

SENATE BILL 14

Introduced by Crippen, et al.

6/20	Introduced
6/20	Referred to Taxation
6/20	Fiscal Note Requested
6/22	Fiscal Note Received
6/23	Hearing
6/26	Fiscal Note Printed
6/29	Committee Report--Bill Passed as Amended
7/06	Revised Fiscal Note Printed
7/08	2nd Reading Passed
7/08	3rd Reading Passed

Transmitted to House

7/10	Referred to Taxation
7/11	Hearing
7/11	Tabled in Committee

1 *Senate* BILL NO. 14  
 2 INTRODUCED BY *V. Valkenburg Kellyon Vincent*  
 3 *Farnell Norman* *Walt* *Bob Brown*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE *Steady*  
 5 QUARTERLY PAYMENT OF ESTIMATED TAX BY CERTAIN TAXPAYERS; TO *Klaus*

6 REQUIRE QUARTERLY ESTIMATED PAYMENTS BY ALL TAXPAYERS  
 7 SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO HAVE ANNUAL  
 8 STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO PROVIDE FOR  
 9 PENALTIES FOR UNDERPAYMENT; TO CREATE A UNIVERSITY SYSTEM  
 10 CAPITAL PROJECTS FUND AND TO PROVIDE FOR THE USE OF THE  
 11 FUND; AMENDING SECTIONS 15-1-501, 15-30-241, 15-30-242,  
 12 15-31-101, AND 15-31-502, MCA; AND PROVIDING AN IMMEDIATE  
 13 EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

16 **Section 1.** Section 15-1-501, MCA, is amended to read:

17 "15-1-501. Disposition of moneys from certain  
 18 designated license and other taxes. (1) The state treasurer  
 19 shall deposit to the credit of the state general fund all  
 20 moneys money received by him from the collection of:

- 21 (a) fees from driver's licenses, motorcycle
- 22 endorsements, and duplicate driver's licenses as provided in
- 23 61-5-121;
- 24 (b) electrical energy producer's license taxes under
- 25 chapter 51;

- 1 (c) severance taxes allocated to the general fund
- 2 under chapter 36;
- 3 (d) liquor license taxes under Title 16;
- 4 (e) telephone [company] license taxes under chapter
- 5 53; and
- 6 (f) inheritance and estate taxes under Title 72,
- 7 chapter 16.

8 (2) All-moneys Except as provided in subsection (6),  
 9 all money received from the collection of income taxes under  
 10 chapter 30 of this title ~~shall~~ must be deposited as follows:

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

18 (3) All--moneys Except as provided in 15-31-702 and  
 19 subsection (6) of this section, all money received from the  
 20 collection of corporation license and income taxes under  
 21 chapter 31 of this title, ~~except as provided in 15-31-702,~~  
 22 ~~shall~~ must be deposited as follows:

- 23 (a) 64% to the credit of the state general fund;
- 24 (b) 11% to the credit of the debt service account for
- 25 long-range building program bonds as described in 17-5-408;



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1 and

2 (c) 25% to the credit of the state special revenue  
3 fund for state equalization aid to the public schools of  
4 Montana as described in 20-9-343.

5 (4) The state treasurer shall also deposit to the  
6 credit of the state general fund all ~~moneys~~ money received  
7 by him from the collection of license taxes, fees, and all  
8 net revenues and receipts from all other sources under the  
9 operation of the Montana Alcoholic Beverage Code.

10 (5) After the distribution provided for in 15-36-112,  
11 the remainder of the oil severance tax collections ~~shall~~  
12 must be deposited in the general fund.

13 (6) (a) One-quarter of all money collected under  
14 15-30-242(1) for the estimated tax payments due on April 15,  
15 1989, June 15, 1989, September 15, 1989, and January 15,  
16 1990, must be credited to the university system capital  
17 projects account created in [section 8].

18 (b) One-quarter of all money collected under  
19 15-30-242(3) for the estimated tax payments due 3 1/2  
20 months, 5 1/2 months, 8 1/2 months, and 12 1/2 months after  
21 the beginning of a taxpayer's first taxable year beginning  
22 after [the effective date of this act] must be credited to  
23 the university system capital projects account created in  
24 [section 8]."

25 **Section 2.** Section 15-30-241, MCA, is amended to read:

1 **15-30-241. Declaration and payment of estimated tax.**

2 (1) Every individual except farmers, ranchers, or stockmen,  
3 as defined in section 6654(i)(2) of the Internal Revenue  
4 Code of 1986, as amended, shall, at the time prescribed in  
5 subsection-~~(3)~~-of-this-section 15-30-242, make a declaration  
6 of and pay his estimated tax for the taxable year if his net  
7 income-from-sources-other-than-wages, salaries, bonuses,--or  
8 other--emoluments--can--reasonably--be--expected-to-equal-or  
9 exceed-his-net-income-from-wages, salaries, bonuses-or-other  
10 emoluments, which-are-subject-to-withholding estimated tax,  
11 as calculated in subsection (2)(a) of this section, is \$400  
12 or more.

13 (2) (a) In the declaration required under subsection  
14 (1) ~~of--this--section,~~ the individual shall state estimated  
15 tax must be one of the following:

16 (a)(i) ~~the amount which he estimates as the amount--of~~  
17 ~~tax--under--15-30-103--for--the--taxable--year;~~ 100% of the  
18 individual's Montana income tax from the prior year or, if  
19 the individual is married and filing jointly, 100% of the  
20 joint income tax liability; or

21 (ii) 90% of the individual's Montana income tax in the  
22 current year.

23 (b) A taxpayer who estimates his tax under subsection  
24 (2)(a)(ii) shall:

25 (i) annualize his taxable income for the current year;

1 (ii) calculate the tax using the tax rates provided in  
2 15-30-103; and

3 (b)(iii) the amount which he estimates will be  
4 withheld from wages paid by his employer if said individual  
5 is an employee; deduct all withholding and credits to which  
6 he is entitled.

7 (c) the excess of the amount estimated under  
8 subsection (2)(a) over the amount estimated under subsection  
9 (2)(b), which excess for purposes of this section shall be  
10 considered the estimated tax for the taxable year;

11 (d) such other information as may be prescribed in  
12 rules promulgated by the department;

13 (3) The declaration required under subsection (1) of  
14 this section shall be filed with the department on or before  
15 April 15 of the taxable year, except that if the  
16 requirements of subsection (1) of this section are first  
17 met:

18 (a) after April 1 and before October 1 of the taxable  
19 year, the declaration shall be filed on or before October 15  
20 of the taxable year;

21 (b) after October 1 of the taxable year, the  
22 declaration shall be filed on or before February 15 of the  
23 succeeding taxable year;

24 (4) An individual may make amendments of a declaration  
25 filed during the taxable year under subsection (3) of this

1 section under rules prescribed by the department;

2 (5) If on or before February 15 of the succeeding  
3 taxable year, the taxpayer files a return for the taxable  
4 year for which the declaration is required and pays in full  
5 the amount computed on his return as payable, then under  
6 rules prescribed by the department;

7 (a) if the declaration is not required to be filed  
8 during the taxable year but is required to be filed on or  
9 before such February 15, such return shall for the purposes  
10 of this section be considered as such declaration; and

11 (b) if the tax shown on the return is greater than the  
12 estimated tax shown in a declaration previously made or in  
13 the last amendments thereof, such return shall for the  
14 purposes of this section be considered as the amendment of  
15 the declaration permitted by subsection (4) of this section  
16 to be filed on or before such February 15;

17 (6) The department shall promulgate rules governing  
18 reasonable extensions of time for filing declarations and  
19 paying the estimated tax except in the case of taxpayers who  
20 are abroad, and no such extension shall be for more than 6  
21 months;

22 (7) If the taxpayer is unable to make his own  
23 declaration, the declaration shall be made by a duly  
24 authorized agent or by the guardian or other person charged  
25 with the care of the person or property of such taxpayer;

1 ~~{8}--Any individual who fails to file a declaration of~~  
 2 ~~estimated tax as required by this section is not subject to~~  
 3 ~~the penalties set forth in 15-30-321.~~

4 {3} Each individual required to declare his estimated  
 5 tax shall make four equal installments on the dates  
 6 prescribed in 15-30-242 if the estimated annual tax due, as  
 7 calculated in subsection (2)(a) of this section, is \$400 or  
 8 more.

9 {4} During the taxable year, an individual may make  
 10 amendments to the declaration required under subsection (1)  
 11 if the amount of his estimated tax changes. The adjustment  
 12 must be reflected in his next required installment.

13 {5} If the taxpayer is unable to make his own  
 14 declaration, the declaration must be made by a duly  
 15 authorized agent or guardian of the taxpayer."

16 **Section 3.** Section 15-30-242, MCA, is amended to read:

17 "15-30-242. Installment payments of estimated tax --  
 18 penalty and interest for underpayment of installment. {1}  
 19 Estimated tax provided for in 15-30-241 shall be paid as  
 20 follows:

21 {a}--If the declaration is filed on or before April 15  
 22 of the taxable year, the estimated tax shall be paid in two  
 23 equal installments. The first installment shall be paid at  
 24 the time of filing of the declaration and the second or last  
 25 installment shall be paid on October 15 of the taxable year.

1 ~~{b}--If the declaration is filed after April 15 and not~~  
 2 ~~after October 15 of the taxable year and is not required by~~  
 3 ~~15-30-241{3} to be filed on or before April 15 of the~~  
 4 ~~taxable year, the estimated tax shall be paid at the time of~~  
 5 ~~filing of the declaration.~~

6 ~~{c}--If the declaration is filed after October 15 of~~  
 7 ~~the taxable year and is not required by 15-30-241{3} to be~~  
 8 ~~filed on or before October 15 of the taxable year, the~~  
 9 ~~estimated tax shall be paid in full at the time of filing of~~  
 10 ~~the declaration.~~

11 ~~{d}--If the declaration is filed after the time~~  
 12 ~~prescribed in 15-30-241, including cases where extensions of~~  
 13 ~~time have been granted, subsections {1}(b) and {1}(c) of~~  
 14 ~~this section shall not apply and there shall be paid at the~~  
 15 ~~time of such filing all installments of estimated tax which~~  
 16 ~~would have been payable on or before such time if the~~  
 17 ~~declaration had been filed within the time prescribed in~~  
 18 ~~15-30-241{3} and the remaining installments shall be paid at~~  
 19 ~~the times at which and in the amounts in which they would~~  
 20 ~~have been payable if the declaration had been so filed.~~

21 ~~{2}--If any amendment of a declaration is filed after~~  
 22 ~~April 15 and before October 15 of the taxable year, the~~  
 23 ~~remaining installment, if any, shall be ratably increased or~~  
 24 ~~decreased, as the case may be, to reflect the respective~~  
 25 ~~increase or decrease in the estimated tax by reason of such~~

1 ~~amendment. If any amendment is made after October 15 of the~~  
2 ~~taxable year, any increase in the estimated tax by reason~~  
3 ~~thereof shall be paid at the time of making such amendment.~~

4 ~~(3) At the election of the individual, any installment~~  
5 ~~of the estimated tax may be paid prior to the date~~  
6 ~~prescribed for its payment.~~

7 ~~(4) Payment of the estimated tax or any installment~~  
8 ~~thereof shall be considered payment on account of the tax~~  
9 ~~for the taxable year.~~

10 ~~(5) The application of this section to taxable years~~  
11 ~~of less than 12 months shall be as prescribed in the rules~~  
12 ~~promulgated by the department.~~

13 ~~(6) In the application of this section to taxpayers~~  
14 ~~reporting income on a fiscal year basis, there shall be~~  
15 ~~substituted for the dates specified therein the months~~  
16 ~~corresponding thereto.~~

17 ~~(7) An individual who fails to pay an estimated tax as~~  
18 ~~required by this section is not subject to the penalties set~~  
19 ~~forth in 15-30-321.~~

20 (1) For calendar year taxpayers, quarterly estimated  
21 payments provided for in 15-30-241 are due on the following  
22 dates of the taxable year:

23	<u>1st installment</u>	<u>April 15</u>
24	<u>2nd installment</u>	<u>June 15</u>
25	<u>3rd installment</u>	<u>September 15</u>

1 4th installment January 15

2 (2) At the election of the individual, any installment  
3 of the estimated tax may be paid prior to the date  
4 prescribed for its payment.

5 (3) For an individual whose taxable year begins on any  
6 date other than January 1, estimated tax payments are due  
7 the following number of months after the beginning of his  
8 taxable year:

9	<u>1st installment</u>	<u>3 1/2 months</u>
10	<u>2nd installment</u>	<u>5 1/2 months</u>
11	<u>3rd installment</u>	<u>8 1/2 months</u>
12	<u>4th installment</u>	<u>12 1/2 months</u>

13 (4) This section does not apply to an individual with  
14 a short taxable year or to a part-time resident.

15 (5) An individual who is required to pay an estimated  
16 tax under 15-30-241 but fails to pay the tax is subject to a  
17 penalty of 10% of the underpayment, but not less than \$5 for  
18 each installment, and interest at the rate of 9% a year. To  
19 calculate the amount of the underpayment and the period of  
20 the time for interest to be paid, the provisions of section  
21 6654(b)(1) through (3) of the Internal Revenue Code of 1986,  
22 as amended, apply.

23 (6) Except as provided in [section 4], the penalty and  
24 interest for underpayment of estimated tax must be added to  
25 the tax due under 15-30-103."

1        **NEW SECTION. Section 4. Exceptions to assessment of**  
 2 **penalty and interest -- interest for overpayment. (1) A**  
 3 **taxpayer is subject to the payment of penalty and interest**  
 4 **provided in 15-30-242(5) only if the amount of an**  
 5 **installment paid, if any, is less than:**

6            (a) 25% of 90% of the actual tax due; or  
 7            (b) 25% of 100% of the previous year's tax liability,  
 8 provided the tax is for a full tax year.

9            (2) (a) Penalty or interest may not be imposed under  
 10 15-30-242(5) with respect to any underpayment of estimated  
 11 taxes for a newly retired or disabled person. For the  
 12 purposes of this subsection (2)(a), "newly retired" or  
 13 "newly disabled" person means a person who retired at 62  
 14 years of age or older or who became disabled in the taxable  
 15 year for which estimated payments are required to be made or  
 16 in the taxable year preceding the current taxable year.

17            (b) Penalty or interest may not be imposed under  
 18 15-30-242(5) with respect to any underpayment to the extent  
 19 the director of the department of revenue determines that by  
 20 reason of casualty, disaster, or other unusual circumstance,  
 21 the imposition of the payment of estimated taxes would be  
 22 contrary to equity and good conscience.

23            (3) Interest may not be paid for any overpayment of  
 24 estimated tax, except as provided in 15-30-149(4).

25        **Section 5. Section 15-31-101, MCA, is amended to read:**

1        **"15-31-101. Organizations subject to tax. (1) The term**  
 2 **"corporation" includes associations, joint-stock companies,**  
 3 **common-law trusts and business trusts which do business in**  
 4 **an organized capacity, and all other corporations whether**  
 5 **created, organized, or existing under and pursuant to the**  
 6 **laws, agreements, or declarations of trust of any state,**  
 7 **country, or the United States.**

8            (2) The terms "engaged in business" and "doing  
 9 business" both mean actively engaging in any transaction for  
 10 the purpose of financial or pecuniary gain or profit.

11            (3) Except as provided in 15-31-103 or 33-2-705(4) or  
 12 as may be otherwise specifically provided, every corporation  
 13 engaged in business in the state of Montana shall annually  
 14 pay to the state treasurer as a license fee for the  
 15 privilege of carrying on business in this state such  
 16 percentage or percentages of its total net income for the  
 17 preceding taxable year at the rate hereinafter set forth. In  
 18 the case of corporations having income from business  
 19 activity which is taxable both within and without this  
 20 state, the license fee shall be measured by the net income  
 21 derived from or attributable to Montana sources as  
 22 determined under part 3. This Except as provided in  
 23 15-31-502, this tax is due and payable on the 15th day of  
 24 the 5th month following the close of the taxable year of the  
 25 corporation; however, the tax becomes a lien as provided in

1 this chapter on the last day of the taxable year in which  
2 the income was earned and is for the privilege of carrying  
3 on business in this state for the taxable year in which the  
4 income was earned.

5 (4) Every bank organized under the laws of the state  
6 of Montana, of any other state, or of the United States and  
7 every savings and loan association organized under the laws  
8 of this state or of the United States is subject to the  
9 Montana corporation license tax provided for under this  
10 chapter. For taxable years beginning on and after January 1,  
11 1972, this subsection is effective in accordance with Public  
12 Law 91-156, section 2 (12 U.S.C. 548)."

13 **Section 6.** Section 15-31-502, MCA, is amended to read:

14 "15-31-502. **Assessment and payment of tax,--penalty,**  
15 **and--interest -- estimated tax payment.** (1) All taxpayers  
16 shall compute the amount of tax payable under this chapter  
17 and shall remit such the amount to the department of revenue  
18 on or before the 15th day of the 5th month following the  
19 close of the taxable period. ~~If the tax is not paid--on--or~~  
20 ~~before--the--due--date,--there--shall--be--assessed--a--penalty--of~~  
21 ~~10%--of--the--amount--of--the--tax--unless--it--is--shown--that--the~~  
22 ~~failure--was--due--to--reasonable--cause--and--not--due--to--neglect,~~  
23 ~~if--any--tax--due--under--this--chapter--is--not--paid--when--due,--by~~  
24 ~~reason--of--extension--granted--or--otherwise,--interest--shall--be~~  
25 ~~added--thereto--at--the--rate--of--12%--per--annum--from--the--due--date~~

1 ~~until--paid:~~

2 (2) Each corporation shall make estimated tax payments  
3 if its annual estimated tax can reasonably be expected to be  
4 \$5,000 or more. The estimated payments must be made in  
5 installments as follows:

6 (a) If the \$5,000 The following percentages of  
7 threshold is met or the estimated tax must be  
8 exceeded: paid on the 15th day of the

9 applicable months:  
10 4th 6th 9th 12th  
11 month month month month

12 Before the 1st day of the  
13 4th month of the taxable  
14 year: 25% 25% 25% 25%

15 After the last day of the  
16 3rd month and before the  
17 1st day of the 6th month of  
18 the taxable year: 33 1/3% 33 1/3% 33 1/3%

19 After the last day of the  
20 5th month and before the  
21 1st day of the 9th month of  
22 the taxable year: 50% 50%

23 After the last day of the  
24 8th month and before the  
25 12th month of the taxable



1 year: 100%

2 (b) If after paying any installment of estimated tax  
3 the taxpayer makes a new estimate, the amount of each  
4 installment, if any, is the amount that would have been paid  
5 if the new estimate had been made when the first estimate  
6 for the taxable year was made, increased or decreased, as  
7 the case may be, by the amount computed by dividing:

8 (i) the difference between:

9 (A) the amount of estimated tax required to be paid  
10 before the date on which the new estimate was made; and

11 (B) the amount of estimated tax that would have been  
12 required to be paid before that date if the new estimate had  
13 been made when the first estimate was made:

14 (ii) by the number of installments remaining to be paid  
15 on or after the date on which the new estimate was made.

16 (3) The application of this section to taxable years  
17 of less than 12 months must be in accordance with rules  
18 adopted by the department.

19 (4) At the election of the corporation, any  
20 installment of the estimated tax may be paid before the date  
21 prescribed for its payment."

22 **NEW SECTION. Section 7. Estimated payments -- tax**  
23 **returns -- penalties -- interest. (1) For corporations**  
24 **failing to make estimated payments according to the schedule**  
25 **provided in 15-31-502(2), there is assessed a 20% per annum**

1 underpayment penalty calculated as follows:

2 (a) For purposes of this subsection (a), the amount of  
3 underpayment is in excess of the amount of the installment  
4 that would be required to be paid if the estimated tax were  
5 equal to 80% of the tax shown on the return for the taxable  
6 year or, if no return was filed, 80% of the tax for the year  
7 over the amount, if any, of the installment paid on or  
8 before the last date prescribed for payment.

9 (b) Notwithstanding the provisions of subsection  
10 (1)(a), the penalty with respect to an underpayment of any  
11 installment may not be imposed if the total amount of all  
12 payments of estimated tax made on or before the last date  
13 prescribed for the payment of the installment equals or  
14 exceeds the amount that would have been required to be paid  
15 on or before that date if the estimated tax were the lesser  
16 of the following:

17 (i) the tax shown on the return of the corporation for  
18 the preceding taxable year if a return showing a liability  
19 for tax was filed for the preceding taxable year and the  
20 preceding year was a taxable year of 12 months;

21 (ii) an amount equal to the tax computed at the rates  
22 applicable to the taxable year, but otherwise on the basis  
23 of the facts shown on the return of the corporation for, and  
24 the law applicable to, the preceding taxable year; or

25 (iii) an amount equal to 80% of the tax for the taxable

1 year, computed by placing on an annualized basis the taxable  
2 income:

3 (A) for the first 3 months of the taxable year in the  
4 case of the installment required to be paid in the 4th  
5 month;

6 (B) for the first 3 months or for the first 5 months  
7 of the taxable year in the case of the installment required  
8 to be paid in the 6th month;

9 (C) for the first 6 months or for the first 8 months  
10 of the taxable year in the case of the installment required  
11 to be paid in the 9th month; and

12 (D) for the first 9 months or for the first 11 months  
13 of the taxable year in the case of the installment required  
14 to be paid in the 12th month of the taxable year.

15 (c) For purposes of subsection (1)(b)(iii), the  
16 taxable income must be placed on an annualized basis by:

17 (i) multiplying by 12 the taxable income referred to  
18 in subsection (1)(b)(iii); and

19 (ii) dividing the resulting amount by the number of  
20 months in the taxable year (3, 5, 6, 8, 9, or 11, as the  
21 case may be) referred to in subsection (1)(b)(iii).

22 (d) Notwithstanding subsections (1)(a) through (1)(c),  
23 the penalty with respect to an underpayment of any  
24 installment may not be imposed if the total amount of all  
25 payments of estimated tax made on or before the last date

1 prescribed for the payment of the installment equals or  
2 exceeds 80% of the amount determined under subsection  
3 (1)(e).

4 (e) To determine the amount under this subsection (e)  
5 for any installment:

6 (i) take the taxable income for all months during the  
7 taxable year preceding the filing month;

8 (ii) divide the amount by the base period percentage  
9 for all months during the taxable year preceding the filing  
10 month;

11 (iii) determine the tax on the amount calculated under  
12 subsection (1)(e)(ii); and

13 (iv) multiply the tax computed under subsection  
14 (1)(e)(iii) by the base period percentage for the filing  
15 month and all months during the taxable year preceding the  
16 filing month.

17 (f) For purposes of this subsection (1):

18 (i) the base period percentage for any period of  
19 months is the average percentage that the taxable income for  
20 the corresponding months in each of the 3 preceding taxable  
21 years bears to the taxable income of the 3 preceding years;

22 (ii) the term "filing month" means the month in which  
23 the installment is required to be paid;

24 (iii) this subsection (1) applies only if the base  
25 period percentage for any 6 consecutive months of the

1 taxable year equals or exceeds 70%; and  
 2 (iv) the department of revenue may by rule provide for  
 3 the determination of the base period percentage in the case  
 4 of reorganizations, new corporations, and other similar  
 5 circumstances.

6 (2) If the tax for any corporation is not paid on or  
 7 before the due date of the return as provided in  
 8 15-31-111(2), there is assessed a penalty of 10% of the  
 9 amount of the tax due, unless it is shown that the failure  
 10 was due to reasonable cause and not to neglect.

11 (3) If any tax due under this section is not paid when  
 12 due, by reason of extension granted or otherwise, interest  
 13 is added to the tax due at the rate of 12% a year from the  
 14 due date until paid.

15 **NEW SECTION. Section 8. University system capital**  
 16 **projects account -- use.** (1) There is within the state  
 17 special revenue fund a university system capital projects  
 18 account.

19 (2) the account is comprised of:

20 (a) all money allocated to the fund under 15-1-501(6);  
 21 and

22 (b) all interest earned on the account, except the  
 23 amount appropriated by the legislature to service bonds  
 24 issued under subsection (3).

25 (3) Interest earned on the account may only be

1 appropriated to service bonds issued for the purpose of  
 2 financing capital projects authorized by the legislature for  
 3 the Montana university system. However, money from the  
 4 account may not be expended or obligated without:

5 (a) specific authorization of the project by the  
 6 legislature; and

7 (b) appropriation of funds by the legislature.

8 (4) For the purposes of this section, the term  
 9 "capital project" means a building or any infrastructure  
 10 necessary to support a building or other infrastructure at  
 11 the university of Montana, Montana state university, eastern  
 12 Montana college, western Montana college, northern Montana  
 13 college, or Montana college of mineral science and  
 14 technology. The term does not include facilities  
 15 appurtenant to the commissioner of higher education or the  
 16 board of regents, unless the facilities are located on the  
 17 campus or an extension of the campus of one of the six units  
 18 specified in this subsection.

19 **NEW SECTION. Section 9. Saving clause.** [This act]  
 20 does not affect rights and duties that matured, penalties  
 21 that were incurred, or proceedings that were begun before  
 22 [the effective date of this act].

23 **NEW SECTION. Section 10. Codification instruction.**  
 24 (1) [Section 4] is intended to be codified as an integral  
 25 part of Title 15, chapter 30, part 2, and the provisions of

1 Title 15, chapter 30, part 2, apply to [section 4].

2 (2) [Section 7] is intended to be codified as an  
3 integral part of Title 15, chapter 31, part 5, and the  
4 provisions of Title 15, chapter 31, part 5, apply to  
5 [section 7].

6 (3) [Section 8] is intended to be codified as an  
7 integral part of Title 17, and the provisions of Title 17  
8 apply to [section 8].

9 NEW SECTION. **Section 11. Applicability.** [This act]  
10 applies to taxable years beginning after December 31, 1989.

11 NEW SECTION. **Section 12. Effective date.** [This act]  
12 is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB14, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for the quarterly payment of estimated tax by certain taxpayers; to require quarterly estimated payments by all taxpayers subject to corporate license or income tax who have annual state tax liabilities in excess of \$5,000; to provide for penalties for underpayment; to create a university system capital projects fund and to provide for the use of the fund; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

CORPORATION LICENSE TAX

1. Corporation license tax collections are projected to be \$51,044,000 in FY90 and \$51,474,000 in FY91 (HJR13).
2. The distribution of corporate tax liabilities across taxable income brackets in calendar year 1987 is assumed constant in future years.
3. Corporations will submit, through required estimated payments, 80% of their total tax liability.
4. The requirement to submit estimated payments will apply to approximately 1,000 corporations. These 1,000 corporations account for 77.4% of revenue collected from the corporation license or income tax.

INDIVIDUAL INCOME TAX

5. Current law individual income tax collections are estimated to be \$256,617,000 in FY90; \$ 274,732,000 in FY91; and \$288,164,000 in FY92 (HJR13 and OBPP).
6. The ratio of estimated tax reported in the Statewide Budgeting & Accounting System (SBAS) to total individual income tax collections is .10 (SBAS, FY88).
7. Under current law, the estimated tax currently reported in SBAS and paid before April 15 is 42.4% of the total liability subject to estimated tax provisions.
8. Taxpayers whose total remaining liability after withholding and credits is less than \$400 will not be subject to the estimated tax provisions.
9. Taxpayers subject to these provisions will pay 90% of their total liabilities in estimated payments.
10. The proposed penalty provisions are sufficient to enforce 100% taxpayer compliance with the provisions of this bill.

W. David Darby DATE 6/22/89  
W. DAVID DARBY, BUDGET DIRECTOR  
Office of Budget and Program Planning

Bruce D. Crippen DATE 6-23-89  
BRUCE D. CRIPPEN, PRIMARY SPONSOR

Fiscal Note for SB14, as introduced

**SB14**

Fiscal Note Request SB14 as introduced

Form BD-15

Page 2

11. The net effect of this bill is to accelerate 42.22% of total FY91 liability subject to estimated tax provisions into FY90. (25% of total estimated tax liability paid in April, and 25% paid in June, less 7.78% already being paid under current law.)
12. During June, 1990, payments are recorded in time to meet the June SBAS cutoff date.
13. If there were no growth in total income tax liability from one year to the next, the impact in the second year of the biennium would be zero. However, the impact shown is attributable to collections estimated to increase 4.89% from FY91 to FY92.
14. Short-term interest rates are estimated to be 8.0% in FY90 and FY91.(HJR13)
15. The submission of quarterly estimated tax payments will increase the workload of the Income Tax Division and the Natural Resource and Corporation Tax Division. Workload increases are due to additional forms and payments to be processed. Also, a one-time expenditure is necessary for changing the corporation tax computer system and the revenue control system to account for the different method of tax receipts.

FISCAL IMPACT:

Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Corporation Tax	\$ 51,044,000	\$ 59,272,293	\$ 8,228,293	\$ 51,474,000	\$ 65,891,867	\$ 14,417,867
Individual						
Income Tax	256,617,000	283,976,000	27,359,000	274,732,000	276,070,000	1,338,000
Total	\$307,661,000	\$343,248,293	\$35,587,293	\$326,206,000	\$341,961,867	\$15,775,867

Corporation Tax note: additional interest earned due to the change in the timing of the receipts is estimated to be \$79,833 in FY90 and \$845,234 in FY91.

Individual Income Tax note: accelerating collections through the estimated tax provisions of this bill are estimated to increase interest income approximately \$244,090 in FY90 and \$361,882 in FY91.

Fund Information:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
General Fund	\$179,283,067	\$192,244,166	\$12,961,099	\$190,059,073	\$186,754,965	(\$3,304,108)
Foundation Program	\$93,296,383	\$105,514,840	\$12,218,458	\$99,147,998	\$102,568,214	\$3,420,215
Debt Service	\$30,806,258	\$33,023,992	\$2,217,734	\$32,657,818	\$32,079,981	(\$577,837)
Local Government	\$4,275,292	\$4,964,469	\$689,177	\$4,341,111	\$5,557,056	\$1,215,945
Univ. Capital Proj.	\$0	\$7,500,825	\$7,500,825	\$0	\$15,001,651	\$15,001,651
Total	\$307,661,000	\$343,248,293	\$35,587,293	\$326,206,000	\$341,961,867	\$15,755,867

Expenditure Impact: (General Fund)

	FY90			FY91		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	\$ 0	\$ 87,681	\$ 87,681	\$ 0	\$ 87,937	\$ 87,937
Operating Expense	0	44,900	44,900	0	31,500	31,500
Capital Outlay	0	23,656	23,656	0	0	0
Total	\$ 0	\$ 156,237	\$ 156,237	\$ 0	\$ 119,437	\$ 119,437

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB14, with proposed amendments

DESCRIPTION OF PROPOSED LEGISLATION:

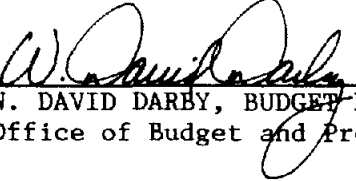
An act to provide for the quarterly payment of estimated tax by certain taxpayers; to require quarterly estimated payments by all taxpayers subject to corporate license or income tax who have annual state tax liabilities in excess of \$5,000; to provide for penalties for underpayment; to create a university system capital projects fund and to provide for the use of the fund; and providing an immediate effective date and an applicability date.

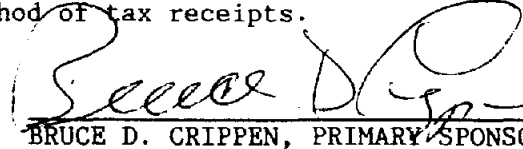
ASSUMPTIONS:CORPORATION LICENSE TAX

1. Corporation license tax collections are projected to be \$51,044,000 in FY90 and \$51,474,000 in FY91 (HJR13).
2. The percentage distribution of corporate tax liabilities across taxable income brackets in 1987 is assumed constant in future years.
3. Corporations will submit through required estimated payments 80% of their total tax liability.
4. The requirement to submit estimated payments will apply to approximately 1,000 corporations. These 1,000 corporations account for 77.4% of revenue collected from the corporation license or income tax.

INDIVIDUAL INCOME TAX

5. Current law individual income tax collections are estimated to be \$ 256,617,000 in FY90; \$ 274,732,000 in FY91; and \$288,164,000 in FY92 (HJR13 and OBPP).
6. The ratio of estimated tax reported in the Statewide Budgeting and Accounting System (SBAS) to total individual income tax collections is .10 (SBAS, FY88).
7. Under current law, the estimated tax currently reported in SBAS, and paid before April 15, is 42.4% of the total liability subject to estimated tax provisions.
8. Taxpayers whose total remaining liability after withholding and credits is less than \$400 will not be subject to the estimated tax provisions.
9. Taxpayers subject to these provisions will pay 90% of their total liabilities in estimated payments.
10. The proposed penalty provisions are sufficient to enforce 100% taxpayer compliance with the provisions of this bill.
11. The net effect of this bill is to accelerate 42.22% of total FY91 liability subject to estimated tax provisions into FY90. (25% of total estimated tax liability paid in April, and 25% paid in June, less 7.78% already being paid under current law.)
12. All June, 1990, payments are recorded in time to meet the June SBAS cutoff date.
13. If there were no growth in total income tax liability from one year to the next, the impact in the second year of the biennium would be zero. The impact shown is attributable to collections estimated to increase approximately 4.89% from FY91 to FY92.
14. Short-term interest rates are estimated to be 8.0% for FY90 and FY91 (HJR 13).
15. The submission of quarterly estimated tax payments will increase the workload of the Income Tax Division and the Natural Resource and Corporation Tax Division. Workload will increase due to additional forms and payments to be processed. Also, a one-time expenditure is necessary for changing the corporation tax computer system and the revenue control system to account for the different method of tax receipts.

  
 W. DAVID DARBY, BUDGET DIRECTOR DATE 2/1/89  
 Office of Budget and Program Planning

  
 BRUCE D. CRIPPEN, PRIMARY SPONSOR DATE 7/5/89  
 Fiscal Note for SB14, with proposed amendments

**SB 14**

SECOND PRINTING



Fiscal Note Request SB14, with proposed amendments  
 Form BD-15  
 Page 2

**FISCAL IMPACT:**

Revenue Impact:

	FY90			FY91		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Corporation Tax	\$ 51,044,000	\$ 59,272,293	\$ 8,228,293	\$ 51,474,000	\$ 65,891,867	\$14,417,867
Individual						
Income Tax	256,617,000	283,976,000	27,359,000	274,732,000	276,070,000	1,338,000
Total	\$307,661,000	\$343,248,293	\$35,587,293	\$326,206,000	\$341,961,867	\$15,775,867

Corporation Tax note: additional interest earned due to the change in the timing of the receipts is estimated to be \$79,833 in FY90 and \$845,234 in FY91.

Individual Income Tax note: accelerating collections through the estimated tax provisions of this bill are estimated to increase interest income approximately \$244,090 in FY90, and \$361,882 in FY91.

Fund Information:

Corporation Taxes

General Fund	\$29,931,973	\$29,195,886	\$ (736,087)	\$30,165,049	\$27,802,281	\$ (2,362,768)
Foundation Program	11,692,177	11,404,643	(287,534)	11,783,222	10,860,266	(922,956)
Debt Service	5,144,558	5,018,043	(126,515)	5,184,618	4,778,517	(406,101)
Local Governments	4,275,292	4,964,469	689,177	4,341,111	5,557,057	1,215,945
Univ. Capital Proj.	0	8,689,252	8,689,252	0	16,893,747	16,893,747
Total	\$51,044,000	\$59,272,293	\$ 8,228,293	\$51,474,000	\$65,891,867	\$14,417,867

Individual Income Taxes

General Fund	\$149,351,094	\$147,812,110	(\$1,538,984)	\$159,894,024	\$160,672,740	\$ 778,716
Foundation Program	81,604,206	80,763,318	(840,888)	87,364,776	87,790,260	425,484
Debt Service	25,661,700	25,397,270	(264,430)	27,473,200	27,607,000	133,800
Univ. Capital Proj.	0	\$30,003,302	30,003,302	0	0	0
Total	\$256,617,000	\$283,976,000	\$27,359,000	\$274,732,000	\$276,070,000	\$ 1,338,000

Expenditure Impact: (General Fund)

Personal Services	\$ 0	\$ 87,681	\$ 87,681	\$ 0	\$ 87,937	\$ 87,937
Operating Expense	0	44,900	44,900	0	31,500	31,500
Capital Outlay	0	23,656	23,656	0	0	0
Total	\$ 0	\$ 156,237	\$ 156,237	\$ 0	\$ 119,437	\$ 119,437

APPROVED BY COMMITTEE  
ON TAXATION AS AMENDED

1 SENATE BILL NO. 14  
2 INTRODUCED BY CRIPPEN, VAN VALKENBURG, HALLIGAN, VINCENT,  
3 FARRELL, NORMAN, BLAYLOCK, MCLANE, B. BROWN, BRADLEY,  
4 BOYLAN, SPRING, WALLIN, REAM  
5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
7 QUARTERLY PAYMENT OF ESTIMATED TAX BY CERTAIN TAXPAYERS; TO  
8 REQUIRE QUARTERLY ESTIMATED PAYMENTS BY ALL TAXPAYERS  
9 SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO HAVE ANNUAL  
10 STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO PROVIDE FOR  
11 INTEREST PENALTIES FOR UNDERPAYMENT; TO ALLOCATE \$20 MILLION  
12 TO THE WORKERS' COMPENSATION TAX ACCOUNT; TO CREATE A  
13 UNIVERSITY SYSTEM CAPITAL PROJECTS FUND AND TO PROVIDE FOR  
14 THE USE OF THE FUND; AMENDING SECTIONS 15-1-501, 15-30-241,  
15 15-30-242, 15-31-101, AND 15-31-502, AND 39-71-2504, MCA;  
16 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN  
17 APPLICABILITY DATE."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 15-1-501, MCA, is amended to read:  
21 "15-1-501. Disposition of moneys from certain  
22 designated license and other taxes. (1) The state treasurer  
23 shall deposit to the credit of the state general fund all  
24 moneys money received by him from the collection of:  
25 (a) fees from driver's licenses, motorcycle

1 endorsements, and duplicate driver's licenses as provided in  
2 61-5-121;  
3 (b) electrical energy producer's license taxes under  
4 chapter 51;  
5 (c) severance taxes allocated to the general fund  
6 under chapter 36;  
7 (d) liquor license taxes under Title 16;  
8 (e) telephone [company] license taxes under chapter  
9 53; and  
10 (f) inheritance and estate taxes under Title 72,  
11 chapter 16.  
12 (2) All-moneys Except as provided in subsection (6)  
13 AND (7), all money received from the collection of income  
14 taxes under chapter 30 of this title shall must be deposited  
15 as follows:  
16 (a) 58.2% to the credit of the state general fund;  
17 (b) 10% to the credit of the debt service account for  
18 long-range building program bonds as described in 17-5-408;  
19 and  
20 (c) 31.8% to the credit of the state special revenue  
21 fund for state equalization aid to the public schools of  
22 Montana as described in 20-9-343.  
23 (3) All-moneys Except as provided in 15-31-702 and  
24 subsection--(6) SUBSECTIONS (8) AND (9) of this section, all  
25 money received from the collection of corporation license

1 and income taxes under chapter 31 of this title, ~~except as~~  
 2 ~~provided in 15-31-702, shall~~ must be deposited as follows:

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

10 (4) The state treasurer shall also deposit to the  
 11 credit of the state general fund all ~~moneys~~ money received  
 12 by him from the collection of license taxes, fees, and all  
 13 net revenues and receipts from all other sources under the  
 14 operation of the Montana Alcoholic Beverage Code.

15 (5) After the distribution provided for in 15-36-112,  
 16 the remainder of the oil severance tax collections ~~shall~~  
 17 must be deposited in the general fund.

18 (6) FROM THE MONEY COLLECTED UNDER 15-30-242 AFTER  
 19 [THE EFFECTIVE DATE OF THIS ACT] FOR ESTIMATED TAX PAYMENTS  
 20 FOR THE TAXABLE PERIODS DESCRIBED IN SUBSECTION (7), \$20  
 21 MILLION IS ALLOCATED TO THE WORKERS' COMPENSATION TAX  
 22 ACCOUNT UNDER 39-71-2504.

23 ~~{6}--(7){a}~~ One-quarter--of--all AFTER THE ALLOCATION  
 24 PROVIDED BY SUBSECTION (6), THE REMAINING money collected  
 25 under 15-30-242(1) for the estimated tax payments due on

1 April 15, 1989, 1990, AND June 15, 1989 1990, September--15,  
 2 1989--and--January--15--1990, must be credited to the  
 3 university system capital projects account created in  
 4 [section 8].

5 (b) One-quarter--of--all AFTER THE ALLOCATION PROVIDED  
 6 BY SUBSECTION (6), THE REMAINING money collected under  
 7 15-30-242(3) for the estimated tax payments due 3 1/2  
 8 months, AND 5 1/2 months, 8-1/2 months, and--12--1/2--months  
 9 after the beginning of a taxpayer's first taxable year  
 10 beginning after [the effective date of this act] must be  
 11 credited to the university system capital projects account  
 12 created in [section 8].

13 (8) (A) BEGINNING JULY 1, 1989, AND ENDING JUNE 30,  
 14 1990, 16% OF ALL MONEY RECEIVED UNDER 15-31-502 FROM THE  
 15 COLLECTION OF CORPORATION LICENSE AND INCOME TAXES MUST BE  
 16 CREDITED TO THE UNIVERSITY SYSTEM CAPITAL PROJECTS ACCOUNT  
 17 CREATED IN [SECTION 8].

18 (B) BEGINNING JULY 1, 1990, AND ENDING JUNE 30, 1991,  
 19 28% OF ALL MONEY RECEIVED UNDER 15-31-502 FROM THE  
 20 COLLECTION OF CORPORATION LICENSE AND INCOME TAXES MUST BE  
 21 CREDITED TO THE UNIVERSITY SYSTEM CAPITAL PROJECTS ACCOUNT  
 22 CREATED IN [SECTION 8].

23 (9) CORPORATION LICENSE TAXES REMAINING AFTER THE  
 24 ALLOCATIONS PROVIDED BY SUBSECTION (8) ARE DISTRIBUTED AS  
 25 PROVIDED BY SUBSECTION (3)."

1       **Section 2.** Section 15-30-241, MCA, is amended to read:  
 2       "15-30-241. Declaration and payment of estimated tax.  
 3       (1) Every individual except farmers, ranchers, or stockmen,  
 4       as defined in section 6654(i)(2) of the Internal Revenue  
 5       Code of 1986, as amended, shall, at the time prescribed in  
 6       ~~subsection (3) of this section~~ 15-30-242, make a declaration  
 7       of and pay his estimated tax for the taxable year if his net  
 8       ~~income from sources other than wages, salaries, bonuses, or~~  
 9       ~~other emoluments can reasonably be expected to equal or~~  
 10       ~~exceed his net income from wages, salaries, bonuses or other~~  
 11       ~~emoluments, which are subject to withholding~~ estimated tax,  
 12       as calculated in subsection (2)(a) of this section, is \$400  
 13       or more.  
 14       (2) (a) In the declaration required under subsection  
 15       (1) ~~of this section, the individual shall state~~ estimated  
 16       tax must be one of the following:  
 17       (a)(i) ~~the amount which he estimates as the amount of~~  
 18       ~~tax under 15-30-103 for the taxable year;~~ 100% of the  
 19       individual's Montana income tax from the prior year or, if  
 20       the individual is married and filing jointly, 100% of the  
 21       joint income tax liability; or  
 22       (ii) 90% of the individual's Montana income tax in the  
 23       current year.  
 24       (b) A taxpayer who estimates his tax under subsection  
 25       (2)(a)(ii) shall:

1       (i) annualize his taxable income for the current year;  
 2       (ii) calculate the tax using the tax rates provided in  
 3       15-30-103; and  
 4       (b)(iii) ~~the amount which he estimates will be~~  
 5       ~~withheld from wages paid by his employer if said individual~~  
 6       ~~is an employee; deduct all withholding and credits to which~~  
 7       ~~he is entitled.~~  
 8       (c) ~~the excess of the amount estimated under~~  
 9       ~~subsection (2)(a) over the amount estimated under subsection~~  
 10       ~~(2)(b); which excess for purposes of this section shall be~~  
 11       ~~considered the estimated tax for the taxable year;~~  
 12       (d) ~~such other information as may be prescribed in~~  
 13       ~~rules promulgated by the department;~~  
 14       (3) ~~The declaration required under subsection (1) of~~  
 15       ~~this section shall be filed with the department on or before~~  
 16       ~~April 15 of the taxable year, except that if the~~  
 17       ~~requirements of subsection (1) of this section are first~~  
 18       ~~met:~~  
 19       (a) ~~after April 1 and before October 1 of the taxable~~  
 20       ~~year, the declaration shall be filed on or before October 15~~  
 21       ~~of the taxable year;~~  
 22       (b) ~~after October 1 of the taxable year, the~~  
 23       ~~declaration shall be filed on or before February 15 of the~~  
 24       ~~succeeding taxable year;~~  
 25       (4) ~~An individual may make amendments of a declaration~~

1 filed--during--the--taxable--year--under--subsection--(3)--of--this  
2 section--under--rules--prescribed--by--the--department.

3 (5)--If,--on--or--before--February--15--of--the--succeeding  
4 taxable--year,--the--taxpayer--files--a--return--for--the--taxable  
5 year--for--which--the--declaration--is--required--and--pays--in--full  
6 the--amount--computed--on--his--return--as--payable,--then--under  
7 rules--prescribed--by--the--department:

8 (a)--if--the--declaration--is--not--required--to--be--filed  
9 during--the--taxable--year--but--is--required--to--be--filed--on--or  
10 before--such--February--15,--such--return--shall--for--the--purposes  
11 of--this--section--be--considered--as--such--declaration;--and

12 (b)--if--the--tax--shown--on--the--return--is--greater--than--the  
13 estimated--tax--shown--in--a--declaration--previously--made--or--in  
14 the--last--amendments--thereof,--such--return--shall--for--the  
15 purposes--of--this--section--be--considered--as--the--amendment--of  
16 the--declaration--permitted--by--subsection--(4)--of--this--section  
17 to--be--filed--on--or--before--such--February--15.

18 (6)--The--department--shall--promulgate--rules--governing  
19 reasonable--extensions--of--time--for--filing--declarations--and  
20 paying--the--estimated--tax--except--in--the--case--of--taxpayers--who  
21 are--abroad,--and--no--such--extension--shall--be--for--more--than--6  
22 months.

23 (7)--If--the--taxpayer--is--unable--to--make--his--own  
24 declaration,--the--declaration--shall--be--made--by--a--duly  
25 authorized--agent--or--by--the--guardian--or--other--person--charged

1 with--the--care--of--the--person--or--property--of--such--taxpayer.

2 (8)--Any--individual--who--fails--to--file--a--declaration--of  
3 estimated--tax--as--required--by--this--section--is--not--subject--to  
4 the--penalties--set--forth--in--15-30-321.

5 (3) Each individual required to declare his estimated  
6 tax shall make four equal installments on the dates  
7 prescribed in 15-30-242 if the estimated annual tax due, as  
8 calculated in subsection (2)(a) of this section, is \$400 or  
9 more.

10 (4) During the taxable year, an individual may make  
11 amendments to the declaration required under subsection (1)  
12 if the amount of his estimated tax changes. The adjustment  
13 must be reflected in his next required installment.

14 (5) If the taxpayer is unable to make his own  
15 declaration, the declaration must be made by a duly  
16 authorized agent or guardian of the taxpayer."

17 **Section 3.** Section 15-30-242, MCA, is amended to read:

18 "15-30-242. Installment payments of estimated tax --  
19 penalty--and interest PENALTY for underpayment of  
20 installment. (1)--Estimated-tax--provided--for--in--15-30-241  
21 shall-be-paid-as-follows:

22 (a)--if--the--declaration--is--filed--on--or--before--April--15  
23 of--the--taxable--year,--the--estimated--tax--shall--be--paid--in--two  
24 equal--installments.--The--first--installment--shall--be--paid--at  
25 the--time--of--filing--of--the--declaration--and--the--second--or--last

1 installment shall be paid on October 15 of the taxable year.

2 (b) If the declaration is filed after April 15 and not  
3 after October 15 of the taxable year and is not required by  
4 15-30-241(3) to be filed on or before April 15 of the  
5 taxable year, the estimated tax shall be paid at the time of  
6 filing of the declaration.

7 (c) If the declaration is filed after October 15 of  
8 the taxable year and is not required by 15-30-241(3) to be  
9 filed on or before October 15 of the taxable year, the  
10 estimated tax shall be paid in full at the time of filing of  
11 the declaration.

12 (d) If the declaration is filed after the time  
13 prescribed in 15-30-241, including cases where extensions of  
14 time have been granted, subsections (1)(b) and (1)(c) of  
15 this section shall not apply and there shall be paid at the  
16 time of such filing all installments of estimated tax which  
17 would have been payable on or before such time if the  
18 declaration had been filed within the time prescribed in  
19 15-30-241(3) and the remaining installments shall be paid at  
20 the times at which and in the amounts in which they would  
21 have been payable if the declaration had been so filed.

22 (2) If any amendment of a declaration is filed after  
23 April 15 and before October 15 of the taxable year, the  
24 remaining installment, if any, shall be ratably increased or  
25 decreased, as the case may be, to reflect the respective

1 increase or decrease in the estimated tax by reason of such  
2 amendment. If any amendment is made after October 15 of the  
3 taxable year, any increase in the estimated tax by reason  
4 thereof shall be paid at the time of making such amendment.

5 (3) At the election of the individual, any installment  
6 of the estimated tax may be paid prior to the date  
7 prescribed for its payment.

8 (4) Payment of the estimated tax or any installment  
9 thereof shall be considered payment on account of the tax  
10 for the taxable year.

11 (5) The application of this section to taxable years  
12 of less than 12 months shall be as prescribed in the rules  
13 promulgated by the department.

14 (6) In the application of this section to taxpayers  
15 reporting income on a fiscal year basis, there shall be  
16 substituted for the dates specified therein the months  
17 corresponding thereto.

18 (7) An individual who fails to pay an estimated tax as  
19 required by this section is not subject to the penalties set  
20 forth in 15-30-321.

21 (1) For calendar year taxpayers, quarterly estimated  
22 payments provided for in 15-30-241 are due on the following  
23 dates of the taxable year:

24 1st installment	April 15
25 2nd installment	June 15

1        3rd installment                    September 15

2        4th installment                    January 15

3        (2) At the election of the individual, any installment  
4 of the estimated tax may be paid prior to the date  
5 prescribed for its payment.

6        (3) For an individual whose taxable year begins on any  
7 date other than January 1, estimated tax payments are due  
8 the following number of months after the beginning of his  
9 taxable year:

10 <u>1st installment</u>	<u>3 1/2 months</u>
11 <u>2nd installment</u>	<u>5 1/2 months</u>
12 <u>3rd installment</u>	<u>8 1/2 months</u>
13 <u>4th installment</u>	<u>12 1/2 months</u>

14        (4) This section does not apply to an individual with  
15 a short taxable year or to a part-time resident.

16        (5) An individual who is required to pay an estimated  
17 tax under 15-30-241 but fails to pay the tax is subject to a  
18 penalty-of-10%-of-the-underpayment,-but-not-less-than-\$5-for  
19 each-installment,-and AN interest PENALTY at the rate of 9%  
20 20% a year. To calculate the amount of the underpayment and  
21 the period of the time for THE interest PENALTY to be paid,  
22 the provisions of section 6654(b)(1) through (3) of the  
23 Internal Revenue Code of 1986, as amended, apply.

24        (6) Except as provided in [section 4], the penalty-and  
25 interest PENALTY for underpayment of estimated tax must be

1        added to the tax due under 15-30-103."

2        NEW SECTION. Section 4. Exceptions to assessment of  
3 penalty--and interest PENALTY -- interest for overpayment.  
4        (1) A taxpayer is subject to the payment of penalty-and THE  
5 interest PENALTY provided in 15-30-242(5) only if the amount  
6 of an installment paid, if any, is less than:  
7        (a) 25% of 90% of the actual tax due; or  
8        (b) 25% of 100% of the previous year's tax liability,  
9 provided the tax is for a full tax year.

10        (2) (a) Penalty-or THE interest PENALTY may not be  
11 imposed under 15-30-242(5) with respect to any underpayment  
12 of estimated taxes for a newly retired or disabled person.  
13 For the purposes of this subsection (2)(a), "newly retired"  
14 or "newly disabled" person means a person who retired at 62  
15 years of age or older or who became disabled in the taxable  
16 year for which estimated payments are required to be made or  
17 in the taxable year preceding the current taxable year.

18        (b) Penalty-or THE interest PENALTY may not be imposed  
19 under 15-30-242(5) with respect to any underpayment to the  
20 extent the director of the department of revenue determines  
21 that by reason of casualty, disaster, or other unusual  
22 circumstance, the imposition of the payment of estimated  
23 taxes would be contrary to equity and good conscience.

24        (3) Interest may not be paid for any overpayment of  
25 estimated tax, except as provided in 15-30-149(4).

1       **Section 5.** Section 15-31-101, MCA, is amended to read:

2       "15-31-101. Organizations subject to tax. (1) The term  
3 "corporation" includes associations, joint-stock companies,  
4 common-law trusts and business trusts which do business in  
5 an organized capacity, and all other corporations whether  
6 created, organized, or existing under and pursuant to the  
7 laws, agreements, or declarations of trust of any state,  
8 country, or the United States.

9       (2) The terms "engaged in business" and "doing  
10 business" both mean actively engaging in any transaction for  
11 the purpose of financial or pecuniary gain or profit.

12       (3) Except as provided in 15-31-103 or 33-2-705(4) or  
13 as may be otherwise specifically provided, every corporation  
14 engaged in business in the state of Montana shall annually  
15 pay to the state treasurer as a license fee for the  
16 privilege of carrying on business in this state such  
17 percentage or percentages of its total net income for the  
18 preceding taxable year at the rate hereinafter set forth. In  
19 the case of corporations having income from business  
20 activity which is taxable both within and without this  
21 state, the license fee shall be measured by the net income  
22 derived from or attributable to Montana sources as  
23 determined under part 3. This Except as provided in  
24 15-31-502, this tax is due and payable on the 15th day of  
25 the 5th month following the close of the taxable year of the

1 corporation; however, the tax becomes a lien as provided in  
2 this chapter on the last day of the taxable year in which  
3 the income was earned and is for the privilege of carrying  
4 on business in this state for the taxable year in which the  
5 income was earned.

6       (4) Every bank organized under the laws of the state  
7 of Montana, of any other state, or of the United States and  
8 every savings and loan association organized under the laws  
9 of this state or of the United States is subject to the  
10 Montana corporation license tax provided for under this  
11 chapter. For taxable years beginning on and after January 1,  
12 1972, this subsection is effective in accordance with Public  
13 Law 91-156, section 2 (12 U.S.C. 548)."

14       **Section 6.** Section 15-31-502, MCA, is amended to read:

15       "15-31-502. Assessment and payment of tax, penalty,  
16 and interest -- estimated tax payment. (1) All taxpayers  
17 shall compute the amount of tax payable under this chapter  
18 and shall remit such the amount to the department of revenue  
19 on or before the 15th day of the 5th month following the  
20 close of the taxable period. ~~if the tax is not paid on or~~  
21 ~~before the due date, there shall be assessed a penalty of~~  
22 ~~10% of the amount of the tax unless it is shown that the~~  
23 ~~failure was due to reasonable cause and not due to neglect.~~  
24 ~~if any tax due under this chapter is not paid when due, by~~  
25 ~~reason of extension granted or otherwise, interest shall be~~



1 ~~added thereto at the rate of 12% per annum from the due date~~  
2 ~~until paid.~~

3 (2) Each corporation shall make estimated tax payments  
4 if its annual estimated tax can reasonably be expected to be  
5 \$5,000 or more. The estimated payments must be made in  
6 installments as follows:

7 (a) If the \$5,000 threshold is met or  
8 exceeded: The following percentages of  
9 the estimated tax must be  
10 paid on the 15th day of the  
11 applicable months:

	<u>4th</u>	<u>6th</u>	<u>9th</u>	<u>12th</u>
	<u>month</u>	<u>month</u>	<u>month</u>	<u>month</u>
13 <u>Before the 1st day of the</u>				
14 <u>4th month of the taxable</u>				
15 <u>year:</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>

16 <u>After the last day of the</u>				
17 <u>3rd month and before the</u>				
18 <u>1st day of the 6th month of</u>				
19 <u>the taxable year:</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	

20 <u>After the last day of the</u>				
21 <u>5th month and before the</u>				
22 <u>1st day of the 9th month of</u>				
23 <u>the taxable year:</u>		<u>50%</u>	<u>50%</u>	

24 <u>After the last day of the</u>				
25 <u>8th month and before the</u>				

1 12th month of the taxable

2 year: 100%

3 (b) If after paying any installment of estimated tax  
4 the taxpayer makes a new estimate, the amount of each  
5 installment, if any, is the amount that would have been paid  
6 if the new estimate had been made when the first estimate  
7 for the taxable year was made, increased or decreased, as  
8 the case may be, by the amount computed by dividing:

9 (i) the difference between:  
10 (A) the amount of estimated tax required to be paid  
11 before the date on which the new estimate was made; and  
12 (B) the amount of estimated tax that would have been  
13 required to be paid before that date if the new estimate had  
14 been made when the first estimate was made;

15 (ii) by the number of installments remaining to be paid  
16 on or after the date on which the new estimate was made.

17 (3) The application of this section to taxable years  
18 of less than 12 months must be in accordance with rules  
19 adopted by the department.

20 (4) At the election of the corporation, any  
21 installment of the estimated tax may be paid before the date  
22 prescribed for its payment."

23 NEW SECTION. Section 7. Estimated payments --  
24 INTEREST PENALTY -- tax returns -- penalties PENALTY --  
25 interest. (1) For corporations failing to make estimated

1 payments according to the schedule provided in 15-31-502(2),  
 2 there is assessed a 20% per annum underpayment INTEREST  
 3 penalty calculated as follows:

4 (a) For purposes of this subsection (a), the amount of  
 5 underpayment is in excess of the amount of the installment  
 6 that would be required to be paid if the estimated tax were  
 7 equal to 80% of the tax shown on the return for the taxable  
 8 year or, if no return was filed, 80% of the tax for the year  
 9 over the amount, if any, of the installment paid on or  
 10 before the last date prescribed for payment.

11 (b) Notwithstanding the provisions of subsection  
 12 (1)(a), the INTEREST penalty with respect to an underpayment  
 13 of any installment may not be imposed if the total amount of  
 14 all payments of estimated tax made on or before the last  
 15 date prescribed for the payment of the installment equals or  
 16 exceeds the amount that would have been required to be paid  
 17 on or before that date if the estimated tax were the lesser  
 18 of the following:

19 (i) the tax shown on the return of the corporation for  
 20 the preceding taxable year if a return showing a liability  
 21 for tax was filed for the preceding taxable year and the  
 22 preceding year was a taxable year of 12 months;

23 (ii) an amount equal to the tax computed at the rates  
 24 applicable to the taxable year, but otherwise on the basis  
 25 of the facts shown on the return of the corporation for, and

1 the law applicable to, the preceding taxable year; or

2 (iii) an amount equal to 80% of the tax for the taxable  
 3 year, computed by placing on an annualized basis the taxable  
 4 income:

5 (A) for the first 3 months of the taxable year in the  
 6 case of the installment required to be paid in the 4th  
 7 month;

8 (B) for the first 3 months or for the first 5 months  
 9 of the taxable year in the case of the installment required  
 10 to be paid in the 6th month;

11 (C) for the first 6 months or for the first 8 months  
 12 of the taxable year in the case of the installment required  
 13 to be paid in the 9th month; and

14 (D) for the first 9 months or for the first 11 months  
 15 of the taxable year in the case of the installment required  
 16 to be paid in the 12th month of the taxable year.

17 (c) For purposes of subsection (1)(b)(iii), the  
 18 taxable income must be placed on an annualized basis by:

19 (i) multiplying by 12 the taxable income referred to  
 20 in subsection (1)(b)(iii); and

21 (ii) dividing the resulting amount by the number of  
 22 months in the taxable year (3, 5, 6, 8, 9, or 11, as the  
 23 case may be) referred to in subsection (1)(b)(iii).

24 (d) Notwithstanding subsections (1)(a) through (1)(c),  
 25 the INTEREST penalty with respect to an underpayment of any

1 installment may not be imposed if the total amount of all  
 2 payments of estimated tax made on or before the last date  
 3 prescribed for the payment of the installment equals or  
 4 exceeds 80% of the amount determined under subsection  
 5 (1)(e).

6 (e) To determine the amount under this subsection (e)  
 7 for any installment:

8 (i) take the taxable income for all months during the  
 9 taxable year preceding the filing month;

10 (ii) divide the amount by the base period percentage  
 11 for all months during the taxable year preceding the filing  
 12 month;

13 (iii) determine the tax on the amount calculated under  
 14 subsection (1)(e)(ii); and

15 (iv) multiply the tax computed under subsection  
 16 (1)(e)(iii) by the base period percentage for the filing  
 17 month and all months during the taxable year preceding the  
 18 filing month.

19 (f) For purposes of this subsection (1):

20 (i) the base period percentage for any period of  
 21 months is the average percentage that the taxable income for  
 22 the corresponding months in each of the 3 preceding taxable  
 23 years bears to the taxable income of the 3 preceding years;

24 (ii) the term "filing month" means the month in which  
 25 the installment is required to be paid;

1 (iii) this subsection (1) applies only if the base  
 2 period percentage for any 6 consecutive months of the  
 3 taxable year equals or exceeds 70%; and

4 (iv) the department of revenue may by rule provide for  
 5 the determination of the base period percentage in the case  
 6 of reorganizations, new corporations, and other similar  
 7 circumstances.

8 (2) If the tax for any corporation is not paid on or  
 9 before the due date of the return as provided in  
 10 15-31-111(2), there is assessed a penalty of 10% of the  
 11 amount of the tax due, unless it is shown that the failure  
 12 was due to reasonable cause and not to neglect.

13 (3) If any tax due under this section is not paid when  
 14 due, by reason of extension granted or otherwise, interest  
 15 is added to the tax due at the rate of 12% a year from the  
 16 due date until paid.

17 **NEW SECTION. Section 8. University system capital**  
 18 **projects account -- use.** (1) There is within the state  
 19 special revenue fund a university system capital projects  
 20 account.

21 (2) the account is comprised of:

22 (a) all money allocated to the fund under  
 23 15-1-501(6)(7) AND (8); and

24 (b) all interest earned on the account, except the  
 25 amount appropriated by the legislature to service bonds

1 issued under subsection (3).

2 (3) Interest earned on the account may only be  
3 appropriated to service bonds issued for the purpose of  
4 financing capital projects authorized by the legislature for  
5 the Montana university system. However, money from the  
6 account may not be expended or obligated without:

7 (a) specific authorization of the project by the  
8 legislature; and

9 (b) appropriation of funds by the legislature.

10 (4) For the purposes of this section, the term  
11 "capital project" means a building or any infrastructure  
12 necessary to support a building or other infrastructure at  
13 the university of Montana, Montana state university, eastern  
14 Montana college, western Montana college, northern Montana  
15 college, or Montana college of mineral science and  
16 technology. The term does not include facilities  
17 appurtenant to the commissioner of higher education or the  
18 board of regents, unless the facilities are located on the  
19 campus or an extension of the campus of one of the six units  
20 specified in this subsection.

21 **SECTION 9. SECTION 39-71-2504, MCA, IS AMENDED TO**

22 **READ:**

23 \*39-71-2504. (Temporary) Workers' compensation tax  
24 account. (1) There is an a workers' compensation tax account  
25 in the state special revenue fund. The account consists of:

1 (a) All all collections of the tax and, including  
2 interest and penalties on the tax must-be-deposited--in--the  
3 account-and-are; and

4 (b) \$20 million allocated to the account under  
5 15-1-501(6).

6 (2) All money in the tax account is statutorily  
7 appropriated, as provided in 17-7-502, to the department to  
8 be used to reduce the unfunded liability in the state fund.  
9 (Terminates June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

10 **NEW SECTION. Section 10. Saving clause.** [This act]  
11 does not affect rights and duties that matured, penalties  
12 that were incurred, or proceedings that were begun before  
13 [the effective date of this act].

14 **NEW SECTION. Section 11. Codification instruction.**  
15 (1) [Section 4] is intended to be codified as an integral  
16 part of Title 15, chapter 30, part 2, and the provisions of  
17 Title 15, chapter 30, part 2, apply to [section 4].

18 (2) [Section 7] is intended to be codified as an  
19 integral part of Title 15, chapter 31, part 5, and the  
20 provisions of Title 15, chapter 31, part 5, apply to  
21 [section 7].

22 (3) [Section 8] is intended to be codified as an  
23 integral part of Title 17, and the provisions of Title 17  
24 apply to [section 8].

25 **NEW SECTION. Section 12. Applicability.** [This act]

SB 0014/02

- 1 applies to taxable years beginning after December 31, 1989.
- 2 NEW SECTION. **Section 13.** Effective date. [This act]
- 3 is effective on passage and approval.

-End-

1 SENATE BILL NO. 14  
2 INTRODUCED BY CRIPPEN, VAN VALKENBURG, HALLIGAN, VINCENT,  
3 FARRELL, NORMAN, BLAYLOCK, MCLANE, B. BROWN, BRADLEY,  
4 BOYLAN, SPRING, WALLIN, REAM  
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
7 QUARTERLY PAYMENT OF ESTIMATED TAX BY CERTAIN TAXPAYERS; TO  
8 REQUIRE QUARTERLY ESTIMATED PAYMENTS BY ALL TAXPAYERS  
9 SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO HAVE ANNUAL  
10 STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO PROVIDE FOR  
11 INTEREST PENALTIES FOR UNDERPAYMENT; TO ALLOCATE \$20 MILLION  
12 TO THE WORKERS' COMPENSATION TAX ACCOUNT; TO CREATE A  
13 UNIVERSITY SYSTEM CAPITAL PROJECTS FUND AND TO PROVIDE FOR  
14 THE USE OF THE FUND; AMENDING SECTIONS 15-1-501, 15-30-241,  
15 15-30-242, 15-31-101, AND 15-31-502, AND 39-71-2504, MCA;  
16 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN  
17 APPLICABILITY DATE."  
18

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

20 Section 1. Section 15-1-501, MCA, is amended to read:  
21 "15-1-501. Disposition of moneys from certain  
22 designated license and other taxes. (1) The state treasurer  
23 shall deposit to the credit of the state general fund all  
24 moneys money received by him from the collection of:  
25 (a) fees from driver's licenses, motorcycle

1 endorsements, and duplicate driver's licenses as provided in  
2 61-5-121;  
3 (b) electrical energy producer's license taxes under  
4 chapter 51;  
5 (c) severance taxes allocated to the general fund  
6 under chapter 36;  
7 (d) liquor license taxes under Title 16;  
8 (e) telephone [company] license taxes under chapter  
9 53; and  
10 (f) inheritance and estate taxes under Title 72,  
11 chapter 16.  
12 (2) All-moneys Except as provided in subsection (6)  
13 AND (7), all money received from the collection of income  
14 taxes under chapter 30 of this title shall must be deposited  
15 as follows:  
16 (a) 58.2% to the credit of the state general fund;  
17 (b) 10% to the credit of the debt service account for  
18 long-range building program bonds as described in 17-5-408;  
19 and  
20 (c) 31.8% to the credit of the state special revenue  
21 fund for state equalization aid to the public schools of  
22 Montana as described in 20-9-343.  
23 (3) All-moneys Except as provided in 15-31-702 and  
24 subsection--(6) SUBSECTIONS (8) AND (9) of this section, all  
25 money received from the collection of corporation license

1 and income taxes under chapter 31 of this title, ~~except as~~  
2 ~~provided in 15-31-702, shall~~ must be deposited as follows:

3 (a) 64% to the credit of the state general fund;

4 (b) 11% to the credit of the debt service account for  
5 long-range building program bonds as described in 17-5-408;  
6 and

7 (c) 25% to the credit of the state special revenue  
8 fund for state equalization aid to the public schools of  
9 Montana as described in 20-9-343.

10 (4) The state treasurer shall also deposit to the  
11 credit of the state general fund all moneys money received  
12 by him from the collection of license taxes, fees, and all  
13 net revenues and receipts from all other sources under the  
14 operation of the Montana Alcoholic Beverage Code.

15 (5) After the distribution provided for in 15-36-112,  
16 the remainder of the oil severance tax collections ~~shall~~  
17 must be deposited in the general fund.

18 (6) FROM THE MONEY COLLECTED UNDER 15-30-242 AFTER  
19 [THE EFFECTIVE DATE OF THIS ACT] FOR ESTIMATED TAX PAYMENTS  
20 FOR THE TAXABLE PERIODS DESCRIBED IN SUBSECTION (7), \$20  
21 MILLION IS ALLOCATED TO THE WORKERS' COMPENSATION TAX  
22 ACCOUNT UNDER 39-71-2504.

23 {6}--(7)(a) One-quarter--of--ait AFTER THE ALLOCATION  
24 PROVIDED BY SUBSECTION (6), THE REMAINING money collected  
25 under 15-30-242(1) for the estimated tax payments due on

1 April 15, 1989, 1990, AND June 15, 1989 1990, September--15,  
2 1989--and--January--15--1990, must be credited to the  
3 university system capital projects account created in  
4 [section 8].

5 (b) One-quarter--of--ait AFTER THE ALLOCATION PROVIDED  
6 BY SUBSECTION (6), THE REMAINING money collected under  
7 15-30-242(3) for the estimated tax payments due 3 1/2  
8 months, AND 5 1/2 months, 8 1/2 months, and 12 1/2 months  
9 after the beginning of a taxpayer's first taxable year  
10 beginning after [the effective date of this act] must be  
11 credited to the university system capital projects account  
12 created in [section 8].

13 (8) (A) BEGINNING JULY 1, 1989, AND ENDING JUNE 30,  
14 1990, 16% OF ALL MONEY RECEIVED UNDER 15-31-502 FROM THE  
15 COLLECTION OF CORPORATION LICENSE AND INCOME TAXES MUST BE  
16 CREDITED TO THE UNIVERSITY SYSTEM CAPITAL PROJECTS ACCOUNT  
17 CREATED IN [SECTION 8].

18 (B) BEGINNING JULY 1, 1990, AND ENDING JUNE 30, 1991,  
19 28% OF ALL MONEY RECEIVED UNDER 15-31-502 FROM THE  
20 COLLECTION OF CORPORATION LICENSE AND INCOME TAXES MUST BE  
21 CREDITED TO THE UNIVERSITY SYSTEM CAPITAL PROJECTS ACCOUNT  
22 CREATED IN [SECTION 8].

23 (9) CORPORATION LICENSE TAXES REMAINING AFTER THE  
24 ALLOCATIONS PROVIDED BY SUBSECTION (8) ARE DISTRIBUTED AS  
25 PROVIDED BY SUBSECTION (3)."

1 **Section 2.** Section 15-30-241, MCA, is amended to read:

2 \*15-30-241. Declaration and payment of estimated tax.

3 (1) Every individual except farmers, ranchers, or stockmen,  
4 as defined in section 6654(i)(2) of the Internal Revenue  
5 Code of 1986, as amended, shall, at the time prescribed in  
6 subsection (3) of this section 15-30-242, make a declaration  
7 of and pay his estimated tax for the taxable year if his net  
8 income from sources other than wages, salaries, bonuses, or  
9 other emoluments can reasonably be expected to equal or  
10 exceed his net income from wages, salaries, bonuses or other  
11 emoluments, which are subject to withholding estimated tax,  
12 as calculated in subsection (2)(a) of this section, is \$400  
13 or more.

14 (2) (a) In the declaration required under subsection  
15 (1) of this section, the individual shall state estimated  
16 tax must be one of the following:

17 (i) the amount which he estimates as the amount of  
18 tax under 15-30-103 for the taxable year; 100% of the  
19 individual's Montana income tax from the prior year or, if  
20 the individual is married and filing jointly, 100% of the  
21 joint income tax liability; or

22 (ii) 90% of the individual's Montana income tax in the  
23 current year.

24 (b) A taxpayer who estimates his tax under subsection  
25 (2)(a)(ii) shall:

1 (i) annualize his taxable income for the current year;  
2 (ii) calculate the tax using the tax rates provided in  
3 15-30-103; and

4 (b)(iii) the amount which he estimates will be  
5 withheld from wages paid by his employer if said individual  
6 is an employee; deduct all withholding and credits to which  
7 he is entitled.

8 (c) the excess of the amount estimated under  
9 subsection (2)(a) over the amount estimated under subsection  
10 (2)(b); which excess for purposes of this section shall be  
11 considered the estimated tax for the taxable year;

12 (d) such other information as may be prescribed in  
13 rules promulgated by the department;

14 (3) The declaration required under subsection (1) of  
15 this section shall be filed with the department on or before  
16 April 15 of the taxable year, except that if the  
17 requirements of subsection (1) of this section are first  
18 met:

19 (a) after April 1 and before October 1 of the taxable  
20 year, the declaration shall be filed on or before October 15  
21 of the taxable year;

22 (b) after October 1 of the taxable year, the  
23 declaration shall be filed on or before February 15 of the  
24 succeeding taxable year;

25 (4) An individual may make amendments of a declaration



1 filed--during--the--taxable--year--under--subsection--(3)--of--this  
2 section--under--rules--prescribed--by--the--department;

3 (5)--If--on--or--before--February--15--of--the--succeeding  
4 taxable--year,--the--taxpayer--files--a--return--for--the--taxable  
5 year--for--which--the--declaration--is--required--and--pays--in--full  
6 the--amount--computed--on--his--return--as--payable,--then--under  
7 rules--prescribed--by--the--department;

8 (a)--if--the--declaration--is--not--required--to--be--filed  
9 during--the--taxable--year--but--is--required--to--be--filed--on--or  
10 before--such--February--15,--such--return--shall--for--the--purposes  
11 of--this--section--be--considered--as--such--declaration,--and

12 (b)--if--the--tax--shown--on--the--return--is--greater--than--the  
13 estimated--tax--shown--in--a--declaration--previously--made--or--in  
14 the--last--amendments--thereof,--such--return--shall--for--the  
15 purposes--of--this--section--be--considered--as--the--amendment--of  
16 the--declaration--permitted--by--subsection--(4)--of--this--section  
17 to--be--filed--on--or--before--such--February--15;

18 (6)--The--department--shall--promulgate--rules--governing  
19 reasonable--extensions--of--time--for--filing--declarations--and  
20 paying--the--estimated--tax--except--in--the--case--of--taxpayers--who  
21 are--abroad,--and--no--such--extension--shall--be--for--more--than--6  
22 months;

23 (7)--If--the--taxpayer--is--unable--to--make--his--own  
24 declaration,--the--declaration--shall--be--made--by--a--duly  
25 authorized--agent--or--by--the--guardian--or--other--person--charged

1 with--the--care--of--the--person--or--property--of--such--taxpayer;

2 (8)--Any--individual--who--fails--to--file--a--declaration--of  
3 estimated--tax--as--required--by--this--section--is--not--subject--to  
4 the--penalties--set--forth--in--15-30-321;

5 (3) Each individual required to declare his estimated  
6 tax shall make four equal installments on the dates  
7 prescribed in 15-30-242 if the estimated annual tax due, as  
8 calculated in subsection (2)(a) of this section, is \$400 or  
9 more.

10 (4) During the taxable year, an individual may make  
11 amendments to the declaration required under subsection (1)  
12 if the amount of his estimated tax changes. The adjustment  
13 must be reflected in his next required installment.

14 (5) If the taxpayer is unable to make his own  
15 declaration, the declaration must be made by a duly  
16 authorized agent or guardian of the taxpayer."

17 **Section 3.** Section 15-30-242, MCA, is amended to read:

18 "15-30-242. Installment payments of estimated tax --  
19 penalty--and interest PENALTY for underpayment of  
20 installment. (1)--Estimated tax--provided--for--in--15-30-241  
21 shall be paid as follows:

22 (a)--If--the--declaration--is--filed--on--or--before--April--15  
23 of--the--taxable--year,--the--estimated--tax--shall--be--paid--in--two  
24 equal--installments,--The--first--instalment--shall--be--paid--at  
25 the--time--of--filing--of--the--declaration--and--the--second--or--last

1 installment shall be paid on October 15 of the taxable year.

2 (b) If the declaration is filed after April 15 and not  
3 after October 15 of the taxable year and is not required by  
4 15-30-241(3) to be filed on or before April 15 of the  
5 taxable year, the estimated tax shall be paid at the time of  
6 filing of the declaration.

7 (c) If the declaration is filed after October 15 of  
8 the taxable year and is not required by 15-30-241(3) to be  
9 filed on or before October 15 of the taxable year, the  
10 estimated tax shall be paid in full at the time of filing of  
11 the declaration.

12 (d) If the declaration is filed after the time  
13 prescribed in 15-30-241, including cases where extensions of  
14 time have been granted, subsections (1)(b) and (1)(c) of  
15 this section shall not apply and there shall be paid at the  
16 time of such filing all installments of estimated tax which  
17 would have been payable on or before such time if the  
18 declaration had been filed within the time prescribed in  
19 15-30-241(3) and the remaining installments shall be paid at  
20 the times at which and in the amounts in which they would  
21 have been payable if the declaration had been so filed.

22 (2) If any amendment of a declaration is filed after  
23 April 15 and before October 15 of the taxable year, the  
24 remaining installment, if any, shall be ratably increased or  
25 decreased, as the case may be, to reflect the respective

1 increase or decrease in the estimated tax by reason of such  
2 amendment. If any amendment is made after October 15 of the  
3 taxable year, any increase in the estimated tax by reason  
4 thereof shall be paid at the time of making such amendment.

5 (3) At the election of the individual, any installment  
6 of the estimated tax may be paid prior to the date  
7 prescribed for its payment.

8 (4) Payment of the estimated tax or any installment  
9 thereof shall be considered payment on account of the tax  
10 for the taxable year.

11 (5) The application of this section to taxable years  
12 of less than 12 months shall be as prescribed in the rules  
13 promulgated by the department.

14 (6) In the application of this section to taxpayers  
15 reporting income on a fiscal year basis, there shall be  
16 substituted for the dates specified therein the months  
17 corresponding thereto.

18 (7) An individual who fails to pay an estimated tax as  
19 required by this section is not subject to the penalties set  
20 forth in 15-30-321.

21 (1) For calendar year taxpayers, quarterly estimated  
22 payments provided for in 15-30-241 are due on the following  
23 dates of the taxable year:

24	<u>1st installment</u>	<u>April 15</u>
25	<u>2nd installment</u>	<u>June 15</u>

1        3rd installment                    September 15

2        4th installment                    January 15

3        (2) At the election of the individual, any installment

4 of the estimated tax may be paid prior to the date

5 prescribed for its payment.

6        (3) For an individual whose taxable year begins on any

7 date other than January 1, estimated tax payments are due

8 the following number of months after the beginning of his

9 taxable year:

10        1st installment                    3 1/2 months

11        2nd installment                    5 1/2 months

12        3rd installment                    8 1/2 months

13        4th installment                    12 1/2 months

14        (4) This section does not apply to an individual with

15 a short taxable year or to a part-time resident.

16        (5) An individual who is required to pay an estimated

17 tax under 15-30-241 but fails to pay the tax is subject to a

18 penalty-of-10%-of-the-underpayment, but not less than \$5 for

19 each installment, and AN interest PENALTY at the rate of 9%

20 20% a year. To calculate the amount of the underpayment and

21 the period of the time for THE interest PENALTY to be paid,

22 the provisions of section 6654(b)(1) through (3) of the

23 Internal Revenue Code of 1986, as amended, apply.

24        (6) Except as provided in [section 4], the penalty-and

25 interest PENALTY for underpayment of estimated tax must be

1        added to the tax due under 15-30-103."

2        NEW SECTION. Section 4. Exceptions to assessment of

3 penalty--and interest PENALTY -- interest for overpayment.

4        (1) A taxpayer is subject to the payment of penalty-and THE

5 interest PENALTY provided in 15-30-242(5) only if the amount

6 of an installment paid, if any, is less than:

7        (a) 25% of 90% of the actual tax due; or

8        (b) 25% of 100% of the previous year's tax liability,

9 provided the tax is for a full tax year.

10        (2) (a) Penalty-or THE interest PENALTY may not be

11 imposed under 15-30-242(5) with respect to any underpayment

12 of estimated taxes for a newly retired or disabled person.

13 For the purposes of this subsection (2)(a), "newly retired"

14 or "newly disabled" person means a person who retired at 62

15 years of age or older or who became disabled in the taxable

16 year for which estimated payments are required to be made or

17 in the taxable year preceding the current taxable year.

18        (b) Penalty-or THE interest PENALTY may not be imposed

19 under 15-30-242(5) with respect to any underpayment to the

20 extent the director of the department of revenue determines

21 that by reason of casualty, disaster, or other unusual

22 circumstance, the imposition of the payment of estimated

23 taxes would be contrary to equity and good conscience.

24        (3) Interest may not be paid for any overpayment of

25 estimated tax, except as provided in 15-30-149(4).

1 **Section 5.** Section 15-31-101, MCA, is amended to read:

2 "15-31-101. Organizations subject to tax. (1) The term  
3 "corporation" includes associations, joint-stock companies,  
4 common-law trusts and business trusts which do business in  
5 an organized capacity, and all other corporations whether  
6 created, organized, or existing under and pursuant to the  
7 laws, agreements, or declarations of trust of any state,  
8 country, or the United States.

9 (2) The terms "engaged in business" and "doing  
10 business" both mean actively engaging in any transaction for  
11 the purpose of financial or pecuniary gain or profit.

12 (3) Except as provided in 15-31-103 or 33-2-705(4) or  
13 as may be otherwise specifically provided, every corporation  
14 engaged in business in the state of Montana shall annually  
15 pay to the state treasurer as a license fee for the  
16 privilege of carrying on business in this state such  
17 percentage or percentages of its total net income for the  
18 preceding taxable year at the rate hereinafter set forth. In  
19 the case of corporations having income from business  
20 activity which is taxable both within and without this  
21 state, the license fee shall be measured by the net income  
22 derived from or attributable to Montana sources as  
23 determined under part 3. This Except as provided in  
24 15-31-502, this tax is due and payable on the 15th day of  
25 the 5th month following the close of the taxable year of the

1 corporation; however, the tax becomes a lien as provided in  
2 this chapter on the last day of the taxable year in which  
3 the income was earned and is for the privilege of carrying  
4 on business in this state for the taxable year in which the  
5 income was earned.

6 (4) Every bank organized under the laws of the state  
7 of Montana, of any other state, or of the United States and  
8 every savings and loan association organized under the laws  
9 of this state or of the United States is subject to the  
10 Montana corporation license tax provided for under this  
11 chapter. For taxable years beginning on and after January 1,  
12 1972, this subsection is effective in accordance with Public  
13 Law 91-156, section 2 (12 U.S.C. 548)."

14 **Section 6.** Section 15-31-502, MCA, is amended to read:

15 "15-31-502. Assessment and payment of tax, penalty  
16 and interest -- estimated tax payment. (1) All taxpayers  
17 shall compute the amount of tax payable under this chapter  
18 and shall remit such the amount to the department of revenue  
19 on or before the 15th day of the 5th month following the  
20 close of the taxable period. ~~If the tax is not paid on or~~  
21 ~~before the due date, there shall be assessed a penalty of~~  
22 ~~10% of the amount of the tax unless it is shown that the~~  
23 ~~failure was due to reasonable cause and not due to neglect.~~  
24 ~~If any tax due under this chapter is not paid when due, by~~  
25 ~~reason of extension granted or otherwise, interest shall be~~

1 added thereto at the rate of 12% per annum from the due date  
2 until paid;

3 (2) Each corporation shall make estimated tax payments  
4 if its annual estimated tax can reasonably be expected to be  
5 \$5,000 or more. The estimated payments must be made in  
6 installments as follows:

7 (a) If the \$5,000 threshold is met or exceeded:  
8 The following percentages of the estimated tax must be  
9 paid on the 15th day of the applicable months:

	<u>4th</u>	<u>6th</u>	<u>9th</u>	<u>12th</u>
	<u>month</u>	<u>month</u>	<u>month</u>	<u>month</u>
10 <u>Before the 1st day of the</u>				
11 <u>4th month of the taxable</u>				
12 <u>year:</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>
13 <u>After the last day of the</u>				
14 <u>3rd month and before the</u>				
15 <u>1st day of the 6th month of</u>				
16 <u>the taxable year:</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	<u>33 1/3%</u>	
17 <u>After the last day of the</u>				
18 <u>5th month and before the</u>				
19 <u>1st day of the 9th month of</u>				
20 <u>the taxable year:</u>		<u>50%</u>	<u>50%</u>	
21 <u>After the last day of the</u>				
22 <u>8th month and before the</u>				

1 12th month of the taxable  
2 year: 100%

3 (b) If after paying any installment of estimated tax  
4 the taxpayer makes a new estimate, the amount of each  
5 installment, if any, is the amount that would have been paid  
6 if the new estimate had been made when the first estimate  
7 for the taxable year was made, increased or decreased, as  
8 the case may be, by the amount computed by dividing:

9 (i) the difference between:  
10 (A) the amount of estimated tax required to be paid  
11 before the date on which the new estimate was made; and  
12 (B) the amount of estimated tax that would have been  
13 required to be paid before that date if the new estimate had  
14 been made when the first estimate was made;

15 (ii) by the number of installments remaining to be paid  
16 on or after the date on which the new estimate was made.

17 (3) The application of this section to taxable years  
18 of less than 12 months must be in accordance with rules  
19 adopted by the department.

20 (4) At the election of the corporation, any  
21 installment of the estimated tax may be paid before the date  
22 prescribed for its payment."

23 NEW SECTION. Section 7. Estimated payments --  
24 INTEREST PENALTY -- tax returns -- penalties PENALTY --  
25 interest. (1) For corporations failing to make estimated

1 payments according to the schedule provided in 15-31-502(2),  
 2 there is assessed a 20% per annum underpayment INTEREST  
 3 penalty calculated as follows:

4 (a) For purposes of this subsection (a), the amount of  
 5 underpayment is in excess of the amount of the installment  
 6 that would be required to be paid if the estimated tax were  
 7 equal to 80% of the tax shown on the return for the taxable  
 8 year or, if no return was filed, 80% of the tax for the year  
 9 over the amount, if any, of the installment paid on or  
 10 before the last date prescribed for payment.

11 (b) Notwithstanding the provisions of subsection  
 12 (1)(a), the INTEREST penalty with respect to an underpayment  
 13 of any installment may not be imposed if the total amount of  
 14 all payments of estimated tax made on or before the last  
 15 date prescribed for the payment of the installment equals or  
 16 exceeds the amount that would have been required to be paid  
 17 on or before that date if the estimated tax were the lesser  
 18 of the following:

19 (i) the tax shown on the return of the corporation for  
 20 the preceding taxable year if a return showing a liability  
 21 for tax was filed for the preceding taxable year and the  
 22 preceding year was a taxable year of 12 months;

23 (ii) an amount equal to the tax computed at the rates  
 24 applicable to the taxable year, but otherwise on the basis  
 25 of the facts shown on the return of the corporation for, and

1 the law applicable to, the preceding taxable year; or  
 2 (iii) an amount equal to 80% of the tax for the taxable  
 3 year, computed by placing on an annualized basis the taxable  
 4 income:

5 (A) for the first 3 months of the taxable year in the  
 6 case of the installment required to be paid in the 4th  
 7 month;

8 (B) for the first 3 months or for the first 5 months  
 9 of the taxable year in the case of the installment required  
 10 to be paid in the 6th month;

11 (C) for the first 6 months or for the first 8 months  
 12 of the taxable year in the case of the installment required  
 13 to be paid in the 9th month; and

14 (D) for the first 9 months or for the first 11 months  
 15 of the taxable year in the case of the installment required  
 16 to be paid in the 12th month of the taxable year.

17 (c) For purposes of subsection (1)(b)(iii), the  
 18 taxable income must be placed on an annualized basis by:

19 (i) multiplying by 12 the taxable income referred to  
 20 in subsection (1)(b)(iii); and

21 (ii) dividing the resulting amount by the number of  
 22 months in the taxable year (3, 5, 6, 8, 9, or 11, as the  
 23 case may be) referred to in subsection (1)(b)(iii).

24 (d) Notwithstanding subsections (1)(a) through (1)(c),  
 25 the INTEREST penalty with respect to an underpayment of any

1 installment may not be imposed if the total amount of all  
2 payments of estimated tax made on or before the last date  
3 prescribed for the payment of the installment equals or  
4 exceeds 80% of the amount determined under subsection  
5 (1)(e).

6 (e) To determine the amount under this subsection (e)  
7 for any installment:

8 (i) take the taxable income for all months during the  
9 taxable year preceding the filing month;

10 (ii) divide the amount by the base period percentage  
11 for all months during the taxable year preceding the filing  
12 month;

13 (iii) determine the tax on the amount calculated under  
14 subsection (1)(e)(ii); and

15 (iv) multiply the tax computed under subsection  
16 (1)(e)(iii) by the base period percentage for the filing  
17 month and all months during the taxable year preceding the  
18 filing month.

19 (f) For purposes of this subsection (1):

20 (i) the base period percentage for any period of  
21 months is the average percentage that the taxable income for  
22 the corresponding months in each of the 3 preceding taxable  
23 years bears to the taxable income of the 3 preceding years;

24 (ii) the term "filing month" means the month in which  
25 the installment is required to be paid;

1 (iii) this subsection (1) applies only if the base  
2 period percentage for any 6 consecutive months of the  
3 taxable year equals or exceeds 70%; and

4 (iv) the department of revenue may by rule provide for  
5 the determination of the base period percentage in the case  
6 of reorganizations, new corporations, and other similar  
7 circumstances.

8 (2) If the tax for any corporation is not paid on or  
9 before the due date of the return as provided in  
10 15-31-111(2), there is assessed a penalty of 10% of the  
11 amount of the tax due, unless it is shown that the failure  
12 was due to reasonable cause and not to neglect.

13 (3) If any tax due under this section is not paid when  
14 due, by reason of extension granted or otherwise, interest  
15 is added to the tax due at the rate of 12% a year from the  
16 due date until paid.

17 **NEW SECTION. Section 8. University system capital**  
18 **projects account -- use.** (1) There is within the state  
19 special revenue fund a university system capital projects  
20 account.

21 (2) the account is comprised of:

22 (a) all money allocated to the fund under  
23 15-1-501~~(6)~~(7) AND (8); and

24 (b) all interest earned on the account, except the  
25 amount appropriated by the legislature to service bonds

1 issued under subsection (3).

2 (3) Interest earned on the account may only be  
3 appropriated to service bonds issued for the purpose of  
4 financing capital projects authorized by the legislature for  
5 the Montana university system. However, money from the  
6 account may not be expended or obligated without:

7 (a) specific authorization of the project by the  
8 legislature; and

9 (b) appropriation of funds by the legislature.

10 (4) For the purposes of this section, the term  
11 "capital project" means a building or any infrastructure  
12 necessary to support a building or other infrastructure at  
13 the university of Montana, Montana state university, eastern  
14 Montana college, western Montana college, northern Montana  
15 college, or Montana college of mineral science and  
16 technology. The term does not include facilities  
17 appurtenant to the commissioner of higher education or the  
18 board of regents, unless the facilities are located on the  
19 campus or an extension of the campus of one of the six units  
20 specified in this subsection.

21 **SECTION 9. SECTION 39-71-2504, MCA, IS AMENDED TO**

22 **READ:**

23 "39-71-2504. (Temporary) Workers' compensation tax  
24 account. (1) There is an workers' compensation tax account  
25 in the state special revenue fund. The account consists of:

1 (a) All all collections of the tax and, including  
2 interest and penalties on the tax must-be-deposited--in--the  
3 account-and-are; and

4 (b) \$20 million allocated to the account under  
5 15-1-501(6).

6 (2) All money in the tax account is statutorily  
7 appropriated, as provided in 17-7-502, to the department to  
8 be used to reduce the unfunded liability in the state fund.  
9 (Terminates June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

10 **NEW SECTION. Section 10. Saving clause.** [This act]  
11 does not affect rights and duties that matured, penalties  
12 that were incurred, or proceedings that were begun before  
13 [the effective date of this act].

14 **NEW SECTION. Section 11. Codification instruction.**  
15 (1) [Section 4] is intended to be codified as an integral  
16 part of Title 15, chapter 30, part 2, and the provisions of  
17 Title 15, chapter 30, part 2, apply to [section 4].

18 (2) [Section 7] is intended to be codified as an  
19 integral part of Title 15, chapter 31, part 5, and the  
20 provisions of Title 15, chapter 31, part 5, apply to  
21 [section 7].

22 (3) [Section 8] is intended to be codified as an  
23 integral part of Title 17, and the provisions of Title 17  
24 apply to [section 8].

25 **NEW SECTION. Section 12. Applicability.** [This act]



SB 0014/02

- 1 applies to taxable years beginning after December 31, 1989.
- 2 NEW SECTION. **Section 13.** Effective date. [This act]
- 3 is effective on passage and approval.

-End-