

HOUSE BILL 764

Introduced by Raney, et al.

3/09	Introduced
3/09	Referred to Taxation
3/10	Fiscal Note Requested
3/16	Hearing
3/16	Fiscal Note Received
3/22	Fiscal Note Printed
3/28	Committee Report--Bill Passed as Amended
3/29	2nd Reading Passed as Amended
3/30	3rd Reading Passed

Transmitted to Senate

3/31	Referred to Taxation
4/06	Hearing
	Died in Committee

1 *House* BILL NO. *764*
 2 INTRODUCED BY *Barney Kay-Snook*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 TAX LAWS OF THE STATE; REDUCING INDIVIDUAL INCOME TAX RATES
 6 AND THE CORPORATION LICENSE TAX RATE; PROVIDING FOR AN
 7 ALTERNATIVE MINIMUM TAX FOR CORPORATIONS; REPEALING THE
 8 CORPORATION LICENSE TAX CLEARANCE CERTIFICATE FEE; AMENDING
 9 SECTIONS 7-14-1133, 7-34-2416, 13-37-218, 15-1-206,
 10 15-30-101, 15-30-103, 15-30-105, 15-30-121, 15-30-131,
 11 15-30-132, 15-30-135, 15-30-136, 15-30-141, 15-30-142,
 12 15-30-144, 15-30-146, 15-30-156, 15-30-303, 15-30-321,
 13 15-30-323, 15-31-114, 15-31-121, 15-31-202, 15-31-204,
 14 15-31-553, 15-31-554, 33-27-101 THROUGH 33-27-103, 53-2-101,
 15 AND 67-11-303, MCA; REPEALING SECTIONS 15-30-110 THROUGH
 16 15-30-117, 15-30-122, 15-30-123, 15-30-126, 15-30-127,
 17 15-30-134, AND 15-31-552, MCA; AND PROVIDING AN IMMEDIATE
 18 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
 19

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

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

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

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

21 (3) The bonds may be sold at public or private sale
 22 and may bear interest as provided in 17-5-102. Except as
 23 otherwise provided in this part, any bonds issued pursuant
 24 to this part by an authority may be payable as to principal
 25 and interest solely from revenues of the authority and shall

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

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

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

19 **Section 2.** Section 7-34-2416, MCA, is amended to read:

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

25 **Section 3.** Section 13-37-218, MCA, is amended to read:

1 "13-37-218. Limitations on receipts from political
2 committees. A candidate for the state senate may receive no
3 more than \$1,000 in total combined monetary contributions
4 from all political committees contributing to his campaign,
5 and a candidate for the state house of representatives may
6 receive no more than \$600 in total combined monetary
7 contributions from all political committees contributing to
8 his campaign. The foregoing limitations shall be multiplied
9 by the inflation factor as defined in 15-30-101(8) for the
10 year in which general elections are held after 1984; the
11 resulting figure shall be rounded off to the nearest \$50
12 increment. The commissioner of political practices shall
13 publish the revised limitations as a rule. In-kind
14 contributions may not be included in computing these
15 limitation totals. The limitation provided in this section
16 does not apply to contributions made by a political party
17 eligible for a primary election under 13-10-601."

18 **Section 4.** Section 15-1-206, MCA, is amended to read:

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

1 made within 5 days of the date specified for payment of the
2 tax or, if beyond the 5-day period in either case, upon a
3 showing of reasonable cause by the taxpayer seeking waiver
4 of the penalty.

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

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

15 **Section 5.** Section 15-30-101, MCA, is amended to read:

16 "15-30-101. Definitions. For the purpose of this
17 chapter, unless otherwise required by the context, the
18 following definitions apply:

19 {1}--"Base-year-structure"--means--the--following--elements
20 of--the--income--tax--structure:

21 {a}--the--tax--brackets--established--in--15-30-103,--but
22 unadjusted--by--subsection--(2)--of--15-30-103,--in--effect--on--June
23 30--of--the--taxable--year;

24 {b}--the--exemptions--contained---in---15-30-112,---but
25 unadjusted--by--subsections--(7)--and--(8)--of--15-30-112,--in

1 effect--on--June--30--of--the--taxable--year;

2 {c}--the--maximum--standard--deduction---provided---in
3 15-30-122,--but--unadjusted--by--subsection--(2)--of--15-30-122,--in
4 effect--on--June--30--of--the--taxable--year;

5 {2}{1} "Consumer price index" means the consumer price
6 index, United States city average, for all items, using the
7 1967 base of 100 as published by the bureau of labor
8 statistics of the U.S. department of labor.

9 {3}{2} "Department" means the department of revenue.

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

17 {5}{3} "Fiduciary" means a guardian, trustee,
18 executor, administrator, receiver, conservator, or any
19 person, whether individual or corporate, acting in any
20 fiduciary capacity for any person, trust, or estate.

21 {6}{4} "Foreign country" or "foreign government" means
22 any jurisdiction other than the one embraced within the
23 United States, its territories and possessions.

24 {7}--"Gross-income"--means--the--taxpayer's--gross---income
25 for--federal--income--tax--purposes--as--defined--in--section--61--of

1 ~~the Internal Revenue Code of 1954 or as that section may be~~
 2 ~~labeled or amended, excluding unemployment compensation~~
 3 ~~included in federal gross income under the provisions of~~
 4 ~~section 85 of the Internal Revenue Code of 1954 as amended.~~

5 ~~†8†~~(5) "Inflation factor" means a number determined
 6 for each taxable year by dividing the consumer price index
 7 for June of the taxable year by the consumer price index for
 8 June, 1980.

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

21 (7) "Internal Revenue Code" means the Internal Revenue
 22 Code enacted August 16, 1954, and redesignated as the
 23 "Internal Revenue Code of 1986" by section 2 of Public Law
 24 99-514, as that code may be amended from time to time by the
 25 United States congress. It is the specific intent of the

1 legislature that all amendments by the United States
 2 congress must be incorporated into the context of any
 3 section of Title 15 referring to the Internal Revenue Code.

4 ~~†10†~~(8) "Knowingly" is as defined in 45-2-101.

5 (9) "Nonresident" means every individual other than a
 6 resident.

7 ~~†11†~~"Net income" means the adjusted gross income of a
 8 taxpayer less the deductions allowed by this chapter.

9 ~~†12†~~(10) "Paid", for the purposes of the deductions and
 10 credits under this chapter, except the deduction for federal
 11 tax withholding, means paid or accrued or paid or incurred,
 12 and the terms "paid or incurred" and "paid or accrued" shall
 13 be construed according to the method of accounting upon the
 14 basis of which the taxable income is computed under this
 15 chapter.

16 ~~†13†~~(11) "Purposely" is as defined in 45-2-101.

17 ~~†14†~~(12) "Received", for the purpose of computation of
 18 taxable income under this chapter, means received or accrued
 19 and the term "received or accrued" shall be construed
 20 according to the method of accounting upon the basis of
 21 which the taxable income is computed under this chapter.

22 ~~†15†~~(13) "Resident" applies only to natural persons and
 23 includes, for the purpose of determining liability to the
 24 tax imposed by this chapter with reference to the income of
 25 any taxable year, any person domiciled in the state of

1 Montana and any other person who maintains a permanent place
2 of abode within the state even though temporarily absent
3 from the state and has not established a residence
4 elsewhere.

5 {i6} "Taxable--income"--means the adjusted gross income
6 of a taxpayer less the deductions--and--exemptions--provided
7 for in this chapter.

8 {i7}{14} "Taxable year" means the taxpayer's taxable
9 year for federal income tax purposes.

10 {i8}{15} "Taxpayer" includes any person or fiduciary,
11 resident or nonresident, subject to a tax imposed by this
12 chapter and does not include corporations."

13 **Section 6.** Section 15-30-103, MCA, is amended to read:

14 "15-30-103. Rate of tax. (1) There A tax shall be
15 levied, collected, and paid for each taxable year commencing
16 on or after December 31, 1968 1988, upon the Montana taxable
17 income of every taxpayer subject to this tax, after making
18 allowance--for--exemptions--and--deductions--as--hereinafter
19 provided;--a tax on the following brackets of taxable income
20 as adjusted under subsection (2) at the following rates:

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

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

25 {c}--on the next \$2,000 of taxable income or any part

1 thereof, 4%;

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

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

6 {f}--on the next \$2,000 of taxable income or any part
7 thereof, 7%;

8 {g}--on the next \$4,000 of taxable income or any part
9 thereof, 8%;

10 {h}--on the next \$6,000 of taxable income or any part
11 thereof, 9%;

12 {i}--on the next \$15,000 of taxable income or any part
13 thereof, 10%;

14 {j}--on any taxable income in excess of \$35,000 or any
15 part thereof, 11%. The tax must be determined in accordance
16 with subsections (2) through (6).

17 (2) The tax for married persons filing jointly and for
18 surviving spouses as defined in section 2(a) of the Internal
19 Revenue Code is:

20 (a) 5% of the first \$4,000 of taxable income or any
21 part thereof;

22 (b) 7% of the next \$8,000 of taxable income or any
23 part thereof; and

24 (c) 9% of any taxable income in excess of \$12,000.

25 (3) The tax for married persons filing separately is:

1 (a) 5% of the first \$2,000 of taxable income or any
 2 part thereof;
 3 (b) 7% of the next \$4,000 of taxable income or any
 4 part thereof; and
 5 (c) 9% of any taxable income in excess of \$6,000.
 6 (4) The tax for a single person is:
 7 (a) 5% of the first \$2,400 of taxable income or any
 8 part thereof;
 9 (b) 7% of the next \$4,800 of taxable income or any
 10 part thereof; and
 11 (c) 9% of any taxable income in excess of \$7,200.
 12 (5) The tax for a head of household, as that
 13 designation is used in the Internal Revenue Code, is:
 14 (a) 5% of the first \$3,200 of taxable income or any
 15 part thereof;
 16 (b) 7% of the next \$6,400 of taxable income or any
 17 part thereof; and
 18 (c) 9% of any taxable income in excess of \$9,600.
 19 ~~(2)(6)~~ By November 1 of each year, the department
 20 shall multiply the bracket ~~amount~~ amounts contained in
 21 ~~subsection--(1)~~ subsections (2) through (5) by the inflation
 22 factor for that taxable year and round the cumulative
 23 brackets to the nearest \$100. The resulting adjusted
 24 ~~brackets~~ amounts are effective for that taxable year and
 25 shall be used as the basis for imposition of the tax in

1 ~~subsection--(1)~~ of this section subsections (2) through (5).
 2 (7) Except as provided in subsection (8), the
 3 taxpayer's filing status as reported on his federal return
 4 must be used for purposes of determining the Montana tax
 5 rate in subsections (2) through (5).
 6 (8) Montana taxpayers who are both residents and
 7 nonresidents and who file jointly for federal purposes shall
 8 file separately."
 9 **Section 7.** Section 15-30-105, MCA, is amended to read:
 10 "15-30-105. Tax on nonresident -- alternative tax
 11 based on gross sales. (1) ~~A like tax is imposed upon every~~
 12 ~~person not resident of this state, which tax shall be~~
 13 ~~levied, collected, and paid annually at the rates specified~~
 14 ~~in 15-30-103 with respect to his entire net income as herein~~
 15 ~~defined from all property owned and from every business,~~
 16 ~~trade, profession, or occupation carried on in this state.~~
 17 Every nonresident and part-year resident is subject to the
 18 tax imposed by 15-30-103 on all income from every business,
 19 trade, profession, or occupation carried on in the state and
 20 on all income, including interest, derived from any property
 21 in the 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 The tax
 6 ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The
 7 gross volume of sales made in Montana during the taxable
 8 year shall be determined according to the provisions of
 9 Article IV, sections 16 and 17, of the Multistate Tax
 10 Compact."

11 NEW SECTION. Section 8. Montana gross income. Montana
 12 gross income must be determined as provided in section 61 of
 13 the Internal Revenue Code.

14 NEW SECTION. Section 9. Montana adjusted gross
 15 income. In the case of resident taxpayers, Montana adjusted
 16 gross income must be determined as provided in section 62 of
 17 the Internal Revenue Code. In the case of nonresidents and
 18 part-year residents, Montana adjusted gross income must be
 19 determined as set forth in section 15-30-131.

20 NEW SECTION. Section 10. Montana taxable income. (1)
 21 In the case of a full-year resident, Montana taxable income
 22 must be determined as provided in section 63 of the Internal
 23 Revenue Code, plus the additions to income in subsection (2)
 24 and less the deductions from income in subsection (3). It is
 25 the intent of the legislature that federal taxable income as

1 reported on a taxpayer's federal return for the taxable year
 2 is the starting point for calculating the taxpayer's Montana
 3 taxable income. A taxpayer who uses the federal standard
 4 deduction to calculate federal taxable income shall also use
 5 the federal standard deduction, subject to the applicable
 6 adjustments in subsections (2) and (3), to calculate Montana
 7 taxable income. A taxpayer who uses the federal itemized
 8 deductions to calculate federal taxable income shall also
 9 use the federal itemized deduction, subject to the
 10 applicable adjustments in subsections (2) and (3), to
 11 calculate Montana taxable income.

12 (2) The following additions to federal taxable income
 13 are required:

14 - (a) gross interest and dividends derived from
 15 obligations or securities of states other than Montana in
 16 the same amount that has been excluded from adjusted gross
 17 income, less related expenses not deducted because of
 18 section 265(a)(1) of the Internal Revenue Code;

19 (b) state taxes on or measured by income to the extent
 20 the taxes have been deducted to compute federal taxable
 21 income;

22 (c) losses on the sale of United States obligations
 23 that the state is prohibited from taxing to the extent the
 24 losses have been deducted to compute federal adjusted gross
 25 income.

1 (3) The following deductions from federal taxable
2 income are allowed:

3 (a) gross interest income and dividends from
4 obligations or securities issued by Montana or any political
5 subdivision of Montana that are included in federal adjusted
6 gross income;

7 (b) to the extent included in adjusted gross income,
8 income from obligations of the United States government that
9 the state is prohibited by law from subjecting to a net
10 income tax. This deduction must be reduced by any interest
11 or indebtedness incurred to carry the obligations and, to
12 the extent deducted to arrive at adjusted gross income, any
13 expenses incurred to produce the interest income.

14 (c) actual tax liability for the taxable year as
15 reported on the federal tax return in the amount of:

16 (i) \$7,000 for married taxpayers filing jointly or for
17 a taxpayer filing as a surviving spouse;

18 (ii) \$3,500 for all other taxpayers;

19 (iii) the federal tax liability as later amended,
20 including recalculation, for Montana tax purposes, to
21 reflect the actual tax liability in subsections (3)(c)(i)
22 and (3)(c)(ii);

23 (d) an amount equal to the federal tax credit allowed
24 under sections 21 and 22 of the Internal Revenue Code for
25 household and dependent care services necessary for gainful

1 employment;

2 (e) up to \$800 interest income earned by each taxpayer
3 age 65 or older. Taxpayers filing as married filing jointly
4 or surviving spouse may deduct up to \$1,600 total per
5 return.

6 (f) benefits not in excess of \$3,600 received under:

7 (i) the Federal Employees' Retirement Act;

8 (ii) the public employee retirement laws of a state
9 other than Montana; or

10 (iii) a private or corporate retirement plan or system;

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

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

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

19 (j) all benefits paid under 19-11-602, 19-11-604, and
20 19-11-605 to retired and disabled firefighters, their
21 surviving spouses and orphans or specified as exempt from
22 taxation by 19-13-1003;

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

1 (l) all benefits paid under an optional retirement
2 program that are specified as exempt from taxation by
3 19-21-212;

4 (m) all Montana income tax refunds or credits;

5 (n) gain required to be recognized by a liquidating
6 corporation pursuant to 15-31-113(1)(a)(ii);

7 (o) net railroad benefits to the extent federal law
8 preempts this income from state taxation;

9 (p) salary received from the armed forces by residents
10 and nonresidents who are on active duty;

11 (q) income of an enrolled tribal member while living
12 and working on a federally established Indian reservation to
13 the extent federal law preempts this income from state
14 taxation.

15 **Section 11.** Section 15-30-121, MCA, is amended to
16 read:

17 "15-30-121. Deductions allowed in computing net
18 income. In computing net income, there are allowed as
19 deductions:

20 (1) the items referred to in sections 161 and 211 of
21 the Internal Revenue Code of 1954, or as sections 161 and
22 211 shall be labeled or amended, subject to the following
23 exceptions which are not deductible;

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

25 (b) state income tax paid;

1 (2) federal income tax paid within the taxable year;
2 (3) expenses of household and dependent care services
3 as outlined in subsections (3)(a) through (3)(c) and subject
4 to the limitations and rules as set out in subsections
5 (3)(d) through (3)(f) as follows:

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

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

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

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

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

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

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

23 (c) expenses incurred in maintaining a household if
24 over half of the cost of maintaining the household is
25 furnished by an individual or, if the individual is married

1 during-the-applicable-period,-is-furnished-by-the-individual
 2 and-his-spouse;
 3 {d}--the---amounts---deductible--in--subsection--(3){a}
 4 through-(3){a}-are-subject-to-the-following-limitations:
 5 {i}-a-deduction-is-allowed-under-subsection-(3){a}-for
 6 employment-related-expenses-incurred-during-the-year-only-to
 7 the-extent-such-expenses-do-not-exceed-\$4,800;
 8 {ii}-expenses--for--services--in--the---household---are
 9 deductible--under--subsection--(3){a}-for-employment-related
 10 expenses-only-if-they--are--incurred--for--services--in--the
 11 taxpayer's---household,---except---that---employment-related
 12 expenses--incurred--for--services--outside--the---taxpayer's
 13 household--are-deductible,--but-only-if-incurred-for-the-care
 14 of-a-qualifying-individual-described-in-subsection-(3){a){i}
 15 and-only-to-the-extent-such--expenses--incurred--during--the
 16 year-do-not-exceed;
 17 {A}--\$2,400--in--the-case-of-one-qualifying-individual;
 18 {B}--\$3,600-in-the-case-of-two-qualifying-individuals;
 19 and
 20 {C}--\$4,800--in--the--case--of-three-or-more-qualifying
 21 individuals;
 22 {e}-if-the--combined--adjusted--gross--income--of--the
 23 taxpayers--exceeds-\$18,000-for-the-taxable-year-during-which
 24 the---expenses---are---incurred,---the---amount---of---the
 25 employment-related--expenses--incurred--must--be--reduced-by

1 one-half-of-the-excess-of-the-combined-adjusted-gross-income
 2 over-\$18,000;
 3 {f}--for-purposes-of-this-subsection-(3);
 4 {i}-married-couples-shall-file-a-joint-return-or--file
 5 separately-on-the-same-form;
 6 {ii}-if--the--taxpayer--is-married-during-any-period-of
 7 the-taxable-year,--employment-related-expenses--incurred--are
 8 deductible-only-if:
 9 {A}--both-spouses-are-gainfully-employed,--in-which-case
 10 the-expenses-are-deductible-only-to-the-extent-that-they-are
 11 a-direct-result-of-the-employment,--or
 12 {B}--the-spouse-is-a-qualifying-individual-described-in
 13 subsection-(3){a){iii};
 14 {iii}-an--individual--legally-separated-from-his-spouse
 15 under-a-decree-of-divorce-or-of-separate-maintenance-may-not
 16 be-considered-as-married;
 17 {iv}-the-deduction-for-employment-related-expenses-must
 18 be--divided--equally--between--the---spouses---when---filing
 19 separately-on-the-same-form;
 20 {v}-payment--made--to--a--child-of-the-taxpayer-who-is
 21 under-19-years-of-age-at-the-close-of-the-taxable--year--and
 22 payments--made--to--an--individual--with--respect--to-whom-a
 23 deduction-is-allowable-under-15-30-112(5)-are-not-deductible
 24 as-employment-related-expenses;
 25 {4}-in--the---case---of---an---individual,---political

1 ~~contributions--determined--in--accordance--with--the--provisions~~
 2 ~~of--section-218(a)--and--(b)--of--the--Internal--Revenue--Code--that~~
 3 ~~were--in--effect--for--the--taxable--year--ended--December-31--1978;~~

4 (5)(1) that portion of expenses for organic fertilizer
 5 allowed as a deduction under 15-32-303 which was not
 6 otherwise deducted in computing taxable income; and

7 (6)(2) contributions to the child abuse and neglect
 8 prevention program provided for in 41-3-701, subject to the
 9 conditions set forth in 15-30-156."

10 **Section 12.** Section 15-30-131, MCA, is amended to
 11 read:

12 "15-30-131. Nonresident Nonresident's and temporary
 13 resident-taxpayers----adjusted--gross part-year resident's
 14 taxable income ---deductions. (1) In the case of a taxpayer
 15 other than a resident of this state, adjusted gross income
 16 includes the entire amount of adjusted gross income from
 17 sources within this state but ~~shall~~ does not include income
 18 from annuities, interest on bank deposits, interest on
 19 bonds, notes, or other interest-bearing obligations, or
 20 dividends on stock of corporations except to the extent to
 21 which the same shall be they are a part of income from any
 22 business, trade, profession, or occupation carried on in
 23 this state. Interest income from installment sales of real
 24 or tangible commercial or business property located in
 25 Montana must be included in adjusted gross income. Adjusted

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

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

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

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

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

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

12 (2) (a) To calculate Montana taxable income, a
 13 nonresident taxpayer may deduct the following:

14 (i) that portion of the federal deduction for personal
 15 exemptions that Montana adjusted gross income bears to
 16 federal adjusted gross income; and

17 (ii) that portion of the federal standard deduction
 18 that Montana adjusted gross income bears to federal adjusted
 19 gross income or, in the alternative, the federal itemized
 20 deductions, subject to the limitations in [section
 21 10(3)(c)], that are directly attributable to Montana
 22 adjusted gross income.

23 (b) A nonresident taxpayer who uses the federal
 24 standard deduction to calculate federal taxable income shall
 25 also use the federal standard deduction to calculate Montana

1 taxable income. A nonresident taxpayer who uses the federal
 2 itemized deductions to calculate federal taxable income
 3 shall also use the federal itemized deductions as a basis
 4 for calculating Montana taxable income.

5 (3) (a) In the case of a part-year resident, Montana
 6 taxable income is as determined in subsection (1) plus:

7 (i) the additions to income in [section 10(2)(b) and
 8 (2)(c)]; and

9 (ii) that portion of the income described in [section
 10 10(2)(a)] that was earned while the taxpayer was a resident
 11 of Montana.

12 (b) To calculate Montana taxable income, a part-year
 13 resident taxpayer may deduct the following:

14 (i) that portion of the federal deduction for personal
 15 exemptions that Montana adjusted gross income bears to
 16 federal adjusted gross income; and

17 (ii) that portion of the federal standard deduction
 18 that Montana adjusted gross income bears to federal adjusted
 19 gross income or, in the alternative, the federal itemized
 20 deductions, subject to the limitations in [section
 21 10(3)(c)], that are directly attributable to Montana
 22 adjusted gross income.

23 (c) A part-year resident taxpayer who uses the federal
 24 standard deduction to calculate federal taxable income shall
 25 also use the federal standard deduction to calculate Montana

1 taxable income. A part-year resident taxpayer who uses the
 2 federal itemized deductions to calculate federal taxable
 3 income shall also use the federal itemized deductions as a
 4 basis for calculating Montana taxable income.

5 (4) A part-year resident is allowed the credit under
 6 15-32-109 allowed a full-year resident for energy-conserving
 7 expenditures incurred in Montana during the taxable year.

8 ~~†7†~~(5) For purposes of this section, "installment
 9 sales" means sales in which the buyer agrees to pay the
 10 seller in one or more deferred installments."

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

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

1 in Montana."

2 **Section 14.** Section 15-30-135, MCA, is amended to
 3 read:

4 "15-30-135. Tax on beneficiaries or fiduciaries of
 5 estates or trusts. ~~††~~ A tax ~~shall-be~~ is imposed, at the
 6 rate imposed on a single person, upon either the fiduciaries
 7 or the beneficiaries of estates and trusts as hereinafter
 8 provided in this section, except to the extent ~~such the~~
 9 estates and trusts ~~shall-be~~ are held for educational,
 10 charitable, or religious purposes, ~~which The tax shall must~~
 11 be levied, collected, and paid annually with respect to the
 12 income of estates or of any kind of property held in trust,
 13 including:

14 ~~†a†--income--received--by--estates--of-deceased-persons~~
 15 ~~during-the-period-of-administration--or--settlement--of--the~~
 16 ~~estate;~~

17 ~~†b†--income--accumulated--in--trust--for-the-benefit-of~~
 18 ~~unborn-or-unascertained-persons-or-persons--with--contingent~~
 19 ~~interests;~~

20 ~~†c†--income--held--for--future--distribution--under-the~~
 21 ~~terms-of-the-will-or-trust,--and~~

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

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

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

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

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

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

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

1 chapter, the "gross income" of Montana taxable estates or
 2 trusts means includes all federal taxable income from
 3 whatever source derived in the taxable year, including but
 4 not limited to the following items:

5 (a) dividends;

6 (b) interest received or accrued, including interest
 7 received on obligations of another state or territory or a
 8 county, municipality, district, or other political
 9 subdivision thereof, but excluding interest income from
 10 obligations of:

11 (i) the United States government or the state of
 12 Montana; and

13 (ii) a school district; or

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

16 (c) income from partnerships and other fiduciaries;

17 (d) gross rents and royalties;

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

22 (f) gross profit from trade or business; and

23 (g) (b) refunds recovered on federal income tax, to the
 24 extent the deduction of such federal income tax resulted in
 25 a reduction of Montana income tax liability for the taxable

1 year 1987.

2 (2) In computing net income, there are allowed as
 3 deductions:

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

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

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

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

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

22 (f) losses from fire, storm, shipwreck, or other
 23 casualty or from theft, to the extent not compensated for by
 24 insurance or otherwise, that are deductible for federal tax
 25 purposes according to section 165 of the Internal Revenue

1 Code-of-1954-as-amended;

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

6 {h}{a} all benefits, not in excess of \$3,600,
7 received:

8 (i) as federal employees' retirement;

9 (ii) as retirement from public employment in a state
10 other than Montana; or

11 (iii) as an annuity, pension, or endowment under
12 private or corporate retirement plans or systems;

13 {i}{b} all benefits paid under the Montana teachers'
14 retirement system that are specified as exempt from taxation
15 by 19-4-706;

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

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

22 {l}{e} Montana income tax refunds or credits thereof;

23 {m}{f} all benefits paid under 19-11-602, 19-11-604,
24 and 19-11-605 to retired and disabled firemen or their
25 surviving spouses or children;

1 {n}{g} all benefits paid under the municipal police
2 officers' retirement system that are specified as exempt
3 from taxation by 19-9-1005.

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

17 {4}--The--following--additional--deductions--shall--be
18 allowed-in-deriving-taxable-income-of-estates-and-trusts:

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

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

24 {c}--the-amount--of--60%--of--the-excess--of--the-net
25 long-term-capital-gain-over-the-net-short-term-capital-loss

for-the-taxable-year.

{5}--The--exemption--allowed--for--estates--and--trusts--is
that--exemption--provided--in--15-30-112(2){a}--and--15-30-112(8)-
{6}--A--trust--or--estate--excluding--benefits--under
subsections--(2){i}--through--(2){k},--(2){m},--or--(2){n}--may--not
exclude--benefits--described--in--subsection--(2){h}--from--net
income--unless--the--benefits--received--under--subsections--(2){i}
through--(2){k},--(2){m},--or--(2){n}--are--less--than--\$3,600--in
which--case--the--trust--or--estate--may--combine--benefits--to
exclude--up--to--a--total--of--\$3,600--from--net--income.

(3) A trust or estate that elects to itemize its
deductions from adjusted gross income on its federal return
for taxable year 1989 and that is required to pay additional
federal tax due in 1989 for the taxable year 1988 may deduct
the federal tax paid in 1989 from its Montana taxable
income."

Section 16. Section 15-30-141, MCA, is amended to
read:

"15-30-141. Tax as personal debt. Every tax imposed by
this chapter and all increases, interest, and penalties
thereon shall be, from the time they are due and payable, a
personal debt from the person or fiduciary liable to pay the
same to the state. Taxpayers filing a joint return are
jointly and severally liable for the tax and any interest
and penalty unless the department determines, based on the

criteria in section 6013(e) of the Internal Revenue Code,
that a spouse is relieved of liability."

Section 17. Section 15-30-142, MCA, is amended to
read:

"15-30-142. Returns--and--payment--of--tax---penalty--and
interest---refunds---credits Filing of returns. (1) Every
single--individual--and--every--married--individual--not--filing--a
joint--return--with--his--or--her--spouse--and--having--a--gross
income--for--the--taxable--year--of--more--than--\$1,000--as--adjusted
under---the---provisions--of--subsection--(7),--and--married
individuals--not--filing--separate--returns--and--having---a
combined--gross--income--for--the--taxable--year--of--more--than
\$2,000--as--adjusted--under--the--provisions--of--subsection--(7),
shall--be--liable--for--a--return--to--be--filed resident, part-year
resident, or nonresident deriving any income from Montana
shall file a tax return, on such forms and according to such
rules as the department may prescribe, if that person:

(a) is subject to the requirement of filing a federal
return pursuant to section 6012 of the Internal Revenue
Code; or

(b) has sufficient adjustments to federal taxable
income to require the payment of tax to Montana. The gross
income amounts referred to in the preceding sentence shall
be--increased--by--\$800--as--adjusted--under--the--provisions--of
15-30-112(7)--and--(8)--for--each--additional--personal--exemption

~~allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4); A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).~~

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

(2) Every resident, part-year resident, or nonresident required to file a return under subsection (1) is required to file the state return using the same filing status as was used to file the return required by section 6012 of the Internal Revenue Code.

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

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

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

(6) If the amount of tax as verified is greater than the amount ~~therefore~~ paid, the excess shall be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added at the rate of 9 $\frac{3}{4}$ of 1% per annum month or fraction thereof

on the additional tax. ~~In such case there shall be~~ There is no penalty because of ~~such the~~ understatement, provided the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

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

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

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

"15-30-144. Time for filing -- extensions of time. ~~{1}~~ Returns ~~shall~~ must be made to the department on or before the ~~15th--day--of--the--4th--month--following--the--close--of--the taxpayer's--fiscal--year--or--if--the--return--is--made--on--the basis--of--the--calendar--year--then--the--return--shall--be--made--on or--before--the--15th--day--of--April--following--the--close--of--the calendar--year~~ day when the federal return is due. Taxpayers shall submit to the department copies of any federal extension of time for filing. Each return ~~shall~~ must set

forth ~~such~~ facts as the department considers necessary for the proper enforcement of this chapter. There ~~shall~~ must be annexed to ~~such the~~ return the affidavit or affirmation of the persons making the return to the effect that the statements contained therein are true. Blank forms of return ~~shall~~ must be furnished by the department upon application, but failure to secure the form ~~shall~~ does not relieve any taxpayer of the obligation to make any return required under this law. Every taxpayer liable for a tax under this law shall pay a minimum tax of \$1.

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

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

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

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

10 **Section 20.** Section 15-30-156, MCA, is amended to
 11 read:

12 "15-30-156. Deduction for contributions to child abuse
 13 and neglect prevention program. A taxpayer filing an
 14 individual income tax return ~~who does not elect to take the~~
 15 ~~standard--deduction--provided--for--in--15-30-122~~ may, in
 16 computing net income, claim a deduction for the payment of a
 17 contribution to the child abuse and neglect prevention
 18 program as follows:

19 (1) If the taxpayer paid a contribution in the taxable
 20 year for which the return is filed, he may deduct the amount
 21 of the contribution paid during that year, unless the amount
 22 was deducted as provided in subsection (2).

23 (2) If the taxpayer encloses a check or other order to
 24 pay money as a contribution with the timely filing of a tax
 25 return, in accordance with 15-30-144, he may elect to take a

1 deduction for the amount of the contribution and apply the
 2 deduction in the taxable year for which he is filing the
 3 return."

4 **Section 21.** Section 15-30-303, MCA, is amended to
 5 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~for-the-purpose-of-enabling-the--department--of--justice--to
administer-the-provisions-of-61-5-185;-and~~

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

Section 22. Section 15-30-321, MCA, is amended to read:

"15-30-321. Penalties for violation of chapter. (1) If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to file a return of income on or before its due date (determined with regard to an extension of time granted for filing the return), there shall be imposed a penalty of 5% of any balance of tax unpaid with respect to such the return as of its due date, but--in--no--event--shall--the--penalty--for--failure--to--file--a--return--by--its--due--date--be--less--than--\$5- or \$10, whichever is greater. In addition, a penalty of 5% of any balance of tax unpaid with respect to the return must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum 30% penalty. The department may abate the penalty if the taxpayer establishes that the failure to file on time was due to reasonable cause and was not due to neglect on his part. If any person,

without purposely or knowingly violating any requirement imposed by this chapter, fails to pay any tax on or before its due date ~~(determined-with-regard-to-an-extension-of-time granted-for-filing-the-return)~~, there shall be added to the tax a penalty of ~~10%~~ 5% of said the tax, but not less than \$5, and interest. 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% penalty. Interest shall accrue on the tax at the rate of ~~9%-per-annum~~ 3/4 of 1% per month for the entire period it remains unpaid. The department may abate the penalty if the taxpayer establishes that the failure to pay on time was due to reasonable cause and was not due to neglect on his part.

(2) If any person fails, purposely or knowingly violating any requirement imposed by this chapter, to make a return of income or to pay a tax if one is due at the time required by or under the provisions of this chapter, there shall be added to the tax an additional amount equal to 25% thereof of the tax, but such the additional amount shall in no case be less than \$25, and interest at 1% for each month or fraction of a month during which the tax remains unpaid.

(3) Any individual, corporation, or partnership or any officer or employee of any corporation or member or employee of any partnership who, with intent to evade any tax or any

1 requirement of this chapter or any lawful requirement of the
 2 department ~~thereunder~~ under this chapter, purposely or
 3 knowingly, fails to pay the tax or to make, render, or sign
 4 any return or to supply any information within the time
 5 required by or under the provisions of this chapter or who,
 6 with like intent, purposely or knowingly makes, renders, or
 7 signs any false or fraudulent return or statement or
 8 supplies any false or fraudulent information shall be liable
 9 to a penalty of not more than \$1,000, to be recovered by the
 10 attorney general in the name of the state by action in any
 11 court of competent jurisdiction, ~~and~~ The person shall also
 12 be guilty of a misdemeanor and shall upon conviction be
 13 fined not to exceed \$1,000 or be imprisoned not to exceed 1
 14 year, or both, at the discretion of the court.

15 (4) With respect to the imposition of a civil penalty,
 16 evidence produced by the department to the effect that a tax
 17 has not been paid, that a return has not been filed, or that
 18 information has not been supplied as required under the
 19 provisions of this chapter is prima facie evidence that the
 20 tax has not been paid, the return has not been filed, or the
 21 information has not been supplied.

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

25 **Section 23.** Section 15-30-323, MCA, is amended to

1 read:

2 "15-30-323. Penalty for deficiency. (1) If the payment
 3 required by 15-30-142(6) is not made within 60 days or if
 4 the understatement is due to negligence on the part of the
 5 taxpayer but without fraud, there shall be added to the
 6 amount of the deficiency 5% ~~thereof, provided, however, that~~
 7 ~~no deficiency penalty shall be less than \$2 of the tax.~~ In
 8 addition, a penalty of 5% of the delinquent tax must be
 9 assessed for each 30-day period during which the tax remains
 10 unpaid following notification of delinquency, with a maximum
 11 30% penalty. Interest will be computed at the rate of 9% $\frac{3}{4}$
 12 of 1% per annum month or fraction thereof on the additional
 13 assessment. Except as otherwise expressly provided in this
 14 subsection, the interest shall in all cases be computed from
 15 the date the return and tax were originally due as
 16 distinguished from the due date as it may have been extended
 17 to the date of payment.

18 (2) If the time for filing a return is extended, the
 19 taxpayer shall pay in addition interest ~~thereon or the~~
 20 amount due at the rate of 9% $\frac{3}{4}$ of 1% per annum month from
 21 the time when the return was originally required to be filed
 22 to the time of payment.

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

1 **Section 24.** Section 15-31-114, MCA, is amended to
2 read:

3 "15-31-114. Deductions allowed in computing income. In
4 computing the net income, the following deductions shall be
5 allowed from the gross income received by such corporation
6 within the year from all sources:

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

23 (2) (a) All losses actually sustained and charged off
24 within the year and not compensated by insurance or
25 otherwise, including a reasonable allowance for the wear and

1 tear and obsolescence of property used in the trade or
2 business, such allowance to be determined according to the
3 provisions of section 167 of the Internal Revenue Code in
4 effect with respect to the taxable year. All elections for
5 depreciation shall be the same as the elections made for
6 federal income tax purposes. No deduction shall be allowed
7 for any amount paid out for any buildings, permanent
8 improvements, or betterments made to increase the value of
9 any property or estate, and no deduction shall be made for
10 any amount of expense of restoring property or making good
11 the exhaustion thereof for which an allowance is or has been
12 made.

13 (b) (i) There shall be allowed as a deduction for the
14 taxable period a net operating loss deduction determined
15 according to the provisions of this subsection. The net
16 operating loss deduction is the aggregate of net operating
17 loss carryovers to such the taxable period ~~plus--the--net~~
18 ~~operating--loss--carrybacks-to-such-taxable-period.~~ The term
19 "net operating loss" means the excess of the deductions
20 allowed by this section, 15-31-114, over the gross income,
21 with the modifications specified in subsection (2)(b)(ii) of
22 ~~this-subsection.~~ If for any taxable period ~~beginning--after~~
23 ~~December--31--1970~~ a net operating loss is sustained, such
24 the loss shall be a net operating loss carryback to each--of
25 ~~the--three--taxable--periods--preceding--the--taxable--period--of~~

1 ~~such-loss-and~~ shall be a net operating loss ~~carryover~~
 2 ~~carryforward~~ to each of the five ~~three~~ taxable periods
 3 following the taxable period of ~~such the~~ loss. A net
 4 operating loss ~~sustained~~ for any taxable period ending after
 5 December 31, 1975, ~~in-addition-to-being and beginning before~~
 6 ~~January 1, 1989, shall be~~ a net operating loss carryback to
 7 each of the three preceding taxable periods, ~~shall be and~~ a
 8 net operating loss ~~carryover~~ ~~carryforward~~ to each of the
 9 seven taxable periods following the taxable period of such
 10 loss. The portion of such loss which shall be carried to
 11 each of the other taxable years shall be the excess, if any,
 12 of the amount of such loss over the sum of the net income
 13 for each of the prior taxable periods to which such loss was
 14 carried. For purposes of the preceding sentence, the net
 15 income for such prior taxable period shall be computed with
 16 the modifications specified in subsection (2)(b)(ii)(B) of
 17 ~~this-subsection~~ and by determining the amount of the net
 18 operating loss deduction without regard to the net operating
 19 loss for the loss period or any taxable period thereafter,
 20 and the net income so computed shall not be considered to be
 21 less than zero.

22 (ii) The modifications referred to in subsection
 23 (2)(b)(i) of this-subsection shall be as follows:

- 24 (A) No net operating loss deduction shall be allowed.
 25 (B) The deduction for depletion shall not exceed the

1 amount which would be allowable if computed under the cost
 2 method.

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

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

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

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

23 ~~(vi)-The-net-operating-loss-deduction-shall-not-be~~
 24 ~~allowed-with-respect-to-taxable-periods-which-ended-on-or~~
 25 ~~before-December-31, 1970, but shall be allowed only with~~

1 ~~respect-to-taxable-periods-beginning-on-or-after-January--17~~
2 ~~1971-~~

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

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

20 (5) (a) Taxes paid within the year, except the
21 following:

22 (i) Taxes imposed by this part.

23 (ii) Taxes assessed against local benefits of a kind
24 tending to increase the value of the property assessed.

25 (iii) Taxes on or according to or measured by net

1 income or profits imposed by authority of the government of
2 the United States.

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

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

8 (6) That portion of an energy-related investment
9 allowed as a deduction under 15-32-103.

10 (7) (a) Except as provided in subsection (7)(b),
11 charitable contributions and gifts that qualify for
12 deduction under section 170 of the Internal Revenue Code, as
13 amended.

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

17 (8) In lieu of the deduction allowed under subsection
18 (7), the taxpayer may deduct the fair market value, not to
19 exceed 30% of the taxpayer's net income, of a computer or
20 other sophisticated technological equipment or apparatus
21 intended for use with the computer donated to an elementary,
22 secondary, or accredited postsecondary school located in
23 Montana if:

24 (a) the contribution is made no later than 5 years
25 after the manufacture of the donated property is

1 substantially completed;

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

4 (c) the taxpayer receives a written statement from the
5 donee in which the donee agrees to accept the property and
6 representing that the use and disposition of the property
7 will be in accordance with the provisions of subsection
8 (8)(b) of this subsection-(8)."

9 NEW SECTION. Section 25. Deductions not allowed. In
10 computing net income, the deductions allowed for dividends
11 under sections 243 through 245 of the Internal Revenue Code
12 are not deductible from gross income under this chapter
13 unless otherwise provided in this title.

14 **Section 26.** Section 15-31-121, MCA, is amended to
15 read:

16 "15-31-121. Rate of tax -- alternative minimum tax --
17 surtax. (1) Except as provided in subsection subsections (2)
18 and (3), the percentage of net income to be paid under
19 15-31-101 shall be ~~6-3/4%~~ 6 1/2% of all net income for the
20 taxable period. ~~The--rate-set-forth-in-this-subsection-(1)~~
21 ~~shall-be-effective-for-all-taxable-years-ending-on-or--after~~
22 ~~February-28,-1971.-This-rate-is-retroactive-to-and-effective~~
23 ~~for--all-taxable-years-ending-on-or-after-February-28,-1971-~~

24 (2) For a taxpayer making a water's-edge election, the
25 percentage of net income to be paid under 15-31-101 shall be

1 7% of all taxable net income for the taxable period.

2 ~~(3)--Every-corporation-subject-to-taxation--under--this~~
3 ~~part-shall,-in-any-event,-pay-a-minimum-tax-of-not-less-than~~
4 ~~\$50-~~

5 ~~(4)--After--the--amount--of--tax--liability--has--been~~
6 ~~computed-under-subsections-(1)-through-(3),-each-corporation~~
7 ~~subject-to-taxation-under-this-part-shall-add,-as--a--surtax~~
8 ~~for--tax--year-1988,-4%-of-the-tax-liability,-and-the-amount~~
9 ~~so-derived-is-the-amount-due-the-state-~~

10 (3) (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 or elects to apportion its
19 income pursuant to 15-31-323, the federal alternative
20 minimum taxable income shall be multiplied by the
21 apportionment factor for the corporation. If the corporation
22 allocates its income pursuant to 15-31-301(3), the
23 adjustments, preferences, and losses used to compute the
24 federal alternative minimum taxable income shall be
25 allocated on the same basis as its income and expenses.

(c) The alternative minimum tax shall be:

(i) 6% of the federal alternative minimum taxable income in the case of a corporation that does not apportion its income pursuant to 15-31-305 or 15-31-323 or allocate its income pursuant to 15-31-301; or

(ii) 6% of the amount computed under subsection (2)(b) in the case of a corporation that is subject to 15-31-301 or 15-31-305 or that elects to apportion its income under 15-31-323.

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

NEW SECTION. Section 27. Dividend credit. (1) A corporation subject to tax as provided in this chapter that receives a cash dividend from a member of the same affiliated group that is also subject to tax as provided in this chapter is entitled to a tax credit. The credit is equal to the tax rate provided in 15-31-121(1) multiplied by the amount of the dividend and, in the case of a multistate corporation, also multiplied by the Montana apportionment ratio of the payee corporation.

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

(3) The term "affiliated group" as used in this section has the same meaning as used in section 1504(a)(1) of the Internal Revenue Code.

Section 28. Section 15-31-202, MCA, is amended to read:

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

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

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

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

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

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

(3) A small business corporation that has made a valid
election under subchapter S. of Chapter 1 of the Internal
Revenue Code may elect to be subject to the taxes imposed by
this chapter by filing an election on a form provided by the
department. The form must have printed on it a notification
that making the election subjects income to tax under both
Title 15, chapter 30, and this chapter. For tax years
beginning on or after January 1, 1987, but before March 1,
1988, the election must be filed by May 15, 1988. Thereafter

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

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

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

Section 29. Section 15-31-204, MCA, is amended to
read:

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

Section 30. Section 15-31-553, MCA, is amended to
read:

"15-31-553. Fees to reimburse department for costs --
deposit in general fund. All moneys money collected under
15-31-551 and-15-31-552-shall-be is required to reimburse

1 the department of revenue for costs involved in the
2 preparation of the copies and certificates. All such--moneys
3 money collected ~~shall--go--into~~ must be deposited in the
4 general fund."

5 **Section 31.** Section 15-31-554, MCA, is amended to
6 read:

7 "15-31-554. Returns to which sections apply. The
8 provisions of 15-31-551 through and 15-31-553 ~~shall~~ apply to
9 all returns on file and all returns to--be filed hereafter
10 after December 31, 1988."

11 **Section 32.** Section 33-27-101, MCA, is amended to
12 read:

13 "33-27-101. Short title. Sections 15-30-107,
14 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter may be
15 cited as the "Independent Liability Fund Act".

16 **Section 33.** Section 33-27-102, MCA, is amended to
17 read:

18 "33-27-102. Purpose. The purpose of 15-30-107,
19 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter is to
20 create a means by which small businesses operating in
21 Montana may establish independent liability funds to set
22 aside assets or make investments to meet any liability
23 claims that might be made against the small businesses by
24 third parties."

25 **Section 34.** Section 33-27-103, MCA, is amended to

1 read:

2 "33-27-103. Definitions. As used in 15-30-107,
3 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter, the
4 following definitions apply:

5 (1) "Fiscal year" means the 12-month period used by a
6 particular small business in preparing and filing its
7 Montana individual income tax, corporate license tax, or
8 corporate income tax return.

9 (2) "Independent liability fund" means a collection of
10 money, assets, and investments that has been set aside by a
11 small business to meet the needs of any liability claims,
12 except workers' compensation claims, brought against it by
13 third parties.

14 (3) "Liability claim" means any legal or extralegal
15 action by a third party asserting a right to compensation
16 for a wrong done to it by a small business with an
17 independent liability fund.

18 (4) "Small business" means any commercial or nonprofit
19 enterprise qualified to do business in the state and
20 qualified as a small business under the criteria established
21 by the federal small business administration on April 20,
22 1987.

23 (5) "Third party" means a person other than an
24 employee or the management of a small business or of a
25 subsidiary or closely related enterprise of a small

1 business."

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) "Protective services" means services to children
9 and adults to be provided by the department of family
10 services as permitted by Titles 41 and 53.

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

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

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

22 (6) "Ward Indian" is hereby defined as an Indian who
23 is living on an Indian reservation set aside for tribal use
24 or is a member of a tribe or nation accorded certain rights
25 and privileges by treaty or by federal statutes. If and when

1 the federal Social Security Act is amended to define a "ward
2 Indian", such definition shall supersede the foregoing
3 definition."

4 **Section 36.** Section 67-11-303, MCA, is amended to
5 read:

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

12 (a) an airport or air navigation facility or
13 facilities;

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

16 (c) grants or contributions from the federal
17 government; or

18 (d) other sources.

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

1 in that year as estimated in the resolution authorizing the
 2 issuance of the bonds. The authority shall take all action
 3 necessary and possible to impose, maintain, and collect
 4 rates, charges, rentals, and taxes, if any are pledged,
 5 sufficient to make the revenues from the pledged source in
 6 ~~such~~ the year at least equal to the amount of ~~such~~ principal
 7 and interest due in that year.

8 (3) The bonds may be sold at public or private sale
 9 and may bear interest as provided in 17-5-102. Except as
 10 otherwise provided ~~herein~~ in this section, any bonds issued
 11 pursuant to this chapter by an authority may be payable as
 12 to principal and interest solely from revenues of the
 13 authority and shall state on their face the applicable
 14 limitations or restrictions regarding the source from which
 15 ~~such~~ principal and interest are payable.

16 (4) Bonds issued by an authority or municipality
 17 pursuant to the provisions of this chapter are declared to
 18 be issued for an essential public and governmental purpose
 19 by a political subdivision ~~within---the---meaning---of~~
 20 ~~15-38-111(2)(a).~~

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

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

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

1 authority issuing bonds pursuant to this chapter, the
 2 municipalities may apportion the obligation to levy taxes
 3 for the payment of, or in anticipation of, a deficiency in
 4 the revenues appropriated for such the bonds in such a
 5 manner as the municipalities may determine. The resolution
 6 shall state the principal amount and purpose of the bonds
 7 and the substance of the covenant respecting deficiencies.
 8 ~~No-such A resolution becomes~~ does not become effective until
 9 the question of its approval has been submitted to the
 10 qualified electors of the municipality at a special election
 11 called for that purpose by the governing body of the
 12 municipality and a majority of the electors voting on the
 13 question have voted in favor thereof. The notice and conduct
 14 of the election is governed, to the extent applicable, as
 15 provided for municipal general obligation bonds in Title 7,
 16 chapter 7, part 42, for an election called by cities and
 17 towns, and as provided for county general obligation bonds
 18 in Title 7, chapter 7, part 22, for an election called by
 19 counties. If a majority of the electors voting thereon vote
 20 against approval of the resolution, the municipality has no
 21 authority to make the covenant or to levy a tax for the
 22 payment of deficiencies pursuant to this section, but ~~such~~
 23 the municipality or authority may nevertheless issue bonds
 24 under this chapter payable solely from the sources referred
 25 to in subsection (1) above."

1 NEW SECTION. Section 37. Repealer. Sections 15-30-110
 2 through 15-30-117, 15-30-122, 15-30-123, 15-30-126,
 3 15-30-127, 15-30-134, and 15-31-552, MCA, are repealed.

4 NEW SECTION. Section 38. Extension of authority. Any
 5 existing authority to make rules on the subject of the
 6 provisions of [this act] is extended to the provisions of
 7 [this act].

8 NEW SECTION. Section 39. Codification instruction --
 9 code commissioner instruction. (1) [Sections 8 through 10]
 10 are intended to be codified as an integral part of Title 15,
 11 chapter 30, and the provisions of Title 15, chapter 30,
 12 apply to [sections 8 through 10].

13 (2) Sections 15-30-106 and 15-30-108 are intended to
 14 be renumbered within Title 15, chapter 30, if necessary to
 15 improve the organization of the chapter.

16 (3) [Sections 25 and 27] are intended to be codified
 17 as an integral part of Title 15, chapter 31, part 1, and the
 18 provisions of Title 15, chapter 31, part 1, apply to
 19 [sections 25 and 27].

20 (4) The code commissioner is instructed to make
 21 changes throughout the Montana Code Annotated to reflect the
 22 change of definition for Internal Revenue Code in section
 23 15-30-101.

24 NEW SECTION. Section 40. Severability. If a part of
 25 [this act] is invalid, all valid parts that are severable

LC 0641/01

1 from the invalid part remain in effect. If a part of [this
2 act] is invalid in one or more of its applications, the part
3 remains in effect in all valid applications that are
4 severable from the invalid applications.

5 NEW SECTION. **Section 41.** Effective date. [This act]
6 is effective on passage and approval.

7 NEW SECTION. **Section 42.** Applicability. [This act]
8 applies retroactively, within the meaning of 1-2-109, to
9 taxable years beginning after December 31, 1988.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB764, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the tax laws of the state; reducing individual income tax rates and the corporation license tax rate; providing for an alternative minimum tax for corporations; repealing the corporation license tax clearance certificate fee; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Individual income tax collections are projected to be \$239,124,000 in FY90, and \$254,428,000 in FY91 (REAC).
2. Corporation license tax collections are projected to be \$49,207,000 in FY90, and \$49,503,000 in FY91 (REAC).
3. The proposed law provisions relating to the individual income tax are projected to increase individual income tax collections by \$35,486,000 in each year of the coming biennium (Department of Revenue simulation).
4. Eliminating net operating loss carry-backs and limiting carry-forwards to three years for taxable periods beginning after December 31, 1988 is estimated to increase corporation license tax revenue \$750,000 in FY90, and \$500,000 in FY91.
5. Disallowing Section 243 and 254 dividend deductions is estimated to increase corporation license tax revenue \$1,200,000 in each year of the biennium.
6. Reducing the corporation license tax rate from 6.75 percent to 6.5 percent is estimated to reduce revenue \$1,895,000 in FY90, and \$1,896,000 in FY91.
7. Implementing a corporate alternative minimum tax (AMT) is estimated to increase revenue \$1,000,000 in each year of the biennium.
8. Department of Revenue administrative expenses are anticipated to decrease \$57,326 in FY90, and \$80,682 in FY91.

Dave Lewis

DAVE LEWIS, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 3/16/89

BOB RANEY, PRIMARY SPONSOR

DATE 3/21/89

Fiscal Note for HB764, as introduced

HB 764

riscal Note Request, HB764 as introduced

Form BD-15

Page 2

FISCAL IMPACT:

	FY90			FY91		
<u>Revenue Impact:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Ind. Income Tax	\$239,124,000	\$274,610,000	\$35,486,000	\$254,428,000	\$289,914,000	\$35,486,000
Corp. Lic. Tax	49,207,000	50,262,000	1,055,000	49,503,000	50,307,000	804,000
Total	\$288,331,000	\$324,872,000	\$36,541,000	\$303,931,000	\$340,221,000	\$36,290,000
<u>Fund Information:</u>						
General Fund	\$168,025,168	\$189,297,020	\$21,271,852	\$177,087,096	\$198,210,948	\$21,123,852
Foundation Program	87,312,432	98,838,980	11,526,548	92,240,104	103,708,652	11,468,548
Sinking Fund	28,871,400	32,526,000	3,654,600	30,428,800	34,058,400	3,629,600
Local Governments	4,122,000	4,210,000	88,000	4,175,000	4,243,000	68,000
Total	\$288,331,000	\$324,872,000	\$36,541,000	\$303,931,000	\$340,221,000	\$36,290,000
<u>Department of Revenue: (General Fund)</u>						
<u>Expenditure Impact: (Decrease)</u>						
Personal Services			\$ (24,336)			\$ (40,352)
Operating Expenses			(32,990)			(40,330)
Total			\$ (57,326)			\$ (80,682)

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The individual income tax rate tables proposed in this bill are assumed to be the tables that will be in effect for tax year 1989. In order for these tables to generate the additional revenue shown in this fiscal note, the definition of inflation factor in Section 5, subparagraph 5, must be changed to reflect a base year consumer price index of June, 1989 (page 7, line 8).

HB 764

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 764

INTRODUCED BY RANEY, RAPP-SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE TAX LAWS OF THE STATE; REDUCING INDIVIDUAL INCOME TAX RATES AND THE CORPORATION LICENSE TAX RATE; PROVIDING FOR AN ALTERNATIVE MINIMUM TAX FOR CORPORATIONS; REPEALING THE CORPORATION LICENSE TAX CLEARANCE CERTIFICATE FEE; AMENDING SECTIONS 7-14-1133, 7-34-2416, 13-37-218, 15-1-206, 15-30-101, 15-30-103, 15-30-105, 15-30-121, 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-141, 15-30-142, 15-30-144, 15-30-146, 15-30-156, 15-30-303, 15-30-321, 15-30-323, 15-31-114, 15-31-121, 15-31-202, 15-31-204, 15-31-553, 15-31-554, 33-27-101 THROUGH 33-27-103, 53-2-101, AND 67-11-303, MCA; REPEALING SECTIONS 15-30-110 THROUGH 15-30-117, 15-30-122, 15-30-123, 15-30-126, 15-30-127, 15-30-134, AND 15-31-552, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 7-14-1133, MCA, is amended to read:

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

revenues of the authority, including revenues derived from:

(a) any port or transportation and storage facility;

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

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

(d) other sources.

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

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenues of the authority and shall

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

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

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

19 **Section 2.** Section 7-34-2416, MCA, is amended to read:

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

25 **Section 3.** Section 13-37-218, MCA, is amended to read:

1 "13-37-218. Limitations on receipts from political
2 committees. A candidate for the state senate may receive no
3 more than \$1,000 in total combined monetary contributions
4 from all political committees contributing to his campaign,
5 and a candidate for the state house of representatives may
6 receive no more than \$600 in total combined monetary
7 contributions from all political committees contributing to
8 his campaign. The foregoing limitations shall be multiplied
9 by the inflation factor as defined in 15-30-101(8) for the
10 year in which general elections are held after 1984; the
11 resulting figure shall be rounded off to the nearest \$50
12 increment. The commissioner of political practices shall
13 publish the revised limitations as a rule. In-kind
14 contributions may not be included in computing these
15 limitation totals. The limitation provided in this section
16 does not apply to contributions made by a political party
17 eligible for a primary election under 13-10-601."

18 **Section 4.** Section 15-1-206, MCA, is amended to read:

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

made within 5 days of the date specified for payment of the tax or, if beyond the 5-day period in either case, upon a showing of reasonable cause by the taxpayer seeking waiver of the penalty.

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

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

Section 5. Section 15-30-101, MCA, is amended to read:

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

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

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

{b}--the-exemptions-contained-in-15-30-112, but unadjusted-by-subsections-{7}-and-{8}-of-15-30-112, in

effect-on-June-30-of-the-taxable-year;

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

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

{3}{2} "Department" means the department of revenue.

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

{5}{3} "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

{6}{4} "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

{7}--"Gross income"--means-the-taxpayer's-gross-income for-federal-income-tax-purposes-as-defined-in-section-61-of

~~the Internal Revenue Code of 1954 or as that section may be
labeled or amended, excluding unemployment compensation
included in federal gross income under the provisions of
section 85 of the Internal Revenue Code of 1954 as amended.~~

~~(5)~~ "Inflation factor" means a number determined
for each taxable year by dividing the consumer price index
for June of the taxable year by the consumer price index for
June, 1980.

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

~~(7)~~ "Internal Revenue Code" means the Internal Revenue
Code enacted August 16, 1954, and redesignated as the
"Internal Revenue Code of 1986" by section 2 of Public Law
99-514, as that code may be amended from time to time by the
United States congress. It is the specific intent of the

legislature that all amendments by the United States
congress must be incorporated into the context of any
section of Title 15 referring to the Internal Revenue Code.

~~(8)~~ "Knowingly" is as defined in 45-2-101.

~~(9)~~ "Nonresident" means every individual other than a
resident.

~~(10)~~ "Net income" means the adjusted gross income of a
taxpayer less the deductions allowed by this chapter.

~~(11)~~ "Paid", for the purposes of the deductions and
credits under this chapter, except the deduction for federal
tax withholding, means paid or accrued or paid or incurred,
and the terms "paid or incurred" and "paid or accrued" shall
be construed according to the method of accounting upon the
basis of which the taxable income is computed under this
chapter.

~~(12)~~ "Purposely" is as defined in 45-2-101.

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

~~(14)~~ "Resident" applies only to natural persons and
includes, for the purpose of determining liability to the
tax imposed by this chapter with reference to the income of
any taxable year, any person domiciled in the state of

Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

{16}-"Taxable--income"--means-the-adjusted-gross-income of-a-taxpayer-less-the-deductions--and--exemptions--provided for-in-this-chapter;

{17}{14} "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

{18}{15} "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Section 6. Section 15-30-103, MCA, is amended to read:

"15-30-103. Rate of tax. (1) There A tax shall be levied, collected, and paid for each taxable year commencing on-or after December 31, 1968 1988, upon the Montana taxable income of every taxpayer subject to this tax, 7-after-making allowance--for--exemptions--and--deductions--as--hereinafter provided,--a tax-on-the-following-brackets-of-taxable-income as-adjusted-under-subsection-(2)-at-the-following-rates:

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

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

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

thereof,--4%;

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

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

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

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

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

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

{j)--on--any-taxable-income-in-excess-of-\$35,000-or-any part-thereof,--11%: The tax must be determined in accordance with subsections (2) through (6).

(2) The tax for married persons filing jointly and for surviving spouses as defined in section 2(a) of the Internal Revenue Code is:

(a) 5% of the first \$4,000 of taxable income or any part thereof;

(b) 7% of the next \$8,000 of taxable income or any part thereof; and

(c) 9% of any taxable income in excess of \$12,000.

(3) The tax for married persons filing separately is:

(a) 5% of the first \$2,000 of taxable income or any part thereof;

(b) 7% of the next \$4,000 of taxable income or any part thereof; and

(c) 9% of any taxable income in excess of \$6,000.

(4) The tax for a single person is:

(a) 5% of the first \$2,400 of taxable income or any part thereof;

(b) 7% of the next \$4,800 of taxable income or any part thereof; and

(c) 9% of any taxable income in excess of \$7,200.

(5) The tax for a head of household, as that designation is used in the Internal Revenue Code, is:

(a) 5% of the first \$3,200 of taxable income or any part thereof;

(b) 7% of the next \$6,400 of taxable income or any part thereof; and

(c) 9% of any taxable income in excess of \$9,600.

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

subsection--(1) of this section subsections (2) through (5).

(7) Except as provided in subsection (8), the taxpayer's filing status as reported on his federal return must be used for purposes of determining the Montana tax rate in subsections (2) through (5).

(8) Montana taxpayers who are both residents and nonresidents and who file jointly for federal purposes shall file separately."

Section 7. Section 15-30-105, MCA, is amended to read:

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

(2) Pursuant to the provisions of Article III, section 2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose only activity in Montana 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~~ The tax
 6 ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The
 7 gross volume of sales made in Montana during the taxable
 8 year shall be determined according to the provisions of
 9 Article IV, sections 16 and 17, of the Multistate Tax
 10 Compact."

11 NEW SECTION. Section 8. Montana gross income. Montana
 12 gross income must be determined as provided in section 61 of
 13 the Internal Revenue Code.

14 NEW SECTION. Section 9. Montana adjusted gross
 15 income. In the case of resident taxpayers, Montana adjusted
 16 gross income must be determined as provided in section 62 of
 17 the Internal Revenue Code. In the case of nonresidents and
 18 part-year residents, Montana adjusted gross income must be
 19 determined as set forth in section 15-30-131.

20 NEW SECTION. Section 10. Montana taxable income. (1)
 21 In the case of a full-year resident, Montana taxable income
 22 must be determined as provided in section 63 of the Internal
 23 Revenue Code, plus the additions to income in subsection (2)
 24 and less the deductions from income in subsection (3). It is
 25 the intent of the legislature that federal taxable income as

1 reported on a taxpayer's federal return for the taxable year
 2 is the starting point for calculating the taxpayer's Montana
 3 taxable income. A taxpayer who uses the federal standard
 4 deduction to calculate federal taxable income shall also use
 5 the federal standard deduction, subject to the applicable
 6 adjustments in subsections (2) and (3), to calculate Montana
 7 taxable income. A taxpayer who uses the federal itemized
 8 deductions to calculate federal taxable income shall also
 9 use the federal itemized deduction, subject to the
 10 applicable adjustments in subsections (2) and (3), to
 11 calculate Montana taxable income.

12 (2) The following additions to federal taxable income
 13 are required:

14 (a) gross interest and dividends derived from
 15 obligations or securities of states other than Montana in
 16 the same amount that has been excluded from adjusted gross
 17 income, less related expenses not deducted because of
 18 section 265(a)(1) of the Internal Revenue Code;

19 (b) state taxes on or measured by income to the extent
 20 the taxes have been deducted to compute federal taxable
 21 income;

22 (c) losses on the sale of United States obligations
 23 that the state is prohibited from taxing to the extent the
 24 losses have been deducted to compute federal adjusted gross
 25 income.

1 (3) The following deductions from federal taxable
2 income are allowed:

3 (a) gross interest income and dividends from
4 obligations or securities issued by Montana or any political
5 subdivision of Montana that are included in federal adjusted
6 gross income;

7 (b) to the extent included in adjusted gross income,
8 income from obligations of the United States government that
9 the state is prohibited by law from subjecting to a net
10 income tax. This deduction must be reduced by any interest
11 or indebtedness incurred to carry the obligations and, to
12 the extent deducted to arrive at adjusted gross income, any
13 expenses incurred to produce the interest income.

14 (c) actual tax liability for the taxable year as
15 reported on the federal tax return in the amount of:

16 (i) \$7,000 for married taxpayers filing jointly or for
17 a taxpayer filing as a surviving spouse;

18 (ii) \$3,500 for all other taxpayers;

19 (iii) the federal tax liability as later amended,
20 including recalculation, for Montana tax purposes, to
21 reflect the actual tax liability in subsections (3)(c)(i)
22 and (3)(c)(ii);

23 (d) an amount equal to the federal tax credit allowed
24 under sections 21 and 22 of the Internal Revenue Code for
25 household and dependent care services necessary for gainful

1 employment;

2 (e) up to \$800 interest income earned by each taxpayer
3 age 65 or older. Taxpayers filing as married filing jointly
4 or surviving spouse may deduct up to \$1,600 total per
5 return.

6 (f) benefits not in excess of \$3,600 received under:

7 (i) the Federal Employees' Retirement Act;

8 (ii) the public employee retirement laws of a state
9 other than Montana; or

10 (iii) a private or corporate retirement plan or system;

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

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

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

19 (j) all benefits paid under 19-11-602, 19-11-604, and
20 19-11-605 to retired and disabled firefighters, their
21 surviving spouses and orphans or specified as exempt from
22 taxation by 19-13-1003;

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

1 (l) all benefits paid under an optional retirement
2 program that are specified as exempt from taxation by
3 19-21-212;

4 (m) all Montana income tax refunds or credits;

5 (n) gain required to be recognized by a liquidating
6 corporation pursuant to 15-31-113(1)(a)(ii);

7 (o) net railroad benefits to the extent federal law
8 preempts this income from state taxation;

9 (p) salary received from the armed forces by residents
10 and nonresidents who are on active duty;

11 (q) income of an enrolled tribal member while living
12 and working on a federally established Indian reservation to
13 the extent federal law preempts this income from state
14 taxation.

15 **Section 11.** Section 15-30-121, MCA, is amended to
16 read:

17 "15-30-121. Deductions allowed in computing net
18 income. In computing net income, there are allowed as
19 deductions:

20 (1) the items referred to in sections 161 and 211 of
21 the Internal Revenue Code of 1954, or as sections 161 and
22 211 shall be labeled or amended, subject to the following
23 exceptions which are not deductible;

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

25 (b) state income tax paid;

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

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

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

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

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

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

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

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

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

23 (c) expenses incurred in maintaining a household if
24 over half of the cost of maintaining the household is
25 furnished by an individual or, if the individual is married

1 during the applicable period, is furnished by the individual
 2 and his spouse;
 3 (d) the amounts deductible in subsection (3)(a)
 4 through (3)(c) are subject to the following limitations:
 5 (i) a deduction is allowed under subsection (3)(a) for
 6 employment-related expenses incurred during the year only to
 7 the extent such expenses do not exceed \$4,000;
 8 (ii) expenses for services in the household are
 9 deductible under subsection (3)(a) for employment-related
 10 expenses only if they are incurred for services in the
 11 taxpayer's household, except that employment-related
 12 expenses incurred for services outside the taxpayer's
 13 household are deductible, but only if incurred for the care
 14 of a qualifying individual described in subsection (3)(a)(i)
 15 and only to the extent such expenses incurred during the
 16 year do not exceed:
 17 (A) \$2,400 in the case of one qualifying individual;
 18 (B) \$3,600 in the case of two qualifying individuals;
 19 and
 20 (C) \$4,800 in the case of three or more qualifying
 21 individuals;
 22 (e) if the combined adjusted gross income of the
 23 taxpayers exceeds \$18,000 for the taxable year during which
 24 the expenses are incurred, the amount of the
 25 employment-related expenses incurred must be reduced by

1 one-half of the excess of the combined adjusted gross income
 2 over \$18,000;
 3 (f) for purposes of this subsection (3):
 4 (i) married couples shall file a joint return or file
 5 separately on the same form;
 6 (ii) if the taxpayer is married during any period of
 7 the taxable year, employment-related expenses incurred are
 8 deductible only if:
 9 (A) both spouses are gainfully employed, in which case
 10 the expenses are deductible only to the extent that they are
 11 a direct result of the employment; or
 12 (B) the spouse is a qualifying individual described in
 13 subsection (3)(a)(iii);
 14 (iii) an individual legally separated from his spouse
 15 under a decree of divorce or of separate maintenance may not
 16 be considered as married;
 17 (iv) the deduction for employment-related expenses must
 18 be divided equally between the spouses when filing
 19 separately on the same form;
 20 (v) payment made to a child of the taxpayer who is
 21 under 19 years of age at the close of the taxable year and
 22 payments made to an individual with respect to whom a
 23 deduction is allowable under 15-30-112(5) are not deductible
 24 as employment-related expenses;
 25 (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)(1)~~ 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)(2)~~ 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."

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

"15-30-131. Nonresident Nonresident's and temporary
resident-taxpayers---adjusted--gross part-year resident's
taxable income ---deductions. (1) In the case of a taxpayer
other than a resident of this state, adjusted gross income
includes the entire amount of adjusted gross income from
sources within this state but ~~shall~~ does not include income
from annuities, interest on bank deposits, interest on
bonds, notes, or other interest-bearing obligations, or
dividends on stock of corporations except to the extent to
which ~~the same shall be~~ they are a part of income from any
business, trade, profession, or occupation carried on in
this state. Interest income from installment sales of real
or tangible commercial or business property located in
Montana must be included in adjusted gross income. Adjusted

gross income from sources within and without outside this
state shall be allocated and apportioned under rules
prescribed by the department.

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

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

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

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

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

12 (2) (a) To calculate Montana taxable income, a
 13 nonresident taxpayer may deduct the following:

14 (i) that portion of the federal deduction for personal
 15 exemptions that Montana adjusted gross income bears to
 16 federal adjusted gross income; and

17 (ii) that portion of the federal standard deduction
 18 that Montana adjusted gross income bears to federal adjusted
 19 gross income or, in the alternative, the federal itemized
 20 deductions, subject to the limitations in [section
 21 10(3)(c)], that are directly attributable to Montana
 22 adjusted gross income.

23 (b) A nonresident taxpayer who uses the federal
 24 standard deduction to calculate federal taxable income shall
 25 also use the federal standard deduction to calculate Montana

1 taxable income. A nonresident taxpayer who uses the federal
 2 itemized deductions to calculate federal taxable income
 3 shall also use the federal itemized deductions as a basis
 4 for calculating Montana taxable income.

5 (3) (a) In the case of a part-year resident, Montana
 6 taxable income is as determined in subsection (1) plus:

7 (i) the additions to income in [section 10(2)(b) and
 8 (2)(c)]; and

9 (ii) that portion of the income described in [section
 10 10(2)(a)] that was earned while the taxpayer was a resident
 11 of Montana.

12 (b) To calculate Montana taxable income, a part-year
 13 resident taxpayer may deduct the following:

14 (i) that portion of the federal deduction for personal
 15 exemptions that Montana adjusted gross income bears to
 16 federal adjusted gross income; and

17 (ii) that portion of the federal standard deduction
 18 that Montana adjusted gross income bears to federal adjusted
 19 gross income or, in the alternative, the federal itemized
 20 deductions, subject to the limitations in [section
 21 10(3)(c)], that are directly attributable to Montana
 22 adjusted gross income.

23 (c) A part-year resident taxpayer who uses the federal
 24 standard deduction to calculate federal taxable income shall
 25 also use the federal standard deduction to calculate Montana

taxable income. A part-year resident taxpayer who uses the federal itemized deductions to calculate federal taxable income shall also use the federal itemized deductions as a basis for calculating Montana taxable income.

(4) A part-year resident is allowed the credit under 15-32-109 allowed a full-year resident for energy-conserving expenditures incurred in Montana during the taxable year.

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

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

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

in Montana."

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

"15-30-135. Tax on beneficiaries or fiduciaries of estates or trusts. (1) A tax shall be imposed, at the rate imposed on a single person, upon either the fiduciaries or the beneficiaries of estates and trusts as hereinafter provided in this section, except to the extent such the estates and trusts shall be held for educational, charitable, or religious purposes, which The tax shall must be levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust, including:

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

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

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

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

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

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

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

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

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

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

1 chapter, the "gross income" of Montana taxable estates or
 2 trusts means includes all federal taxable income from
 3 whatever source derived in the taxable year, including but
 4 not limited to the following items:

- 5 (a) dividends;
- 6 (b) interest received or accrued, including interest
 7 received on obligations of another state or territory or a
 8 county, municipality, district, or other political
 9 subdivision thereof, but excluding interest income from
 10 obligations of:
- 11 (i) the United States government or the state of
 12 Montana; and
- 13 (ii) a school district; or
- 14 (iii) a county, municipality, district, or other
 15 political subdivision of the state;
- 16 (c) income from partnerships and other fiduciaries;
- 17 (d) gross rents and royalties;
- 18 (e) gain from sale or exchange of property, including
 19 those gains that are excluded from gross income for federal
 20 fiduciary income tax purposes by section 641(c) of the
 21 Internal Revenue Code of 1954, as amended;
- 22 (f) gross profit from trade or business; and
- 23 (g) (b) refunds recovered on federal income tax, to the
 24 extent the deduction of such federal income tax resulted in
 25 a reduction of Montana income tax liability for the taxable

1 year 1987.

2 (2) In computing net income, there are allowed as
 3 deductions:

- 4 (a) interest expenses deductible for federal tax
 5 purposes according to section 163 of the Internal Revenue
 6 Code of 1954, as amended;
- 7 (b) taxes paid or accrued within the taxable year,
 8 including but not limited to federal income tax, but
 9 excluding Montana income tax;
- 10 (c) that fiduciary's portion of depreciation or
 11 depletion which is deductible for federal tax purposes
 12 according to sections 167, 611, and 642 of the Internal
 13 Revenue Code of 1954, as amended;
- 14 (d) charitable contributions that are deductible for
 15 federal tax purposes according to section 642(c) of the
 16 Internal Revenue Code of 1954, as amended;
- 17 (e) administrative expenses claimed for federal income
 18 tax purposes, according to sections 212 and 642(g) of the
 19 Internal Revenue Code of 1954, as amended, if such expenses
 20 were not claimed as a deduction in the determination of
 21 Montana inheritance tax;
- 22 (f) losses from fire, storm, shipwreck, or other
 23 casualty or from theft, to the extent not compensated for by
 24 insurance or otherwise, that are deductible for federal tax
 25 purposes according to section 165 of the Internal Revenue

1 Code-of-1954-as-amended;

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

6 {h}{a} all benefits, not in excess of \$3,600,
7 received:

8 (i) as federal employees' retirement;

9 (ii) as retirement from public employment in a state
10 other than Montana; or

11 (iii) as an annuity, pension, or endowment under
12 private or corporate retirement plans or systems;

13 {i}{b} all benefits paid under the Montana teachers'
14 retirement system that are specified as exempt from taxation
15 by 19-4-706;

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

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

22 {l}{e} Montana income tax refunds or credits thereof;

23 {m}{f} all benefits paid under 19-11-602, 19-11-604,
24 and 19-11-605 to retired and disabled firemen or their
25 surviving spouses or children;

1 {n}{g} all benefits paid under the municipal police
2 officers' retirement system that are specified as exempt
3 from taxation by 19-9-1005.

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

17 {4}--The--following--additional--deductions--shall--be
18 allowed-in-deriving-taxable-income-of-estates-and-trusts:

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

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

24 {c}--the--amount--of--60%--of--the--excess--of--the-net
25 long-term-capital-gain-over-the-net-short-term-capital--loss

for the taxable year.

(5) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8). (6) A trust or estate excluding benefits under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) may not exclude benefits described in subsection (2)(h) from net income unless the benefits received under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) are less than \$3,600 in which case the trust or estate may combine benefits to exclude up to a total of \$3,600 from net income.

(3) A trust or estate that elects to itemize its deductions from adjusted gross income on its federal return for taxable year 1989 and that is required to pay additional federal tax due in 1989 for the taxable year 1988 may deduct the federal tax paid in 1989 from its Montana taxable income."

Section 16. Section 15-30-141, MCA, is amended to read:

"15-30-141. Tax as personal debt. Every tax imposed by this chapter and all increases, interest, and penalties thereon shall be, from the time they are due and payable, a personal debt from the person or fiduciary liable to pay the same to the state. Taxpayers filing a joint return are jointly and severally liable for the tax and any interest and penalty unless the department determines, based on the

criteria in section 6013(e) of the Internal Revenue Code, that a spouse is relieved of liability."

Section 17. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax --- penalty and interest --- refunds --- credits Filing of returns. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than \$1,000, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$2,000, as adjusted under the provisions of subsection (7), shall be liable for a return to be filed resident, part-year resident, or nonresident deriving any income from Montana shall file a tax return, on such forms and according to such rules as the department may prescribe, if that person:

(a) is subject to the requirement of filing a federal return pursuant to section 6012 of the Internal Revenue Code; or

(b) has sufficient adjustments to federal taxable income to require the payment of tax to Montana. The gross income amounts referred to in the preceding sentence shall be increased by \$800, as adjusted under the provisions of 15-30-112(7) and (8), for each additional personal exemption

~~allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).~~

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

(2) Every resident, part-year resident, or nonresident required to file a return under subsection (1) is required to file the state return using the same filing status as was used to file the return required by section 6012 of the Internal Revenue Code.

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

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

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

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added at the rate of 9% 3/4 of 1% per annum month or fraction thereof

1 on the additional tax. ~~In such case there shall be~~ There is
 2 no penalty because of ~~such~~ the understatement, provided the
 3 deficiency is paid within 60 days after the first notice of
 4 the amount is mailed to the taxpayer.

5 ~~{7}--By--November--1--of--each--year--the--department--shall~~
 6 ~~multiply--the--minimum--amount--of--gross--income--necessitating~~
 7 ~~the--filing--of--a--return--by--the--inflation--factor--for--the~~
 8 ~~taxable--year--These--adjusted--amounts--are--effective--for--that~~
 9 ~~taxable--year--and--persons--having--gross--incomes--less--than~~
 10 ~~these--adjusted--amounts--are--not--required--to--file--a--return--~~

11 ~~{8}--Individual--income--tax--forms--distributed--by--the~~
 12 ~~department--for--each--taxable--year--must--contain--instructions~~
 13 ~~and--tables--based--on--the--adjusted--base--year--structure--for~~
 14 ~~that--taxable--year--"~~

15 **Section 18.** Section 15-30-144, MCA, is amended to
 16 read:

17 "15-30-144. Time for filing -- extensions of time. ~~{1}~~
 18 Returns ~~shall~~ must be made to the department on or before
 19 the ~~15th--day--of--the--4th--month--following--the--close--of--the~~
 20 ~~taxpayer's--fiscal--year--or--if--the--return--is--made--on--the~~
 21 ~~basis--of--the--calendar--year--then--the--return--shall--be--made--on~~
 22 ~~or--before--the--15th--day--of--April--following--the--close--of--the~~
 23 ~~calendar--year~~ day when the federal return is due. Taxpayers
 24 shall submit to the department copies of any federal
 25 extension of time for filing. Each return shall must set

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

11 ~~{2}--An--automatic--6--month--extension--of--time--for--filing~~
 12 ~~a--return--is--allowed--provided--that--on--or--before--the--due--date~~
 13 ~~of--the--return--an--application--is--made--on--forms--available~~
 14 ~~from--the--department--or--in--writing--to--the--department--"~~

15 **Section 19.** Section 15-30-146, MCA, is amended to
 16 read:

17 "15-30-146. Tolling of statute of limitations. The
 18 running of the statute of limitations provided for under
 19 15-30-145 shall be suspended during any period that the
 20 federal statute of limitations for collection of federal
 21 income tax has been suspended by written agreement signed by
 22 the taxpayer or when the taxpayer has instituted an action
 23 which has the effect of suspending the running of the
 24 federal statute of limitations and for 1 additional year.
 25 If the taxpayer fails to file a record of changes in federal

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

Section 20. Section 15-30-156, MCA, is amended to read:

"15-30-156. Deduction for contributions to child abuse and neglect prevention 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 child abuse and neglect prevention program as follows:

(1) If the taxpayer paid a contribution in the taxable year for which the return is filed, he may deduct the amount of the contribution paid during that year, unless the amount was deducted as provided in subsection (2).

(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."

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

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

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

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

(3) Nothing herein shall be construed to prohibit:

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

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

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

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

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

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

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

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

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

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

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

Section 22. Section 15-30-321, MCA, is amended to read:

"15-30-321. Penalties for violation of chapter. (1) If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to file a return of income on or before its due date (determined with regard to an extension of time granted for filing the return), there shall be imposed a penalty of 5% of any balance of tax unpaid with respect to such the return as of its due date, ~~but--in--no--event--shall--the--penalty--for--failure--to--file--a--return--by--its--due--date--be--less--than--\$5-- or \$10, whichever is~~ greater. In addition, a penalty of 5% of any balance of tax unpaid with respect to the return must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum 30% penalty. The department may abate the penalty if the taxpayer establishes that the failure to file on time was due to reasonable cause and was not due to neglect on his part. If any person,

without purposely or knowingly violating any requirement imposed by this chapter, fails to pay any tax on or before its due date ~~(determined-with-regard-to-an-extension-of-time granted-for-filing-the-return),~~ there shall be added to the tax a penalty of ~~10% 5% of said the tax; but not less than \$5; and interest.~~ 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% penalty. Interest shall accrue on the tax at the rate of 9% per annum 3/4 of 1% per month for the entire period it remains unpaid. The department may abate the penalty if the taxpayer establishes that the failure to pay on time was due to reasonable cause and was not due to neglect on his part.

(2) If any person fails, purposely or knowingly violating any requirement imposed by this chapter, to make a return of income or to pay a tax if one is due at the time required by or under the provisions of this chapter, there shall be added to the tax an additional amount equal to 25% ~~thereof of the tax, but such the~~ additional amount shall in no case be less than \$25, and interest at 1% for each month or fraction of a month during which the tax remains unpaid.

(3) Any individual, corporation, or partnership or any officer or employee of any corporation or member or employee of any partnership who, with intent to evade any tax or any

1 requirement of this chapter or any lawful requirement of the
 2 department ~~thereunder~~ under this chapter, purposely or
 3 knowingly, fails to pay the tax or to make, render, or sign
 4 any return or to supply any information within the time
 5 required by or under the provisions of this chapter or who,
 6 with like intent, purposely or knowingly makes, renders, or
 7 signs any false or fraudulent return or statement or
 8 supplies any false or fraudulent information shall be liable
 9 to a penalty of not more than \$1,000, to be recovered by the
 10 attorney general in the name of the state by action in any
 11 court of competent jurisdiction. ~~7-and~~ The person shall also
 12 be guilty of a misdemeanor and shall upon conviction be
 13 fined not to exceed \$1,000 or be imprisoned not to exceed 1
 14 year, or both, at the discretion of the court.

15 (4) With respect to the imposition of a civil penalty,
 16 evidence produced by the department to the effect that a tax
 17 has not been paid, that a return has not been filed, or that
 18 information has not been supplied as required under the
 19 provisions of this chapter is prima facie evidence that the
 20 tax has not been paid, the return has not been filed, or the
 21 information has not been supplied.

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

25 **Section 23.** Section 15-30-323, MCA, is amended to

1 read:

2 "15-30-323. Penalty for deficiency. (1) If the payment
 3 required by 15-30-142(6) is not made within 60 days or if
 4 the understatement is due to negligence on the part of the
 5 taxpayer but without fraud, there shall be added to the
 6 amount of the deficiency 5% ~~thereof, provided, however, that~~
 7 ~~no deficiency penalty shall be less than \$2 of the tax.~~ In
 8 addition, a penalty of 5% of the delinquent tax must be
 9 assessed for each 30-day period during which the tax remains
 10 unpaid following notification of delinquency, with a maximum
 11 30% penalty. Interest will be computed at the rate of 9% 3/4
 12 of 1% per annum month or fraction thereof on the additional
 13 assessment. Except as otherwise expressly provided in this
 14 subsection, the interest shall in all cases be computed from
 15 the date the return and tax were originally due as
 16 distinguished from the due date as it may have been extended
 17 to the date of payment.

18 (2) If the time for filing a return is extended, the
 19 taxpayer shall pay in addition interest thereon on the
 20 amount due at the rate of 9% 3/4 of 1% per annum month from
 21 the time when the return was originally required to be filed
 22 to the time of payment.

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

1 **Section 24.** Section 15-31-114, MCA, is amended to
2 read:

3 **"15-31-114. Deductions allowed in computing income.** In
4 computing the net income, the following deductions shall be
5 allowed from the gross income received by such corporation
6 within the year from all sources:

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

23 (2) (a) All losses actually sustained and charged off
24 within the year and not compensated by insurance or
25 otherwise, including a reasonable allowance for the wear and

1 tear and obsolescence of property used in the trade or
2 business, such allowance to be determined according to the
3 provisions of section 167 of the Internal Revenue Code in
4 effect with respect to the taxable year. All elections for
5 depreciation shall be the same as the elections made for
6 federal income tax purposes. No deduction shall be allowed
7 for any amount paid out for any buildings, permanent
8 improvements, or betterments made to increase the value of
9 any property or estate, and no deduction shall be made for
10 any amount of expense of restoring property or making good
11 the exhaustion thereof for which an allowance is or has been
12 made.

13 (b) (i) There shall be allowed as a deduction for the
14 taxable period a net operating loss deduction determined
15 according to the provisions of this subsection. The net
16 operating loss deduction is the aggregate of net operating
17 loss carryovers to ~~such the~~ taxable period ~~plus--the--net~~
18 ~~operating--loss--carrybacks-to-such-taxable-period.~~ The term
19 "net operating loss" means the excess of the deductions
20 allowed by this section, 15-31-114, over the gross income,
21 with the modifications specified in subsection (2)(b)(ii) of
22 ~~this-subsection.~~ If for any taxable period ~~beginning--after~~
23 ~~December--31--1970,~~ a net operating loss is sustained, ~~such~~
24 ~~the loss shall be a net operating loss carryback to each of~~
25 ~~the--three--taxable--periods--preceding--the--taxable--period--of~~

1 ~~such-loss-and~~ shall be a net operating loss ~~carryover~~
 2 ~~carryforward~~ to each of the ~~five~~ three taxable periods
 3 following the taxable period of ~~such~~ the loss. A net
 4 operating loss sustained for any taxable period ending after
 5 December 31, 1975, ~~in-addition-to-being and beginning before~~
 6 January 1, 1989, shall be a net operating loss carryback to
 7 each of the three preceding taxable periods, ~~shall-be and~~ a
 8 net operating loss ~~carryover~~ carryforward to each of the
 9 seven taxable periods following the taxable period of such
 10 loss. The portion of such loss which shall be carried to
 11 each of the other taxable years shall be the excess, if any,
 12 of the amount of such loss over the sum of the net income
 13 for each of the prior taxable periods to which such loss was
 14 carried. For purposes of the preceding sentence, the net
 15 income for such prior taxable period shall be computed with
 16 the modifications specified in subsection (2)(b)(ii)(B) of
 17 ~~this-subsection~~ and by determining the amount of the net
 18 operating loss deduction without regard to the net operating
 19 loss for the loss period or any taxable period thereafter,
 20 and the net income so computed shall not be considered to be
 21 less than zero.

22 (ii) The modifications referred to in subsection
 23 (2)(b)(i) of-this-subsection shall be as follows:

- 24 (A) No net operating loss deduction shall be allowed.
 25 (B) The deduction for depletion shall not exceed the

1 amount which would be allowable if computed under the cost
 2 method.

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

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

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

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

23 ~~{vi}-The-net-operating-loss-deduction-shall-not-be~~
 24 ~~allowed-with-respect-to-taxable-periods-which-ended-on-or~~
 25 ~~before-December-31-1970-but-shall-be-allowed-only-with~~

1 ~~respect-to-taxable-periods-beginning-on-or-after-January--1,~~
2 ~~1971-~~

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

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

20 (5) (a) Taxes paid within the year, except the
21 following:

- 22 (i) Taxes imposed by this part.
- 23 (ii) Taxes assessed against local benefits of a kind
- 24 tending to increase the value of the property assessed.
- 25 (iii) Taxes on or according to or measured by net

1 income or profits imposed by authority of the government of
2 the United States.

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

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

8 (6) That portion of an energy-related investment
9 allowed as a deduction under 15-32-103.

10 (7) (a) Except as provided in subsection (7)(b),
11 charitable contributions and gifts that qualify for
12 deduction under section 170 of the Internal Revenue Code, as
13 amended.

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

17 (8) In lieu of the deduction allowed under subsection
18 (7), the taxpayer may deduct the fair market value, not to
19 exceed 30% of the taxpayer's net income, of a computer or
20 other sophisticated technological equipment or apparatus
21 intended for use with the computer donated to an elementary,
22 secondary, or accredited postsecondary school located in
23 Montana if:

24 (a) the contribution is made no later than 5 years
25 after the manufacture of the donated property is

substantially completed;

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

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

NEW SECTION. Section 25. Deductions not allowed. In computing net income, the deductions allowed for dividends under sections 243 through 245 of the Internal Revenue Code are not deductible from gross income under this chapter unless otherwise provided in this title.

Section 26. Section 15-31-121, MCA, is amended to read:

"15-31-121. Rate of tax -- alternative minimum tax -- surtax. (1) Except as provided in subsection subsections (2) and (3), the percentage of net income to be paid under 15-31-101 shall be ~~6-3/4%~~ 6 1/2% of all net income for the taxable period. ~~The--rate-set-forth-in-this-subsection-(1)~~ shall-be-effective-for-all-taxable-years-ending-on-or-after February-28,-1971.-This-rate-is-retroactive-to-and-effective for--all-taxable-years-ending-on-or-after-February-28,-1971.

(2) For a taxpayer making a water's-edge election, the percentage of net income to be paid under 15-31-101 shall be

7% of all taxable net income for the taxable period.

~~(3)--Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$507~~

~~(4)--After--the--amount--of--tax--liability--has--been computed under subsections (1) through (3), each corporation subject to taxation under this part shall add, as--a--surtax for--tax--year-1988,-4% of the tax liability, and the amount so derived is the amount due the state.~~

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

(b) If the corporation is required to apportion its income pursuant to 15-31-305 or elects to apportion its income pursuant to 15-31-323, the federal alternative minimum taxable income shall be multiplied by the apportionment factor for the corporation. If the corporation allocates its income pursuant to 15-31-301(3), the adjustments, preferences, and losses used to compute the federal alternative minimum taxable income shall be allocated on the same basis as its income and expenses.

(c) The alternative minimum tax shall be:

(i) ~~6%~~ 4% of the federal alternative minimum taxable income in the case of a corporation that does not apportion its income pursuant to 15-31-305 or 15-31-323 or allocate its income pursuant to 15-31-301; or

(ii) ~~6%~~ 4% of the amount computed under subsection (2)(b) in the case of a corporation that is subject to 15-31-301 or 15-31-305 or that elects to apportion its income under 15-31-323.

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

NEW SECTION. Section 27. Dividend credit. (1) A corporation subject to tax as provided in this chapter that receives a cash dividend from a member of the same affiliated group that is also subject to tax as provided in this chapter is entitled to a tax credit. The credit is equal to the tax rate provided in 15-31-121(1) multiplied by the amount of the dividend and, in the case of a multistate corporation, also multiplied by the Montana apportionment ratio of the payee corporation.

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

(3) The term "affiliated group" as used in this section has the same meaning as used in section 1504(a)(1) of the Internal Revenue Code.

Section 28. Section 15-31-202, MCA, is amended to read:

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

(1) A small business corporation ~~may elect that has made a valid election under subchapter S. of Chapter 1 of the Internal Revenue Code~~ is not to be subject to the taxes imposed by this chapter.

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

~~{a}--with--respect--to--the--taxable--years--of--the corporation--for--which--such--election--is--in--effect,--such corporation--is--not--subject--to--the--taxes--imposed--by--this chapter--and,--with--respect--to--such--taxable--years--and--all succeeding--taxable--years,--the--provisions--of--this--part--apply to--such--corporation;--and~~

~~{b}--with--respect--to--the--taxable--years--of--a--shareholder of--such--corporation--in--which--or--with--which--the--taxable--years of--the--corporation--for--which--such--election--is--in--effect--end, the--provisions--of--this--part--apply--to--such--shareholder;--and with--respect--to--such--taxable--years--and--all--succeeding taxable--years,--the--provisions--of--this--part--apply--to--such shareholder;~~

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

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

(3) A small business corporation that has made a valid election under subchapter S. of Chapter 1 of the Internal Revenue Code may elect to be subject to the taxes imposed by this chapter by filing an election on a form provided by the department. The form must have printed on it a notification that making the election subjects income to tax under both Title 15, chapter 30, and this chapter. For tax years beginning on or after January 1, 1987, but before March 1, 1988, the election must be filed by May 15, 1988. Thereafter

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

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

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

Section 29. Section 15-31-204, MCA, is amended to read:

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

Section 30. Section 15-31-553, MCA, is amended to read:

"15-31-553. Fees to reimburse department for costs -- deposit in general fund. All moneys money collected under 15-31-551 and--15-31-552--shall-be is required to reimburse

1 the department of revenue for costs involved in the
2 preparation of the copies and certificates. All ~~such-moneys~~
3 ~~money~~ collected ~~shall go into~~ must be deposited in the
4 general fund."

5 **Section 31.** Section 15-31-554, MCA, is amended to
6 read:

7 "15-31-554. Returns to which sections apply. The
8 provisions of 15-31-551 through and 15-31-553 ~~shall~~ apply to
9 all returns on file and all returns ~~to be~~ filed hereafter
10 after December 31, 1988."

11 **Section 32.** Section 33-27-101, MCA, is amended to
12 read:

13 "33-27-101. Short title. Sections 15-30-107,
14 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter may be
15 cited as the "Independent Liability Fund Act".

16 **Section 33.** Section 33-27-102, MCA, is amended to
17 read:

18 "33-27-102. Purpose. The purpose of 15-30-107,
19 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter is to
20 create a means by which small businesses operating in
21 Montana may establish independent liability funds to set
22 aside assets or make investments to meet any liability
23 claims that might be made against the small businesses by
24 third parties."

25 **Section 34.** Section 33-27-103, MCA, is amended to

1 read:

2 **"33-27-103. Definitions.** As used in 15-30-107,
3 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter, the
4 following definitions apply:

5 (1) "Fiscal year" means the 12-month period used by a
6 particular small business in preparing and filing its
7 Montana individual income tax, corporate license tax, or
8 corporate income tax return.

9 (2) "Independent liability fund" means a collection of
10 money, assets, and investments that has been set aside by a
11 small business to meet the needs of any liability claims,
12 except workers' compensation claims, brought against it by
13 third parties.

14 (3) "Liability claim" means any legal or extralegal
15 action by a third party asserting a right to compensation
16 for a wrong done to it by a small business with an
17 independent liability fund.

18 (4) "Small business" means any commercial or nonprofit
19 enterprise qualified to do business in the state and
20 qualified as a small business under the criteria established
21 by the federal small business administration on April 20,
22 1987.

23 (5) "Third party" means a person other than an
24 employee or the management of a small business or of a
25 subsidiary or closely related enterprise of a small

1 business."

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) "Protective services" means services to children
9 and adults to be provided by the department of family
10 services as permitted by Titles 41 and 53.

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

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

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

22 (6) "Ward Indian" is hereby defined as an Indian who
23 is living on an Indian reservation set aside for tribal use
24 or is a member of a tribe or nation accorded certain rights
25 and privileges by treaty or by federal statutes. If and when

1 the federal Social Security Act is amended to define a "ward
2 Indian", such definition shall supersede the foregoing
3 definition."

4 **Section 36.** Section 67-11-303, MCA, is amended to
5 read:

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

12 (a) an airport or air navigation facility or
13 facilities;

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

16 (c) grants or contributions from the federal
17 government; or

18 (d) other sources.

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

1 in that year as estimated in the resolution authorizing the
 2 issuance of the bonds. The authority shall take all action
 3 necessary and possible to impose, maintain, and collect
 4 rates, charges, rentals, and taxes, if any are pledged,
 5 sufficient to make the revenues from the pledged source in
 6 such the year at least equal to the amount of such principal
 7 and interest due in that year.

8 (3) The bonds may be sold at public or private sale
 9 and may bear interest as provided in 17-5-102. Except as
 10 otherwise provided herein in this section, any bonds issued
 11 pursuant to this chapter by an authority may be payable as
 12 to principal and interest solely from revenues of the
 13 authority and shall state on their face the applicable
 14 limitations or restrictions regarding the source from which
 15 such principal and interest are payable.

16 (4) Bonds issued by an authority or municipality
 17 pursuant to the provisions of this chapter are declared to
 18 be issued for an essential public and governmental purpose
 19 by a political subdivision ~~within---the--meaning--of~~
 20 ~~15-30-111(2)(a).~~

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

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

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

1 authority issuing bonds pursuant to this chapter, the
 2 municipalities may apportion the obligation to levy taxes
 3 for the payment of, or in anticipation of, a deficiency in
 4 the revenues appropriated for such the bonds in such a
 5 manner as the municipalities may determine. The resolution
 6 shall state the principal amount and purpose of the bonds
 7 and the substance of the covenant respecting deficiencies.
 8 No-such A resolution becomes does not become effective until
 9 the question of its approval has been submitted to the
 10 qualified electors of the municipality at a special election
 11 called for that purpose by the governing body of the
 12 municipality and a majority of the electors voting on the
 13 question have voted in favor thereof. The notice and conduct
 14 of the election is governed, to the extent applicable, as
 15 provided for municipal general obligation bonds in Title 7,
 16 chapter 7, part 42, for an election called by cities and
 17 towns, and as provided for county general obligation bonds
 18 in Title 7, chapter 7, part 22, for an election called by
 19 counties. If a majority of the electors voting thereon vote
 20 against approval of the resolution, the municipality has no
 21 authority to make the covenant or to levy a tax for the
 22 payment of deficiencies pursuant to this section, but such
 23 the municipality or authority may nevertheless issue bonds
 24 under this chapter payable solely from the sources referred
 25 to in subsection (1) above."

1 NEW SECTION. Section 37. Repealer. Sections 15-30-110
 2 through 15-30-117, 15-30-122, 15-30-123, 15-30-126,
 3 15-30-127, 15-30-134, and 15-31-552, MCA, are repealed.

4 NEW SECTION. Section 38. Extension of authority. Any
 5 existing authority to make rules on the subject of the
 6 provisions of [this act] is extended to the provisions of
 7 [this act].

8 NEW SECTION. Section 39. Codification instruction --
 9 code commissioner instruction. (1) [Sections 8 through 10]
 10 are intended to be codified as an integral part of Title 15,
 11 chapter 30, and the provisions of Title 15, chapter 30,
 12 apply to [sections 8 through 10].

13 (2) Sections 15-30-106 and 15-30-108 are intended to
 14 be renumbered within Title 15, chapter 30, if necessary to
 15 improve the organization of the chapter.

16 (3) [Sections 25 and 27] are intended to be codified
 17 as an integral part of Title 15, chapter 31, part 1, and the
 18 provisions of Title 15, chapter 31, part 1, apply to
 19 [sections 25 and 27].

20 (4) The code commissioner is instructed to make
 21 changes throughout the Montana Code Annotated to reflect the
 22 change of definition for Internal Revenue Code in section
 23 15-30-101.

24 NEW SECTION. Section 40. Severability. If a part of
 25 [this act] is invalid, all valid parts that are severable

HB 0764/02

1 from the invalid part remain in effect. If a part of [this
2 act] is invalid in one or more of its applications, the part
3 remains in effect in all valid applications that are
4 severable from the invalid applications.

5 NEW SECTION. **Section 41.** Effective date. [This act]
6 is effective on passage and approval.

7 NEW SECTION. **Section 42.** Applicability. [This act]
8 applies retroactively, within the meaning of 1-2-109, to
9 taxable years beginning after December 31, 1988.

-End-

HOUSE BILL NO. 764

INTRODUCED BY RANEY, RAPP-SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE TAX LAWS OF THE STATE; REDUCING INDIVIDUAL INCOME TAX RATES AND--THE--CORPORATION--LICENSE--TAX--RATE; PROVIDING FOR AN ALTERNATIVE MINIMUM TAX FOR CORPORATIONS; REPEALING THE CORPORATION LICENSE TAX CLEARANCE CERTIFICATE FEE; AMENDING SECTIONS 7-14-1133, 7-34-2416, 13-37-218, 15-1-206, 15-30-101, 15-30-103, 15-30-105, 15-30-121, 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-141, 15-30-142, 15-30-144, 15-30-146, 15-30-156, 15-30-303, 15-30-321, 15-30-323, 15-31-114, 15-31-121, 15-31-202, 15-31-204, 15-31-553, 15-31-554, 33-27-101 THROUGH 33-27-103, 53-2-101, AND 67-11-303, MCA; REPEALING SECTIONS 15-30-110 THROUGH 15-30-117, 15-30-122, 15-30-123, 15-30-126, 15-30-127, 15-30-134, AND 15-31-552, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 7-14-1133, MCA, is amended to read:

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

revenues of the authority, including revenues derived from:

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

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

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenues of the authority and shall

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

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

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

19 **Section 2.** Section 7-34-2416, MCA, is amended to read:

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

25 **Section 3.** Section 13-37-218, MCA, is amended to read:

1 "13-37-218. Limitations on receipts from political
2 committees. A candidate for the state senate may receive no
3 more than \$1,000 in total combined monetary contributions
4 from all political committees contributing to his campaign,
5 and a candidate for the state house of representatives may
6 receive no more than \$600 in total combined monetary
7 contributions from all political committees contributing to
8 his campaign. The foregoing limitations shall be multiplied
9 by the inflation factor as defined in 15-30-101(8) for the
10 year in which general elections are held after 1984; the
11 resulting figure shall be rounded off to the nearest \$50
12 increment. The commissioner of political practices shall
13 publish the revised limitations as a rule. In-kind
14 contributions may not be included in computing these
15 limitation totals. The limitation provided in this section
16 does not apply to contributions made by a political party
17 eligible for a primary election under 13-10-601."

18 **Section 4.** Section 15-1-206, MCA, is amended to read:

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

made within 5 days of the date specified for payment of the tax or, if beyond the 5-day period in either case, upon a showing of reasonable cause by the taxpayer seeking waiver of the penalty.

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

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

Section 5. Section 15-30-101, MCA, is amended to read:

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

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

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

~~{b}~~--the-exemptions-contained-in-15-30-112, but unadjusted-by-subsections-~~{7}~~-and-~~{8}~~-of-15-30-112, in

effect-on-June-30-of-the-taxable-year;

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

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

~~{3}~~~~{2}~~ "Department" means the department of revenue.

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

~~{5}~~~~{3}~~ "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~{6}~~~~{4}~~ "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

~~{7}~~--"Gross-income"--means-the-taxpayer's-gross-income for-federal-income-tax-purposes-as-defined-in-section-61-of

1 ~~the Internal Revenue Code of 1954 or as that section may be~~
 2 ~~labeled or amended, excluding unemployment compensation~~
 3 ~~included in federal gross income under the provisions of~~
 4 ~~section 85 of the Internal Revenue Code of 1954 as amended.~~

5 {8}{5} "Inflation factor" means a number determined
 6 for each taxable year by dividing the consumer price index
 7 for June of the taxable year by the consumer price index for
 8 June, 1980.

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

21 {7} "Internal Revenue Code" means the Internal Revenue
 22 Code enacted August 16, 1954, and redesignated as the
 23 "Internal Revenue Code of 1986" by section 2 of Public Law
 24 99-514, as that code may be amended from time to time by the
 25 United States congress. It is the specific intent of the

1 legislature that all amendments by the United States
 2 congress must be incorporated into the context of any
 3 section of Title 15 referring to the Internal Revenue Code.

4 {10}{8} "Knowingly" is as defined in 45-2-101.

5 {9} "Nonresident" means every individual other than a
 6 resident.

7 {11} "Net income" means the adjusted gross income of a
 8 taxpayer less the deductions allowed by this chapter.

9 {12}{10} "Paid", for the purposes of the deductions and
 10 credits under this chapter, except the deduction for federal
 11 tax withholding, means paid or accrued or paid or incurred,
 12 and the terms "paid or incurred" and "paid or accrued" shall
 13 be construed according to the method of accounting upon the
 14 basis of which the taxable income is computed under this
 15 chapter.

16 {13}{11} "Purposely" is as defined in 45-2-101.

17 {14}{12} "Received", for the purpose of computation of
 18 taxable income under this chapter, means received or accrued
 19 and the term "received or accrued" shall be construed
 20 according to the method of accounting upon the basis of
 21 which the taxable income is computed under this chapter.

22 {15}{13} "Resident" applies only to natural persons and
 23 includes, for the purpose of determining liability to the
 24 tax imposed by this chapter with reference to the income of
 25 any taxable year, any person domiciled in the state of

1 Montana and any other person who maintains a permanent place
2 of abode within the state even though temporarily absent
3 from the state and has not established a residence
4 elsewhere.

5 {i6}--"Taxable--income"--means--the--adjusted--gross--income
6 of--a--taxpayer--less--the--deductions--and--exemptions--provided
7 for--in--this--chapter--

8 {i7}{14} "Taxable year" means the taxpayer's taxable
9 year for federal income tax purposes.

10 {i8}{15} "Taxpayer" includes any person or fiduciary,
11 resident or nonresident, subject to a tax imposed by this
12 chapter and does not include corporations."

13 **Section 6.** Section 15-30-103, MCA, is amended to read:

14 "15-30-103. Rate of tax. (1) There A tax shall be
15 levied, collected, and paid for each taxable year commencing
16 on or after December 31, 1968 1988, upon the Montana taxable
17 income of every taxpayer subject to this tax, after making
18 allowance--for--exemptions--and--deductions--as--hereinafter
19 provided,--a--tax--on--the--following--brackets--of--taxable--income
20 as--adjusted--under--subsection--(2)--at--the--following--rates:

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

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

25 {c}--on--the--next--\$2,000--of--taxable--income--or--any--part

1 thereof,--4%;

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

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

6 {f}--on--the--next--\$2,000--of--taxable--income--or--any--part
7 thereof,--7%;

8 {g}--on--the--next--\$4,000--of--taxable--income--or--any--part
9 thereof,--8%;

10 {h}--on--the--next--\$6,000--of--taxable--income--or--any--part
11 thereof,--9%;

12 {i}--on--the--next--\$15,000--of--taxable--income--or--any--part
13 thereof,--10%;

14 {j}--on--any--taxable--income--in--excess--of--\$35,000--or--any
15 part--thereof,--11%. The tax must be determined in accordance
16 with subsections (2) through (6).

17 (2) The tax for married persons filing jointly and for
18 surviving spouses as defined in section 2(a) of the Internal
19 Revenue Code is:

20 (a) 5% of the first \$4,000 of taxable income or any
21 part thereof;

22 (b) 7% of the next \$8,000 of taxable income or any
23 part thereof; and

24 (c) 9% of any taxable income in excess of \$12,000.

25 (3) The tax for married persons filing separately is:

1 (a) 5% of the first \$2,000 of taxable income or any
 2 part thereof;
 3 (b) 7% of the next \$4,000 of taxable income or any
 4 part thereof; and
 5 (c) 9% of any taxable income in excess of \$6,000.
 6 (4) The tax for a single person is:
 7 (a) 5% of the first \$2,400 of taxable income or any
 8 part thereof;
 9 (b) 7% of the next \$4,800 of taxable income or any
 10 part thereof; and
 11 (c) 9% of any taxable income in excess of \$7,200.
 12 (5) The tax for a head of household, as that
 13 designation is used in the Internal Revenue Code, is:
 14 (a) 5% of the first \$3,200 of taxable income or any
 15 part thereof;
 16 (b) 7% of the next \$6,400 of taxable income or any
 17 part thereof; and
 18 (c) 9% of any taxable income in excess of \$9,600.
 19 {2}{6} By November 1 of each year, the department
 20 shall multiply the bracket amount amounts contained in
 21 subsection--{1} subsections (2) through (5) by the inflation
 22 factor for that taxable year and round the cumulative
 23 brackets to the nearest \$100. The resulting adjusted
 24 brackets amounts are effective for that taxable year and
 25 shall be used as the basis for imposition of the tax in

1 ~~subsection--{1} of this section~~ subsections (2) through (5).
 2 (7) Except as provided in subsection (8), the
 3 taxpayer's filing status as reported on his federal return
 4 must be used for purposes of determining the Montana tax
 5 rate in subsections (2) through (5).
 6 (8) Montana taxpayers who are both residents and
 7 nonresidents and who file jointly for federal purposes shall
 8 file separately."

9 **Section 7.** Section 15-30-105, MCA, is amended to read:
 10 "15-30-105. Tax on nonresident -- alternative tax
 11 based on gross sales. (1) A-like-tax-is-imposed-upon-every
 12 person--not--resident--of--this--state;--which--tax--shall--be
 13 levied;--collected;--and--paid--annually--at--the--rates--specified
 14 in--15-30-103--with--respect--to--his--entire--net--income--as--herein
 15 defined--from--all--property--owned--and--from--every--business;
 16 trade;--profession;--or--occupation--carried--on--in--this--state.
 17 Every nonresident and part-year resident is subject to the
 18 tax imposed by 15-30-103 on all income from every business,
 19 trade, profession, or occupation carried on in the state and
 20 on all income, including interest, derived from any property
 21 in the 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 The~~ tax
 6 ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The
 7 gross volume of sales made in Montana during the taxable
 8 year shall be determined according to the provisions of
 9 Article IV, sections 16 and 17, of the Multistate Tax
 10 Compact."

11 NEW SECTION. **Section 8.** Montana gross income. Montana
 12 gross income must be determined as provided in section 61 of
 13 the Internal Revenue Code.

14 NEW SECTION. **Section 9.** Montana adjusted gross
 15 income. In the case of resident taxpayers, Montana adjusted
 16 gross income must be determined as provided in section 62 of
 17 the Internal Revenue Code. In the case of nonresidents and
 18 part-year residents, Montana adjusted gross income must be
 19 determined as set forth in section 15-30-131.

20 NEW SECTION. **Section 10.** Montana taxable income. (1)
 21 In the case of a full-year resident, Montana taxable income
 22 must be determined as provided in section 63 of the Internal
 23 Revenue Code, plus the additions to income in subsection (2)
 24 and less the deductions from income in subsection (3). It is
 25 the intent of the legislature that federal taxable income as

1 reported on a taxpayer's federal return for the taxable year
 2 is the starting point for calculating the taxpayer's Montana
 3 taxable income. A taxpayer who uses the federal standard
 4 deduction to calculate federal taxable income shall also use
 5 the federal standard deduction, subject to the applicable
 6 adjustments in subsections (2) and (3), to calculate Montana
 7 taxable income. A taxpayer who uses the federal itemized
 8 deductions to calculate federal taxable income shall also
 9 use the federal itemized deduction, subject to the
 10 applicable adjustments in subsections (2) and (3), to
 11 calculate Montana taxable income.

12 (2) The following additions to federal taxable income
 13 are required:

14 (a) gross interest and dividends derived from
 15 obligations or securities of states other than Montana in
 16 the same amount that has been excluded from adjusted gross
 17 income, less related expenses not deducted because of
 18 section 265(a)(1) of the Internal Revenue Code;

19 (b) state taxes on or measured by income to the extent
 20 the taxes have been deducted to compute federal taxable
 21 income;

22 (c) losses on the sale of United States obligations
 23 that the state is prohibited from taxing to the extent the
 24 losses have been deducted to compute federal adjusted gross
 25 income.

1 (3) The following deductions from federal taxable
 2 income are allowed:

3 (a) gross interest income and dividends from
 4 obligations or securities issued by Montana or any political
 5 subdivision of Montana that are included in federal adjusted
 6 gross income;

7 (b) to the extent included in adjusted gross income,
 8 income from obligations of the United States government that
 9 the state is prohibited by law from subjecting to a net
 10 income tax. This deduction must be reduced by any interest
 11 or indebtedness incurred to carry the obligations and, to
 12 the extent deducted to arrive at adjusted gross income, any
 13 expenses incurred to produce the interest income.

14 (c) actual tax liability for the taxable year as
 15 reported on the federal tax return in the amount of:

16 (i) \$7,000 for married taxpayers filing jointly or for
 17 a taxpayer filing as a surviving spouse;

18 (ii) \$3,500 for all other taxpayers;

19 (iii) the federal tax liability as later amended,
 20 including recalculation, for Montana tax purposes, to
 21 reflect the actual tax liability in subsections (3)(c)(i)
 22 and (3)(c)(ii);

23 (d) an amount equal to the federal tax credit allowed
 24 under sections 21 and 22 of the Internal Revenue Code for
 25 household and dependent care services necessary for gainful

1 employment;

2 (e) up to \$800 interest income earned by each taxpayer
 3 age 65 or older. Taxpayers filing as married filing jointly
 4 or surviving spouse may deduct up to \$1,600 total per
 5 return.

6 (f) benefits not in excess of \$3,600 received under:

7 (i) the Federal Employees' Retirement Act;

8 (ii) the public employee retirement laws of a state
 9 other than Montana; or

10 (iii) a private or corporate retirement plan or system;

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

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

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

19 (j) all benefits paid under 19-11-602, 19-11-604, and
 20 19-11-605 to retired and disabled firefighters, their
 21 surviving spouses and orphans or specified as exempt from
 22 taxation by 19-13-1003;

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

1 (l) all benefits paid under an optional retirement
2 program that are specified as exempt from taxation by
3 19-21-212;

4 (m) all Montana income tax refunds or credits;

5 (n) gain required to be recognized by a liquidating
6 corporation pursuant to 15-31-113(1)(a)(ii);

7 (o) net railroad benefits to the extent federal law
8 preempts this income from state taxation;

9 (p) salary received from the armed forces by residents
10 and nonresidents who are on active duty;

11 (q) income of an enrolled tribal member while living
12 and working on a federally established Indian reservation to
13 the extent federal law preempts this income from state
14 taxation.

15 **Section 11.** Section 15-30-121, MCA, is amended to
16 read:

17 "15-30-121. Deductions allowed in computing net
18 income. In computing net income, there are allowed as
19 deductions:

20 (1) the items referred to in sections 161 and 211 of
21 the Internal Revenue Code of 1954, or as sections 161 and
22 211 shall be labeled or amended, subject to the following
23 exceptions which are not deductible:

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

25 (b) state income tax paid;

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

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

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

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

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

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

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

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

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

23 (c) expenses incurred in maintaining a household if
24 over half of the cost of maintaining the household is
25 furnished by an individual or, if the individual is married

1 during-the-applicable-period,-is-furnished-by-the-individual
 2 and-his-spouse;
 3 {d}--the---amounts---deductible---in---subsection---{3}{a}
 4 through-{3}{c}-are-subject-to-the-following-limitations:
 5 {i}-a-deduction-is-allowed-under-subsection-{3}{a}-for
 6 employment-related-expenses-incurred-during-the-year-only-to
 7 the-extent-such-expenses-do-not-exceed-\$4,800;
 8 {ii}-expenses--for--services--in--the---household---are
 9 deductible--under--subsection--{3}{a}-for-employment-related
 10 expenses-only-if-they--are--incurred--for--services--in--the
 11 taxpayer's---household,---except---that---employment-related
 12 expenses--incurred--for--services--outside--the---taxpayer's
 13 household--are-deductible,-but-only-if-incurred-for-the-care
 14 of-a-qualifying-individual-described-in-subsection-{3}{a}{i}
 15 and-only-to-the-extent-such--expenses--incurred--during--the
 16 year-do-not-exceed:
 17 {A}--\$2,400--in--the-case-of-one-qualifying-individual;
 18 {B}--\$3,600--in-the-case-of-two-qualifying--individuals;
 19 and
 20 {C}--\$4,800--in--the--case--of-three-or-more-qualifying
 21 individuals;
 22 {e}--if-the---combined---adjusted---gross---income---of---the
 23 taxpayers--exceeds-\$18,000-for-the-taxable-year-during-which
 24 the---expenses---are---incurred,---the---amount---of---the
 25 employment-related--expenses--incurred--must--be--reduced-by

1 one-half-of-the-excess-of-the-combined-adjusted-gross-income
 2 over-\$18,000;
 3 {f}--for-purposes-of-this-subsection-{3}:
 4 {i}--married-couples-shall-file-a-joint-return-or--file
 5 separately-on-the-same-form;
 6 {ii}-if--the--taxpayer--is-married-during-any-period-of
 7 the-taxable-year,-employment-related-expenses--incurred--are
 8 deductible-only-if:
 9 {A}--both-spouses-are-gainfully-employed,-in-which-case
 10 the-expenses-are-deductible-only-to-the-extent-that-they-are
 11 a-direct-result-of-the-employment,-or
 12 {B}--the-spouse-is-a-qualifying-individual-described-in
 13 subsection-{3}{a}{iii};
 14 {iii}-an--individual--legally-separated-from-his-spouse
 15 under-a-decree-of-divorce-or-of-separate-maintenance-may-not
 16 be-considered-as-married;
 17 {iv}-the-deduction-for-employment-related-expenses-must
 18 be--divided--equally--between--the---spouses---when---filing
 19 separately-on-the-same-form;
 20 {v}-payment--made--to--a--child-of-the-taxpayer-who-is
 21 under-19-years-of-age-at-the-close-of-the-taxable--year--and
 22 payments--made--to--an--individual--with--respect--to-whom-a
 23 deduction-is-allowable-under-15-30-112(5)-are-not-deductible
 24 as-employment-related-expenses;
 25 {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}(1) 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}(2) 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."

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

"15-30-131. Nonresident Nonresident's and temporary
resident-taxpayers---adjusted--gross part-year resident's
taxable income ---deductions. (1) In the case of a taxpayer
other than a resident of this state, adjusted gross income
includes the entire amount of adjusted gross income from
sources within this state but ~~shall~~ does not include income
from annuities, interest on bank deposits, interest on
bonds, notes, or other interest-bearing obligations, or
dividends on stock of corporations except to the extent to
which ~~the same shall be~~ they are a part of income from any
business, trade, profession, or occupation carried on in
this state. Interest income from installment sales of real
or tangible commercial or business property located in
Montana must be included in adjusted gross income. Adjusted

gross income from sources within and without outside this
state shall be allocated and apportioned under rules
prescribed by the department.

{2}--in--the--case--of--a--taxpayer--other--than--a--resident--of
this--state--who--is--a--resident--of--a--state--that--imposes--a--tax
on--the--income--of--natural--persons--residing--within--that--state,
the---deductions---allowed---in---computing--net--income--are
restricted--to--those--directly--connected--with--the--production
of--Montana--income.

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

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

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

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

12 (2) (a) To calculate Montana taxable income, a
 13 nonresident taxpayer may deduct the following:

14 (i) that portion of the federal deduction for personal
 15 exemptions that Montana adjusted gross income bears to
 16 federal adjusted gross income; and

17 (ii) that portion of the federal standard deduction
 18 that Montana adjusted gross income bears to federal adjusted
 19 gross income or, in the alternative, the federal itemized
 20 deductions, subject to the limitations in [section
 21 10(3)(c)], that are directly attributable to Montana
 22 adjusted gross income.

23 (b) A nonresident taxpayer who uses the federal
 24 standard deduction to calculate federal taxable income shall
 25 also use the federal standard deduction to calculate Montana

1 taxable income. A nonresident taxpayer who uses the federal
 2 itemized deductions to calculate federal taxable income
 3 shall also use the federal itemized deductions as a basis
 4 for calculating Montana taxable income.

5 (3) (a) In the case of a part-year resident, Montana
 6 taxable income is as determined in subsection (1) plus:

7 (i) the additions to income in [section 10(2)(b) and
 8 (2)(c)]; and

9 (ii) that portion of the income described in [section
 10 10(2)(a)] that was earned while the taxpayer was a resident
 11 of Montana.

12 (b) To calculate Montana taxable income, a part-year
 13 resident taxpayer may deduct the following:

14 (i) that portion of the federal deduction for personal
 15 exemptions that Montana adjusted gross income bears to
 16 federal adjusted gross income; and

17 (ii) that portion of the federal standard deduction
 18 that Montana adjusted gross income bears to federal adjusted
 19 gross income or, in the alternative, the federal itemized
 20 deductions, subject to the limitations in [section
 21 10(3)(c)], that are directly attributable to Montana
 22 adjusted gross income.

23 (c) A part-year resident taxpayer who uses the federal
 24 standard deduction to calculate federal taxable income shall
 25 also use the federal standard deduction to calculate Montana

1 taxable income. A part-year resident taxpayer who uses the
 2 federal itemized deductions to calculate federal taxable
 3 income shall also use the federal itemized deductions as a
 4 basis for calculating Montana taxable income.

5 (4) A part-year resident is allowed the credit under
 6 15-32-109 allowed a full-year resident for energy-conserving
 7 expenditures incurred in Montana during the taxable year.

8 ~~(7)~~(5) For purposes of this section, "installment
 9 sales" means sales in which the buyer agrees to pay the
 10 seller in one or more deferred installments."

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

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

1 in Montana."

2 **Section 14.** Section 15-30-135, MCA, is amended to
 3 read:

4 "15-30-135. Tax on beneficiaries or fiduciaries of
 5 estates or trusts. ~~(1)~~ A tax ~~shall-be~~ is imposed, at the
 6 rate imposed on a single person, upon either the fiduciaries
 7 or the beneficiaries of estates and trusts as hereinafter
 8 provided in this section, except to the extent such the
 9 estates and trusts ~~shall-be~~ are held for educational,
 10 charitable, or religious purposes, which The tax shall must
 11 be levied, collected, and paid annually with respect to the
 12 income of estates or of any kind of property held in trust, 7
 13 including:

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

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

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

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

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

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

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

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

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

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

1 chapter, the "gross income" of Montana taxable estates or
2 trusts means includes all federal taxable income from
3 whatever source derived in the taxable year, including but
4 not limited to the following items:

5 (a) dividends;

6 (b) interest received or accrued, including interest
7 received on obligations of another state or territory or a
8 county, municipality, district, or other political
9 subdivision thereof, but excluding interest income from
10 obligations of:

11 (i) the United States government or the state of
12 Montana; and

13 (ii) a school district; or

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

16 (c) income from partnerships and other fiduciaries;

17 (d) gross rents and royalties;

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

22 (f) gross profit from trade or business; and

23 (g) (b) refunds recovered on federal income tax, to the
24 extent the deduction of such federal income tax resulted in
25 a reduction of Montana income tax liability for the taxable

1 year 1987.

2 (2) In computing net income, there are allowed as
3 deductions:

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

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

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

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

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

22 (f) losses from fire, storm, shipwreck, or other
23 casualty or from theft, to the extent not compensated for by
24 insurance or otherwise, that are deductible for federal tax
25 purposes according to section 165 of the Internal Revenue

1 Code-of-1954-as-amended;
 2 {g}--net--operating-loss-deductions-allowed-for-federal
 3 income-tax-under-section-642(d)-of-the-Internal-Revenue-Code
 4 of-1954-as-amended-except-estates--may--not--claim--losses
 5 that-are-deductible-on-the-decedent's-final-return;
 6 {h}(a) all benefits, not in excess of \$3,600,
 7 received:
 8 (i) as federal employees' retirement;
 9 (ii) as retirement from public employment in a state
 10 other than Montana; or
 11 (iii) as an annuity, pension, or endowment under
 12 private or corporate retirement plans or systems;
 13 {i}(b) all benefits paid under the Montana teachers'
 14 retirement system that are specified as exempt from taxation
 15 by 19-4-706;
 16 {j}(c) all benefits paid under the Montana Public
 17 Employees' Retirement System Act that are specified as
 18 exempt from taxation by 19-3-105;
 19 {k}(d) all benefits paid under the Montana highway
 20 patrolmen's retirement system that are specified as exempt
 21 from taxation by 19-6-705;
 22 {l}(e) Montana income tax refunds or credits thereof;
 23 {m}(f) all benefits paid under 19-11-602, 19-11-604,
 24 and 19-11-605 to retired and disabled firemen or their
 25 surviving spouses or children;

1 {n}(g) all benefits paid under the municipal police
 2 officers' retirement system that are specified as exempt
 3 from taxation by 19-9-1005.
 4 {3}--In-the-case-of-a-shareholder-of-a-corporation-with
 5 respect-to-which-the-election-provided-for-under--subchapter
 6 S--of--the-Internal-Revenue-Code-of-1954-as-amended-is-in
 7 effect-but-with-respect-to-which-the-election--provided--for
 8 under--15-31-202--is--not--in--effect--net--income--does--not
 9 include-any-part-of-the-corporation's-undistributed--taxable
 10 income--net--operating--loss--capital-gains-or-other-gains--
 11 profits--or--losses--required--to--be--included--in--the
 12 shareholder's-federal-income-tax-net-income-by-reason-of-the
 13 election--under-subchapter-S--However--the-shareholder's-net
 14 income--shall--include--actual--distribution--from--the
 15 corporation--to--the--extent--it-would-be-treated-as-taxable
 16 dividends-if-the-subchapter-S-election-were-not-in--effect--
 17 {4}--The--following--additional--deductions--shall--be
 18 allowed-in-deriving-taxable-income-of-estates-and-trusts:
 19 {a}--any--amount--of--income--for--the--taxable--year
 20 currently--required--to--be-distributed-to-beneficiaries-for
 21 such-year;
 22 {b}--any-other-amounts-properly--paid--or--credited--or
 23 required-to-be-distributed-for-the-taxable-year;
 24 {c}--the--amount--of--60%--of--the--excess--of--the-net
 25 long-term-capital-gain-over-the net-short term-capital--loss

1 for-the-taxable-year:

2 {5}--The--exemption--allowed--for--estates--and--trusts--is
3 that--exemption--provided--in--15-30-112(2){a}--and--15-30-112(8)-
4 {6}--A--trust--or--estate--excluding--benefits--under
5 subsections--(2){i}--through--(2){k},--(2){m},--or--(2){n}--may--not
6 exclude--benefits--described--in--subsection--(2){h}--from--net
7 income--unless--the--benefits--received--under--subsections--(2){i}
8 through--(2){k},--(2){m},--or--(2){n}--are--less--than--\$3,600,--in
9 which--case--the--trust--or--estate--may--combine--benefits--to
10 exclude--up--to--a--total--of--\$3,600--from--net--income:

11 (3) A trust or estate that elects to itemize its
12 deductions from adjusted gross income on its federal return
13 for taxable year 1989 and that is required to pay additional
14 federal tax due in 1989 for the taxable year 1988 may deduct
15 the federal tax paid in 1989 from its Montana taxable
16 income."

17 **Section 16.** Section 15-30-141, MCA, is amended to
18 read:

19 "15-30-141. Tax as personal debt. Every tax imposed by
20 this chapter and all increases, interest, and penalties
21 thereon shall be, from the time they are due and payable, a
22 personal debt from the person or fiduciary liable to pay the
23 same to the state. Taxpayers filing a joint return are
24 jointly and severally liable for the tax and any interest
25 and penalty unless the department determines, based on the

1 criteria in section 6013(e) of the Internal Revenue Code,
2 that a spouse is relieved of liability."

3 **Section 17.** Section 15-30-142, MCA, is amended to
4 read:

5 "15-30-142. Returns--and--payment--of--tax---penalty--and
6 interest---refunds---credits Filing of returns. (1) Every
7 single--individual--and--every--married--individual--not--fitting--a
8 joint--return--with--his--or--her--spouse--and--having--a--gross
9 income--for--the--taxable--year--of--more--than--\$1,000,--as--adjusted
10 under---the---provisions--of--subsection--(7),--and--married
11 individuals--not--filing--separate--returns--and--having---a
12 combined--gross--income--for--the--taxable--year--of--more--than
13 \$2,000,--as--adjusted--under--the--provisions--of--subsection--(7),
14 shall--be--liable--for--a--return--to--be--filed resident, part-year
15 resident, or nonresident deriving any income from Montana
16 shall file a tax return, on such forms and according to such
17 rules as the department may prescribe, if that person:

18 (a) is subject to the requirement of filing a federal
19 return pursuant to section 6012 of the Internal Revenue
20 Code; or

21 (b) has sufficient adjustments to federal taxable
22 income to require the payment of tax to Montana. The gross
23 income amounts referred to in the preceding sentence shall
24 be increased by--\$800,--as--adjusted--under--the--provisions--of
25 15-30-112(7) and (8), for each additional personal exemption

1 allowance-the-taxpayer-is-entitled-to-claim-for-himself--and
 2 his--spouse--under-15-30-112(3)-and-(4);-A-nonresident-shall
 3 be-required-to-file-a-return-if-his--gross--income--for--the
 4 taxable-year-derived-from-sources-within-Montana-exceeds-the
 5 amount--of--the--exemption-deduction-he-is-entitled-to-claim
 6 for--himself--and--his--spouse--under--the---provisions---of
 7 15-30-112(2);---(3);--and--(4);--as--prorated--according--to
 8 15-30-112(6);-

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

21 (2) Every resident, part-year resident, or nonresident
 22 required to file a return under subsection (1) is required
 23 to file the state return using the same filing status as was
 24 used to file the return required by section 6012 of the
 25 Internal Revenue Code.

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

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

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

21 (6) If the amount of tax as verified is greater than
 22 the amount theretofore paid, the excess shall be paid by the
 23 taxpayer to the department within 60 days after notice of
 24 the amount of the tax as computed, with interest added at
 25 the rate of 9% 3/4 of 1% per annum month or fraction thereof

1 on the additional tax. ~~In such case there shall be~~ There is
 2 no penalty because of such the understatement, provided the
 3 deficiency is paid within 60 days after the first notice of
 4 the amount is mailed to the taxpayer.

5 ~~{7}--By--November--1--of--each--year--the--department--shall~~
 6 ~~multiply--the--minimum--amount--of--gross--income--necessitating~~
 7 ~~the--filing--of--a--return--by--the--inflation--factor--for--the~~
 8 ~~taxable--year--These--adjusted--amounts--are--effective--for--that~~
 9 ~~taxable--year--and--persons--having--gross--incomes--less--than~~
 10 ~~these--adjusted--amounts--are--not--required--to--file--a--return--~~

11 ~~{8}--Individual--income--tax--forms--distributed--by--the~~
 12 ~~department--for--each--taxable--year--must--contain--instructions~~
 13 ~~and--tables--based--on--the--adjusted--base--year--structure--for~~
 14 ~~that--taxable--year--"~~

15 **Section 18.** Section 15-30-144, MCA, is amended to
 16 read:

17 "15-30-144. Time for filing -- extensions of time. {1}
 18 Returns shall must be made to the department on or before
 19 the ~~15th--day--of--the--4th--month--following--the--close--of--the~~
 20 ~~taxpayer's--fiscal--year--or--if--the--return--is--made--on--the~~
 21 ~~basis--of--the--calendar--year--then--the--return--shall--be--made--on~~
 22 ~~or--before--the--15th--day--of--April--following--the--close--of--the~~
 23 ~~calendar--year~~ day when the federal return is due. Taxpayers
 24 shall submit to the department copies of any federal
 25 extension of time for filing. Each return shall must set

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

11 ~~{2}--An--automatic--6--month--extension--of--time--for--filing~~
 12 ~~a--return--is--allowed--provided--that--on--or--before--the--due--date~~
 13 ~~of--the--return--an--application--is--made--on--forms--available~~
 14 ~~from--the--department--or--in--writing--to--the--department--"~~

15 **Section 19.** Section 15-30-146, MCA, is amended to
 16 read:

17 "15-30-146. Tolling of statute of limitations. The
 18 running of the statute of limitations provided for under
 19 15-30-145 shall be suspended during any period that the
 20 federal statute of limitations for collection of federal
 21 income tax has been suspended by written agreement signed by
 22 the taxpayer or when the taxpayer has instituted an action
 23 which has the effect of suspending the running of the
 24 federal statute of limitations and for 1 additional year.
 25 If the taxpayer fails to file a record of changes in federal

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

10 **Section 20.** Section 15-30-156, MCA, is amended to
 11 read:

12 "15-30-156. Deduction for contributions to child abuse
 13 and neglect prevention program. A taxpayer filing an
 14 individual income tax return ~~who does not elect to take the~~
 15 ~~standard deduction provided for in 15-30-122~~ may, in
 16 computing net income, claim a deduction for the payment of a
 17 contribution to the child abuse and neglect prevention
 18 program as follows:

19 (1) If the taxpayer paid a contribution in the taxable
 20 year for which the return is filed, he may deduct the amount
 21 of the contribution paid during that year, unless the amount
 22 was deducted as provided in subsection (2).

23 (2) If the taxpayer encloses a check or other order to
 24 pay money as a contribution with the timely filing of a tax
 25 return, in accordance with 15-30-144, he may elect to take a

1 deduction for the amount of the contribution and apply the
 2 deduction in the taxable year for which he is filing the
 3 return."

4 **Section 21.** Section 15-30-303, MCA, is amended to
 5 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~for-the-purpose-of-enabling-the--department--of--justice--to
administer-the-provisions-of-61-5-105,-and~~

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

Section 22. Section 15-30-321, MCA, is amended to read:

"15-30-321. Penalties for violation of chapter. (1) If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to file a return of income on or before its due date (determined with regard to an extension of time granted for filing the return), there shall be imposed a penalty of 5% of any balance of tax unpaid with respect to such the return as of its due date, ~~but--in--no--event--shall--the--penalty--for--failure--to--file--a--return--by--its--due--date--be--less--than--\$5,-~~ or \$10, whichever is greater. In addition, a penalty of 5% of any balance of tax unpaid with respect to the return must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum 30% penalty. The department may abate the penalty if the taxpayer establishes that the failure to file on time was due to reasonable cause and was not due to neglect on his part. If any person,

without purposely or knowingly violating any requirement imposed by this chapter, fails to pay any tax on or before its due date ~~{determined-with-regard-to-an-extension-of-time granted-for-filing-the-return}~~, there shall be added to the tax a penalty of ~~10% 5%~~ of ~~said the~~ tax, ~~but-not-less-than \$5,-and-interest.~~ 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% penalty. Interest shall accrue on the tax at the rate of ~~9%-per-annum 3/4 of 1%~~ per month for the entire period it remains unpaid. The department may abate the penalty if the taxpayer establishes that the failure to pay on time was due to reasonable cause and was not due to neglect on his part.

(2) If any person fails, purposely or knowingly violating any requirement imposed by this chapter, to make a return of income or to pay a tax if one is due at the time required by or under the provisions of this chapter, there shall be added to the tax an additional amount equal to 25% thereof of the tax, but ~~such the~~ additional amount shall in no case be less than \$25, and interest at 1% for each month or fraction of a month during which the tax remains unpaid.

(3) Any individual, corporation, or partnership or any officer or employee of any corporation or member or employee of any partnership who, with intent to evade any tax or any

1 requirement of this chapter or any lawful requirement of the
 2 department thereunder under this chapter, purposely or
 3 knowingly, fails to pay the tax or to make, render, or sign
 4 any return or to supply any information within the time
 5 required by or under the provisions of this chapter or who,
 6 with like intent, purposely or knowingly makes, renders, or
 7 signs any false or fraudulent return or statement or
 8 supplies any false or fraudulent information shall be liable
 9 to a penalty of not more than \$1,000, to be recovered by the
 10 attorney general in the name of the state by action in any
 11 court of competent jurisdiction, ~~and~~ The person shall also
 12 be guilty of a misdemeanor and shall upon conviction be
 13 fined not to exceed \$1,000 or be imprisoned not to exceed 1
 14 year, or both, at the discretion of the court.

15 (4) With respect to the imposition of a civil penalty,
 16 evidence produced by the department to the effect that a tax
 17 has not been paid, that a return has not been filed, or that
 18 information has not been supplied as required under the
 19 provisions of this chapter is prima facie evidence that the
 20 tax has not been paid, the return has not been filed, or the
 21 information has not been supplied.

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

25 **Section 23.** Section 15-30-323, MCA, is amended to

1 read:

2 "15-30-323. Penalty for deficiency. (1) If the payment
 3 required by 15-30-142(6) is not made within 60 days or if
 4 the understatement is due to negligence on the part of the
 5 taxpayer but without fraud, there shall be added to the
 6 amount of the deficiency 5% thereof, ~~provided, however, that~~
 7 ~~no deficiency penalty shall be less than 9% of the tax.~~ In
 8 addition, a penalty of 5% of the delinquent tax must be
 9 assessed for each 30-day period during which the tax remains
 10 unpaid following notification of delinquency, with a maximum
 11 30% penalty. Interest will be computed at the rate of 9% 3/4
 12 of 1% per annum month or fraction thereof on the additional
 13 assessment. Except as otherwise expressly provided in this
 14 subsection, the interest shall in all cases be computed from
 15 the date the return and tax were originally due as
 16 distinguished from the due date as it may have been extended
 17 to the date of payment.

18 (2) If the time for filing a return is extended, the
 19 taxpayer shall pay in addition interest thereon on the
 20 amount due at the rate of 9% 3/4 of 1% per annum month from
 21 the time when the return was originally required to be filed
 22 to the time of payment.

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

1 **Section 24.** Section 15-31-114, MCA, is amended to
2 read:

3 **"15-31-114. Deductions allowed in computing income.** In
4 computing the net income, the following deductions shall be
5 allowed from the gross income received by such corporation
6 within the year from all sources:

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

23 (2) (a) All losses actually sustained and charged off
24 within the year and not compensated by insurance or
25 otherwise, including a reasonable allowance for the wear and

1 tear and obsolescence of property used in the trade or
2 business, such allowance to be determined according to the
3 provisions of section 167 of the Internal Revenue Code in
4 effect with respect to the taxable year. All elections for
5 depreciation shall be the same as the elections made for
6 federal income tax purposes. No deduction shall be allowed
7 for any amount paid out for any buildings, permanent
8 improvements, or betterments made to increase the value of
9 any property or estate, and no deduction shall be made for
10 any amount of expense of restoring property or making good
11 the exhaustion thereof for which an allowance is or has been
12 made.

13 (b) (i) There shall be allowed as a deduction for the
14 taxable period a net operating loss deduction determined
15 according to the provisions of this subsection. The net
16 operating loss deduction is the aggregate of net operating
17 loss carryovers to such the taxable period ~~plus--the--net~~
18 ~~operating--loss--carrybacks-to-such-taxable-period.~~ The term
19 "net operating loss" means the excess of the deductions
20 allowed by this section, 15-31-114, over the gross income,
21 with the modifications specified in subsection (2)(b)(ii) of
22 this-subsection. If for any taxable period beginning--after
23 ~~December--31--1970,~~ a net operating loss is sustained, such
24 the loss shall be a net operating loss carryback to each--of
25 the--three--taxable--periods--preceding--the--taxable--period--of

1 ~~such-loss-and~~ shall be a net operating loss carryover
 2 carryforward to each of the ~~five~~ three taxable periods
 3 following the taxable period of such the loss. A net
 4 operating loss sustained for any taxable period ending after
 5 December 31, 1975, ~~in-addition-to-being and beginning before~~
 6 January 1, 1989, shall be a net operating loss carryback to
 7 each of the three preceding taxable periods, ~~shall-be and~~ a
 8 net operating loss carryover carryforward to each of the
 9 seven taxable periods following the taxable period of such
 10 loss. The portion of such loss which shall be carried to
 11 each of the other taxable years shall be the excess, if any,
 12 of the amount of such loss over the sum of the net income
 13 for each of the prior taxable periods to which such loss was
 14 carried. For purposes of the preceding sentence, the net
 15 income for such prior taxable period shall be computed with
 16 the modifications specified in subsection (2)(b)(ii)(B) of
 17 ~~this-subsection~~ and by determining the amount of the net
 18 operating loss deduction without regard to the net operating
 19 loss for the loss period or any taxable period thereafter,
 20 and the net income so computed shall not be considered to be
 21 less than zero.

22 (ii) The modifications referred to in subsection
 23 (2)(b)(i) of-this-subsection shall be as follows:

- 24 (A) No net operating loss deduction shall be allowed.
 25 (B) The deduction for depletion shall not exceed the

1 amount which would be allowable if computed under the cost
 2 method.

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

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

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

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

23 ~~{vi}-The--net--operating--loss--deduction--shall--not--be~~
 24 ~~allowed-with-respect-to-taxable-periods-which--ended--on--or~~
 25 ~~before--December--31,--1970,--but--shall--be--allowed--only--with~~

1 ~~respect-to-taxable-periods-beginning-on-or-after-January--1,~~
2 ~~1971-~~

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

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

20 (5) (a) Taxes paid within the year, except the
21 following:

22 (i) Taxes imposed by this part.

23 (ii) Taxes assessed against local benefits of a kind
24 tending to increase the value of the property assessed.

25 (iii) Taxes on or according to or measured by net

1 income or profits imposed by authority of the government of
2 the United States.

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

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

8 (6) That portion of an energy-related investment
9 allowed as a deduction under 15-32-103.

10 (7) (a) Except as provided in subsection (7)(b),
11 charitable contributions and gifts that qualify for
12 deduction under section 170 of the Internal Revenue Code, as
13 amended.

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

17 (8) In lieu of the deduction allowed under subsection
18 (7), the taxpayer may deduct the fair market value, not to
19 exceed 30% of the taxpayer's net income, of a computer or
20 other sophisticated technological equipment or apparatus
21 intended for use with the computer donated to an elementary,
22 secondary, or accredited postsecondary school located in
23 Montana if:

24 (a) the contribution is made no later than 5 years
25 after the manufacture of the donated property is

1 substantially completed;

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

4 (c) the taxpayer receives a written statement from the
5 donee in which the donee agrees to accept the property and
6 representing that the use and disposition of the property
7 will be in accordance with the provisions of subsection
8 (8)(b) of this subsection-(8)."

9 NEW SECTION. Section 25. Deductions not allowed. In
10 computing net income, the deductions allowed for dividends
11 under sections 243 through 245 of the Internal Revenue Code
12 are not deductible from gross income under this chapter
13 unless otherwise provided in this title.

14 **Section 25.** Section 15-31-121, MCA, is amended to
15 read:

16 "15-31-121. Rate of tax -- alternative minimum tax --
17 surtax. (1) Except as provided in subsection subsections (2)
18 and (3), the percentage of net income to be paid under
19 15-31-101 shall be ~~6-3/4%~~ 6-1/2% ~~6 3/4%~~ of all net income
20 for the taxable period. ~~The rate set forth in this~~
21 ~~subsection-(1) shall be effective for all taxable years~~
22 ~~ending on or after February 28, 1971. This rate is~~
23 ~~retroactive to and effective for all taxable years ending on~~
24 ~~or after February 28, 1971.~~

25 (2) For a taxpayer making a water's-edge election, the

1 percentage of net income to be paid under 15-31-101 shall be
2 7% of all taxable net income for the taxable period.

3 ~~(3) Every corporation subject to taxation under this~~
4 ~~part shall, in any event, pay a minimum tax of not less than~~
5 ~~\$50.~~

6 ~~(4) After the amount of tax liability has been~~
7 ~~computed under subsections (1) through (3), each corporation~~
8 ~~subject to taxation under this part shall add, as a surtax~~
9 ~~for tax year 1988, 4% of the tax liability, and the amount~~
10 ~~so derived is the amount due the state.~~

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

18 (b) If the corporation is required to apportion its
19 income pursuant to 15-31-305 or elects to apportion its
20 income pursuant to 15-31-323, the federal alternative
21 minimum taxable income shall be multiplied by the
22 apportionment factor for the corporation. If the corporation
23 allocates its income pursuant to 15-31-301(3), the
24 adjustments, preferences, and losses used to compute the
25 federal alternative minimum taxable income shall be

1 allocated on the same basis as its income and expenses.

2 (c) The alternative minimum tax shall be:

3 (i) 6% 4% of the federal alternative minimum taxable
4 income in the case of a corporation that does not apportion
5 its income pursuant to 15-31-305 or 15-31-323 or allocate
6 its income pursuant to 15-31-301; or

7 (ii) 6% 4% of the amount computed under subsection
8 (2)(b) in the case of a corporation that is subject to
9 15-31-301 or 15-31-305 or that elects to apportion its
10 income under 15-31-323.

11 (4) Each corporation shall compute its tax under both
12 subsection (1) and subsection (3) and shall pay the higher
13 amount or \$50, whichever is greater."

14 NEW SECTION. Section 27. Dividend credit. (1) A
15 corporation subject to tax as provided in this chapter that
16 receives a cash dividend from a member of the same
17 affiliated group that is also subject to tax as provided in
18 this chapter is entitled to a tax credit. The credit is
19 equal to the tax rate provided in 15-31-121(1) multiplied by
20 the amount of the dividend and, in the case of a multistate
21 corporation, also multiplied by the Montana apportionment
22 ratio of the payee corporation;

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

1 chapter.

2 (3) The term "affiliated group" as used in this
3 section has the same meaning as used in section 1504(a)(1)
4 of the Internal Revenue Code.

5 **Section 26.** 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 (1) 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 proof is not filed by the time
11 the department receives the corporation's first tax return,
12 the department shall notify the corporation that proof is
13 required within 60 days of the date of the notice. If proof
14 is not received within 60 days or a reasonable extension
15 date based upon a request by the taxpayer prior to the
16 expiration of the 60 days, the corporation is subject to the
17 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 subjects income to tax under both
24 Title 15, chapter 30, and this chapter. For tax years
25 beginning on or after January 1, 1987, but before March 1,

1 1988, the election must be filed by May 15, 1988. Thereafter
2 the election must be filed by the 15th day of the third
3 month of the taxable year for which the election is to
4 become effective. The election may be revoked by written
5 notification to the department. A revocation must be filed
6 by the 15th day of the third month of the taxable year for
7 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 taxable income as defined in
12 15-30-111.

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

16 **Section 27.** Section 15-31-204, MCA, is amended to
17 read:

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

22 **Section 28.** Section 15-31-553, MCA, is amended to
23 read:

24 "15-31-553. Fees to reimburse department for costs --
25 deposit in general fund. All moneys money collected under

1 15-31-551 and--~~15-31-552~~--~~shall be~~ is required to reimburse
 2 the department of revenue for costs involved in the
 3 preparation of the copies and certificates. All ~~such-moneys~~
 4 money collected ~~shall go--into~~ must be deposited in the
 5 general fund."

6 **Section 29.** Section 15-31-554, MCA, is amended to
 7 read:

8 "15-31-554. Returns to which sections apply. The
 9 provisions of 15-31-551 through and 15-31-553 ~~shall~~ apply to
 10 all returns on file and all returns ~~to be~~ filed hereafter
 11 after December 31, 1988."

12 **Section 30.** Section 33-27-101, MCA, is amended to
 13 read:

14 "33-27-101. Short title. Sections 15-30-107,
 15 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter may be
 16 cited as the "Independent Liability Fund Act".

17 **Section 31.** Section 33-27-102, MCA, is amended to
 18 read:

19 "33-27-102. Purpose. The purpose of 15-30-107,
 20 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter is to
 21 create a means by which small businesses operating in
 22 Montana may establish independent liability funds to set
 23 aside assets or make investments to meet any liability
 24 claims that might be made against the small businesses by
 25 third parties."

1 **Section 32.** Section 33-27-103, MCA, is amended to
 2 read:

3 "33-27-103. Definitions. As used in 15-30-107,
 4 ~~15-30-127~~, 15-31-117, 15-31-118, and this chapter, the
 5 following definitions apply:

6 (1) "Fiscal year" means the 12-month period used by a
 7 particular small business in preparing and filing its
 8 Montana individual income tax, corporate license tax, or
 9 corporate income tax return.

10 (2) "Independent liability fund" means a collection of
 11 money, assets, and investments that has been set aside by a
 12 small business to meet the needs of any liability claims,
 13 except workers' compensation claims, brought against it by
 14 third parties.

15 (3) "Liability claim" means any legal or extralegal
 16 action by a third party asserting a right to compensation
 17 for a wrong done to it by a small business with an
 18 independent liability fund.

19 (4) "Small business" means any commercial or nonprofit
 20 enterprise qualified to do business in the state and
 21 qualified as a small business under the criteria established
 22 by the federal small business administration on April 20,
 23 1987.

24 (5) "Third party" means a person other than an
 25 employee or the management of a small business or of a

1 subsidiary or closely related enterprise of a small
2 business."

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

4 "53-2-101. Definitions. Unless the context requires
5 otherwise, in this chapter the following definitions apply:

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

9 (2) "Protective services" means services to children
10 and adults to be provided by the department of family
11 services as permitted by Titles 41 and 53.

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

16 (4) "Needy person" is one who is eligible for public
17 assistance under the laws of this state.

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

23 (6) "Ward Indian" is hereby defined as an Indian who
24 is living on an Indian reservation set aside for tribal use
25 or is a member of a tribe or nation accorded certain rights

1 and privileges by treaty or by federal statutes. If and when
2 the federal Social Security Act is amended to define a "ward
3 Indian", such definition shall supersede the foregoing
4 definition."

5 **Section 34.** Section 67-11-303, MCA, is amended to
6 read:

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

13 (a) an airport or air navigation facility or
14 facilities;

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

17 (c) grants or contributions from the federal
18 government; or

19 (d) other sources.

20 (2) The bonds may be issued by resolution of the
21 authority, without an election and without any limitation of
22 amount, except that no ~~such~~ bonds may be issued at any time
23 if the total amount of principal and interest to become due
24 in any year on such the bonds and on any then outstanding
25 bonds for which revenues from the same source or sources are

1 pledged exceeds the amount of such revenues to be received
 2 in that year as estimated in the resolution authorizing the
 3 issuance of the bonds. The authority shall take all action
 4 necessary and possible to impose, maintain, and collect
 5 rates, charges, rentals, and taxes, if any are pledged,
 6 sufficient to make the revenues from the pledged source in
 7 such the year at least equal to the amount of such principal
 8 and interest due in that year.

9 (3) The bonds may be sold at public or private sale
 10 and may bear interest as provided in 17-5-102. Except as
 11 otherwise provided herein in this section, any bonds issued
 12 pursuant to this chapter by an authority may be payable as
 13 to principal and interest solely from revenues of the
 14 authority and shall state on their face the applicable
 15 limitations or restrictions regarding the source from which
 16 such principal and interest are payable.

17 (4) Bonds issued by an authority or municipality
 18 pursuant to the provisions of this chapter are declared to
 19 be issued for an essential public and governmental purpose
 20 by a political subdivision ~~within---the---meaning---of~~
 21 ~~15-30-111(2)(a).~~

22 (5) For the security of any such bonds, the authority
 23 or municipality may by resolution make and enter into any
 24 covenant, agreement, or indenture and may exercise any
 25 additional powers authorized to be exercised by a

1 municipality under Title 7, chapter 7, parts 44 and 45. The
 2 sums required from time to time to pay principal and
 3 interest and to create and maintain a reserve for the bonds
 4 may be paid from any revenues referred to in this chapter,
 5 prior to the payment of current costs of operation and
 6 maintenance of the facilities.

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

1 having a population in excess of 10,000 is included in an
 2 authority issuing bonds pursuant to this chapter, the
 3 municipalities may apportion the obligation to levy taxes
 4 for the payment of, or in anticipation of, a deficiency in
 5 the revenues appropriated for such the bonds in such a
 6 manner as the municipalities may determine. The resolution
 7 shall state the principal amount and purpose of the bonds
 8 and the substance of the covenant respecting deficiencies.
 9 ~~No such~~ A resolution becomes does not become effective until
 10 the question of its approval has been submitted to the
 11 qualified electors of the municipality at a special election
 12 called for that purpose by the governing body of the
 13 municipality and a majority of the electors voting on the
 14 question have voted in favor thereof. The notice and conduct
 15 of the election is governed, to the extent applicable, as
 16 provided for municipal general obligation bonds in Title 7,
 17 chapter 7, part 42, for an election called by cities and
 18 towns, and as provided for county general obligation bonds
 19 in Title 7, chapter 7, part 22, for an election called by
 20 counties. If a majority of the electors voting thereon vote
 21 against approval of the resolution, the municipality has no
 22 authority to make the covenant or to levy a tax for the
 23 payment of deficiencies pursuant to this section, but such
 24 the municipality or authority may nevertheless issue bonds
 25 under this chapter payable solely from the sources referred

1 to in subsection (1) above."

2 NEW SECTION. **Section 35.** Repealer. Sections 15-30-110
 3 through 15-30-117, 15-30-122, 15-30-123, 15-30-126,
 4 15-30-127, 15-30-134, and 15-31-552, MCA, are repealed.

5 NEW SECTION. **Section 36.** Extension of authority. Any
 6 existing authority to make rules on the subject of the
 7 provisions of [this act] is extended to the provisions of
 8 [this act].

9 NEW SECTION. **Section 37.** Codification instruction --
 10 code commissioner instruction. (1) [Sections 8 through 10]
 11 are intended to be codified as an integral part of Title 15,
 12 chapter 30, and the provisions of Title 15, chapter 30,
 13 apply to [sections 8 through 10].

14 (2) Sections 15-30-106 and 15-30-108 are intended to
 15 be renumbered within Title 15, chapter 30, if necessary to
 16 improve the organization of the chapter.

17 ~~{3}--{Sections--25--and--27}--are--intended--to--be--codified~~
 18 ~~as--an--integral--part--of--Title--15,--chapter--31,--part--1,--and--the~~
 19 ~~provisions--of--Title--15,--chapter--31,--part--1,--apply--to~~
 20 ~~{sections--25--and--27}.~~

21 ~~{4}{3}~~ The code commissioner is instructed to make
 22 changes throughout the Montana Code Annotated to reflect the
 23 change of definition for Internal Revenue Code in section
 24 15-30-101.

25 NEW SECTION. **Section 38.** Severability. If a part of

1 [this act] is invalid, all valid parts that are severable
2 from the invalid part remain in effect. If a part of [this
3 act] is invalid in one or more of its applications, the part
4 remains in effect in all valid applications that are
5 severable from the invalid applications.

6 NEW SECTION. **Section 39.** Effective date. [This act]
7 is effective on passage and approval.

8 NEW SECTION. **Section 40.** Applicability. [This act]
9 applies retroactively, within the meaning of 1-2-109, to
10 taxable years beginning after December 31, 1988.

-End-