

HOUSE BILL NO. 444  
INTRODUCED BY J. BROWN

IN THE HOUSE

JANUARY 26, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
JANUARY 27, 1989	FIRST READING.
FEBRUARY 28, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 1, 1989	PRINTING REPORT.
MARCH 2, 1989	SECOND READING, DO PASS.
MARCH 3, 1989	ENGROSSING REPORT.
MARCH 4, 1989	THIRD READING, PASSED. AYES, 71; NOES, 22.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 30, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 31, 1989	SECOND READING, CONCURRED IN.
APRIL 3, 1989	THIRD READING, CONCURRED IN. AYES, 42; NOES, 8.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 4, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 5, 1989

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 444  
2 INTRODUCED BY J. Brown  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN  
5 INDIVIDUAL INCOME TAX CHECKOFF TO BE USED TO FUND THE MOCK  
6 LEGISLATURE FOR MONTANA'S SENIOR CITIZENS; ESTABLISHING A  
7 SENIOR CITIZENS' MOCK LEGISLATURE ACCOUNT IN THE STATE  
8 SPECIAL REVENUE FUND; AND AMENDING SECTION 15-30-121, MCA."  
9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11 NEW SECTION. Section 1. Senior citizens' mock  
12 legislature account -- limitations on use. (1) There is a  
13 senior citizens' mock legislature account in the state  
14 special revenue fund in the state treasury. The money in  
15 the account is allocated to the department of family  
16 services for funding services and activities under 53-5-111,  
17 regarding the senior citizens' legislature.  
18 (2) Funds deposited in the senior citizens' mock  
19 legislature account may be used only for the program  
20 authorized in 53-5-111 and may not be used to pay the  
21 expenses of any other program or service administered in  
22 whole or in part by the department of family services.  
23 NEW SECTION. Section 2. Program costs. The costs  
24 incurred by the department of family services associated  
25 with the senior citizens' mock legislature program provided

1 in 53-5-111 must be paid for with money from the senior  
2 citizens' mock legislature account established in [section  
3 1]. The department of family services shall keep costs to a  
4 minimum and use existing office space, personnel, equipment,  
5 and supplies of the department to the extent possible.

6 NEW SECTION. Section 3. Voluntary checkoff for senior  
7 citizens' mock legislature program. (1) Each individual  
8 taxpayer who is required to file an income tax return under  
9 this chapter and who is entitled to a refund may contribute  
10 to the senior citizens' mock legislature program provided  
11 for in 53-5-111 by marking the appropriate box on his state  
12 income tax return.

13 (2) Each Montana state individual income tax return  
14 form must contain a provision for indicating a contribution  
15 to the senior citizens' mock legislature program in  
16 substantially the following form:

17 Senior citizens' mock legislature program. Check this  
18 box if you wish to designate \$1 ..., \$5 ..., or more ...  
19 (indicate amount) of your tax refund to help fund the senior  
20 citizens' mock legislature program in Montana. On a joint  
21 return, check the corresponding box for your spouse if your  
22 spouse wishes to contribute \$1 ..., \$5 ..., or more ...  
23 (indicate amount) of the refund for the same purpose.

24 (3) Money received under this section must be  
25 deposited in the senior citizens' mock legislature account

1 created under [section 1], after the department of revenue  
2 has deducted the amount necessary, but not more than 5% of  
3 the money contributed, for the department to administer this  
4 section.

5 **NEW SECTION. Section 4.** Deduction for contributions  
6 to the senior citizens' mock legislature program. A taxpayer  
7 filing an individual income tax return who does not elect to  
8 take the standard deduction provided for in 15-30-122 may,  
9 in computing net income, claim a deduction for the payment  
10 of a contribution to the senior citizens' mock legislature  
11 program as follows:

12 (1) If the taxpayer made a contribution in the taxable  
13 year for which the return is filed, he may deduct the amount  
14 of the contribution made during that year.

15 (2) If the taxpayer encloses a check or other order to  
16 pay money as a contribution with the timely filing of a tax  
17 return, in accordance with 15-30-144, he may elect to take a  
18 deduction for the amount of the contribution and apply the  
19 deduction in the taxable year for which he is filing the  
20 return.

21 **NEW SECTION. Section 5.** Deposit of deductible  
22 contributions. (1) All money received under [section 4] must  
23 be deposited in the senior citizens' mock legislature  
24 account established in [section 1].

25 (2) The department of revenue shall immediately

1 forward for deposit in the senior citizens' mock legislature  
2 account all checks and other orders of payment made as  
3 contributions under [section 4]. The department may make no  
4 deductions for administrative expenses in the handling of  
5 the direct payments to the senior citizens' mock legislature  
6 account.

7 **Section 6.** Section 15-30-121, MCA, is amended to read:  
8 "15-30-121. Deductions allowed in computing net  
9 income. In computing net income, there are allowed as  
10 deductions:

11 (1) the items referred to in sections 161 and 211 of  
12 the Internal Revenue Code of 1954, or as sections 161 and  
13 211 shall be labeled or amended, subject to the following  
14 exceptions which are not deductible:

15 (a) items provided for in 15-30-123;

16 (b) state income tax paid;

17 (2) federal income tax paid within the taxable year;

18 (3) expenses of household and dependent care services  
19 as outlined in subsections (3)(a) through (3)(c) and subject  
20 to the limitations and rules as set out in subsections  
21 (3)(d) through (3)(f) as follows:

22 (a) expenses for household and dependent care services  
23 necessary for gainful employment incurred for:

24 (i) a dependent under 15 years of age for whom an  
25 exemption can be claimed;

1 (ii) a dependent as allowable under 15-30-112(5),  
 2 except that the limitations for age and gross income do not  
 3 apply, who is unable to care for himself because of physical  
 4 or mental illness; and  
 5 (iii) a spouse who is unable to care for himself  
 6 because of physical or mental illness;  
 7 (b) employment-related expenses incurred for the  
 8 following services, but only if such the expenses are  
 9 incurred to enable the taxpayer to be gainfully employed:  
 10 (i) household services which are attributable to the  
 11 care of the qualifying individual; and  
 12 (ii) care of an individual who qualifies under  
 13 subsection (3)(a);  
 14 (c) expenses incurred in maintaining a household if  
 15 over half of the cost of maintaining the household is  
 16 furnished by an individual or, if the individual is married  
 17 during the applicable period, is furnished by the individual  
 18 and his spouse;  
 19 (d) the amounts deductible in subsection (3)(a)  
 20 through (3)(c) are subject to the following limitations:  
 21 (i) a deduction is allowed under subsection (3)(a) for  
 22 employment-related expenses incurred during the year only to  
 23 the extent such expenses do not exceed \$4,800;  
 24 (ii) expenses for services in the household are  
 25 deductible under subsection (3)(a) for employment-related

1 expenses only if they are incurred for services in the  
 2 taxpayer's household, except that employment-related  
 3 expenses incurred for services outside the taxpayer's  
 4 household are deductible, but only if incurred for the care  
 5 of a qualifying individual described in subsection (3)(a)(i)  
 6 and only to the extent such the expenses incurred during the  
 7 year do not exceed:  
 8 (A) \$2,400 in the case of one qualifying individual;  
 9 (B) \$3,600 in the case of two qualifying individuals;  
 10 and  
 11 (C) \$4,800 in the case of three or more qualifying  
 12 individuals;  
 13 (e) if the combined adjusted gross income of the  
 14 taxpayers exceeds \$18,000 for the taxable year during which  
 15 the expenses are incurred, the amount of the  
 16 employment-related expenses incurred must be reduced by  
 17 one-half of the excess of the combined adjusted gross income  
 18 over \$18,000;  
 19 (f) for purposes of this subsection (3):  
 20 (i) married couples shall file a joint return or file  
 21 separately on the same form;  
 22 (ii) if the taxpayer is married during any period of  
 23 the taxable year, employment-related expenses incurred are  
 24 deductible only if:  
 25 (A) both spouses are gainfully employed, in which case

the expenses are deductible only to the extent that they are a direct result of the employment; or

(B) the spouse is a qualifying individual described in subsection (3)(a)(iii);

(iii) an individual legally separated from his spouse under a decree of divorce or of separate maintenance may not be considered as married;

(iv) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;

(v) payment made to a child of the taxpayer who is under 19 years of age at the close of the taxable year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;

(4) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code that were in effect for the taxable year ended December 31, 1978;

(5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 which was not otherwise deducted in computing taxable income; and

(6) contributions to the child abuse and neglect prevention program provided for in 41-3-701, subject to the conditions set forth in 15-30-156; and

(7) contributions to the senior citizens' mock legislature program provided for in 53-5-111, subject to the conditions set forth in [section 4]."

NEW SECTION. Section 7. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 8. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 53, chapter 5, part 1, and the provisions of Title 53, chapter 5, apply to [sections 1 and 2].

(2) [Sections 3 through 5] are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, apply to [sections 3 through 5].

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB444, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing an individual income tax check off to be used to fund the mock legislature for Montana's senior citizens; and establishing a senior citizen's mock legislature account in the state special revenue fund.

ASSUMPTIONS:

1. It is assumed that \$10,000 would be generated annually from the check off. At a minimum, the Department of Revenue estimates that \$7,200 would be generated annually.
2. The proposal will increase administrative expenses for the DOR by \$17,425 in FY90 and \$2,915 in FY91.
3. The proposal caps administrative reimbursement to the DOR at 5% of the check off collections.
4. Current cash contributions to the Legacy Legislature of about \$10,000 will continue. These contributions will be transferred to DFS for deposit to the Legacy Mock Legislature Revenue Account.
5. Federal training funds of about \$5,350 will continue to be provided to the Department of Family Services for the Legacy Legislature.
6. Program costs will consist of mileage and per diem for delegates and session expenses such as printing, telephone, postage and clerical.
7. Current expenditures for the senior citizens mock legislature are paid through the Montana legacy mock legislature special revenue account in DFS.

FISCAL IMPACT:Expenditures:

	Current Law	FY90 Proposed Law	Difference	Current Law	FY91 Proposed Law	Difference
DFS						
Operating	\$ 5,350	\$ 24,850	\$ 19,500	\$ 5,350	\$ 24,850	\$ 19,500
DOR						
Operating	0	17,425	17,425	0	2,915	2,915
TOTAL	\$ 5,350	\$ 42,275	\$ 36,925	\$ 5,350	\$ 27,765	\$ 22,415
<u>Funding:</u>						
General fund	\$ 0	\$ 16,925	\$ 16,925	\$ 0	\$ 2,415	\$ 2,415
State special		20,000	20,000	0	20,000	20,000
Federal funds	5,350	5,350	0	5,350	5,350	0
TOTAL	\$ 5,350	\$ 42,275	\$ 36,925	\$ 5,350	\$ 27,865	\$ 22,415
<u>Revenue:</u>						
State special	\$ 0	\$ 10,000	\$ 10,000	\$ 0	\$ 10,000	\$ 10,000

*Ray Shackleford* 2/2/89  
 RAY SHACKLEFORD, BUDGET DIRECTOR DATE  
 OFFICE OF BUDGET AND PROGRAM PLANNING

JAN BROWN, PRIMARY SPONSOR 2/24/89  
 DATE

Fiscal Note for HB444, as introduced

**HB 444**

APPROVED BY COMMITTEE  
ON TAXATION

1 HOUSE BILL NO. 444  
2 INTRODUCED BY J. BROWN  
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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN  
5 INDIVIDUAL INCOME TAX CHECKOFF TO BE USED TO FUND THE MOCK  
6 LEGISLATURE FOR MONTANA'S SENIOR CITIZENS; ESTABLISHING A  
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8 SPECIAL REVENUE FUND; AND AMENDING SECTION 15-30-121, MCA."

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12 legislature account -- limitations on use. (1) There is a  
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14 special revenue fund in the state treasury. The money in  
15 the account is allocated to the department of family  
16 services for funding services and activities under 53-5-111,  
17 regarding the senior citizens' legislature.

18 (2) Funds deposited in the senior citizens' mock  
19 legislature account may be used only for the program  
20 authorized in 53-5-111 and may not be used to pay the  
21 expenses of any other program or service administered in  
22 whole or in part by the department of family services.

23 NEW SECTION. Section 2. Program costs. The costs  
24 incurred by the department of family services associated  
25 with the senior citizens' mock legislature program provided

1 in 53-5-111 must be paid for with money from the senior  
2 citizens' mock legislature account established in [section  
3 1]. The department of family services shall keep costs to a  
4 minimum and use existing office space, personnel, equipment,  
5 and supplies of the department to the extent possible.

6 NEW SECTION. Section 3. Voluntary checkoff for senior  
7 citizens' mock legislature program. (1) Each individual  
8 taxpayer who is required to file an income tax return under  
9 this chapter and who is entitled to a refund may contribute  
10 to the senior citizens' mock legislature program provided  
11 for in 53-5-111 by marking the appropriate box on his state  
12 income tax return.

13 (2) Each Montana state individual income tax return  
14 form must contain a provision for indicating a contribution  
15 to the senior citizens' mock legislature program in  
16 substantially the following form:

17 Senior citizens' mock legislature program. Check this  
18 box if you wish to designate \$1 ..., \$5 ..., or more ...  
19 (indicate amount) of your tax refund to help fund the senior  
20 citizens' mock legislature program in Montana. On a joint  
21 return, check the corresponding box for your spouse if your  
22 spouse wishes to contribute \$1 ..., \$5 ..., or more ...  
23 (indicate amount) of the refund for the same purpose.

24 (3) Money received under this section must be  
25 deposited in the senior citizens' mock legislature account



created under [section 1], after the department of revenue has deducted the amount necessary, but not more than 15% EACH FISCAL YEAR FOR THE FIRST 5 FISCAL YEARS AFTER [THE EFFECTIVE DATE OF THIS ACT] AND, FOR FISCAL YEARS THEREAFTER, 5% of the money contributed, for the department to administer this section.

**NEW SECTION. Section 4. Deduction for contributions to the senior citizens' mock legislature program.** A taxpayer filing an individual income tax return who does not elect to take the standard deduction provided for in 15-30-122 may, in computing net income, claim a deduction for the payment of a contribution to the senior citizens' mock legislature program as follows:

(1) If the taxpayer made a contribution in the taxable year for which the return is filed, he may deduct the amount of the contribution made during that year.

(2) If the taxpayer encloses a check or other order to pay money as a contribution with the timely filing of a tax return, in accordance with 15-30-144, he may elect to take a deduction for the amount of the contribution and apply the deduction in the taxable year for which he is filing the return.

**NEW SECTION. Section 5. Deposit of deductible contributions.** (1) All money received under [section 4] must be deposited in the senior citizens' mock legislature

account established in [section 1].

(2) The department of revenue shall immediately forward for deposit in the senior citizens' mock legislature account all checks and other orders of payment made as contributions under [section 4]. The department may make no deductions for administrative expenses in the handling of the direct payments to the senior citizens' mock legislature account.

**Section 6.** Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. In computing net income, there are allowed as deductions:

(1) the items referred to in sections 161 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be labeled or amended, subject to the following exceptions which are not deductible:

(a) items provided for in 15-30-123;

(b) state income tax paid;

(2) federal income tax paid within the taxable year;

(3) expenses of household and dependent care services as outlined in subsections (3)(a) through (3)(c) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f) as follows:

(a) expenses for household and dependent care services necessary for gainful employment incurred for:

1 (i) a dependent under 15 years of age for whom an  
2 exemption can be claimed;

3 (ii) a dependent as allowable under 15-30-112(5),  
4 except that the limitations for age and gross income do not  
5 apply, who is unable to care for himself because of physical  
6 or mental illness; and

7 (iii) a spouse who is unable to care for himself  
8 because of physical or mental illness;

9 (b) employment-related expenses incurred for the  
10 following services, but only if such the expenses are  
11 incurred to enable the taxpayer to be gainfully employed:

12 (i) household services which are attributable to the  
13 care of the qualifying individual; and

14 (ii) care of an individual who qualifies under  
15 subsection (3)(a);

16 (c) expenses incurred in maintaining a household if  
17 over half of the cost of maintaining the household is  
18 furnished by an individual or, if the individual is married  
19 during the applicable period, is furnished by the individual  
20 and his spouse;

21 (d) the amounts deductible in subsection (3)(a)  
22 through (3)(c) are subject to the following limitations:

23 (i) a deduction is allowed under subsection (3)(a) for  
24 employment-related expenses incurred during the year only to  
25 the extent such expenses do not exceed \$4,800;

1 (ii) expenses for services in the household are  
2 deductible under subsection (3)(a) for employment-related  
3 expenses only if they are incurred for services in the  
4 taxpayer's household, except that employment-related  
5 expenses incurred for services outside the taxpayer's  
6 household are deductible, but only if incurred for the care  
7 of a qualifying individual described in subsection (3)(a)(i)  
8 and only to the extent such the expenses incurred during the  
9 year do not exceed:

10 (A) \$2,400 in the case of one qualifying individual;

11 (B) \$3,600 in the case of two qualifying individuals;

12 and

13 (C) \$4,800 in the case of three or more qualifying  
14 individuals;

15 (e) if the combined adjusted gross income of the  
16 taxpayers exceeds \$18,000 for the taxable year during which  
17 the expenses are incurred, the amount of the  
18 employment-related expenses incurred must be reduced by  
19 one-half of the excess of the combined adjusted gross income  
20 over \$18,000;

21 (f) for purposes of this subsection (3):

22 (i) married couples shall file a joint return or file  
23 separately on the same form;

24 (ii) if the taxpayer is married during any period of  
25 the taxable year, employment-related expenses incurred are

1 deductible only if:

2 (A) both spouses are gainfully employed, in which case  
3 the expenses are deductible only to the extent that they are  
4 a direct result of the employment; or

5 (B) the spouse is a qualifying individual described in  
6 subsection (3)(a)(iii);

7 (iii) an individual legally separated from his spouse  
8 under a decree of divorce or of separate maintenance may not  
9 be considered as married;

10 (iv) the deduction for employment-related expenses must  
11 be divided equally between the spouses when filing  
12 separately on the same form;

13 (v) payment made to a child of the taxpayer who is  
14 under 19 years of age at the close of the taxable year and  
15 payments made to an individual with respect to whom a  
16 deduction is allowable under 15-30-112(5) are not deductible  
17 as employment-related expenses;

18 (4) in the case of an individual, political  
19 contributions determined in accordance with the provisions  
20 of section 218(a) and (b) of the Internal Revenue Code that  
21 were in effect for the taxable year ended December 31, 1978;

22 (5) that portion of expenses for organic fertilizer  
23 allowed as a deduction under 15-32-303 which was not  
24 otherwise deducted in computing taxable income; and

25 (6) contributions to the child abuse and neglect

1 prevention program provided for in 41-3-701, subject to the  
2 conditions set forth in 15-30-156; and

3 (7) contributions to the senior citizens' mock  
4 legislature program provided for in 53-5-111, subject to the  
5 conditions set forth in [section 4]."

6 NEW SECTION. Section 7. Extension of authority. Any  
7 existing authority to make rules on the subject of the  
8 provisions of [this act] is extended to the provisions of  
9 [this act].

10 NEW SECTION. Section 8. Codification instruction. (1)  
11 [Sections 1 and 2] are intended to be codified as an  
12 integral part of Title 53, chapter 5, part 1, and the  
13 provisions of Title 53, chapter 5, apply to [sections 1 and  
14 2].

15 (2) [Sections 3 through 5] are intended to be codified  
16 as an integral part of Title 15, chapter 30, part 1, and the  
17 provisions of Title 15, chapter 30, apply to [sections 3  
18 through 5].

-End-

## HOUSE BILL NO. 444

INTRODUCED BY J. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN INDIVIDUAL INCOME TAX CHECKOFF TO BE USED TO FUND THE MOCK LEGISLATURE FOR MONTANA'S SENIOR CITIZENS; ESTABLISHING A SENIOR CITIZENS' MOCK LEGISLATURE ACCOUNT IN THE STATE SPECIAL REVENUE FUND; AND AMENDING SECTION 15-30-121, MCA."

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

**NEW SECTION. Section 1. Senior citizens' mock legislature account -- limitations on use.** (1) There is a senior citizens' mock legislature account in the state special revenue fund in the state treasury. The money in the account is allocated to the department of family services for funding services and activities under 53-5-111, regarding the senior citizens' legislature.

(2) Funds deposited in the senior citizens' mock legislature account may be used only for the program authorized in 53-5-111 and may not be used to pay the expenses of any other program or service administered in whole or in part by the department of family services.

**NEW SECTION. Section 2. Program costs.** The costs incurred by the department of family services associated with the senior citizens' mock legislature program provided

in 53-5-111 must be paid for with money from the senior citizens' mock legislature account established in [section 1]. The department of family services shall keep costs to a minimum and use existing office space, personnel, equipment, and supplies of the department to the extent possible.

**NEW SECTION. Section 3. Voluntary checkoff for senior citizens' mock legislature program.** (1) Each individual taxpayer who is required to file an income tax return under this chapter and who is entitled to a refund may contribute to the senior citizens' mock legislature program provided for in 53-5-111 by marking the appropriate box on his state income tax return.

(2) Each Montana state individual income tax return form must contain a provision for indicating a contribution to the senior citizens' mock legislature program in substantially the following form:

Senior citizens' mock legislature program. Check this box if you wish to designate \$1 ..., \$5 ..., or more ... (indicate amount) of your tax refund to help fund the senior citizens' mock legislature program in Montana. On a joint return, check the corresponding box for your spouse if your spouse wishes to contribute \$1 ..., \$5 ..., or more ... (indicate amount) of the refund for the same purpose.

(3) Money received under this section must be deposited in the senior citizens' mock legislature account

created under [section 1], after the department of revenue has deducted the amount necessary, but not more than 15% EACH FISCAL YEAR FOR THE FIRST 5 FISCAL YEARS AFTER [THE EFFECTIVE DATE OF THIS ACT] AND, FOR FISCAL YEARS THEREAFTER, 5% of the money contributed, for the department to administer this section.

**NEW SECTION. Section 4. Deduction for contributions to the senior citizens' mock legislature program.** A taxpayer filing an individual income tax return who does not elect to take the standard deduction provided for in 15-30-122 may, in computing net income, claim a deduction for the payment of a contribution to the senior citizens' mock legislature program as follows:

(1) If the taxpayer made a contribution in the taxable year for which the return is filed, he may deduct the amount of the contribution made during that year.

(2) If the taxpayer encloses a check or other order to pay money as a contribution with the timely filing of a tax return, in accordance with 15-30-144, he may elect to take a deduction for the amount of the contribution and apply the deduction in the taxable year for which he is filing the return.

**NEW SECTION. Section 5. Deposit of deductible contributions.** (1) All money received under [section 4] must be deposited in the senior citizens' mock legislature

account established in [section 1].

(2) The department of revenue shall immediately forward for deposit in the senior citizens' mock legislature account all checks and other orders of payment made as contributions under [section 4]. The department may make no deductions for administrative expenses in the handling of the direct payments to the senior citizens' mock legislature account.

**Section 6.** Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. In computing net income, there are allowed as deductions:

(1) the items referred to in sections 161 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be labeled or amended, subject to the following exceptions which are not deductible:

(a) items provided for in 15-30-123;

(b) state income tax paid;

(2) federal income tax paid within the taxable year;

(3) expenses of household and dependent care services as outlined in subsections (3)(a) through (3)(c) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f) as follows:

(a) expenses for household and dependent care services necessary for gainful employment incurred for:

(i) a dependent under 15 years of age for whom an exemption can be claimed;

(ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to care for himself because of physical or mental illness; and

(iii) a spouse who is unable to care for himself because of physical or mental illness;

(b) employment-related expenses incurred for the following services, but only if such the expenses are incurred to enable the taxpayer to be gainfully employed:

(i) household services which are attributable to the care of the qualifying individual; and

(ii) care of an individual who qualifies under subsection (3)(a);

(c) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and his spouse;

(d) the amounts deductible in subsection (3)(a) through (3)(c) are subject to the following limitations:

(i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during the year only to the extent such expenses do not exceed \$4,800;

(ii) expenses for services in the household are deductible under subsection (3)(a) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent such the expenses incurred during the year do not exceed:

(A) \$2,400 in the case of one qualifying individual;

(B) \$3,600 in the case of two qualifying individuals;

and

(C) \$4,800 in the case of three or more qualifying individuals;

(e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the taxable year during which the expenses are incurred, the amount of the employment-related expenses incurred must be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

(f) for purposes of this subsection (3):

(i) married couples shall file a joint return or file separately on the same form;

(ii) if the taxpayer is married during any period of the taxable year, employment-related expenses incurred are

1 deductible only if:

2 (A) both spouses are gainfully employed, in which case  
3 the expenses are deductible only to the extent that they are  
4 a direct result of the employment; or

5 (B) the spouse is a qualifying individual described in  
6 subsection (3)(a)(iii);

7 (iii) an individual legally separated from his spouse  
8 under a decree of divorce or of separate maintenance may not  
9 be considered as married;

10 (iv) the deduction for employment-related expenses must  
11 be divided equally between the spouses when filing  
12 separately on the same form;

13 (v) payment made to a child of the taxpayer who is  
14 under 19 years of age at the close of the taxable year and  
15 payments made to an individual with respect to whom a  
16 deduction is allowable under 15-30-112(5) are not deductible  
17 as employment-related expenses;

18 (4) in the case of an individual, political  
19 contributions determined in accordance with the provisions  
20 of section 218(a) and (b) of the Internal Revenue Code that  
21 were in effect for the taxable year ended December 31, 1978;

22 (5) that portion of expenses for organic fertilizer  
23 allowed as a deduction under 15-32-303 which was not  
24 otherwise deducted in computing taxable income; and

25 (6) contributions to the child abuse and neglect

1 prevention program provided for in 41-3-701, subject to the  
2 conditions set forth in 15-30-156; and

3 (7) contributions to the senior citizens' mock  
4 legislature program provided for in 53-5-111, subject to the  
5 conditions set forth in [section 4]."

6 NEW SECTION. Section 7. Extension of authority. Any  
7 existing authority to make rules on the subject of the  
8 provisions of [this act] is extended to the provisions of  
9 [this act].

10 NEW SECTION. Section 8. Codification instruction. (1)  
11 [Sections 1 and 2] are intended to be codified as an  
12 integral part of Title 53, chapter 5, part 1, and the  
13 provisions of Title 53, chapter 5, apply to [sections 1 and  
14 2].

15 (2) [Sections 3 through 5] are intended to be codified  
16 as an integral part of Title 15, chapter 30, part 1, and the  
17 provisions of Title 15, chapter 30, apply to [sections 3  
18 through 5].

-End-

SENATE STANDING COMMITTEE REPORT

March 29, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 444 (third reading copy -- blue), respectfully report that HB 444 be amended and as so amended be concurred in:

Sponsor: Brown, J. (Eck)

1. Title, line 8.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING A RETROACTIVE APPLICABILITY DATE"

2. Page 8.

Following: line 18

Insert: "NEW SECTION. Section 9. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1988."

AND AS AMENDED BE CONCURRED IN

Signed: \_\_\_\_\_



Bob Brown, Chairman

SENATE  
HB 444



## HOUSE BILL NO. 444

INTRODUCED BY J. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN INDIVIDUAL INCOME TAX CHECKOFF TO BE USED TO FUND THE MOCK LEGISLATURE FOR MONTANA'S SENIOR CITIZENS; ESTABLISHING A SENIOR CITIZENS' MOCK LEGISLATURE ACCOUNT IN THE STATE SPECIAL REVENUE FUND; AND AMENDING SECTION 15-30-121, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Senior citizens' mock legislature account -- limitations on use. (1) There is a senior citizens' mock legislature account in the state special revenue fund in the state treasury. The money in the account is allocated to the department of family services for funding services and activities under 53-5-111, regarding the senior citizens' legislature.

(2) Funds deposited in the senior citizens' mock legislature account may be used only for the program authorized in 53-5-111 and may not be used to pay the expenses of any other program or service administered in whole or in part by the department of family services.

NEW SECTION. Section 2. Program costs. The costs incurred by the department of family services associated

with the senior citizens' mock legislature program provided in 53-5-111 must be paid for with money from the senior citizens' mock legislature account established in [section 1]. The department of family services shall keep costs to a minimum and use existing office space, personnel, equipment, and supplies of the department to the extent possible.

NEW SECTION. Section 3. Voluntary checkoff for senior citizens' mock legislature program. (1) Each individual taxpayer who is required to file an income tax return under this chapter and who is entitled to a refund may contribute to the senior citizens' mock legislature program provided for in 53-5-111 by marking the appropriate box on his state income tax return.

(2) Each Montana state individual income tax return form must contain a provision for indicating a contribution to the senior citizens' mock legislature program in substantially the following form:

Senior citizens' mock legislature program. Check this box if you wish to designate \$1 ..., \$5 ..., or more ... (indicate amount) of your tax refund to help fund the senior citizens' mock legislature program in Montana. On a joint return, check the corresponding box for your spouse if your spouse wishes to contribute \$1 ..., \$5 ..., or more ... (indicate amount) of the refund for the same purpose.

(3) Money received under this section must be



1 deposited in the senior citizens' mock legislature account  
 2 created under [section 1], after the department of revenue  
 3 has deducted the amount necessary, but not more than 15%  
 4 EACH FISCAL YEAR FOR THE FIRST 5 FISCAL YEARS AFTER [THE  
 5 EFFECTIVE DATE OF THIS ACT] AND, FOR FISCAL YEARS  
 6 THEREAFTER, 5% of the money contributed, for the department  
 7 to administer this section.

8 **NEW SECTION.** **Section 4.** Deduction for contributions  
 9 to the senior citizens' mock legislature program. A taxpayer  
 10 filing an individual income tax return who does not elect to  
 11 take the standard deduction provided for in 15-30-122 may,  
 12 in computing net income, claim a deduction for the payment  
 13 of a contribution to the senior citizens' mock legislature  
 14 program as follows:

15 (1) If the taxpayer made a contribution in the taxable  
 16 year for which the return is filed, he may deduct the amount  
 17 of the contribution made during that year.

18 (2) If the taxpayer encloses a check or other order to  
 19 pay money as a contribution with the timely filing of a tax  
 20 return, in accordance with 15-30-144, he may elect to take a  
 21 deduction for the amount of the contribution and apply the  
 22 deduction in the taxable year for which he is filing the  
 23 return.

24 **NEW SECTION.** **Section 5.** Deposit of deductible  
 25 contributions. (1) All money received under [section 4] must

1 be deposited in the senior citizens' mock legislature  
 2 account established in [section 1].

3 (2) The department of revenue shall immediately  
 4 forward for deposit in the senior citizens' mock legislature  
 5 account all checks and other orders of payment made as  
 6 contributions under [section 4]. The department may make no  
 7 deductions for administrative expenses in the handling of  
 8 the direct payments to the senior citizens' mock legislature  
 9 account.

10 **Section 6.** Section 15-30-121, MCA, is amended to read:

11 **"15-30-121. Deductions allowed in computing net**  
 12 **income.** In computing net income, there are allowed as  
 13 deductions:

14 (1) the items referred to in sections 161 and 211 of  
 15 the Internal Revenue Code of 1954, or as sections 161 and  
 16 211 shall be labeled or amended, subject to the following  
 17 exceptions which are not deductible:

18 (a) items provided for in 15-30-123;

19 (b) state income tax paid;

20 (2) federal income tax paid within the taxable year;

21 (3) expenses of household and dependent care services  
 22 as outlined in subsections (3)(a) through (3)(c) and subject  
 23 to the limitations and rules as set out in subsections  
 24 (3)(d) through (3)(f) as follows:

25 (a) expenses for household and dependent care services

1 necessary for gainful employment incurred for:

2 (i) a dependent under 15 years of age for whom an  
3 exemption can be claimed;

4 (ii) a dependent as allowable under 15-30-112(5),  
5 except that the limitations for age and gross income do not  
6 apply, who is unable to care for himself because of physical  
7 or mental illness; and

8 (iii) a spouse who is unable to care for himself  
9 because of physical or mental illness;

10 (b) employment-related expenses incurred for the  
11 following services, but only if such the expenses are  
12 incurred to enable the taxpayer to be gainfully employed:

13 (i) household services which are attributable to the  
14 care of the qualifying individual; and

15 (ii) care of an individual who qualifies under  
16 subsection (3)(a);

17 (c) expenses incurred in maintaining a household if  
18 over half of the cost of maintaining the household is  
19 furnished by an individual or, if the individual is married  
20 during the applicable period, is furnished by the individual  
21 and his spouse;

22 (d) the amounts deductible in subsection (3)(a)  
23 through (3)(c) are subject to the following limitations:

24 (i) a deduction is allowed under subsection (3)(a) for  
25 employment-related expenses incurred during the year only to

1 the extent such expenses do not exceed \$4,800;

2 (ii) expenses for services in the household are  
3 deductible under subsection (3)(a) for employment-related  
4 expenses only if they are incurred for services in the  
5 taxpayer's household, except that employment-related  
6 expenses incurred for services outside the taxpayer's  
7 household are deductible, but only if incurred for the care  
8 of a qualifying individual described in subsection (3)(a)(i)  
9 and only to the extent such the expenses incurred during the  
10 year do not exceed:

11 (A) \$2,400 in the case of one qualifying individual;

12 (B) \$3,600 in the case of two qualifying individuals;  
13 and

14 (C) \$4,800 in the case of three or more qualifying  
15 individuals;

16 (e) if the combined adjusted gross income of the  
17 taxpayers exceeds \$18,000 for the taxable year during which  
18 the expenses are incurred, the amount of the  
19 employment-related expenses incurred must be reduced by  
20 one-half of the excess of the combined adjusted gross income  
21 over \$18,000;

22 (f) for purposes of this subsection (3):

23 (i) married couples shall file a joint return or file  
24 separately on the same form;

25 (ii) if the taxpayer is married during any period of

1 the taxable year, employment-related expenses incurred are  
2 deductible only if:

3 (A) both spouses are gainfully employed, in which case  
4 the expenses are deductible only to the extent that they are  
5 a direct result of the employment; or

6 (B) the spouse is a qualifying individual described in  
7 subsection (3)(a)(iii);

8 (iii) an individual legally separated from his spouse  
9 under a decree of divorce or of separate maintenance may not  
10 be considered as married;

11 (iv) the deduction for employment-related expenses must  
12 be divided equally between the spouses when filing  
13 separately on the same form;

14 (v) payment made to a child of the taxpayer who is  
15 under 19 years of age at the close of the taxable year and  
16 payments made to an individual with respect to whom a  
17 deduction is allowable under 15-30-112(5) are not deductible  
18 as employment-related expenses;

19 (4) in the case of an individual, political  
20 contributions determined in accordance with the provisions  
21 of section 218(a) and (b) of the Internal Revenue Code that  
22 were in effect for the taxable year ended December 31, 1978;

23 (5) that portion of expenses for organic fertilizer  
24 allowed as a deduction under 15-32-303 which was not  
25 otherwise deducted in computing taxable income; and

1 (6) contributions to the child abuse and neglect  
2 prevention program provided for in 41-3-701, subject to the  
3 conditions set forth in 15-30-156; and

4 (7) contributions to the senior citizens' mock  
5 legislature program provided for in 53-5-111, subject to the  
6 conditions set forth in [section 4]."

7 NEW SECTION. **Section 7.** Extension of authority. Any  
8 existing authority to make rules on the subject of the  
9 provisions of [this act] is extended to the provisions of  
10 [this act].

11 NEW SECTION. **Section 8.** Codification instruction. (1)  
12 [Sections 1 and 2] are intended to be codified as an  
13 integral part of Title 53, chapter 5, part 1, and the  
14 provisions of Title 53, chapter 5, apply to [sections 1 and  
15 2].

16 (2) [Sections 3 through 5] are intended to be codified  
17 as an integral part of Title 15, chapter 30, part 1, and the  
18 provisions of Title 15, chapter 30, apply to [sections 3  
19 through 5].

20 NEW SECTION. **SECTION 9.** RETROACTIVE APPLICABILITY.  
21 [THIS ACT] APPLIES RETROACTIVELY, WITHIN THE MEANING OF  
22 1-2-109, TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1988.

-End-

State of Montana  
Office of the Governor  
Helena, Montana 59620  
406-444-3111

STAN STEPHENS  
GOVERNOR

April 14, 1989

The Honorable John Vincent  
Speaker of the House  
State Capitol  
Helena, MT 59620

The Honorable Jack Galt  
President of the Senate  
State Capitol  
Helena, MT 59620

Dear Representative Vincent and Senator Galt:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto the adoption of House Bill 444, "AN ACT ESTABLISHING AN INDIVIDUAL INCOME TAX CHECKOFF TO BE USED TO FUND THE MOCK LEGISLATURE FOR MONTANA'S SENIOR CITIZENS; ESTABLISHING A SENIOR CITIZENS' MOCK LEGISLATURE ACCOUNT IN THE STATE SPECIAL REVENUE FUND; AND AMENDING SECTION 15-30-121, MCA." for the following reasons.

To further expand the individual income tax checkoff for fund raising activity of organizations as an alternative to the legislative appropriations process is not wise. The result extends the length of an already complex tax return form and creates additional taxpayer frustrations at income tax time. The State's tendency to expand tax alternatives must be curtailed.

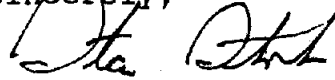
Further, although there is partial recovery for administrative expenses incurred by the Department of Revenue as amended, there is no assurance of adequate spending authority to cover the cost of administering the program. Also, only taxpayers who receive a refund are eligible to contribute to the program. These problems reduce the yield of the checkoff and then requires the Department and the general fund to subsidize the operation of the program.

I realize that there are numerous worthy programs that would seek an opportunity for further tax checkoff privileges. However, a compelling public policy interest has not been

The Honorable John Vincent  
The Honorable Jack Galt  
April 14, 1989  
Page Two

demonstrated to me to allow further governmental expansion in non-profit private organizations.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sta Stephens", written over the word "Sincerely,".

STAN STEPHENS  
Governor