14 quarter of the year that the motor vehicle is located in
15 Montana.

16 (c) The quarterly taxes are due the first day of the
17 quarter.

18 (5) Agricultural harvesting machinery classified under
19 class ~~eight~~ six, licensed in other states, and operated on
20 the lands of persons other than the owner of the machinery
21 under contracts for hire shall be subject to a fee in lieu
22 of taxation of \$35 per machine for the calendar year in
23 which the fee is collected. The machines shall be subject to
24 taxation under class ~~eight~~ six only if they are sold in
25 Montana.

1 (6) The provisions of this part do not apply
2 automobiles and trucks having a rated capacity
3 three-quarters of a ton or less, motorcycles,
4 quadricycles. These vehicles are subject to the fee provic
5 for in 61-3-532 or 61-3-541."

6 SECTION 243. SECTION 15-24-302, MCA, IS AMENDED

7 READ:

8 "15-24-302. Collection procedure. All proper
9 mentioned in 15-24-301 is assessed at the same value
10 property of like kind and character, and the assessmen
11 levy, and collection of the tax are governed by t
12 provisions of 15-8-408; 15-16-111 through 15-16-11
13 15-16-404; chapter 17, part 9; and 15-24-202; as amende
14 except:

15 (1) taxation of motor vehicles under 15-24-301(4)
16 the extent that subsection varies from the gener
17 provisions cited above; and

18 (2) ~~livestock--taxation-governed-by-81-7-104-and-11-~~
19 ~~817--chapter-77--part-2."~~

20 SECTION 244. SECTION 15-24-1102, MCA, IS AMENDED

21 READ:

22 "15-24-1102. Federal property held under contract c
23 sale. When the property is held under a contract of sale c
24 other agreement whereby upon payment the legal title is c
25 may be acquired by the person, the real property shall b

1 assessed and taxed as defined in ~~15-6-131-through-15-6-140~~
 2 Title 15, chapter 6, part 1, and 15-8-111 without deduction
 3 on account of the whole or any part of the purchase price or
 4 other sum due on the property remaining unpaid. The lien for
 5 the tax may not attach to, impair, or be enforced against
 6 any interest of the United States in the real property."

7 SECTION 245. SECTION 15-24-1103, MCA, IS AMENDED TO

8 READ:

9 "15-24-1103. Federal property held under lease. When
 10 the property is held under lease, other interest, or estate
 11 therein less than the fee, except under contract of sale,
 12 the property shall be assessed and taxed as for the value,
 13 as defined in ~~15-6-131-through-15-6-140~~ Title 15, chapter 6,
 14 part 1, of such leasehold, interest, or estate in the
 15 property and the lien for the tax shall attach to and be
 16 enforced against only the leasehold, interest, or estate in
 17 the property. When the United States authorizes the taxation
 18 of the property for the full assessed value of the fee
 19 thereof, the property shall be assessed for full assessed
 20 value as defined in 15-8-111."

21 SECTION 246. SECTION 19-11-503, MCA, IS AMENDED TO

22 READ:

23 "19-11-503. Special tax levy for fund required. (1)
 24 The purpose of this section is to provide a means by which
 25 each disability and pension fund may be maintained at a

1 level equal to ~~3%~~ 3.6% of the taxable valuation of all
 2 taxable property within the limits of the city or town.

3 (2) Whenever the fund contains less than ~~3%~~ 3.6% of
 4 the taxable valuation of all taxable property within the
 5 limits of the city or town, the governing body of the city
 6 or town shall, at the time of the levy of the annual tax,
 7 levy a special tax as provided in 19-11-504. The special tax
 8 shall be collected as other taxes are collected and, when so
 9 collected, shall be paid into the disability and pension
 10 fund.

11 (3) If a special tax for the disability and pension
 12 fund is levied by a third-class city or town using the
 13 all-purpose mill levy, the special tax levy must be made in
 14 addition to the all-purpose levy."

15 SECTION 247. SECTION 19-11-504, MCA, IS AMENDED TO

16 READ:

17 "19-11-504. Amount of special tax levy. Whenever the
 18 fund contains an amount which is less than ~~3%~~ 3.6% of the
 19 taxable valuation of all taxable property in the city or
 20 town, the city council shall levy an annual special tax of
 21 not less than 1 mill and not more than 4 mills on each
 22 dollar of taxable valuation of all taxable property within
 23 the city or town."

24 SECTION 248. SECTION 20-9-141, MCA, IS AMENDED TO

25 READ:

1 "20-9-141. Computation of general fund net levy
 2 requirement by county superintendent. (1) The county
 3 superintendent shall compute the levy requirement for each
 4 district's general fund on the basis of the following
 5 procedure:

6 (a) Determine the total of the funding required for
 7 the district's final general fund budget less the amount
 8 established by the schedules in 20-9-316 through 20-9-321 by
 9 totaling:

10 (i) the district's nonisolated school foundation
 11 program requirement to be met by a district levy as provided
 12 in 20-9-303;

13 (ii) the district's permissive levy amount as provided
 14 in 20-9-352; and

15 (iii) any general fund budget amount adopted by the
 16 trustees of the district under the provisions of 20-9-353,
 17 including any additional levies authorized by the electors
 18 of the district.

19 (b) Determine the total of the moneys available for
 20 the reduction of the property tax on the district for the
 21 general fund by totaling:

22 (i) anticipated federal moneys received under the
 23 provisions of Title I of Public Law 81-874 or other
 24 anticipated federal moneys received in lieu of such federal
 25 act;

1 (ii) anticipated tuition payments for out-of-district
 2 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312
 3 and 20-5-313;

4 (iii) general fund cash reappropriated, as established
 5 under the provisions of 20-9-104;

6 (iv) anticipated or reappropriated state impact aid
 7 received under the provisions of 20-9-304;

8 (v) anticipated or reappropriated motor vehicle fee
 9 and reimbursement under the provisions of 61-3-532 and
 10 61-3-536;

11 (vi) anticipated net proceeds taxes for new production
 12 as defined in 15-23-601;

13 (vii) anticipated interest to be earned on
 14 reappropriated interest earned by the investment of general
 15 fund cash in accordance with the provisions of 20-9-213(4).

16 and

17 (viii) anticipated sales tax and use tax revenue; and

18 ~~(viii)~~(ix) any other revenue anticipated by the
 19 trustees to be received during the ensuing school fiscal
 20 year which may be used to finance the general fund.

21 (c) Subtract the total of the moneys available to
 22 reduce the property tax required to finance the general fund
 23 that has been determined in subsection (1)(b) from the total
 24 requirement determined in subsection (1)(a).

25 (2) The net general fund levy requirement determined

1 in subsection (1)(c) shall be reported to the county
 2 commissioners on the second Monday of August by the county
 3 superintendent as the general fund levy requirement for the
 4 district, and a levy shall be made by the county
 5 commissioners in accordance with 20-9-142."

6 SECTION 249. SECTION 20-9-331, MCA, IS AMENDED TO

7 READ:

8 "20-9-331. Basic county tax and other revenues for
 9 county equalization of the elementary district foundation
 10 program. (1) It shall be the duty of the county
 11 commissioners of each county to levy an annual basic tax of
 12 28 mills on the dollars of the taxable value of all taxable
 13 property within the county for the purposes of local and
 14 state foundation program support. The revenue to be
 15 collected from this levy shall be apportioned to the support
 16 of the foundation programs of the elementary school
 17 districts in the county and to the state special revenue
 18 fund, state equalization aid account, in the following
 19 manner:

20 (a) In order to determine the amount of revenue raised
 21 by this levy which is retained by the county, the sum of the
 22 estimated revenues identified in subsection (2) below shall
 23 be subtracted from the sum of the county elementary
 24 transportation obligation and the total of the foundation
 25 programs of all elementary districts of the county.

1 (b) If the basic levy prescribed by this section
 2 produces more revenue than is required to finance the
 3 difference determined above, the county treasurer shall
 4 remit the surplus funds to the state treasurer for deposit
 5 to the state special revenue fund, state equalization aid
 6 account, immediately upon occurrence of a surplus balance
 7 and each subsequent month thereafter, with any final
 8 remittance due no later than June 20 of the fiscal year for
 9 which the levy has been set.

10 (2) The proceeds realized from the county's portion of
 11 the levy prescribed by this section and the revenues from
 12 the following sources shall be used for the equalization of
 13 the elementary district foundation programs of the county as
 14 prescribed in 20-9-334, and a separate accounting shall be
 15 kept of such proceeds and revenues by the county treasurer
 16 in accordance with 20-9-212(1):

17 (a) the portion of the federal Taylor Grazing Act
 18 funds distributed to a county and designated for the common
 19 school fund under the provisions of 17-3-222;

20 (b) the portion of the federal flood control act funds
 21 distributed to a county and designated for expenditure for
 22 the benefit of the county common schools under the
 23 provisions of 17-3-232;

24 (c) all money paid into the county treasury as a
 25 result of fines for violations of law and the use of which

1 is not otherwise specified by law;

2 (d) any money remaining at the end of the immediately
3 preceding school fiscal year in the county treasurer's
4 account for the various sources of revenue established or
5 referred to in this section;

6 (e) any federal or state money, including anticipated
7 or reappropriated motor vehicle fees and reimbursement under
8 the provisions of 61-3-532 and 61-3-536, distributed to the
9 county as payment in lieu of the property taxation
10 established by the county levy required by this section; and

11 (f) net proceeds taxes for new production, as defined
12 in 15-23-601; and

13 (g) sales tax and use tax revenue."

14 SECTION 250. SECTION 20-9-333, MCA, IS AMENDED TO

15 READ:

16 "20-9-333. Basic special levy and other revenues for
17 county equalization of high school district foundation
18 program. (1) It shall be the duty of the county
19 commissioners of each county to levy an annual basic special
20 tax for high schools of 17 mills on the dollar of the
21 taxable value of all taxable property within the county for
22 the purposes of local and state foundation program support.
23 The revenue to be collected from this levy shall be
24 apportioned to the support of the foundation programs of
25 high school districts in the county and to the state special

1 revenue fund, state equalization aid account, in the
2 following manner:

3 (a) In order to determine the amount of revenue raised
4 by this levy which is retained by the county, the estimated
5 revenues identified in subsections (2)(a) and (2)(b) below
6 shall be subtracted from the sum of the county's high school
7 tuition obligation and the total of the foundation program
8 of all high school districts of the county.

9 (b) If the basic levy prescribed by this section
10 produces more revenue than is required to finance the
11 difference determined above, the county treasurer shall
12 remit the surplus to the state treasurer for deposit to the
13 state special revenue fund, state equalization aid account
14 immediately upon occurrence of a surplus balance and each
15 subsequent month thereafter, with any final remittance due
16 no later than June 20 of the fiscal year for which the levy
17 has been set.

18 (2) The proceeds realized from the county's portion of
19 the levy prescribed in this section and the revenues from
20 the following sources shall be used for the equalization of
21 the high school district foundation programs of the county
22 as prescribed in 20-9-334, and a separate accounting shall
23 be kept of these proceeds by the county treasurer in
24 accordance with 20-9-212(1):

25 (a) any money remaining at the end of the immediately

1 preceding school fiscal year in the county treasurer's
 2 accounts for the various sources of revenue established in
 3 this section;

4 (b) any federal or state moneys, including anticipated
 5 or reappropriated motor vehicle fees and reimbursement under
 6 the provisions of 61-3-532 and 61-3-536, distributed to the
 7 county as a payment in lieu of the property taxation
 8 established by the county levy required by this section; and

9 (c) net proceeds taxes for new production, as defined
 10 in 15-23-601; and

11 (d) sales tax and use tax revenue."

12 SECTION 251. SECTION 20-9-352, MCA, IS AMENDED TO

13 READ:

14 "20-9-352. Permissive amount and permissive levy. (1)
 15 Whenever the trustees of any district shall deem it
 16 necessary to adopt a general fund budget in excess of the
 17 foundation program amount but not in excess of the maximum
 18 general fund budget amount for such district as established
 19 by the schedules in 20-9-316 through 20-9-321, the trustees
 20 shall adopt a resolution stating the reasons and purposes
 21 for exceeding the foundation program amount. Such excess
 22 above the foundation program amount shall be known as the
 23 "permissive amount", and it shall be financed by a levy on
 24 the taxable value of all taxable property within the
 25 district, as prescribed in 20-9-141, supplemented with any

1 biennial appropriation by the legislature for this purpose.
 2 The proceeds of such an appropriation shall be deposited to
 3 the state special revenue fund, permissive account.

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

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

22 (b) For each high school district, the county
 23 commissioners shall annually set a levy not exceeding 4
 24 mills on all taxable property in the district for the
 25 purpose of funding the permissive amount of the district.

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

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

1 of public instruction according to the provisions of
 2 subsections (1) and (2) of this section.

3 (4) Distribution under this section from the state
 4 special revenue fund shall be made in two payments. The
 5 first payment shall be made at the same time as the first
 6 distribution of state equalization aid is made after Januar
 7 1 of the fiscal year. The second payment shall be made a
 8 the same time as the last payment of state equalization ai
 9 is made for the fiscal year. If the appropriation is no
 10 sufficient to finance the deficiencies of the districts a
 11 determined according to subsection (2), each district wil
 12 receive the same percentage of its deficiency. Surplu
 13 revenue in the second year of the biennium may be used to
 14 reduce the appropriation required for the next succeeding
 15 biennium or may be transferred to the state equalization aid
 16 state special revenue fund if revenues in that fund are
 17 insufficient to meet foundation program requirements."

18 SECTION 252. SECTION 20-9-501, MCA, IS AMENDED TO
 19 READ:

20 "20-9-501. Retirement fund. (1) The trustees of any
 21 district employing personnel who are members of the
 22 teachers' retirement system or the public employees'
 23 retirement system or who are covered by unemployment
 24 insurance or who are covered by any federal social security
 25 system requiring employer contributions shall establish a

1 retirement fund for the purposes of budgeting and paying the
 2 employer's contributions to such systems. The district's
 3 contribution for each employee who is a member of the
 4 teachers' retirement system shall be calculated in
 5 accordance with Title 19, chapter 4, part 6. The district's
 6 contribution for each employee who is a member of the public
 7 employees' retirement system shall be calculated in
 8 accordance with 19-3-801. The district may levy a special
 9 tax to pay its contribution to the public employees'
 10 retirement system under the conditions prescribed in
 11 19-3-204. The district's contributions for each employee
 12 covered by any federal social security system shall be paid
 13 in accordance with federal law and regulation. The
 14 district's contribution for each employee who is covered by
 15 unemployment insurance shall be paid in accordance with
 16 Title 39, chapter 51, part 11.

17 (2) The trustees of any district required to make a
 18 contribution to any such system shall include in the
 19 retirement fund of the preliminary budget the estimated
 20 amount of the employer's contribution and such additional
 21 moneys, within legal limitations, as they may wish to
 22 provide for the retirement fund cash reserve. After the
 23 final retirement fund budget has been adopted, the trustees
 24 shall pay the employer contributions to such systems in
 25 accordance with the financial administration provisions of

1 this title.

2 (3) When the final retirement fund budget has been
 3 adopted, the county superintendent shall establish the levy
 4 requirement by:

5 (a) determining the sum of the moneys available to
 6 reduce the retirement fund levy requirement by adding:

7 (i) any anticipated moneys that may be realized in the
 8 retirement fund during the ensuing school fiscal year,
 9 including anticipated motor vehicle fees and reimbursement
 10 under the provisions of 61-3-532 and 61-3-536;

11 (ii) net proceeds taxes for new production, as defined
 12 in 15-23-601; and

13 (iii) sales tax and use tax revenue; and

14 ~~(iii)~~(iv) any cash available for reappropriation as
 15 determined by subtracting the amount of the end-of-the-year
 16 cash balance earmarked as the retirement fund cash reserve
 17 for the ensuing school fiscal year by the trustees from the
 18 end-of-the-year cash balance in the retirement fund. The
 19 retirement fund cash reserve shall not be more than 35% of
 20 the final retirement fund budget for the ensuing school
 21 fiscal year and shall be used for the purpose of paying
 22 retirement fund warrants issued by the district under the
 23 final retirement fund budget.

24 (b) subtracting the total of the moneys available for
 25 reduction of the levy requirement as determined in

1 subsection (3)(a) from the budgeted amount for expenditures
2 in the final retirement fund budget.

3 (4) The county superintendent shall total the net
4 retirement fund levy requirements separately for all
5 elementary school districts, all high school districts, and
6 all community college districts of the county, including any
7 prorated joint district or special education cooperative
8 agreement levy requirements, and shall report each such levy
9 requirement to the county commissioners on the second Monday
10 of August as the respective county levy requirements for
11 elementary district, high school district, and community
12 college district retirement funds. The county commissioners
13 shall fix and set such county levy in accordance with
14 20-9-142.

15 (5) The net retirement fund levy requirement for a
16 joint elementary district or a joint high school district
17 shall be prorated to each county in which a part of such
18 district is located in the same proportion as the district
19 ANB of the joint district is distributed by pupil residence
20 in each such county. The county superintendents of the
21 counties affected shall jointly determine the net retirement
22 fund levy requirement for each county as provided in
23 20-9-151.

24 (6) The net retirement fund levy requirement for
25 districts that are members of special education cooperative

1 agreements shall be prorated to each county in which suc
2 district is located in the same proportion as the budget fo
3 the special education cooperative agreement of the distric
4 bears to the total budget of the cooperative. The count
5 superintendents of the counties affected shall jointl
6 determine the net retirement fund levy requirement for eac
7 county in the same manner as provided in 20-9-151 and fi
8 and levy the net retirement fund levy for each county in th
9 same manner as provided in 20-9-152."

10 SECTION 253. SECTION 20-9-502, MCA, IS AMENDED TO

11 READ:

12 "20-9-502. Purpose and authorization of a building
13 reserve fund by an election. (1) The trustees of any
14 district, with the approval of the qualified electors of the
15 district, may establish a building reserve for the purpose
16 of raising money for the future construction, equipping, or
17 enlarging of school buildings or for the purpose of
18 purchasing land needed for school purposes in the district.
19 In order to submit to the qualified electors of the district
20 a building reserve proposition for the establishment of or
21 addition to a building reserve, the trustees shall pass a
22 resolution that specifies:

23 (a) the purpose or purposes for which the new or
24 addition to the building reserve will be used;

25 (b) the duration of time over which the new or

1 addition to the building reserve will be raised in annual,
2 equal installments;

3 (c) the total amount of money that will be raised
4 during the duration of time specified in subsection (1)(b);
5 and

6 (d) any other requirements under 20-20-201 for the
7 calling of an election.

8 (2) The total amount of building reserve when added to
9 the outstanding indebtedness of the district shall not be
10 more than ~~45%~~ 52% of the taxable value of the taxable
11 property of the district. Such limitation shall be
12 determined in the manner provided in 20-9-406. A building
13 reserve tax authorization shall not be for more than 20
14 years.

15 (3) The election shall be conducted in accordance with
16 the school election laws of this title, and the electors
17 qualified to vote in the election shall be qualified under
18 the provisions of 20-20-301. The ballot for a building
19 reserve proposition shall be substantially in the following
20 form:

21 OFFICIAL BALLOT

22 SCHOOL DISTRICT BUILDING RESERVE ELECTION

23 INSTRUCTIONS TO VOTERS: Make an X or similar mark in
24 the vacant square before the words "BUILDING RESERVE--YES"
25 if you wish to vote for the establishment of a building

1 reserve (addition to the building reserve); if you are
2 opposed to the establishment of a building reserve (addition
3 to the building reserve) make an X or similar mark in the
4 square before the words "BUILDING RESERVE--NO".

5 Shall the trustees be authorized to impose an
6 additional levy each year for years to establish a
7 building reserve (add to the building reserve) of this
8 school district to raise a total amount of dollars
9 (\$...), for the purpose(s) (here state the purpose or
10 purposes for which the building reserve will be used)?

11 BUILDING RESERVE--YES.

12 BUILDING RESERVE--NO.

13 (4) The building reserve proposition shall be approved
14 if a majority of those electors voting at the election
15 approve the establishment of or addition to such building
16 reserve. The annual budgeting and taxation authority of the
17 trustees for a building reserve shall be computed by
18 dividing the total authorized amount by the specified number
19 of years. The authority of the trustees to budget and
20 impose the taxation for the annual amount to be raised for
21 the building reserve shall lapse when, at a later time, a
22 bond issue is approved by the qualified electors of the
23 district for the same purpose or purposes for which the
24 building reserve fund of the district was established.
25 Whenever a subsequent bond issue is made for the same

1 purpose or purposes of a building reserve, the money in the
 2 building reserve shall be used for such purpose or purposes
 3 before any money realized by the bond issue is used."

4 SECTION 254. SECTION 20-10-144, MCA, IS AMENDED TO

5 READ:

6 "20-10-144. Computation of revenues and net tax levy
 7 requirements for the transportation fund budget. Before the
 8 fourth Monday of July and in accordance with 20-9-123, the
 9 county superintendent shall compute the revenue available to
 10 finance the transportation fund budget of each district. The
 11 county superintendent shall compute the revenue for each
 12 district on the following basis:

13 (1) The "schedule amount" of the preliminary budget
 14 expenditures that is derived from the rate schedules in
 15 20-10-141 and 20-10-142 shall be determined by adding the
 16 following amounts:

17 (a) the sum of the maximum reimbursable expenditures
 18 for all approved school bus routes maintained by the
 19 district (to determine the maximum reimbursable expenditure,
 20 multiply the applicable rate per bus mile by the total
 21 number of miles to be traveled during the ensuing school
 22 fiscal year on each bus route approved by the county
 23 transportation committee and maintained by such district);
 24 plus

25 (b) the total of all individual transportation per

1 diem reimbursement rates for such district as determined
 2 from the contracts submitted by the district multiplied by
 3 the number of pupil-instruction days scheduled for the
 4 ensuing school attendance year; plus

5 (c) any estimated costs for supervised home study or
 6 supervised correspondence study for the ensuing school
 7 fiscal year; plus

8 (d) the amount budgeted on the preliminary budget for
 9 the contingency amount permitted in 20-10-143, except if
 10 such amount exceeds 10% of the total of subsections (1)(a)
 11 (1)(b), and (1)(c) or \$100, whichever is larger, the
 12 contingency amount on the preliminary budget shall be
 13 reduced to such limitation amount and used in the
 14 determination of the schedule amount.

15 (2) The schedule amount determined in subsection (1)
 16 or the total preliminary transportation fund budget
 17 whichever is smaller, shall be divided by 3 and the
 18 resulting one-third amount shall be used to determine the
 19 available state and county revenue to be budgeted on the
 20 following basis:

21 (a) the resulting one-third amount shall be the
 22 budgeted state transportation reimbursement, except that the
 23 state transportation reimbursement for the transportation of
 24 special education pupils under the provisions of 20-7-44
 25 shall be two-thirds of the schedule amount attributed to the

1 transportation of special education pupils;

2 (b) the resulting one-third amount, except as provided
3 for joint elementary districts in subsection (2)(e), shall
4 be the budgeted county transportation reimbursement for
5 elementary districts and shall be financed by the basic
6 county tax under the provisions of 20-9-334;

7 (c) the resulting one-third amount multiplied by 2
8 shall be the budgeted county transportation reimbursement
9 amount for high school districts financed under the
10 provisions of subsection (5) of this section, except as
11 provided for joint high school districts in subsection
12 (2)(e), and except that the county transportation
13 reimbursement for the transportation of special education
14 pupils under the provisions of 20-7-442 shall be one-third
15 of the schedule amount attributed to the transportation of
16 special education pupils;

17 (d) when the district has a sufficient amount of cash
18 for reappropriation and other sources of district revenue,
19 as determined in subsection (3), to reduce the total
20 district obligation for financing to zero, any remaining
21 amount of such district revenue and cash reappropriated
22 shall be used to reduce the county financing obligation in
23 subsections (2)(b) or (2)(c) and, if such county financing
24 obligations are reduced to zero, to reduce the state
25 financial obligation in subsection (2)(a); and

1 (e) the county revenue requirement for a joint
2 district, after the application of any district moneys under
3 subsection (2)(d) above, shall be prorated to each county
4 incorporated by the joint district in the same proportion as
5 the ANB of the joint district is distributed by pupil
6 residence in each such county.

7 (3) The total of the moneys available for the
8 reduction of property tax on the district for the
9 transportation fund shall be determined by totaling:

10 (a) anticipated federal moneys received under the
11 provisions of Title I of Public Law 81-874 or other
12 anticipated federal moneys received in lieu of such federal
13 act; plus

14 (b) anticipated payments from other districts for
15 providing school bus transportation services for such
16 district; plus

17 (c) anticipated payments from a parent or guardian for
18 providing school bus transportation services for his child;
19 plus

20 (d) anticipated interest to be earned by the
21 investment of transportation fund cash in accordance with
22 the provisions of 20-9-213(4); plus

23 (e) anticipated motor vehicle fees and reimbursement
24 under the provisions of 61-3-532 and 61-3-536; plus

25 (f) net proceeds taxes for new production, as defined

1 in 15-23-601; plus
 2 (g) sales tax and use tax revenue; plus
 3 (g)(h) any other revenue anticipated by the trustees
 4 to be earned during the ensuing school fiscal year which may
 5 be used to finance the transportation fund; plus

6 (h)(i) any cash available for reappropriation as
 7 determined by subtracting the amount of the end-of-the-year
 8 cash balance earmarked as the transportation fund cash
 9 reserve for the ensuing school fiscal year by the trustees
 10 from the end-of-the-year cash balance in the transportation
 11 fund. Such cash reserve shall not be more than 20% of the
 12 final transportation fund budget for the ensuing school
 13 fiscal year and shall be for the purpose of paying
 14 transportation fund warrants issued by the district under
 15 the final transportation fund budget.

16 (4) The district levy requirement for each district's
 17 transportation fund shall be computed by:

18 (a) subtracting the schedule amount calculated in
 19 subsection (1) from the total preliminary transportation
 20 budget amount and, for an elementary district, adding such
 21 difference to the district obligation to finance one-third
 22 of the schedule amount as determined in subsection (2); and

23 (b) subtracting the amount of moneys available to
 24 reduce the property tax on the district, as determined in
 25 subsection (3), from the amount determined in subsection

1 (4)(a) above.

2 (5) The county levy requirement for the financing of
 3 the county transportation reimbursement to high school
 4 districts shall be computed by adding all such requirements
 5 for all the high school districts of the county, including
 6 the county's obligation for reimbursements in joint high
 7 school districts.

8 (6) The transportation fund levy requirement
 9 determined in subsection (4) for each district and in
 10 subsection (5) for the county shall be reported to the
 11 county commissioners on the second Monday of August by the
 12 county superintendent as the transportation fund levy
 13 requirements for the district and for the county, and such
 14 levies shall be made by the county commissioners in
 15 accordance with 20-9-142."

16 SECTION 255. SECTION 33-7-407, MCA, IS AMENDED TO
 17 READ:

18 "33-7-407. Taxes. Every society organized or license
 19 under this chapter is hereby declared to be a charitable and
 20 benevolent institution, and all of its funds shall be exempt
 21 from all and every state, county, district, municipal, and
 22 school tax other than taxes on ~~real-estate-and-office~~
 23 equipment gross receipts taxable under the sales and use tax
 24 and taxes on property subject to taxation under Title 15.

25 SECTION 256. SECTION 61-3-501, MCA, IS AMENDED TO

READ:

"61-3-501. When vehicle taxes and fees are due. (1) Property All taxes, new-car-taxes, light except sales and use taxes paid at the time of purchase, and all vehicle license fees, and fees in lieu of tax on a motorcycle, quadricycle, motor home, or travel trailer must be paid on the date of registration or reregistration of the vehicle.

(2) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, property taxes, light vehicle license fees, or the fee in lieu of property taxes abate abates on such vehicle properly reported with the department of revenue until the vehicle is sold and thereafter the purchaser shall pay the pro rata balance of the taxes or the fee in lieu of tax due and owing on the vehicle.

(3) In the event a vehicle's registration period is changed under 61-3-315, all taxes and other fees due thereon shall be prorated and paid from the last day of the old period until the first day of the new period in which the vehicle shall be registered. Thereafter taxes and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, taxes and fees shall be prorated and paid based on the same tax year as the original registration

period. Thereafter, during the appropriate anniversary registration period, each vehicle shall again register or reregister and shall pay all taxes and fees due thereon for a 12-month period."

SECTION 257. SECTION 67-3-201, MCA, IS AMENDED TO

READ:

"67-3-201. Aircraft registration and licensing. (1) Except as provided in 67-3-102 and in subsection (7) (6) of this section, a person may not operate or cause or authorize to be operated a civil aircraft within this state unless the aircraft has an appropriate effective registration, license, certificate, or permit issued or approved by the United States government which has been registered with the department and the registration with the department is in force.

(2) Aircraft customarily kept in this state shall be registered with the department, which may charge a fee therefor of not more than \$10. The registration shall be renewed annually on or before March 1 each year.

(3) Section 67-3-202 and subsections (2) through (7) (6) of this section shall not apply to:

(a) aircraft owned and operated by the federal government, the state, or any political subdivision thereof;

(b) aircraft owned and held by an aircraft dealer solely for the purpose of resale;

1 (c) aircraft operated by an airline company and
2 regularly scheduled for the primary purpose of carrying
3 persons or property for hire in interstate or international
4 transportation; or

5 (d) dismantled or otherwise nonflyable aircraft.

6 (4) An aircraft shall be registered as property within
7 a particular county of the state. This county shall be the
8 county of the owner's principal residence, if the owner is a
9 natural person, or the owner's principal place of doing
10 business in the state, if the owner is not a natural person.
11 However, if the owner declares by affidavit that the
12 aircraft is customarily kept at a landing facility in
13 another county within the state, he may register the
14 aircraft as property within such other county.

15 ~~{5}--Except-as-provided-in-15-6-210,-all-aircraft-shall~~
16 ~~be--subject--to--all--state,-county,-and-school-district-tax~~
17 ~~levies-and-all-other--levies--designated--for--aircraft--or~~
18 ~~airport-related--uses.--Such-aircraft-shall-not-be-liable-for~~
19 ~~other-city-tax-levies.~~

20 {6}(5) Aircraft not registered in the state but
21 entering the state to engage in commercial operations shall
22 be registered prior to commencing operation.

23 {7}(6) Owners of ultralight aircraft for which no
24 appropriate effective license, certificate, or permit is
25 issued by the United States government shall file with the

1 department an appropriate registration recognized and
2 approved by the United States government."

3 SECTION 258. SECTION 67-3-202, MCA, IS AMENDED TO

4 READ:

5 "67-3-202. Penalty for registration violations. (1)
6 When an aircraft required to be registered under the
7 provisions of subsections (2) through {7} (6) of 67-3-201 is
8 not registered on or before March 1 of the current calendar
9 year, a penalty fee of \$100 shall be added to the
10 registration fee and collected. Registration of an aircraft
11 in the name of the applicant for the year immediately
12 preceding the year for which application for registration is
13 made shall be prima facie evidence that the aircraft has
14 been based in this state during the year for which
15 application for registration is made.

16 ~~{2}--Except--for-aircraft-exempt-from-property-taxation~~
17 ~~as-provided-in-15-6-210,-an-application--for--registration~~
18 ~~shall--be--accompanied--by--a--copy--of--the--receipt-for-or~~
19 ~~statement-of-personal--property--tax--paid,-signed--by--the~~
20 ~~treasurer-of-the-county-where-the-aircraft-is-registered,-or~~
21 ~~a-statement-of-lien-assignment-against-real-property,-signed~~
22 ~~by--the--county-assessor-where-the-aircraft-is-registered.-A~~
23 ~~person-who-pays-personal-property-tax-on-his-aircraft-to-any~~
24 ~~jurisdiction-other-than-the-county--where--the--aircraft--is~~
25 ~~required--to--be--registered--is--liable-for-the-tax-in-that~~

~~1 county without credit for such other taxes paid, in addition
2 to this civil liability, a person who attempts to establish
3 the situs of his aircraft in any jurisdiction other than the
4 county where the aircraft is required to be registered with
5 intent to avoid payment of taxes to that county commits the
6 offense of false swearing as defined in 45-7-202.~~

7 †3†(2) A person who operates an aircraft required to
8 be registered in the state without having displayed upon
9 such aircraft a certificate of registration issued by the
10 department for that aircraft commits a misdemeanor."

11 SECTION 259. SECTION 81-6-101, MCA, IS AMENDED TO
12 READ:

13 "81-6-101. Petition for county livestock protective
14 committee -- members -- term. (1) The board of county
15 commissioners must, upon receipt of a petition or petitions
16 to do so, establish a county livestock protective committee
17 of three members. The petition or petitions must be signed
18 by at least 51% of the owners of cattle in the county and
19 such petitioners owning shall own at least 55% of the cattle
20 ~~as shown by the most recent completed assessment records of~~
21 ~~the county assessor, set up a county livestock protective~~
22 ~~committee of three members in the county.~~

23 (2) Members appointed to serve on such committee shall
24 be residents of the county engaged in the business of
25 raising cattle. If there be in the county any organization

1 of cattle growers, the county commissioners shall give
2 preference to names submitted by any such group for
3 appointment to such committee. The term for which said
4 committee members shall be appointed shall be 2 years with
5 two members of the first committee named to serve for 2
6 years, one member to serve for 1 year. Members of such
7 committee shall receive no remuneration or reimbursement for
8 expenses for serving on said committee.

9 (3) By "organization of cattle growers", as used in
10 this section, is meant any group or organization holding
11 regular meetings at least annually, having officers, and
12 composed predominantly of cattle growers resident in the
13 county, with its membership open to cattle growers willing
14 to abide by its governing rules or bylaws, and its general
15 purpose being the promotion of the interests of its members
16 in matters pertaining to the cattle or livestock industry.

17 (4) If owners of sheep in the county desire to come
18 under the provisions of this part in cooperation with owners
19 of cattle, they shall file a like petition to that set out
20 herein for owners of cattle, and in such case at least one
21 member of said livestock protective committee shall be a
22 sheep grower and where the word "cattle" appears in this
23 part, it shall be deemed to comprehend also the word
24 "sheep".

25 (5) Owners of sheep alone may form a county livestock

1 protective committee, in which case the word "cattle" as in
 2 this part contained shall be considered as if it were the
 3 word "sheep"; and provided further that the levy as provided
 4 in 81-6-104 hereof shall, in the case of sheep, not exceed 5
 5 cents per head."

6 SECTION 260. SECTION 81-6-104, MCA, IS AMENDED TO

7 READ:

8 "81-6-104. ~~Tax--levy~~ Levy -- special fund. ~~Said~~ The
 9 county livestock protective committee may recommend to the
 10 board of county commissioners ~~the a levy of-a-tax-in-an~~
 11 ~~amount~~ not to exceed 50 cents per head on all ~~assessable~~
 12 cattle in the county on January 1, and the board of county
 13 commissioners shall thereupon be empowered to impose the
 14 ~~levy such--tax,~~ to be collected as ~~other~~ taxes on personal
 15 property and when collected to be deposited by the county
 16 treasurer in a special fund to be known as the stockmen's
 17 special deputy fund, together with any other funds made
 18 available from county, state, federal, or private sources
 19 for the purposes of this part. The board of livestock shall
 20 provide the board of county commissioners of each county
 21 with the number of cattle in the county on January 1, for
 22 the purpose of imposing the levy."

23 SECTION 261. SECTION 81-6-204, MCA, IS AMENDED TO

24 READ:

25 "81-6-204. ~~Tax-levy~~ Levy -- deposit of proceeds. ~~Said~~

1 The district cattle protective committee may recommend to
 2 the board of county commissioners ~~the a levy of-a-tax-in-an~~
 3 ~~amount~~ not to exceed 50 cents per head on all ~~assessable~~
 4 cattle in the district on January 1, and the board of county
 5 commissioners shall thereupon be empowered to impose the
 6 ~~levy such--tax,~~ to be collected as ~~other~~ taxes on personal
 7 property and when collected to be deposited in the county
 8 treasury of one of the counties in the district, to be
 9 selected by the district cattle protective committee, in a
 10 special fund to be known as the stockmen's special deputy
 11 fund, together with any other funds made available from
 12 county, state, federal, or private sources for the purposes
 13 of this part. The board of livestock shall provide the board
 14 of county commissioners of each county with the number of
 15 cattle in the county on January 1, for the purpose of
 16 imposing the levy."

17 SECTION 262. SECTION 81-6-209, MCA, IS AMENDED TO

18 READ:

19 "81-6-209. ~~Tax--levy~~ Levy -- deposit of proceeds. ~~Said~~
 20 The district cattle protective committee may recommend to
 21 the board of county commissioners ~~the a levy of-a-tax-in-an~~
 22 ~~amount~~ not to exceed 50 cents per head on all ~~assessable~~
 23 cattle in the district on January 1, and the board of county
 24 commissioners shall thereupon be empowered to impose the
 25 ~~levy such-tax,~~ to be collected as ~~other~~ taxes on personal

1 property and when collected to be deposited in the county
 2 treasury in a special fund to be known as the stockmen's
 3 special deputy fund, together with any other funds made
 4 available from county, state, federal, or private sources
 5 for the purposes of this part. The board of livestock shall
 6 provide the board of county commissioners of each county
 7 with the number of cattle in the county on January 1, for
 8 the purpose of imposing the levy."

9 SECTION 263. SECTION 81-7-103, MCA, IS AMENDED TO

10 READ:

11 "81-7-103. Administration of funds by the department.

12 The department shall administer and expend for predatory
 13 animal extermination and control all money which is made
 14 available to it, including the money from the levy allocated
 15 for this purpose under 81-7-104 and all money which is made
 16 available to the department by appropriations made by the
 17 legislature for predatory animal control by the department.
 18 The department shall expend the funds for predatory animal
 19 control by all effective means responsive to the necessities
 20 of control in various areas of the state, including
 21 employment of hunters, trappers, and other personnel,
 22 procurement of traps, poisons, equipment, and supplies, and
 23 payment of bounties in the discretion of the department at
 24 those times of the year it considers advisable."

25 SECTION 264. SECTION 81-7-104, MCA, IS AMENDED TO

1 READ:

2 "81-7-104. ~~levy--for--predator~~ Predator control moneys
 3 -- use of proceeds. (1) The department of ~~revenue--shall~~
 4 ~~annually--levy--an--ad--valorem--tax-on-all-livestock-in-the~~
 5 ~~state-of-Montana~~ livestock shall allocate a portion of the
 6 money from the levy under [section 197] for the purpose of
 7 protecting them livestock and poultry against destruction,
 8 depredation, and injury by wild animals, whether the
 9 livestock or poultry is on lands in private ownership, in
 10 the ownership of the state, or in the ownership of the
 11 United States, including open ranges and all lands in or of
 12 the public domain. This protection may be by any means of
 13 effective predatory animal destruction, extermination, and
 14 control, including systematic hunting and trapping and
 15 payment of bounties. ~~The tax levy may not exceed in any one~~
 16 year ~~15 mills on the taxable value of all sheep and 10 mills~~
 17 on the taxable value of other livestock.

18 (2) ~~The moneys received from the tax levies shall be~~
 19 ~~transmitted monthly with other taxes for state purposes by~~
 20 ~~the county treasurer of each county to the state treasury.~~
 21 ~~The state treasurer shall place the money in the state~~
 22 ~~special revenue fund with the other moneys as provided in~~
 23 ~~81-7-119.~~ Money shall thereafter be paid out only
 24 on claims duly and regularly presented to the department of
 25 livestock and approved by the department in accordance with

1 the law applicable either to claims for bounties or for
 2 other expenditures necessary and proper for predatory animal
 3 control by means and methods other than payment of bounties,
 4 as determined by the department. All the moneys shall be
 5 available for the payment of bounty claims and for
 6 expenditures for planned, seasonal, or other campaigns
 7 directed or operated by the department in cooperation with
 8 other agencies for the systematic destruction,
 9 extermination, and control of predatory wild animals, as
 10 determined by the department and its advisory committee. No
 11 claims may be approved in excess of moneys available for
 12 such purposes, and no warrants may be registered against the
 13 moneys."

14 SECTION 265. SECTION 81-7-201, MCA, IS AMENDED TO

15 READ:

16 "81-7-201. County levy for bounties on predatory
 17 animals. Whenever the owners, agent, or agents of the owners
 18 representing 51% of the livestock of any county in this
 19 state present a petition to the board of county
 20 commissioners of such county asking for the levy of a tax
 21 upon the livestock of the county for the purpose of paying
 22 bounties on predatory animals killed in the county, it is
 23 the duty of the board of county commissioners to make the
 24 levy, which may not exceed ~~50-mills-on-the-dollar-of-the~~
 25 taxable-value-of \$1 per head of livestock on all livestock

1 in the county. The tax levy shall be assessed and collected
 2 in the same manner as ~~all-other~~ state and county taxes."

3 SECTION 266. SECTION 81-7-202, MCA, IS AMENDED TO

4 READ:

5 "81-7-202. Signers of petition -- time for presenting
 6 -- limitation on bounties -- bounty inspectors. (1) The
 7 petition provided for in 81-7-201 shall be signed by the
 8 owners, agent, or agents of not less than 51% of the
 9 livestock of such county ~~as-ascertained-from-the-assessment~~
 10 ~~books-of-such-county~~ and shall recommend to the board of
 11 county commissioners the bounties to be paid on such
 12 predatory animals, which shall not exceed the following:

- 13 (a) on each wolf or mountain lion, \$100;
- 14 (b) on each wolf pup or mountain lion kitten, \$20;
- 15 (c) on one coyote, \$5;
- 16 (d) on each coyote pup, \$2.50.

17 (2) Such petition shall be presented not later than
 18 August 1 of each year, and the board of county commissioners
 19 on determining the sufficiency of such petition shall make
 20 an order granting such petition, which order shall fix the
 21 levy for that year and the amount of the bounties to be paid
 22 for the killing of each such predatory animal, which shall
 23 not exceed the amounts recommended in such petition, and
 24 appoint not less than 10 or more than 20 stockowners of such
 25 county to be bounty inspectors under this part, without

1 compensation, who shall hold their offices for 1 year."

2 SECTION 267. SECTION 81-7-303, MCA, IS AMENDED TO
3 READ:

4 "81-7-303. County commissioners permitted to require
5 per capita license fee on sheep. (1) To defray the expense
6 of such protection the board of county commissioners of any
7 county shall have the power to require all owners or persons
8 in possession of any sheep coming 1 year old or over in the
9 county on ~~the regular assessment date~~ January 1 of each year
10 to pay a license fee in an amount to be determined by the
11 board on a per head basis for sheep so owned or possessed by
12 him in the county. All owners or persons in possession of
13 any sheep coming 1 year old or over coming into the county
14 ~~after the regular assessment date and subject to taxation~~
15 ~~under the provisions of 15-24-301~~ January 1 shall also be
16 subject to payment of the license fee herein prescribed.

17 (2) Upon the order of the board of county
18 commissioners such license fees may be imposed by the entry
19 thereof in the name of the licensee upon the property tax
20 rolls of the county by the county assessor. Said license
21 fees shall be payable to and collected by the county
22 treasurer, and when so levied, shall be a lien upon the
23 property, both real and personal, of the licensee. In case
24 the person against whom said license fee is levied owns no
25 real estate against which said license fee is or may become

1 a lien, then said license fee shall be payable immediately
2 upon its levy and the treasurer shall collect the same in
3 the manner provided by law for the collection of personal
4 property taxes which are not a lien upon real estate.

5 (3) When collected, said fees shall be placed by the
6 treasurer in the predatory animal control fund and the
7 moneys in said fund shall be expended on order of the board
8 of county commissioners of the county for predatory animal
9 control only."

10 SECTION 268. SECTION 81-7-305, MCA, IS AMENDED TO
11 READ:

12 "81-7-305. Duty of county commissioners -- petition of
13 sheep owners -- license fees. (1) In conducting a predatory
14 animal control program, the board of county commissioners
15 shall give preference to recommendations for such program
16 and its incidents as made by organized associations of sheep
17 growers in the county. Upon petition of the resident owners
18 of at least 51% of the sheep in the county, as shown by the
19 ~~assessment rolls of the last preceding assessment~~ best
20 available records of the board of livestock, which petition
21 shall be filed with the board of county commissioners on or
22 before the first Monday in December in any year, such board
23 shall establish the predatory animal control program and
24 cause said licenses to be secured and issued and the fees
25 collected for the following year in such amount as will

1 defray the cost of administering the program so established.
 2 The license fee determined and set by the board shall remain
 3 in full force and effect from year to year without change,
 4 unless there is filed with the board a petition subscribed
 5 by the resident owners of at least 51% of the sheep in the
 6 county, as shown by the ~~assessment--rolls--of--the--last~~
 7 ~~assessment---preceding--the--filing--of--the--petition~~ best
 8 available records of the board of livestock, for termination
 9 of the program and repeal of the license fee, in which event
 10 the program shall by order of the board of county
 11 commissioners be disestablished and the license fee shall
 12 not be further levied.

13 (2) If the resident owners of at least 51% of the
 14 sheep in the county either petition for an increase in the
 15 license fee or petition for a decrease in the license fee
 16 then in force, the board of county commissioners shall upon
 17 receipt of any such petition fix a new license fee to
 18 continue from year to year and the program shall thereupon
 19 continue within the limits of the aggregate amount of the
 20 license fee as collected from year to year."

21 SECTION 269. SECTION 81-8-804, MCA, IS AMENDED TO

22 READ:

23 "81-8-804. Assessments -- refunds. (1) There is
 24 levied, in addition to the ~~tax on livestock prescribed in~~
 25 ~~Title 157-chapter-24, part-97-a--per--head--tax~~ other fees

1 levied, an amount of 25 cents on each head of cattle that is
 2 more than 9 months of age and is owned or possessed within a
 3 county for the support and maintenance of research into beef
 4 production as provided in this part. The tax levy shall be
 5 paid to the county treasurer of that county on or before
 6 March 1 of each year.

7 (2) The tax levy required in subsection (1) must be
 8 paid for each head of cattle that is more than 9 months of
 9 age and is brought into the county after March 1 ~~and is~~
 10 ~~subject to taxation and assessment under 15-24-301.~~

11 (3) Each county is entitled to receive \$250 annually
 12 as reimbursement for the administration of this section.

13 (4) A person who has paid the tax levy required by
 14 this section may obtain a refund of the tax levy upon
 15 submission of a written request to the department. The
 16 application must be made within 30 days after the payment of
 17 the tax levy and on forms furnished by the department. The
 18 department shall, upon receipt of a timely and otherwise
 19 properly submitted refund request, refund the tax levy."

20 SECTION 270. SECTION 85-7-2001, MCA, IS AMENDED TO

21 READ:

22 "85-7-2001. Limitations on debt-incurring power. (1)
 23 The board of commissioners or other officers of the district
 24 may not incur any debt or liability, either by issuing bonds
 25 or otherwise, except as provided in this chapter. No

1 irrigation district may become indebted, in any manner or
 2 for any purpose in any one year, in an amount exceeding
 3 ~~10.75%~~ 22% of the assessed valuation of the district, except
 4 as provided in subsection (2).

5 (2) (a) For the purpose of organization; for any of
 6 the immediate purposes of this chapter; to make or purchase
 7 surveys, plans, and specifications; for stream gauging and
 8 gathering data; or to make any repairs occasioned by any
 9 calamity or other unforeseen contingency, the board of
 10 commissioners may, in any one year, incur the indebtedness
 11 of as many dollars as there are acres in the district and
 12 may cause warrants of the district to issue therefor.

13 (b) For the purpose of organization, for any of the
 14 immediate purposes of this chapter, or to meet the expenses
 15 occasioned by any calamity or other unforeseen contingency,
 16 the board of commissioners may, in any one year, incur (in
 17 addition to the ~~10.75%~~ 22% limitation of subsection (1)) an
 18 additional indebtedness not exceeding ~~12.5%~~ 15% of the
 19 assessed valuation of the district and may cause warrants of
 20 the district to issue therefor.

21 (c) The limitation of subsection (1) does not apply to
 22 warrants issued for unpaid interest on the valid bonds of
 23 any irrigation district.

24 (d) The limitation of subsection (1) does not apply to
 25 any bonds issued under this chapter pursuant to a provision

1 which expressly supersedes the limitation.

2 (3) Any debt or liability incurred in excess of the
 3 limitations provided by the irrigation district laws is
 4 void."

5 NEW SECTION. SECTION 271. REPEALER. SECTIONS 15-6-137
 6 THROUGH 15-6-140, 15-6-142, 15-6-143, 15-6-146, 15-24-304,
 7 15-24-901 THROUGH 15-24-906, 15-24-908 THROUGH 15-24-911,
 8 15-24-921 THROUGH 15-24-926, 15-24-931, 15-24-941 THROUGH
 9 15-24-943, AND 81-7-118, MCA, ARE REPEALED.

10 NEW SECTION. SECTION 272. CODIFICATION INSTRUCTIONS.
 11 (1) SECTIONS 113 THROUGH 187 ARE INTENDED TO BE CODIFIED AS
 12 AN INTEGRAL PART OF TITLE 15, AND THE PROVISIONS OF TITLE 15
 13 APPLY TO SECTIONS 113 THROUGH 187.

14 (2) SECTIONS 188 THROUGH 196 ARE INTENDED TO BE
 15 CODIFIED AS AN INTEGRAL PART OF TITLE 15, CHAPTER 30, AND
 16 THE PROVISIONS OF TITLE 15, CHAPTER 30, APPLY TO SECTIONS
 17 188 THROUGH 196.

18 (3) SECTIONS 197 THROUGH 201 ARE INTENDED TO BE
 19 CODIFIED AS AN INTEGRAL PART OF TITLE 81 AND THE PROVISIONS
 20 OF TITLE 81 APPLY TO SECTIONS 197 THROUGH 201.

21 (4) SECTION 202 IS INTENDED TO BE CODIFIED AS AN
 22 INTEGRAL PART OF TITLE 15, CHAPTER 30, AND THE PROVISIONS OF
 23 TITLE 15, CHAPTER 30, APPLY TO SECTION 202.

24 NEW SECTION. SECTION 273. EXTENSION OF AUTHORITY. ANY
 25 EXISTING AUTHORITY OF THE DEPARTMENT OF REVENUE, THE

1 DEPARTMENT OF LIVESTOCK, THE BOARD OF LIVESTOCK, THE
 2 DEPARTMENT OF HIGHWAYS, THE DEPARTMENT OF COMMERCE, OR THE
 3 BOARD OF AERONAUTICS TO MAKE RULES ON THE SUBJECT OF THE
 4 PROVISIONS OF THIS ACT IS EXTENDED TO THE PROVISIONS OF THIS
 5 ACT.

6 NEW SECTION. SECTION 274. SEVERABILITY. IF A PART OF
 7 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM
 8 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS
 9 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS
 10 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM
 11 THE INVALID APPLICATIONS.

12 NEW SECTION. SECTION 275. SAVING CLAUSE. THIS ACT
 13 DOES NOT AFFECT RIGHTS AND DUTIES THAT MATURED, PENALTIES
 14 THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE
 15 THE EFFECTIVE DATE OF THIS ACT.

16 NEW SECTION. SECTION 276. EFFECTIVE DATE. THIS ACT IS
 17 EFFECTIVE ON PASSAGE AND APPROVAL.

18 NEW SECTION. SECTION 277. APPLICABILITY. (1) SECTIONS
 19 113 THROUGH 187 APPLY ON AND AFTER JUNE 1, 1988.

20 (2) SECTIONS 197 THROUGH 201 APPLY ON AND AFTER
 21 JANUARY 1, 1988.

22 (3) SECTIONS 188 THROUGH 196 AND 202 APPLY TO TAXABLE
 23 YEARS BEGINNING AFTER DECEMBER 31, 1987.

24 (4) SECTIONS 197 THROUGH 201 AND 203 THROUGH 271 APPLY
 25 TO TAXABLE YEARS, FISCAL YEARS, AND SCHOOL FISCAL YEARS

1 BEGINNING AFTER DECEMBER 31, 1988. HOWEVER, ALL TAXES,
 2 LEVIES, FEES, ASSESSMENTS, AND THE LIKE LEVIED IN 1988 FOR
 3 FISCAL YEAR 1989 MUST BE PAID AND ARE COLLECTIBLE AS
 4 PROVIDED BY LAW.

5 (5) SECTIONS 272 THROUGH 277 APPLY ON PASSAGE AND
 6 APPROVAL.

-End-

1. Page 172 through 332.
Following: line 13 on page 172
Wherever the phrase "SECTIONS 113 THROUGH 187" is found, amend
to read "[sections 113 through 180]"

2. Pages 220 through 223.
Following: line 1 on page 220
Strike: Sections 181 through 187 in their entirety
Renumber: subsequent sections

3. Page 223, line 15.
Strike: "188"
Insert: "181"

4. Page 223, line 16.
Strike: "196"
Insert: "189"

5. Page 223, line 18.
Strike: "189"
Insert: "182"

6. Page 225, line 18.
Strike: "188"
Insert: "181"
Strike: "196"
Insert: "189"

7. Page 226, line 21.
Strike: "188"
Insert: "181"
Strike: "196"
Inset: "189"

8. Page 226, line 25.
Strike: "188"
Insert: "181"

9. Page 227, line 1.
Strike: "196"
Insert: "189"

10. Page 227, line 9.
Strike: "188"
Insert: "181"

11. Page 227, line 10.
Strike: "196"
Insert: "189"

12. Page 228, line 13.
Strike: "188"
Insert: "181"
13. Page 228, line 14.
Strike: "196"
Insert: "189"
14. Page 229, line 3.
Strike: "188"
Insert: "181"
15. Page 229, line 4.
Strike: "196"
Insert: "189"
16. Page 231, line 11.
Strike: "197"
Insert: "190"
Strike: "201"
Insert: "194"
17. Page 232, line 1.
Strike: "199"
Insert: "192"
18. Page 232, line 4.
Strike: "197"
Insert: "190"
Strike: "201"
Insert: "194"
19. Page 232, line 8.
Strike: "197"
Insert: "190"
20. Page 232, line 9.
Strike: "201"
Insert: "194"
21. Page 233, line 7.
Strike: "188"
Insert: "181"
22. Page 258, line 3.
Strike: "25%"
Insert: "29%"
23. Page 271, line 19.
Following: "12%"
Insert: "of its market value"
24. Page 271, line 21.
Following: "of"

Insert: ": (a)"
Following: "12%"
Insert: "of its market value;"
Following: "or"
Insert: "(b)"

25. Page 272.

Following: line 4.

Insert: "Section 226. Section 15-6-148, MCA, is amended to read:

"15-6-148. Class eighteen property -- description -- taxable percentage. (1) Class eighteen property includes all nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. Class eighteen does not include any property that is used for residential, recreational as described in 70-16-301, or commercial as defined in 15-1-101, purposes, or if the surface is being used for other than mining purposes or has a separate and independent value for such other purposes.

(2) Improvements to class eighteen property that would not disqualify the parcel from designation as class eighteen property are taxed as otherwise provided in this title, including that portion of the land upon which such improvement are located and which is reasonably required for the use of such improvements.

(3) Class eighteen property must be valued as if such land were devoted to agricultural grazing use and is taxed at 30% 29% of its value."

Renumber: subsequent sections

26. Page 275, line 2.

Following: "residence"

Insert: "assessed and taxed as class four property under 15-6-134"

27. Page 322, line 6.

Strike: "197"

Insert: "190"

28. Page 330, line 11.

Strike: "187"

Insert: "180"

29. Page 330, line 13.

Strike: "187"

Insert: "180"

30. Page 330, line 14.

Strike: "188"

Insert: "181"

Strike: "196"

Insert: "189"

31. Page 330, line 17.

Strike: "188"

Insert: "181"

Strike: "196"

Insert: "189"

32. Page 330, line 18.

Strike: "197"

Insert: "190"

Strike: "201"

Insert: "194"

33. Page 330, line 20.

Strike: "197"

Insert: "190"

Strike: "201"

Insert: "194"

34. Page 330, line 21.

Strike: "202"

Insert: "195"

35. Page 330, line 23.

Strike: "202"

Insert: "195"

36. Page 331, line 19.

Strike: "187"

Insert: "180"

37. Page 331, line 20.

Strike: "197"

Insert: "190"

Strike: "201"

Insert: "194"

38. Page 331, line 22.

Strike: "188"

Insert: "181"

Strike: "196"

Insert: "189"

Strike: "202"

Insert: "195"

39. Page 331, line 24.

Strike: "197"

Insert: "190"

Strike: "201"

Insert: "194"

Strike: "203"

Insert: "196"

Strike: "271"

Insert: "265"

40. Page 332, line 1.

Strike: "1988"

Insert: "1987"

41. Page 332, line 2.

Strike: "1988"

Insert: "1987"

42. Page 332, line 3.

Strike: "1989"

Insert: "1988"

43. Page 332, line 5.

Strike: "272"

Insert: "266"

Strike: "277"

Insert: "271"

44. Page 332.

Following: line 6

Insert: "NEW SECTION. Section 272. **Submission to electorate.**

The question of whether sections 1 through 265 of this act shall be submitted to the electors of Montana at the election called pursuant to section 273 by printing on the ballot the full title of this act and the following:

FOR adoption of the Montana Economic and Tax Reform Act of 1987.

AGAINST adoption of the Montana Economic and Tax Reform Act of 1987.

NEW SECTION. Section 273. **Special election.** Pursuant to Article III, sections 5 and 6, of The Constitution of the State of Montana, sections 1 through 265 shall be submitted to the people for their approval or disapproval at a statewide election to be held June 9, 1987.

NEW SECTION. Section 274. **Transmittal to the attorney general -- statements by attorney general.** (1) The secretary of state shall, within 1 working day of receipt, transmit a copy of this act and a copy of the form in which the issue will appear on the ballot to the attorney general. The attorney general shall examine the ballot form submitted to his office and, within 7 days of receipt of the ballot form, notify the secretary of state of his approval or rejection of the ballot form.

(2) Upon receipt of the ballot form under subsection (1), the attorney general shall order a fiscal note, the substance of which must substantially comply with the provisions of 5-4-205. The budget director is responsible for preparing the fiscal note and shall return it within 4 days. The attorney general shall prepare a fiscal statement not exceeding 50 words, to be forwarded to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

(3) Upon receipt of the ballot form, the attorney

general shall prepare a statement, not exceeding 100 words, expressing an impartial explanation of the purpose of sections 1 through 265 in plain, easily understood language. The statement may not be an argument for or against or written to create a prejudice for or against the issue. The attorney general shall forward the explanatory statement prepared under this subsection to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

NEW SECTION. Section 275. Secretary of state to certify form and voter information. (1) Thirty-five days or more before the special election, the secretary of state shall certify to each county election administrator the form in which the issue is to appear on the ballot, as provided by 13-27-501. Each of the county election administrators shall order the official ballot to be printed in the form certified by the secretary of state.

(2) At least 20 days prior to the election called under section 273, the secretary of state shall deliver or have delivered to the counties sufficient copies of sections 1 through 265 or a voter information pamphlet describing the provisions of sections 1 through 265, the fiscal note, and an explanatory statement prepared pursuant to [section 274], in such form as the secretary of state determines.

(3) The county election administrator shall mail one copy of the voter information required by subsection (2) to each registered voter in the county, except that, for purposes of this mailing, two or more voters with the same last name and the same mailing address may be counted as one voter. The mailing must take place no later than 1 week after the pamphlets are received from the printer.

(4) The secretary of state may contract for the printing and delivery of the voter information material under the immediate procurement provisions of 18-4-133(2).

NEW SECTION. Section 276. Absentee ballots. The county election administrator shall ensure that ballots are printed and available for absentee voting at least 10 days prior to the election.

NEW SECTION. Section 277. Determination of result of special election. (1) The votes on sections 1 through 265 must be counted and canvassed following procedures prescribed by the secretary of state.

(2) A report form for the abstract of votes shall be prepared by the secretary of state and sent to the county election administrators. The county election administrator shall provide the required information and shall send the abstract of votes to the secretary of state by certified mail in an envelope marked "special election returns". Such returns must be received by the secretary of state no later than 5 p.m. on the sixth day following the election.

(3) The board of state canvassers shall meet on the seventh day following the special election. The secretary of state, as secretary of the board of canvassers, shall prepare and file in his office a report of the canvass,

which lists:

(a) the total number of electors voting in each county and in each legislative house district, together with the total number of electors voting in the state; and

(b) the votes by county and legislative house district for and against the issue, together with the total number of votes cast for and against the issue in the state.

(4) The secretary of state shall transmit a certified copy of the statement of the canvass to the governor and the code commissioner within 10 days following the special election.

NEW SECTION. Application of election laws. (1) Except as provided in sections 1 through 7, the election called under section 2 must be conducted and canvassed and the results returned in the manner provided in Title 13 for a general election.

(2) The provisions of 13-2-301(1)(b), 13-12-201, 13-13-205, and Title 13, chapter 27, do not apply to the election called under section 273.

(3) The secretary of state shall publish notice of the election as provided in 13-1-108.

NEW SECTION. Section 279. Coordination instruction. If this act is passed by the legislature and submitted to the electorate at a referendum, section 270 shall be interpreted to mean that sections 1 through 265 must be submitted to the electorate, that sections 266 through 271 are effective on approval by the electorate, and sections 272 through 279 are effective on approval by the legislature.

Amendments, SB 307
7100b/C:JEANNE\WP:jj

1 SENATE BILL NO. 307

2 INTRODUCED BY CRIPPEN, MCCALLUM, B. BROWN, HIRSCH,3 NEUMAN, HARP, REAM, BEK, BENGTSON, VAN VALKENBURG, SPAETH,4 PISTORIA, M, WILLIAMS, BARDANOUVE, WEEBING, PECK, KEENAN,5 KADAS, GUEBICI, LORY, MANNING, BLAYLOCK, MANUEL6 BY REQUEST OF THE GOVERNOR

7

8 A BILL FOR AN ACT ENTITLED: "AN ACT TO STIMULATE AND

9 ENCOURAGE THE GROWTH OF THE MONTANA ECONOMY BY MEANS OF THE

10 MONTANA ECONOMIC AND TAX REFORM ACT OF 1987; AMENDING

11 SECTIONS 1-1-207, 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121,

12 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201,

13 7-7-4202, 7-13-4103, 7-14-236, 7-14-1133, 7-14-2524,

14 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106,

15 7-31-107, 7-34-2131, 7-34-2416, 15-1-101, 15-1-206,

16 15-1-501, 15-2-301, ~~15-6-134~~, ~~15-6-142~~, 15-6-133 THROUGH

17 15-6-136, 15-6-143, 15-6-147, 15-6-151, 15-6-201, 15-6-207,

18 15-8-111, 15-8-205, 15-8-301, 15-8-404, 15-8-405, 15-8-706,

19 15-16-611, 15-24-301, 15-24-302, 15-24-1102, 15-24-1103,

20 15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-131,

21 15-30-132, 15-30-135, 15-30-136, 15-30-141, 15-30-142,

22 15-30-144, 15-30-146, 15-30-162, ~~15-30-171~~, ~~15-30-172~~,

23 ~~15-30-174~~, ~~15-30-176~~, ~~15-30-178~~, 15-30-207, 15-30-303,

24 15-30-321, 15-30-323, 15-31-113, 15-31-114, 15-31-121,

25 15-31-202, 15-31-204, 15-31-209, 15-31-305, 15-31-502,

THE YELLOW SECOND READING BILL WAS VOTED AS SECOND AND THIRD READING IN THE SENATE THE SAME DAY (APRIL 10). THE ONLY CHANGES ARE ON SPONSORS. DUE TO LENGTH, THIS BILL WILL NOT BE RE-PRINTED AT THIS TIME.

THIRD READING

SB 307