

HOUSE BILL NO. 671

INTRODUCED BY GILBERT, ELLIOTT, BIRD,
DRISCOLL, GRINDE, SCHYE, MERCER, PETERSON

IN THE HOUSE

MARCH 11, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 20, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 22, 1993	PRINTING REPORT.
	SECOND READING, DO NOT PASS.
	ON MOTION, PREVIOUS ACTION RECONSIDERED.
	SECOND READING, DO PASS AS AMENDED.
MARCH 24, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 51; NOES, 47.
MARCH 25, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 26, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 20, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
	ON MOTION, BILL PLACED ON SECOND READING.
	SECOND READING, CONCURRED IN.
	ON MOTION, RULES SUSPENDED TO ALLOW THIRD READING THIS DAY.
	THIRD READING, CONCURRED IN.

AYES, 28; NOES, 21.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 20, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

SIGNED BY SPEAKER.

IN THE SENATE

APRIL 20, 1993

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 20, 1993

DELIVERED TO GOVERNOR.

APRIL 22, 1993

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS NOT CONCURRED IN.

IN THE SENATE

APRIL 22, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 23, 1993

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

APRIL 24, 1993

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT REJECTED.

ON MOTION, PREVIOUS ACTION
RECONSIDERED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 24, 1993

FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 24, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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House BILL NO. 671

INTRODUCED BY Daniel Miller Miller Bird

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING INDIVIDUAL INCOME TAX LAWS AND AMENDING CORPORATE LICENSE AND INCOME TAX LAWS; PROVIDING A SINGLE INCOME TAX RATE; REPLACING ITEMIZED INCOME TAX DEDUCTIONS WITH STANDARD DEDUCTIONS AND INCREASING THE EXEMPTION AMOUNT; CHANGING THE METHOD OF INDEXING THE STANDARD DEDUCTION AND EXEMPTION AMOUNTS; PROVIDING FOR A ONE-TIME TAX CREDIT RESULTING FROM GAIN FROM THE SALE OF A BUSINESS HELD FOR 15 OR MORE YEARS; INCREASING THE RATE OF THE CORPORATE LICENSE OR INCOME TAX FOR CORPORATIONS WITH TAXABLE INCOME OVER \$500,000; INCREASING THE MINIMUM CORPORATE TAX TO \$100; INCREASING THE SMALL BUSINESS CORPORATION MINIMUM FEE TO \$25; AMENDING SECTIONS 13-37-218, 15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-112, 15-30-117, 15-30-122, 15-30-126, 15-30-131, 15-30-137, 15-30-142, 15-30-323, 15-31-121, 15-31-131, 15-31-202, 15-31-204, AND 15-32-303, MCA; REPEALING SECTIONS 15-30-121, 15-30-156, 15-30-157, 15-30-159, AND 15-30-160, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

1 "15-30-101. Definitions. For the purpose of this
2 chapter, unless otherwise required by the context, the
3 following definitions apply:
4 (1) "Base year structure" means the following elements
5 of the income tax structure:
6 (a) ~~the tax brackets established in 15-30-103, but~~
7 ~~unadjusted by subsection (2) of 15-30-103, in effect on June~~
8 ~~30 of the taxable year;~~
9 (b) the exemptions contained in 15-30-112, but
10 unadjusted by 15-30-112(6), in effect on June 30 of the
11 taxable year;
12 (c) (b) the maximum standard deduction provided in
13 15-30-122, but unadjusted by subsection (2) (4) of
14 15-30-122, in effect on June 30 of the taxable year.
15 (2) "Consumer price index for Montana" means the
16 consumer price index for all urban consumers, United States
17 city average, for all items, using the 1967 1982-1984 base
18 index of 100, as that base index is periodically adjusted,
19 as published by the bureau of labor statistics of the U.S.
20 department of labor, multiplied by 0.5.
21 (3) "Department" means the department of revenue.
22 (4) "Dividend" means any distribution made by a
23 corporation out of its earnings or profits to its
24 shareholders or members, whether in cash or in other
25 property or in stock of the corporation, other than stock

dividends as-herein-defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

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

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

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

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for Montana for June of the taxable year by the consumer price index for Montana for June, 1980 1994.

(9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the

state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

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

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

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

(13) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code, or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the

1 United States;

2 (c) lump-sum distributions from pension or
3 profitsharing plans to the extent that the distributions are
4 included in federal adjusted gross income;

5 (d) distributions from individual retirement, deferred
6 compensation, and self-employed retirement plans recognized
7 under sections 401 through 408 of the Internal Revenue Code
8 to the extent that the distributions are not considered to
9 be premature distributions for federal income tax purposes;
10 or

11 (e) amounts after cessation of regular employment
12 received from fully matured, privately purchased annuity
13 contracts.

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

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

20 (16) "Resident" applies only to natural persons and
21 includes, for the purpose of determining liability to the
22 tax imposed by this chapter with reference to the income of
23 any taxable year, any person domiciled in the state of
24 Montana and any other person who maintains a permanent place
25 of abode within the state even though temporarily absent

1 from the state and has not established a residence
2 elsewhere.

3 (17) "Taxable income" means the adjusted gross income of
4 a taxpayer less the deductions and exemptions provided for
5 in this chapter.

6 (18) "Taxable year" means the taxpayer's taxable year
7 for federal income tax purposes.

8 (19) "Taxpayer" includes any person or fiduciary,
9 resident or nonresident, subject to a tax imposed by this
10 chapter and does not include corporations."

11 **Section 2.** Section 15-30-103, MCA, is amended to read:

12 "**15-30-103. Rate of tax -- adjustment.** (1) ~~There--shall~~
13 ~~be Subject to subsection (2), there is~~ levied, collected,
14 and paid for each taxable year commencing on or after
15 December 31, ~~1968~~ 1992, upon the taxable income of every
16 taxpayer individual subject to this tax, after making
17 allowance for exemptions and deductions ~~as--hereinafter~~
18 provided, a tax at the rate of 7.5% of the individual's
19 taxable income on-the-following-brackets-of-taxable-income
20 as-adjusted-under-subsection-(2)-at-the-following-rates:

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

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

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

1 ~~thereof, 4%.~~
2 ~~{d}--on--the--next--\$2,000--of--taxable--income--or--any--part~~
3 ~~thereof, 5%.~~
4 ~~{e}--on--the--next--\$2,000--of--taxable--income--or--any--part~~
5 ~~thereof, 6%.~~
6 ~~{f}--on--the--next--\$2,000--of--taxable--income--or--any--part~~
7 ~~thereof, 7%.~~
8 ~~{g}--on--the--next--\$4,000--of--taxable--income--or--any--part~~
9 ~~thereof, 8%.~~
10 ~~{h}--on--the--next--\$6,000--of--taxable--income--or--any--part~~
11 ~~thereof, 9%.~~
12 ~~{i}--on--the--next--\$15,000--of--taxable--income--or--any--part~~
13 ~~thereof, 10%.~~
14 ~~{j}--on--any--taxable--income--in--excess--of--\$35,000--or--any~~
15 ~~part--thereof, 11%.~~
16 ~~(2) By November 1 of each year, the department shall~~
17 ~~multiply the bracket amount contained in subsection (1) by~~
18 ~~the inflation factor for that taxable year and round the~~
19 ~~cumulative brackets to the nearest \$100. The resulting~~
20 ~~adjusted brackets are effective for that taxable year and~~
21 ~~shall be used as the basis for imposition of the tax in~~
22 ~~subsection (1) of this section. The department may adopt~~
23 ~~rules for adjusting the tax rate provided in subsection (1)~~
24 ~~to reflect changes in federal adjusted gross income. The~~
25 ~~rules must adjust the tax rate to maintain a rate that does~~

1 not exceed 7.5% of an individual's taxable income, as
2 determined for the tax year beginning January 1, 1994."

3 **Section 3.** Section 15-30-105, MCA, is amended to read:

4 "15-30-105. Tax on nonresident -- alternative tax based
5 on gross sales. (1) A like tax is imposed upon every person
6 not resident of this state, which tax ~~shall~~ must be levied,
7 collected, and paid annually at the ~~rates~~ rate specified in
8 15-30-103 with respect to ~~his--entire--net~~ the person's
9 taxable income. After calculating the tax imposed, the tax
10 due and payable must be determined based upon the ratio of
11 income earned in Montana to total income. Interest income
12 from installment sales of real or tangible commercial or
13 business property located in Montana is considered income
14 earned in Montana.

15 (2) Pursuant to the provisions of Article III, section
16 2, of the Multistate Tax Compact, every nonresident taxpayer
17 required to file a return and whose only activity in Montana
18 consists of making sales and who does not own or rent real
19 estate or tangible personal property within Montana and
20 whose annual gross volume of sales made in Montana during
21 the taxable year does not exceed \$100,000 may elect to pay
22 an income tax of 1/2 of 1% of the dollar volume of gross
23 sales made in Montana during the taxable year. ~~Such~~ The tax
24 ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The
25 gross volume of sales made in Montana during the taxable

year ~~shall~~ must be determined according to the provisions of Article IV, sections 16 and 17, of the Multistate Tax Compact."

Section 4. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income ~~shall--be~~ is the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition ~~shall--include~~ includes the following:

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

~~(b)--refunds-received-of--federal--income--tax--to--the extent--the-deduction-of-such-tax-resulted-in-a-reduction-of Montana-income-tax-liability;~~

~~(c)~~ (b) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of 1954, that has been reduced by any federal taxes paid by the subchapter S. corporation on the income; and

~~(d)~~ (c) depreciation or amortization taken on a title plant as defined in 33-25-105(15).

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, adjusted gross income does not include the following which

are exempt from taxation under this chapter:

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

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

(c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income received as defined in 15-30-101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law; and

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange"; and

(j) for a single joint return of husband and wife, an amount, not to exceed \$3,000, equal to 10% of the wages and salary received by the spouse that earned the least amount of wages and salary in the tax year.

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(1) shall include in his the shareholder's adjusted gross income the earnings

and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced his the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

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

(6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year

and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married couple deduction exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

Section 5. Section 15-30-112, MCA, is amended to read:

"15-30-112. **Exemptions.** (1) Except as provided in subsection (6), in the case of an individual, the exemptions provided by subsections (2) through (5) ~~shall-be~~ are allowed as deductions in computing taxable income.

(2) (a) An exemption of \$800 \$3,500 ~~shall-be~~ is allowed

for taxable years beginning after December 31, ~~1978~~ 1992, for the taxpayer.

(b) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the taxpayer if ~~he~~ the taxpayer has attained the age of 65 before the close of ~~his~~ the taxpayer's taxable year.

(b) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of ~~such~~ the taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the taxpayer if ~~he~~ the taxpayer is blind at

the close of ~~his~~ the taxpayer's taxable year.

(b) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1970~~ 1992, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection ~~(4)(b)~~ (b), the determination of whether the spouse is blind ~~shall~~ must be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during ~~such~~ the taxable year, ~~such~~ the determination ~~shall~~ must be made as of the time of ~~such~~ death.

(c) For purposes of this subsection (4), an individual is blind only if ~~his~~ the individual's central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if ~~his~~ the individual's visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1970~~ 1992, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than ~~\$800~~

\$3,500; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) ~~No~~ An exemption ~~shall-be~~ is not allowed under this subsection (5) for any dependent who has made a joint return with ~~his~~ the dependent's spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection ~~(5)(d)(iii)~~ (ii), the term "educational

institution" means only an educational institution which that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) The For tax years beginning after December 31, 1992, the department, by November 1 of each year, shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest \$10. The resulting adjusted exemptions are effective for that taxable year and shall must be used in calculating the tax imposed in 15-30-103."

Section 6. Section 15-30-117, MCA, is amended to read:

"15-30-117. Net operating loss -- computation. (1) A Montana net operating loss for a loss incurred in tax years beginning after December 31, 1992, must be determined in accordance with section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in accordance with the following:

(a) The net operating loss deduction for Montana purposes is increased by the following:

~~(i) that portion of the federal income tax and motor vehicle tax allowed as a deduction under 15-30-121 or 15-30-131 which is attributable to income from a Montana trade or business; and~~

~~(ii) Montana wages and salaries allowed as a business deduction under 15-30-111(4).~~

(b) The net operating loss deduction for Montana purposes is decreased by the following:

~~(i) interest received on obligations of another state or territory or of a county, municipality, district, or political subdivision thereof allowed as nonbusiness income under 15-30-111(1)(a);~~

~~(ii) federal income tax refunds required to be reported under 15-30-111 and 15-30-131 as Montana business income;~~

~~(iii) state income tax; and~~

~~(iv) any other nonbusiness deductions allowed under 15-30-121 in excess of nonbusiness income.~~

(2) Notwithstanding the provisions of section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, a net operating loss does not include:

(a) income defined as exempt from state taxation under 15-30-111(2); or

~~(b) a zero-bracket deduction provided for under section 63 of the Internal Revenue Code of 1954 or as that section may be labeled or amended."~~

Section 7. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) A standard deduction equal to 20% of adjusted gross income ~~shall be~~ is allowed ~~if elected by the taxpayer on his~~ on the taxpayer's

1 return. ~~The standard deduction shall be in lieu of all~~
 2 ~~deductions allowed under 15-30-121. The maximum~~

3 (2) (a) Except as provided in subsections (2)(b)
 4 through (2)(d), the standard deduction shall be \$1,500 is
 5 \$5,000, as adjusted under the provisions of subsection
 6 (2), except that in the case of

7 (b) For a single joint return of husband and wife, the
 8 standard deduction is \$10,000, or in the case of

9 (c) For a single individual who qualifies to file as a
 10 head of household on his the individual's federal income tax
 11 return, the maximum standard deduction shall be \$3,000 is
 12 \$7,500, as adjusted under the provisions of subsection
 13 (2).

14 (d) The standard deduction shall not be allowed to
 15 either the husband or the wife if the tax of one of the
 16 spouses is determined without regard to the standard
 17 deduction for married taxpayers filing separately is \$5,000.

18 (3) For purposes of this section, the determination of
 19 whether an individual is married shall must be made as of
 20 the last day of the taxable year, provided, however,
 21 However, if one of the spouses dies during the taxable year,
 22 the determination shall must be made as of the date of
 23 death.

24 (2)(4) By For taxable years beginning after December
 25 31, 1994, by November 1 of each year, the department shall

1 multiply the maximum standard deduction for single returns,
 2 qualified head of household returns, and joint returns by
 3 the inflation factor for that taxable year and round the
 4 product to the nearest \$10. ~~The standard deduction for joint~~
 5 ~~returns and qualified head of household returns shall be~~
 6 ~~twice the amount for single returns.~~ The resulting adjusted
 7 deductions are effective for that taxable year and ~~shall~~
 8 must be used in calculating the tax imposed in 15-30-103."

9 NEW SECTION. Section 8. Credit for sale of business.

10 (1) (a) For tax years beginning after December 31, 1992, an
 11 individual who realizes a gain that must be included in
 12 Montana adjusted gross income, from the sale of a business,
 13 trade, or profession, is allowed a one-time credit against
 14 the tax imposed by 15-30-103.

15 (b) To be eligible for the credit, the individual,
 16 including the individual's parents, grandparents, children,
 17 and grandchildren, must have held the interest in the
 18 business, trade, or profession for at least 15 years.

19 (2) (a) Subject to the limitation contained in
 20 subsection (2)(b), the credit must be computed by
 21 multiplying the gain that was included in the Montana
 22 adjusted gross income from the sale times the individual's
 23 highest federal tax rate in the tax year in which the gain
 24 from the sale is reported times this state's highest tax
 25 rate for that individual in the same year.

(b) For an individual who realized a gain in excess of \$1 million, the credit is reduced at the rate of \$1 for every \$2 of gain in excess of \$1 million.

(c) The credit provided for in this section is not refundable, nor may it be carried back or carried forward.

(3) For sales that occurred prior to December 31, 1992, and for which the gain for the sale of the business, trade, or profession is being reported on the installment basis, the individual shall satisfy the requirements of subsection (1)(b).

Section 9. Section 15-30-126, MCA, is amended to read:

"15-30-126. **Small business corporation -- deduction for donation of computer equipment to schools.** A small business corporation, as defined in 15-31-201, is allowed a deduction equal to the fair market value, not to exceed 30% of the small business corporation's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

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

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

(3) the electing small business corporation receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of subsection (2); and

~~(4) the deduction allowed in this section is in lieu of the deduction allowed under 15-30-121 for charitable contributions.~~

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

"15-30-131. **Nonresident and temporary part-year resident taxpayers -- adjusted gross income.** (1) In the case of a nonresident or part-year resident taxpayer other than a resident of this state, adjusted gross income includes the entire amount of adjusted gross income ~~as provided for in 15-30-121~~ from sources within this state but does not include income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations, except to the extent to which the income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations are a part of income from any business, trade, profession, or occupation carried on in this state. Interest income from installment sales of real or tangible commercial or business property located in Montana must be included in

Montana adjusted gross income. Adjusted gross income from sources within and outside of this state must be allocated and apportioned under rules adopted by the department in accordance with the Multistate Tax Compact.

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

(3) The deductions allowed in computing net income are restricted to a prorated standard deduction, as adjusted, allowed under 15-30-122 and prorated exemptions, as adjusted, allowed under 15-30-112. The standard deduction and the claimable exemptions must be prorated according to the ratio that the taxpayer's Montana adjusted gross income bears to the taxpayer's federal adjusted gross income."

Section 11. Section 15-30-137, MCA, is amended to read:

"15-30-137. Determination of tax of estates and trusts.

The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates rate contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable."

Section 12. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) A return must be filed

as provided in subsections (2)(a) through (2)(d) on forms and according to rules prescribed by the department. The filing status used in subsection (2) must be the same status used for the individual's or married couple's federal income tax return.

(2) A return must be filed by:

(a) Every each single individual ~~and--every-married individual--not-filing-a-joint-return-with-his-or-her--spouse~~ and having a gross income for the taxable year of more than ~~\$17,000~~, the combined amount of the standard deduction for a single individual plus the amount for the exemption claimable by the individual as provided in 15-30-112; as adjusted-under-the-provisions-of-subsection-(7), and

(b) each individual filing as a head of household having gross income for the taxable year of more than the combined amount of the standard deduction for a head of household plus the amount for the exemption claimable by the individual as provided in 15-30-112;

(c) married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$27,000, the combined amount of the standard deduction for married individuals not filing separately plus the amount for the exemption claimable by the individuals as provided in 15-30-112; and

(d) as-adjusted-under-the-provisions-of-subsection-(7),

1 ~~shall be liable for a return to be filed on such forms and~~
 2 ~~according to such rules as the department may prescribe~~
 3 married individuals filing separately with combined gross
 4 income exceeding one-half of the combined amount of the
 5 standard deduction for married individuals not filing
 6 separately plus the amount for the exemption claimable by
 7 the individual as provided in 15-30-112. The gross income
 8 ~~amounts referred to in the preceding sentence shall be~~
 9 ~~increased by \$800, as adjusted under the provisions of~~
 10 ~~15-30-112(6), for each additional personal exemption~~
 11 ~~allowance the taxpayer is entitled to claim for himself and~~
 12 ~~his spouse under 15-30-112(3) and (4).~~

13 (3) A nonresident ~~shall be~~ is required to file a return
 14 if his the nonresident's gross income for the taxable year
 15 derived from sources within Montana exceeds the total amount
 16 of the prorated exemption deduction and prorated standard
 17 deduction he ~~is~~ is entitled to claim for himself and his
 18 claimable by the nonresident and the nonresident's spouse
 19 under the provisions of 15-30-112(2), (3), and (4).

20 (2)(4) In accordance with instructions set forth by the
 21 department, every taxpayer who is married, and who is living
 22 with ~~husband or wife~~ the taxpayer's spouse, and who is
 23 required to file a return may, at his or her the taxpayer's
 24 option, file a joint return with ~~husband or wife~~ the spouse
 25 even though one of the spouses has neither gross income nor

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

8 (3)(5) If ~~any such a~~ taxpayer is unable to make his own
 9 a return that is required to be made by the taxpayer, the
 10 return ~~shall~~ must be made by a duly authorized agent or by a
 11 guardian or other person charged with the care of the person
 12 or property of such the taxpayer.

13 (4)(6) All taxpayers, including but not limited to
 14 those subject to the provisions of 15-30-202 and 15-30-241,
 15 shall compute the amount of income tax payable and shall, at
 16 the time of filing the return required by this chapter, pay
 17 to the department any balance of income tax remaining unpaid
 18 after crediting the amount withheld as provided by 15-30-202
 19 ~~and/or and~~ any payment made by reason of an estimated tax
 20 return provided for in 15-30-241; ~~provided, however, if~~ the
 21 tax ~~so~~ computed is greater by \$1 than the amount withheld
 22 ~~and/or or~~ paid by estimated return as provided in this
 23 chapter. If the amount of tax withheld ~~and/or or~~ payment of
 24 estimated tax exceeds by more than \$1 the amount of income
 25 tax as computed, the taxpayer ~~shall be~~ is entitled to a

1 refund of the excess.

2 ~~{5}~~(7) As soon as practicable after the return is
3 filed, the department shall examine and verify the tax.

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

13 ~~{7}~~(9) By November 1 of each year, the department shall
14 multiply determine the minimum amount of gross income
15 necessitating the filing of a return ~~by-the-inflation-factor~~
16 for the taxable year. These adjusted amounts are effective
17 for that taxable year, and persons having gross incomes less
18 than these adjusted amounts are not required to file a
19 return.

20 ~~{8}~~(10) Individual income tax forms distributed by the
21 department for each taxable year must contain instructions
22 and tables based on the adjusted base year structure for
23 that taxable year.

24 {11} For the purposes of this section:

25 (a) "exemption" means an exemption provided by

1 15-30-112 and includes the adjustment provided in
2 15-30-112(6); and

3 (b) "standard deduction" means a deduction provided by
4 15-30-122 and includes the adjustment provided in
5 15-30-122(4)."

6 **Section 13.** Section 15-30-323, MCA, is amended to read:

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

20 (2) If the time for filing a return is extended, the
21 taxpayer shall pay in addition interest ~~thereon~~ on the tax
22 due at the rate of 9% per annum from the time when the
23 return was originally required to be filed to the time of
24 payment."

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

1 "15-31-121. (Temporary) Rate of tax -- minimum tax --
 2 surtax. (1) Except as provided in subsection (2), the
 3 percentage of net income to be paid under 15-31-101 ~~shall be~~
 4 is:

5 (a) 6 3/4% of all the first \$500,000 of net income for
 6 the taxable period; and

7 (b) 7 1/4% of all net income in excess of \$500,000 for
 8 the taxable period. The rate set forth in this subsection
 9 (1) shall be effective for all taxable years ending on or
 10 after February 28, 1971. This rate is retroactive to and
 11 effective for all taxable years ending on or after February
 12 28, 1971.

13 (2) For a taxpayer making a water's-edge election, the
 14 percentage of net income to be paid under 15-31-101 ~~shall be~~
 15 is 7% of all taxable net income for the taxable period.

16 (3) Every corporation subject to taxation under this
 17 part shall, in any event, pay a minimum tax of not less than
 18 \$50.

19 (4) After the amount of tax liability has been computed
 20 under subsections (1) through (3), each corporation subject
 21 to taxation under this part shall add, as a surtax for tax
 22 year 1992, 2.3% of the tax liability and, as a surtax for
 23 tax year 1993, 4.7% of the tax liability, and the amount so
 24 derived is the amount due the state.

25 (5) The additional tax collected under subsection (4)

1 must be deposited to the credit of the state general fund.

2 15-31-121. (Effective on receipt of taxes for tax year
 3 1993) Rate of tax -- minimum tax -- surtax. (1) Except as
 4 provided in subsection (2), the percentage of net income to
 5 be paid under 15-31-101 ~~shall be~~ is:

6 (a) 6 3/4% of all the first \$500,000 of net income for
 7 the taxable period; and

8 (b) 7 1/4% of all net income in excess of \$500,000 for
 9 the taxable period. The rate set forth in this subsection
 10 (1) shall be effective for all taxable years ending on or
 11 after February 28, 1971. This rate is retroactive to and
 12 effective for all taxable years ending on or after February
 13 28, 1971.

14 (2) For a taxpayer making a water's-edge election, the
 15 percentage of net income to be paid under 15-31-101 ~~shall be~~
 16 is 7% of all taxable net income for the taxable period.

17 (3) Every corporation subject to taxation under this
 18 part shall, in any event, pay a minimum tax of not less than
 19 \$50 \$100.

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

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

"15-31-202. Small business corporation not subject to chapter. (1) A small business corporation is not subject to the taxes imposed by this chapter. The corporate net income or loss of the corporation is included in the stockholders' adjusted gross income as defined in 15-30-111.

(2) Each small business corporation is required to pay the minimum fee of ~~\$10~~ \$25 required by 15-31-204."

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

"15-31-204. Minimum fee of small business corporations unaffected. Notwithstanding the provisions of 15-31-121, small business corporations shall pay a minimum fee of ~~\$10~~ \$25."

Section 17. Section 15-31-131, MCA, is amended to read:

"15-31-131. Credit for dependent care assistance. (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the taxable year by the employer for dependent care assistance actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the requirements of section 89(k) and 129(d)(2) through (6) of the Internal Revenue Code.

(2) (a) The amount of the credit allowed under subsection (1) is 20% of the amount paid or incurred by the employer during the taxable year, but the credit may not

exceed \$1,250 of day-care assistance actually provided to or on behalf of the employee.

(b) For the purposes of this subsection, marital status must be determined under the rules of section 21(e)(3) and (4) of the Internal Revenue Code.

(c) In the case of an onsite facility, the amount upon which the credit allowed under subsection (1) is based, with respect to any dependent, must be based upon utilization and the value of the services provided.

(3) An amount paid or incurred during the taxable year of an employer in providing dependent care assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code.

(4) An amount paid or incurred by an employer to provide dependent care assistance to or on behalf of an employee does not qualify for the credit allowed under subsection (1):

(a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or

(b) if the amount is paid or incurred for services not performed within this state.

(5) If the credit allowed under subsection (1) is claimed, the amount of any deduction allowed or allowable

under this chapter for the amount that qualifies for the credit (or upon which the credit is based) must be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section must be made at the time of filing the tax return.

(6) The amount upon which the credit allowed under subsection (1) is based may not be included in the gross income of the employee to whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section may not exceed the limitations provided in section 129(b) of the Internal Revenue Code. For purposes of Title 15, chapter 30, part 2, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection. ~~Amounts-excluded-under--this subsection--do-not-qualify-as-expenses-for-which-a-deduction is-allowed-to-the-employee-under-15-30-121-~~

(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise through the fifth year succeeding the tax year in which the credit was first allowed or allowable. A

credit may not be carried forward beyond the fifth succeeding tax year.

(8) If the taxpayer is an S corporation, as defined in section 1361 of the Internal Revenue Code, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro rata share of the corporation's costs that qualify for the credit. In all other respects, the effect of the tax credit applies to the corporation as otherwise provided by law.

(9) For purposes of the credit allowed under subsection (1):

(a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code apply to the extent applicable.

(b) "Employer" means an employer carrying on a business, trade, occupation, or profession in this state.

(c) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on January 1, 1989."

Section 18. Section 15-32-303, MCA, is amended to read:

"15-32-303. Deduction for purchase of Montana produced organic fertilizer. In addition to all other deductions from ~~adjusted---gross---individual---income---allowed---in---computing taxable-income-under-Title-15, chapter--30,--or~~ from gross corporate income allowed in computing net income under Title

15, chapter 31, part 1, a taxpayer may deduct his expenditures made by the taxpayer for organic fertilizer produced in Montana and used in Montana if the expenditure was not otherwise deducted in computing taxable income."

Section 19. Section 13-37-218, MCA, is amended to read:

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

(2) "Inflation factor" means a number determined for each year by dividing the consumer price index for June of

the year by the consumer price index for June 1980. The consumer price index to be used in determining the inflation factor is the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor."

NEW SECTION. Section 20. Codification instruction. [Section 8] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 8].

NEW SECTION. Section 21. Transition. (1) Notwithstanding the provisions of 15-30-111, the adjusted gross income of an individual includes refunds of federal income tax received for tax years prior to December 31, 1992, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability.

(2) Notwithstanding the provisions of 15-30-122, all itemized deductions allowed pursuant to 26 U.S.C. 161 and 211 that may be carried forward, including but not limited to the contributions carryover, investment interest expense carryover, home mortgage interest amortization, bond premium amortization, and deduction for income in respect of a decedent, may be continued to be carried forward for a period not to exceed 5 years.

NEW SECTION. Section 22. Repealer. Sections 15-30-121,

LC 1291/01

1 15-30-156, 15-30-157, 15-30-159, and 15-30-160, MCA, are
2 repealed.

3 NEW SECTION. **Section 23.** Effective date -- retroactive
4 applicability. [This act] is effective on passage and
5 approval and applies retroactively, within the meaning of
6 1-2-109, to tax years beginning after December 31, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB671, 2nd reading, with floor amendments.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising individual income tax laws and amending corporate license and income tax laws; providing a single income tax rate; replacing itemized income tax deductions with standard deductions and increasing the exemption amount; changing the method of indexing the standard deduction and exemption amounts; providing for a one-time tax credit resulting from gain from the sale of a business held for 15 or more years; increasing the rate of the corporate license or income tax for corporations with taxable income over \$500,000; increasing the minimum corporate tax to \$100; increasing the small business corporation minimum fee to \$25; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

Individual Income Tax

1. Individual income tax revenues are \$328,943,000 in FY94, and \$339,696,000 in FY95 (HJR3).
2. Under the proposal, the current method of indexing the individual income tax would be changed by indexing for one-half the current inflation rate.
3. Under the proposal, the exemption level would increase to \$3,500.
4. Under the proposal, the standard deduction would be equal to 30% of Montana adjusted gross income (MAGI), with minima of \$2,500; \$3,000; and \$4,000; and maxima of \$5,000; \$7,500; and \$10,000 for single filers, heads of households, and married couples, respectively.
5. Under the proposal, the exemption and standard deduction amounts are phased out for those households having federal adjusted gross incomes (FAGI) between \$150,000 and \$200,000.
6. Under the proposal, married couples where both have wage and salary income would be entitled to a two-earner deduction equal to 10% of the lower earner's wages and salaries, up to a maximum deduction of \$3,000.
7. Under the proposal, there would be a single tax rate of 7.2 percent for tax year 1993; 7.2 percent for tax year 1994; and 7.3 percent for tax year 1995.
8. The proposal would be effective January 1, 1993.
9. The individual income tax proposal provided for in this bill increases collections \$30,219,000 in FY94; and \$35,886,000 in FY95 (DOR income tax simulation model).

Corporation License Tax

10. Corporation license tax collections are \$65,246,000 (MDOR) in FY94 and \$66,804,000 in FY95 (HJR3).
11. The proposal would increase the minimum tax on regular corporations from \$50 to \$100, and from \$10 to \$25 for small business corporations.

(Over)

David Lewis 3-24-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Bob Gilbert 3-24-93

BOB GILBERT, PRIMARY SPONSOR DATE

Fiscal Note for HB671, 2nd rd., floor amend.

HB 671

Corporation License Tax (cont.)

- 12. For tax year 1993, the proposal increases the tax rate on corporations from 6.75% (7% for water's edge corporations) to 7.08% on taxable income under \$500,000 and 7.57% on taxable income over \$500,000 (7.33% on taxable income under \$500,000 and 7.82% on taxable income over \$500,000 for Water's edge corporations).
- 13. For tax years 1994 and thereafter, the proposal increases the tax rate on taxable income greater than \$500,000 from 6.75% (7% for water's edge corporations) to 7.25% (7.5% for water's edge corporations).
- 14. The tax year 1993 surtaxes provided for in HB44 (July, 1992 Special Session) are repealed under this proposal.
- 15. Total corporation license tax audit collections are \$7.8 million in both FY94 and FY95 (LFA).
- 16. Total corporation license tax credits are \$1.2 million in FY94 and \$1.22 million in FY95 (LFA).
- 17. Under this proposal corporation license and income taxes are increased \$2,684,000 in FY94; and \$2,767,000 FY95 (DOR).

FISCAL IMPACT:

Revenues:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual Income Tax	\$328,943,000	\$359,163,000	\$30,220,000	\$339,696,000	\$375,582,000	\$35,886,000
<u>Corporation License Tax</u>	<u>65,246,000</u>	<u>67,930,000</u>	<u>2,684,000</u>	<u>66,804,000</u>	<u>69,571,000</u>	<u>2,767,000</u>
Total	\$394,189,000	\$427,093,000	\$32,904,000	\$406,500,000	\$445,153,000	\$38,653,000
General Fund	\$232,149,000	\$251,629,000	\$19,480,000	\$239,257,000	\$262,147,000	\$22,890,000
School Equalization	121,624,000	131,934,000	10,310,000	125,374,000	137,505,000	12,131,000
LRB - Debt Service	34,888,000	37,775,000	2,887,000	35,947,000	39,333,000	3,386,000
<u>Counties</u>	<u>5,528,000</u>	<u>5,755,000</u>	<u>227,000</u>	<u>5,922,000</u>	<u>6,168,000</u>	<u>246,000</u>
Total	\$394,189,000	\$427,093,000	\$32,904,000	\$406,500,000	\$445,153,000	\$38,653,000

IMPACT ON LOCAL REVENUES:

Under current and proposed law, each county receives 80% of the corporation tax collected from financial institutions within the county boundaries. Under the proposed legislation, counties would receive an additional \$227,000 in FY94 and \$246,000 in FY95 in financial institution tax revenues.

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 671

INTRODUCED BY GILBERT, ELLIOTT, BIRD,

DRISCOLL, GRINDE, SCHYE, MERCER, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
INDIVIDUAL INCOME TAX LAWS AND AMENDING CORPORATE LICENSE
AND INCOME TAX LAWS; PROVIDING A SINGLE INCOME TAX RATE;
REPLACING ITEMIZED INCOME TAX DEDUCTIONS WITH STANDARD
DEDUCTIONS AND INCREASING THE EXEMPTION AMOUNT; CHANGING THE
METHOD OF INDEXING THE STANDARD DEDUCTION AND EXEMPTION
AMOUNTS; PROVIDING FOR A ONE-TIME TAX CREDIT RESULTING FROM
GAIN FROM THE SALE OF A BUSINESS HELD FOR 15 OR MORE YEARS;
INCREASING THE RATE OF THE CORPORATE LICENSE OR INCOME TAX
FOR CORPORATIONS WITH TAXABLE INCOME OVER \$500,000;
INCREASING THE MINIMUM CORPORATE TAX TO \$100; INCREASING THE
SMALL BUSINESS CORPORATION MINIMUM FEE TO \$25; AMENDING
SECTIONS 13-37-218, 15-30-101, 15-30-103, 15-30-105,
15-30-111, 15-30-112, 15-30-117, 15-30-122, 15-30-126,
15-30-131, 15-30-137, 15-30-142, 15-30-323, 15-31-121,
15-31-131, 15-31-202, 15-31-204, AND 15-32-303, MCA;
REPEALING SECTIONS 15-30-121, 15-30-156, 15-30-157,
15-30-159, AND 15-30-160, AND 15-30-199, MCA; AND PROVIDING
AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

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

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

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

~~(b) the exemptions contained in 15-30-112, but
unadjusted by 15-30-112(6), in effect on June 30 of the
taxable year;~~

~~(c) (b) the maximum standard deduction provided in
15-30-122, but unadjusted by subsection (2) (4) of
15-30-122, in effect on June 30 of the taxable year.~~

(2) "Consumer price index for Montana" means the
consumer price index for all urban consumers, United States
city average, for all items, using the 1967 1982-1984 base
index of 100, as that base index is periodically adjusted,
as published by the bureau of labor statistics of the U.S.
department of labor, multiplied by 0.5.

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

(4) "Dividend" means any distribution made by a
corporation out of its earnings or profits to its

1 shareholders or members, whether in cash or in other
2 property or in stock of the corporation, other than stock
3 dividends as--herein--defined. "Stock dividends" means new
4 stock issued, for surplus or profits capitalized, to
5 shareholders in proportion to their previous holdings.

6 (5) "Fiduciary" means a guardian, trustee, executor,
7 administrator, receiver, conservator, or any person, whether
8 individual or corporate, acting in any fiduciary capacity
9 for any person, trust, or estate.

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

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

19 (8) "Inflation factor" means a number determined for
20 each taxable year by dividing the consumer price index for
21 Montana for June of the taxable year by the consumer price
22 index for Montana for June, 1980 ±1994 1993.

23 (9) "Information agents" includes all individuals,
24 corporations, associations, and partnerships, in whatever
25 capacity acting, including lessees or mortgagors of real or

1 personal property, fiduciaries, brokers, real estate
2 brokers, employers, and all officers and employees of the
3 state or of any municipal corporation or political
4 subdivision of the state, having the control, receipt,
5 custody, disposal, or payment of interest, rent, salaries,
6 wages, premiums, annuities, compensations, remunerations,
7 emoluments, or other fixed or determinable annual or
8 periodical gains, profits, and income with respect to which
9 any person or fiduciary is taxable under this chapter.

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

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

13 (12) "Paid", for the purposes of the deductions and
14 credits under this chapter, means paid or accrued or paid or
15 incurred, and the terms "paid or incurred" and "paid or
16 accrued" shall must be construed according to the method of
17 accounting upon the basis of which the taxable income is
18 computed under this chapter.

19 (13) "Pension and annuity income" means:

20 (a) systematic payments of a definitely determinable
21 amount from a qualified pension plan, as that term is used
22 in section 401 of the Internal Revenue Code, or systematic
23 payments received as the result of contributions made to a
24 qualified pension plan that are paid to the recipient or
25 recipient's beneficiary upon the cessation of employment;

1 (b) payments received as the result of past service and
2 cessation of employment in the uniformed services of the
3 United States;

4 (c) lump-sum distributions from pension or
5 profitsharing plans to the extent that the distributions are
6 included in federal adjusted gross income;

7 (d) distributions from individual retirement, deferred
8 compensation, and self-employed retirement plans recognized
9 under sections 401 through 408 of the Internal Revenue Code
10 to the extent that the distributions are not considered to
11 be premature distributions for federal income tax purposes;
12 or

13 (e) amounts after cessation of regular employment
14 received from fully matured, privately purchased annuity
15 contracts.

16 (14) "Purposely" is as defined in 45-2-101.

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

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

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

5 (17) "Taxable income" means the adjusted gross income of
6 a taxpayer less the deductions and exemptions provided for
7 in this chapter.

8 (18) "Taxable year" means the taxpayer's taxable year
9 for federal income tax purposes.

10 (19) "Taxpayer" includes any person or fiduciary,
11 resident or nonresident, subject to a tax imposed by this
12 chapter and does not include corporations."

13 **Section 2.** Section 15-30-103, MCA, is amended to read:

14 "15-30-103. (TEMPORARY FOR TAX YEARS 1993 AND 1994)
15 Rate of tax ~~---adjustment. (1)-There--shall--be~~ Subject--to
16 subsection--(2),--there THERE is levied, collected, and paid
17 for each taxable year commencing ~~on-or~~ after December 31,
18 ~~1960~~ 1992, upon the taxable income of every taxpayer
19 individual subject to this tax, after making allowance for
20 exemptions and deductions ~~as-hereinafter-provided~~, a tax at
21 the rate of 7.5% 7.3% of the individual's taxable income on
22 ~~the-following-brackets-of-taxable-income-as--adjusted--under~~
23 ~~subsection-(2)-at-the-following-rates:~~

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

1 (b)--on-the-next-\$1,000-of-taxable-income--or--any--part
 2 thereof, 3%;
 3 (c)--on--the--next--\$2,000-of-taxable-income-or-any-part
 4 thereof, 4%;
 5 (d)--on-the-next-\$2,000-of-taxable-income--or--any--part
 6 thereof, 5%;
 7 (e)--on--the--next--\$2,000-of-taxable-income-or-any-part
 8 thereof, 6%;
 9 (f)--on-the-next-\$2,000-of-taxable-income--or--any--part
 10 thereof, 7%;
 11 (g)--on--the--next--\$4,000-of-taxable-income-or-any-part
 12 thereof, 8%;
 13 (h)--on-the-next-\$6,000-of-taxable-income--or--any--part
 14 thereof, 9%;
 15 (i)--on--the--next--\$15,000-of-taxable-income-or-any-part
 16 thereof, 10%;
 17 (j)--on-any-taxable-income-in-excess-of-\$35,000--or--any
 18 part thereof, 11%.
 19 (2)--By--November--1--of--each--year, the department shall
 20 multiply the bracket amount contained in subsection (1) by
 21 the inflation factor for that taxable year and round the
 22 cumulative brackets to the nearest \$100. The resulting
 23 adjusted brackets are effective for that taxable year and
 24 shall be used as the basis for imposition of the tax in
 25 subsection (1) of this section. The department may adopt

1 rules for adjusting the tax rate provided in subsection (1)
 2 to reflect changes in federal adjusted gross income. The
 3 rules must adjust the tax rate to maintain a rate that does
 4 not exceed 7.5% of an individual's taxable income as
 5 determined for the tax year beginning January 1, 1994."

6 **SECTION 3.** SECTION 15-30-103, MCA, IS AMENDED TO READ:
 7 "15-30-103. Rate of tax -- adjustment. (1) There shall
 8 be Subject to subsection (2), there is levied, collected,
 9 and paid for each taxable year commencing on or after
 10 December 31, 1968 1994, upon the taxable income of every
 11 taxpayer individual subject to this tax, after making
 12 allowance for exemptions and deductions as hereinafter
 13 provided, a tax at the rate of 7.4% of the individual's
 14 taxable income on the following brackets of taxable income
 15 as adjusted under subsection (2) at the following rates:
 16 (a)--on-the-first-\$1,000-of-taxable-income--or--any--part
 17 thereof, 2%;
 18 (b)--on--the--next--\$1,000-of-taxable-income-or-any-part
 19 thereof, 3%;
 20 (c)--on-the-next-\$2,000-of-taxable-income--or--any--part
 21 thereof, 4%;
 22 (d)--on--the--next--\$2,000-of-taxable-income-or-any-part
 23 thereof, 5%;
 24 (e)--on-the-next-\$2,000-of-taxable-income--or--any--part
 25 thereof, 6%;

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

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

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

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

~~{j}--on--any--taxable-income-in-excess-of--\$35,000--or--any part--thereof--11%.~~

(2) ~~By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that taxable year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that taxable year and shall be used as the basis for imposition of the tax in subsection (1) of this section.~~ (a) The department shall, pursuant to subsection (2)(b), adjust the tax rate provided in subsection (1) to reflect changes in federal adjusted gross income. The adjustment must maintain a rate that produces revenue that does not exceed 7.4% of taxable income based upon the definition of federal adjusted gross income as provided in 26 U.S.C. 62 on January 1, 1993. Prior to adopting a change in rate, the department shall present the proposed change to the revenue oversight committee for

review by the committee.

(b) (i) For purposes of subsection (2)(a), for tax year 1994 and each tax year thereafter, the department shall in the succeeding year determine the change in the amount of revenue collected resulting from changes made by the United States congress to federal adjusted gross income, as defined by the Internal Revenue Code, effective for that year.

(ii) Based on the determination in subsection (2)(b)(i), the tax rate for the tax year following the determination must be adjusted in increments of 0.1%.

(iii) A change in the rate may not be made unless the amount of change exceeds \$4.5 million."

Section 4. Section 15-30-105, MCA, is amended to read:

"15-30-105. Tax on nonresident -- alternative tax based on gross sales. (1) A like tax is imposed upon every person not resident of this state, which tax shall must be levied, collected, and paid annually at the rates rate specified in 15-30-103 with respect to his--entire--net the person's taxable income. After calculating the tax imposed, the tax due and payable must be determined based upon the ratio of income earned in Montana to total income--Interest income from installment sales of real--or--tangible--commercial--or business--property--located--in--Montana--is--considered--income earned--in--Montana.

(2) Pursuant to the provisions of Article III, section

1 2, of the Multistate Tax Compact, every nonresident taxpayer
 2 required to file a return and whose only activity in Montana
 3 consists of making sales and who does not own or rent real
 4 estate or tangible personal property within Montana and
 5 whose annual gross volume of sales made in Montana during
 6 the taxable year does not exceed \$100,000 may elect to pay
 7 an income tax of 1/2 of 1% of the dollar volume of gross
 8 sales made in Montana during the taxable year. ~~Such~~ The tax
 9 ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The
 10 gross volume of sales made in Montana during the taxable
 11 year ~~shall~~ must be determined according to the provisions of
 12 Article IV, sections 16 and 17, of the Multistate Tax
 13 Compact."

14 **Section 5.** Section 15-30-111, MCA, is amended to read:

15 "15-30-111. **Adjusted gross income.** (1) Adjusted gross
 16 income ~~shall--be~~ is the taxpayer's federal income tax
 17 adjusted gross income as defined in section 62 of the
 18 Internal Revenue Code of 1954 or as that section may be
 19 labeled or amended and in addition ~~shall--include~~ includes
 20 the following:

21 (a) interest received on obligations of another state
 22 or territory or county, municipality, district, or other
 23 political subdivision thereof;

24 ~~(b)--refunds-received-of--federal--income--tax--to--the~~
 25 ~~extent--the-deduction-of-such-tax-resulted-in-a-reduction-of~~

1 ~~Montana-income-tax-liability;~~

2 ~~(c)(b)~~ that portion of a shareholder's income under
 3 subchapter S. of Chapter 1 of the Internal Revenue Code of
 4 1954, that has been reduced by any federal taxes paid by the
 5 subchapter S. corporation on the income; and

6 ~~(d)(c)~~ depreciation or amortization taken on a title
 7 plant as defined in 33-25-105(15).

8 (2) Notwithstanding the provisions of the federal
 9 Internal Revenue Code of 1954, as labeled or amended,
 10 adjusted gross income does not include the following which
 11 are exempt from taxation under this chapter:

12 (a) all interest income from obligations of the United
 13 States government, the state of Montana, county,
 14 municipality, district, or other political subdivision
 15 thereof;

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

20 (c) (i) except as provided in subsection (2)(c)(ii),
 21 the first \$3,600 of all pension and annuity income received
 22 as defined in 15-30-101;

23 (ii) for pension and annuity income described under
 24 subsection (2)(c)(i), as follows:

25 (A) each taxpayer filing singly, head of household, or

1 married filing separately shall reduce the total amount of
2 the exclusion provided in (2)(c)(i) by \$2 for every \$1 of
3 federal adjusted gross income in excess of \$30,000 as shown
4 on the taxpayer's return;

5 (B) in the case of married taxpayers filing jointly, if
6 both taxpayers are receiving pension or annuity income or if
7 only one taxpayer is receiving pension or annuity income,
8 the exclusion claimed as provided in subsection (2)(c)(i)
9 must be reduced by \$2 for every \$1 of federal adjusted gross
10 income in excess of \$30,000 as shown on their joint return;

11 (d) all Montana income tax refunds or tax refund
12 credits;

13 (e) gain required to be recognized by a liquidating
14 corporation under 15-31-113(1)(a)(ii);

15 (f) all tips covered by section 3402(k) of the Internal
16 Revenue Code of 1954, as amended and applicable on January
17 1, 1983, received by persons for services rendered by them
18 to patrons of premises licensed to provide food, beverage,
19 or lodging;

20 (g) all benefits received under the workers'
21 compensation laws;

22 (h) all health insurance premiums paid by an employer
23 for an employee if attributed as income to the employee
24 under federal law; and

25 (i) all money received because of a settlement

1 agreement or judgment in a lawsuit brought against a
2 manufacturer or distributor of "agent orange" for damages
3 resulting from exposure to "agent orange"; and

4 (j) for a single joint return of husband and wife, an
5 amount, not to exceed \$3,000, equal to 10% of the wages and
6 salary received by the spouse that earned the least amount
7 of wages and salary in the tax year.

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

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

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

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

1 reason of any medically determined physical or mental
 2 impairment lasting or expected to last at least 12 months.
 3 (Subsection (2)(f) terminates on occurrence of
 4 contingency--sec. 3, Ch. 634, L. 1983.)"

5 **Section 6.** Section 15-30-112, MCA, is amended to read:

6 "15-30-112. Exemptions. (1) Except as provided in
 7 subsection (6), in the case of an individual, the exemptions
 8 provided by subsections (2) through (5) ~~shall-be~~ are allowed
 9 as deductions in computing taxable income.

10 (2) (a) An exemption of ~~8000~~ \$3,500 ~~shall-be~~ is allowed
 11 for taxable years beginning after December 31, ~~1978~~ 1992,
 12 for the taxpayer.

13 (b) An additional exemption of ~~8000~~ \$3,500 ~~shall-be~~ is
 14 allowed for taxable years beginning after December 31, ~~1978~~
 15 1992, for the spouse of the taxpayer if a separate return is
 16 made by the taxpayer and if the spouse, for the calendar
 17 year in which the taxable year of the taxpayer begins, has
 18 no gross income and is not the dependent of another
 19 taxpayer.

20 (3) (a) An additional exemption of ~~8000~~ \$3,500 ~~shall-be~~
 21 is allowed for taxable years beginning after December 31,
 22 ~~1978~~ 1992, for the taxpayer if he ~~the taxpayer~~ has attained
 23 the age of 65 before the close of his ~~the taxpayer's~~ taxable
 24 year.

25 (b) An additional exemption of ~~8000~~ \$3,500 ~~shall-be~~ is

1 allowed for taxable years beginning after December 31, 1978
 2 1992, for the spouse of the taxpayer if a separate return is
 3 made by the taxpayer and if the spouse has attained the age
 4 of 65 before the close of such the taxable year and, for the
 5 calendar year in which the taxable year of the taxpayer
 6 begins, has no gross income and is not the dependent of
 7 another taxpayer.

8 (4) (a) An additional exemption of ~~8000~~ \$3,500 ~~shall-be~~
 9 is allowed for taxable years beginning after December 31,
 10 ~~1978~~ 1992, for the taxpayer if he the taxpayer is blind at
 11 the close of his the taxpayer's taxable year.

12 (b) An additional exemption of ~~8000~~ \$3,500 ~~shall-be~~ is
 13 allowed for taxable years beginning after December 31, ~~1978~~
 14 1992, for the spouse of the taxpayer if a separate return is
 15 made by the taxpayer and if the spouse is blind and, for the
 16 calendar year in which the taxable year of the taxpayer
 17 begins, has no gross income and is not the dependent of
 18 another taxpayer. For the purposes of this subsection ~~(4)(b)~~
 19 (b), the determination of whether the spouse is blind ~~shall~~
 20 must be made as of the close of the taxable year of the
 21 taxpayer, except that if the spouse dies during such the
 22 taxable year, such the determination ~~shall~~ must be made as
 23 of the time of such death.

24 (c) For purposes of this subsection (4), an individual
 25 is blind only if his the individual's central visual acuity

1 does not exceed 20/200 in the better eye with correcting
 2 lenses or if his the individual's visual acuity is greater
 3 than 20/200 but is accompanied by a limitation in the fields
 4 of vision such that the widest diameter of the visual field
 5 subtends an angle no greater than 20 degrees.

6 (5) (a) An exemption of ~~8000~~ \$3,500 ~~shall-be~~ is allowed
 7 for taxable years beginning after December 31, ~~1978~~ 1992,
 8 for each dependent:

9 (i) whose gross income for the calendar year in which
 10 the taxable year of the taxpayer begins is less than ~~8000~~
 11 \$3,500; or

12 (ii) who is a child of the taxpayer and who:

13 (A) has not attained the age of 19 years at the close
 14 of the calendar year in which the taxable year of the
 15 taxpayer begins; or

16 (B) is a student.

17 (b) ~~No An~~ exemption ~~shall-be~~ is not allowed under this
 18 subsection (5) for any dependent who has made a joint return
 19 with his the dependent's spouse for the taxable year
 20 beginning in the calendar year in which the taxable year of
 21 the taxpayer begins.

22 (c) For purposes of subsection (5)(a)(ii), the term
 23 "child" means an individual who is a son, stepson, daughter,
 24 or stepdaughter of the taxpayer.

25 (d) For purposes of subsection (5)(a)(ii)(B), the term

"student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection ~~(5)(d)(iii)~~ (ii), the term "educational institution" means only an educational institution which that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) (A) THE EXEMPTIONS PROVIDED FOR IN THIS SECTION ARE REDUCED BY 10% FOR EVERY \$5,000 OF FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$150,000.

(B) The For tax years beginning after December 31, 1992 1993, the department, by November 1 of each year, shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest \$10. The resulting adjusted exemptions are effective for that taxable year and shall must be used in calculating the tax imposed in 15-30-103."

Section 7. Section 15-30-117, MCA, is amended to read:

"15-30-117. Net operating loss -- computation. (1) A Montana net operating loss for a loss incurred in tax years beginning after December 31, 1992, must be determined in accordance with section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in accordance with the following:

(a) The net operating loss deduction for Montana purposes is increased by the following:

~~(i) that portion of the federal income tax and motor vehicle tax allowed as a deduction under 15-30-121 or 15-30-131 which is attributable to income from a Montana trade or business; and~~

~~(ii) Montana wages and salaries allowed as a business deduction under 15-30-111(4).~~

(b) The net operating loss deduction for Montana purposes is decreased by the following:

~~(i) interest received on obligations of another state or territory or of a county, municipality, district, or political subdivision thereof allowed as nonbusiness income under 15-30-111(1)(a);~~

~~(ii) federal income tax refunds required to be reported under 15-30-111 and 15-30-131 as Montana business income;~~

~~(iii) state income tax; and~~

~~(iv) any other nonbusiness deductions allowed under~~

15-30-121-in-excess-of-nonbusiness-income.

(2) Notwithstanding the provisions of section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, a net operating loss does not include-

(a) income defined as exempt from state taxation under 15-30-111(2); or

(b) a zero-bracket deduction provided for under section 63 of the Internal Revenue Code of 1954 or as that section may be labeled or amended."

Section 8. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) A standard deduction equal to 20% of adjusted gross income shall be is allowed if elected by the taxpayer on his on the taxpayer's return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum

(2) (a) Except as provided in subsections (2)(b) through (2)(d) (2)(E), the standard deduction shall be \$1,500 is 40% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$2,000 OR MORE THAN \$5,000. r--as--adjusted--under--the provisions of subsection (2), except that in the case of

(b) For a single joint return of husband and wife, the standard deduction is 40% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$4,000 OR MORE THAN \$10,000. or in the case of

(c) For a single individual who qualifies to file as a

head of household on his the individual's federal income tax return, the maximum standard deduction shall be \$3,000 is 40% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$3,000 OR MORE THAN \$7,500. r--as--adjusted--under--the provisions of subsection (2);

(d) The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction for married taxpayers filing separately is 40% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$2,000 OR MORE THAN \$5,000.

(E) THE STANDARD DEDUCTIONS PROVIDED FOR IN THIS SUBSECTION (2) ARE REDUCED BY 10% FOR EVERY \$5,000 OF FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$150,000.

(3) For purposes of this section, the determination of whether an individual is married shall must be made as of the last day of the taxable year; provided, however, However, if one of the spouses dies during the taxable year, the determination shall must be made as of the date of death.

(2)(4) By For taxable years beginning after December 31, 1994 1993, by November 1 of each year, the department shall multiply the maximum standard deduction for single returns, qualified head-of-household returns, and joint returns by the inflation factor for that taxable year and

round the product to the nearest \$10. ~~The standard deduction for joint returns and qualified head-of-household returns shall be twice the amount for single returns.~~ The resulting adjusted deductions are effective for that taxable year and ~~shall~~ must be used in calculating the tax imposed in 15-30-103."

NEW SECTION. Section 9. Credit for sale of business.

(1) (a) For tax years beginning after December 31, 1992, an individual who realizes a gain that must be included in Montana adjusted gross income, from the sale of a business, trade, or profession, is allowed a one-time credit against the tax imposed by 15-30-103.

(b) To be eligible for the credit, the individual, including the individual's parents, grandparents, children, and grandchildren, must have held the interest in the business, trade, or profession for at least 15 years.

(2) (a) Subject to the limitation contained in subsection (2)(b), the credit must be computed by multiplying the gain that was included in the Montana adjusted gross income from the sale times the individual's highest federal tax rate in the tax year in which the gain from the sale is reported times this state's highest tax rate for that individual in the same year.

(b) For an individual who realized a gain in excess of \$1 million, the credit is reduced at the rate of \$1 1 for

every \$2 \$20,000 of gain in excess of \$1 million.

(c) The credit provided for in this section is not refundable, nor may it be carried back or carried forward.

(3) For sales that occurred prior to December 31, 1992, and for which the gain for the sale of the business, trade, or profession is being reported on the installment basis, the individual shall satisfy the requirements of subsection (1)(b).

Section 10. Section 15-30-126, MCA, is amended to read:

"15-30-126. Small business corporation -- deduction for donation of computer equipment to schools. A small business corporation, as defined in 15-31-201, is allowed a deduction equal to the fair market value, not to exceed 30% of the small business corporation's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

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

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

(3) the electing small business corporation receives a written statement from the donee in which the donee agrees

to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of subsection (2) and

~~(4) the deduction allowed in this section is in lieu of the deduction allowed under 15-30-121 for charitable contributions.~~

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

"15-30-131. Nonresident and temporary part-year resident taxpayers -- adjusted gross income. (1) In the case of a nonresident or part-year resident taxpayer other than a resident of this state, adjusted gross income includes the entire amount of adjusted gross income as provided for in 15-30-111 from sources within this state but does not include income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations, except to the extent to which the income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations are a part of income from any business, trade, profession, or occupation carried on in this state. Interest income from installment sales of real or tangible commercial or business property located in Montana must be included in Montana adjusted gross income. Adjusted gross income from sources within and outside of this state must be allocated

and apportioned under rules adopted by the department in accordance with the Multistate Tax Compact.

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

(3) The deductions allowed in computing net income are restricted to a prorated standard deduction, as adjusted, allowed under 15-30-122 and prorated exemptions, as adjusted, allowed under 15-30-112. The standard deduction and the claimable exemptions must be prorated according to the ratio that the taxpayer's Montana adjusted gross income bears to the taxpayer's federal adjusted gross income."

Section 12. Section 15-30-137, MCA, is amended to read:

"15-30-137. Determination of tax of estates and trusts. The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates rate contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable."

Section 13. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) A return must be filed as provided in subsections (2)(a) through (2)(d) on forms and according to rules prescribed by the department. The

1 filing status used in subsection (2) must be the same status
 2 used for the individual's or married couple's federal income
 3 tax return.

4 (2) A return must be filed by:

5 (a) Every each single individual and--every--married
 6 individual--not-filing-a-joint-return-with-his-or-her-spouse
 7 and having a gross income for the taxable year of more than
 8 \$17,000; the combined amount of the standard deduction for a
 9 single individual plus the amount for the exemption
 10 claimable by the individual as provided in 15-30-112; as
 11 adjusted-under-the-provisions-of-subsection-(7)-and

12 (b) each individual filing as a head of household
 13 having gross income for the taxable year of more than the
 14 combined amount of the standard deduction for a head of
 15 household plus the amount for the exemption claimable by the
 16 individual as provided in 15-30-112;

17 (c) married individuals not filing separate returns and
 18 having a combined gross income for the taxable year of more
 19 than \$27,000; the combined amount of the standard deduction
 20 for married individuals not filing separately plus the
 21 amount for the exemption claimable by the individuals as
 22 provided in 15-30-112; and

23 (d) as-adjusted-under-the-provisions-of-subsection-(7)-
 24 shall--be--liable-for-a-return-to-be-filed-on-such-forms-and
 25 according-to-such-rules--as--the--department--may--prescribe

1 married individuals filing separately with combined gross
 2 income exceeding one-half of the combined amount of the
 3 standard deduction for married individuals not filing
 4 separately plus the amount for the exemption claimable by
 5 the individual as provided in 15-30-112. The-gross-income
 6 amounts-referred-to--in--the--preceding--sentence--shall--be
 7 increased--by--\$800;--as--adjusted--under--the-provisions-of
 8 15-30-112(6);--for--each---additional---personal---exemption
 9 allowance--the-taxpayer-is-entitled-to-claim-for-himself-and
 10 his-spouse-under-15-30-112(3)-and-(4).

11 (3) A nonresident shall-be is required to file a return
 12 if his the nonresident's gross income for the taxable year
 13 derived from sources within Montana exceeds the total amount
 14 of the prorated exemption deduction and prorated standard
 15 deduction he-is--entitled--to--claim--for--himself--and--his
 16 claimable by the nonresident and the nonresident's spouse
 17 under the provisions of 15-30-112(2), (3), and (4).

18 (2)(4) In accordance with instructions set forth by the
 19 department, every taxpayer who is married, and who is living
 20 with husband-or-wife the taxpayer's spouse, and who is
 21 required to file a return may, at his-or-her the taxpayer's
 22 option, file a joint return with husband-or-wife the spouse
 23 even though one of the spouses has neither gross income nor
 24 deductions. If a joint return is made, the tax shall must be
 25 computed on the aggregate taxable income and the liability

with respect to the tax ~~shall-be~~ is joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

~~(3)(5)~~ If any ~~such~~ a taxpayer is unable to make his own a return that is required to be made by the taxpayer, the return ~~shall~~ must be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such the taxpayer.

~~(4)(6)~~ All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 ~~and/or~~ and any payment made by reason of an estimated tax return provided for in 15-30-241~~,-provided,-however,-if~~ the tax ~~so~~ computed is greater by \$1 than the amount withheld ~~and/or~~ or paid by estimated return as provided in this chapter. If the amount of tax withheld ~~and/or~~ or payment of estimated tax exceeds by more than \$1 the amount of income tax as computed, the taxpayer ~~shall-be~~ is entitled to a refund of the excess.

~~(5)(7)~~ As soon as practicable after the return is

filed, the department shall examine and verify the tax.

~~(6)(8)~~ If the amount of tax as verified is greater than the amount theretofore paid, the excess ~~shall~~ must be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof of a year on the additional tax. In ~~such~~ that case, there ~~shall~~ be is no penalty because of ~~such~~ the understatement, provided the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

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

~~(8)(10)~~ Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year.

(11) For the purposes of this section:

(a) "exemption" means an exemption provided by 15-30-112 and includes the adjustment provided in 15-30-112(6); and

(b) "standard deduction" means a deduction provided by 15-30-122 and includes the adjustment provided in 15-30-122(4)."

Section 14. Section 15-30-323, MCA, is amended to read:

"15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142(6)(8) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall must be added to the amount of the deficiency 5% thereof, ~~provided, however, that~~ no of the deficiency. However, a deficiency penalty shall may not be less than \$2. Interest ~~will~~ must be computed at the rate of 9% per annum or fraction thereof of a year on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall must in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon on the tax due at the rate of 9% per annum from the time when the return was originally required to be filed to the time of payment."

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

"15-31-121. (Temporary FOR TAX YEAR 1993) Rate of tax -- minimum tax -- surtax. (1) Except as provided in

subsection (2), the percentage of net income to be paid under 15-31-101 shall ~~be~~ is:

(a) 6-3/4% 7.08% of all the first \$500,000 of net income for the taxable period; and

(b) 7-1/4% 7.57% of all net income in excess of \$500,000 for the taxable period. ~~The rate set forth in this subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.~~

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

(A) 7% of all 7.33% OF THE FIRST \$500,000 OF taxable net income for the taxable period; AND

(B) 7.82% OF ALL NET INCOME IN EXCESS OF \$500,000 FOR THE TAXABLE PERIOD.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50 \$100.

~~(4) After the amount of tax liability has been computed under subsections (1) through (3), each corporation subject to taxation under this part shall add, as a surtax, for tax year 1992, 2.3% of the tax liability and, as a surtax, for tax year 1993, 4.7% of the tax liability, and the amount so~~

~~derived is the amount due the state.~~

~~{5}--The--additional--tax--collected--under--subsection--{4} must be deposited to the credit of the state general fund.~~

15-31-121. (Effective on receipt of taxes for tax year 1993 1994 AND THEREAFTER) Rate of tax -- minimum tax -- surtax. (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be is:

(a) 6 3/4% of all the first \$500,000 of net income for the taxable period; and

(b) 7 1/4% of all net income in excess of \$500,000 for the taxable period. The rate set forth in this subsection {1} shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

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

(A) 7% of all THE FIRST \$500,000 OF taxable net income for the taxable period; AND

(B) 7.5% OF ALL NET INCOME IN EXCESS OF \$500,000 FOR THE TAXABLE PERIOD.

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

\$50 \$100.

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

Section 16. Section 15-31-202, MCA, is amended to read:

"15-31-202. Small business corporation not subject to chapter. (1) A small business corporation is not subject to the taxes imposed by this chapter. The corporate net income or loss of the corporation is included in the stockholders' adjusted gross income as defined in 15-30-111.

(2) Each small business corporation is required to pay the minimum fee of \$10 \$25 required by 15-31-204."

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

"15-31-204. Minimum fee of small business corporations unaffected. Notwithstanding the provisions of 15-31-121, small business corporations shall pay a minimum fee of \$10 \$25."

Section 18. Section 15-31-131, MCA, is amended to read:

"15-31-131. Credit for dependent care assistance. (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the taxable year by the employer for dependent care assistance actually provided to or on behalf

1 of an employee if the assistance is furnished by a
 2 registered or licensed day-care provider and pursuant to a
 3 program that meets the requirements of section 89(k) and
 4 129(d)(2) through (6) of the Internal Revenue Code.

5 (2) (a) The amount of the credit allowed under
 6 subsection (1) is 20% of the amount paid or incurred by the
 7 employer during the taxable year, but the credit may not
 8 exceed \$1,250 of day-care assistance actually provided to or
 9 on behalf of the employee.

10 (b) For the purposes of this subsection, marital status
 11 must be determined under the rules of section 21(e)(3) and
 12 (4) of the Internal Revenue Code.

13 (c) In the case of an onsite facility, the amount upon
 14 which the credit allowed under subsection (1) is based, with
 15 respect to any dependent, must be based upon utilization and
 16 the value of the services provided.

17 (3) An amount paid or incurred during the taxable year
 18 of an employer in providing dependent care assistance to or
 19 on behalf of any employee does not qualify for the credit
 20 allowed under subsection (1) if the amount was paid or
 21 incurred to an individual described in section 129(c)(1) or
 22 (2) of the Internal Revenue Code.

23 (4) An amount paid or incurred by an employer to
 24 provide dependent care assistance to or on behalf of an
 25 employee does not qualify for the credit allowed under

1 subsection (1):

2 (a) to the extent the amount is paid or incurred
 3 pursuant to a salary reduction plan; or

4 (b) if the amount is paid or incurred for services not
 5 performed within this state.

6 (5) If the credit allowed under subsection (1) is
 7 claimed, the amount of any deduction allowed or allowable
 8 under this chapter for the amount that qualifies for the
 9 credit (or upon which the credit is based) must be reduced
 10 by the dollar amount of the credit allowed. The election to
 11 claim a credit allowed under this section must be made at
 12 the time of filing the tax return.

13 (6) The amount upon which the credit allowed under
 14 subsection (1) is based may not be included in the gross
 15 income of the employee to whom the dependent care assistance
 16 is provided. However, the amount excluded from the income of
 17 an employee under this section may not exceed the
 18 limitations provided in section 129(b) of the Internal
 19 Revenue Code. For purposes of Title 15, chapter 30, part 2,
 20 with respect to an employee to whom dependent care
 21 assistance is provided, "wages" does not include any amount
 22 excluded under this subsection. ~~Amounts-excluded-under-this~~
 23 ~~subsection-do-not-qualify-as-expenses-for-which-a--deduction~~
 24 ~~is-allowed-to-the-employee-under-15-30-121.~~

25 (7) Any tax credit otherwise allowable under this

1 section that is not used by the taxpayer in a particular
 2 year may be carried forward and offset against the
 3 taxpayer's tax liability for the next succeeding tax year.
 4 Any credit remaining unused in the next succeeding tax year
 5 may be carried forward and used in the second succeeding tax
 6 year, and likewise through the fifth year succeeding the tax
 7 year in which the credit was first allowed or allowable. A
 8 credit may not be carried forward beyond the fifth
 9 succeeding tax year.

10 (8) If the taxpayer is an S corporation, as defined in
 11 section 1361 of the Internal Revenue Code, and the taxpayer
 12 elects to take tax credit relief, the election may be made
 13 on behalf of the corporation's shareholders. A shareholder's
 14 credit must be computed using the shareholder's pro rata
 15 share of the corporation's costs that qualify for the
 16 credit. In all other respects, the effect of the tax credit
 17 applies to the corporation as otherwise provided by law.

18 (9) For purposes of the credit allowed under subsection
 19 (1):

20 (a) The definitions and special rules contained in
 21 section 129(e) of the Internal Revenue Code apply to the
 22 extent applicable.

23 (b) "Employer" means an employer carrying on a
 24 business, trade, occupation, or profession in this state.

25 (c) "Internal Revenue Code" means the federal Internal

1 Revenue Code as amended and in effect on January 1, 1989."

2 **Section 19.** Section 15-32-303, MCA, is amended to read:

3 "15-32-303. Deduction for purchase of Montana produced
 4 organic fertilizer. In addition to all other deductions from
 5 ~~adjusted--gross--individual--income--allowed--in--computing~~
 6 ~~taxable--income--under--Title--15--chapter--307--or~~ from gross
 7 corporate income allowed in computing net income under Title
 8 15, chapter 31, part 1, a taxpayer may deduct his
 9 expenditures made by the taxpayer for organic fertilizer
 10 produced in Montana and used in Montana if the expenditure
 11 was not otherwise deducted in computing taxable income."

12 **Section 20.** Section 13-37-218, MCA, is amended to read:

13 "13-37-218. Limitations on receipts from political
 14 committees. (1) A candidate for the state senate may receive
 15 no more than \$1,000 in total combined monetary contributions
 16 from all political committees contributing to his the
 17 campaign, and a candidate for the state house of
 18 representatives may receive no more than \$600 in total
 19 combined monetary contributions from all political
 20 committees contributing to his the campaign. The foregoing
 21 limitations ~~shall~~ must be multiplied by the inflation factor
 22 as defined in ~~15-30-101(8)~~ subsection (2) for the year in
 23 which general elections are held ~~after--1984,~~ and the
 24 resulting figure ~~shall~~ must be rounded off to the nearest
 25 \$50 increment. The commissioner of political practices shall

publish the revised limitations as a rule. In-kind contributions may not be included in computing these limitation totals. The limitation provided in this section does not apply to contributions made by a political party eligible for a primary election under 13-10-601.

(2) "Inflation factor" means a number determined for each year by dividing the consumer price index for June of the year by the consumer price index for June 1980. The consumer price index to be used in determining the inflation factor is the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor."

NEW SECTION. Section 21. Codification instruction. [Section 8 9] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 8 9].

NEW SECTION. Section 22. Transition. (1) Notwithstanding the provisions of 15-30-111, the adjusted gross income of an individual includes refunds of federal income tax received for tax years prior to December 31, 1992, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability.

(2) Notwithstanding the provisions of 15-30-122, all itemized deductions allowed pursuant to 26 U.S.C. 161 and

211 that may be carried forward, including but not limited to the contributions carryover, investment interest expense carryover, home mortgage interest amortization, bond premium amortization, and deduction for income in respect of a decedent, may be continued to be carried forward for a period not to exceed 5 years.

NEW SECTION. Section 23. Repealer. Sections 15-30-121, 15-30-156, 15-30-157, 15-30-159, and 15-30-160, AND 15-30-199, MCA, are repealed.

NEW SECTION. Section 24. Effective date -- retroactive applicability. (1) ~~This~~ EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1992.

(2) (A) [SECTION 2] IS EFFECTIVE ON PASSAGE AND APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO THE TAX YEARS BEGINNING AFTER DECEMBER 31, 1992.

(B) [SECTION 3] IS EFFECTIVE ON PASSAGE AND APPROVAL AND APPLIES TO TAX YEARS BEGINNING AFTER DECEMBER 31, 1994.

NEW SECTION. SECTION 25. TERMINATION. [SECTION 2] TERMINATES DECEMBER 31, 1994.

-End-

HOUSE BILL NO. 671

INTRODUCED BY GILBERT, ELLIOTT, BIRD,
DRISCOLL, GRINDE, SCHYE, MERCER, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
INDIVIDUAL INCOME TAX LAWS AND AMENDING CORPORATE LICENSE
AND INCOME TAX LAWS; PROVIDING A SINGLE INCOME TAX RATE;
REPLACING ITEMIZED INCOME TAX DEDUCTIONS WITH STANDARD
DEDUCTIONS AND INCREASING THE EXEMPTION AMOUNT; CHANGING THE
METHOD OF INDEXING THE STANDARD DEDUCTION AND EXEMPTION
AMOUNTS; PROVIDING FOR A ONE-TIME TAX CREDIT RESULTING FROM
GAIN FROM THE SALE OF A BUSINESS HELD FOR 15 OR MORE YEARS;
INCREASING THE RATE OF THE CORPORATE LICENSE OR INCOME TAX
FOR CORPORATIONS WITH TAXABLE INCOME OVER \$500,000;
INCREASING THE MINIMUM CORPORATE TAX TO \$100; INCREASING THE
SMALL BUSINESS CORPORATION MINIMUM FEE TO \$25; AMENDING
SECTIONS 13-37-218, 15-30-101, 15-30-103, 15-30-105,
15-30-111, 15-30-112, 15-30-117, 15-30-122, 15-30-126,
15-30-131, 15-30-137, 15-30-142, 15-30-323, 15-31-121,
15-31-131, 15-31-202, 15-31-204, AND 15-32-303, MCA;
REPEALING SECTIONS 15-30-121, 15-30-156, 15-30-157,
15-30-159, AND 15-30-160, AND 15-30-199, MCA; AND PROVIDING
AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

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

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

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

(b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), ~~in effect on June 30 of the taxable year;~~

(c) ~~(b)~~ the maximum standard deduction provided in 15-30-122, but unadjusted by subsection (2) (4) of 15-30-122, ~~in effect on June 30 of the taxable year.~~

(2) "Consumer price index for Montana" means the consumer price index for all urban consumers, United States city average, for all items, using the 1967 1982-1984 base index of 100, as that base index is periodically adjusted, as published by the bureau of labor statistics of the U.S. department of labor, multiplied by 0.5.

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

(4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its

1 shareholders or members, whether in cash or in other
2 property or in stock of the corporation, other than stock
3 dividends as--herein--defined. "Stock dividends" means new
4 stock issued, for surplus or profits capitalized, to
5 shareholders in proportion to their previous holdings.

6 (5) "Fiduciary" means a guardian, trustee, executor,
7 administrator, receiver, conservator, or any person, whether
8 individual or corporate, acting in any fiduciary capacity
9 for any person, trust, or estate.

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

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

19 (8) "Inflation factor" means a number determined for
20 each taxable year by dividing the consumer price index for
21 Montana for June of the taxable year by the consumer price
22 index for Montana for June, 1988 ~~1994~~ 1993.

23 (9) "Information agents" includes all individuals,
24 corporations, associations, and partnerships, in whatever
25 capacity acting, including lessees or mortgagors of real or

1 personal property, fiduciaries, brokers, real estate
2 brokers, employers, and all officers and employees of the
3 state or of any municipal corporation or political
4 subdivision of the state, having the control, receipt,
5 custody, disposal, or payment of interest, rent, salaries,
6 wages, premiums, annuities, compensations, remunerations,
7 emoluments, or other fixed or determinable annual or
8 periodical gains, profits, and income with respect to which
9 any person or fiduciary is taxable under this chapter.

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

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

13 (12) "Paid", for the purposes of the deductions and
14 credits under this chapter, means paid or accrued or paid or
15 incurred, and the terms "paid or incurred" and "paid or
16 accrued" shall must be construed according to the method of
17 accounting upon the basis of which the taxable income is
18 computed under this chapter.

19 (13) "Pension and annuity income" means:

20 (a) systematic payments of a definitely determinable
21 amount from a qualified pension plan, as that term is used
22 in section 401 of the Internal Revenue Code, or systematic
23 payments received as the result of contributions made to a
24 qualified pension plan that are paid to the recipient or
25 recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profitsharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts after cessation of regular employment received from fully matured, privately purchased annuity contracts.

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

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

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

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

(17) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(18) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

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

Section 2. Section 15-30-103, MCA, is amended to read:

"15-30-103. (TEMPORARY FOR TAX YEARS 1993 AND 1994)

Rate of tax ~~---adjustment. (1) There shall be~~ Subject to subsection (2), there THERE is levied, collected, and paid for each taxable year commencing on or after December 31, 1960 1992, upon the taxable income of every taxpayer individual subject to this tax, after making allowance for exemptions and deductions ~~as hereinafter provided~~, a tax at the rate of 7.5% 7.3% 7.2% of the individual's taxable income on the following brackets of taxable income as adjusted under subsection (2) at the following rates:

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

1 (b) ~~on the next \$1,000 of taxable income or any part~~
 2 ~~thereof, 3%~~
 3 (c) ~~on the next \$2,000 of taxable income or any part~~
 4 ~~thereof, 4%~~
 5 (d) ~~on the next \$2,000 of taxable income or any part~~
 6 ~~thereof, 5%~~
 7 (e) ~~on the next \$2,000 of taxable income or any part~~
 8 ~~thereof, 6%~~
 9 (f) ~~on the next \$2,000 of taxable income or any part~~
 10 ~~thereof, 7%~~
 11 (g) ~~on the next \$4,000 of taxable income or any part~~
 12 ~~thereof, 8%~~
 13 (h) ~~on the next \$6,000 of taxable income or any part~~
 14 ~~thereof, 9%~~
 15 (i) ~~on the next \$15,000 of taxable income or any part~~
 16 ~~thereof, 10%~~
 17 (j) ~~on any taxable income in excess of \$35,000 or any~~
 18 ~~part thereof, 11%.~~
 19 (2) ~~By November 1 of each year, the department shall~~
 20 ~~multiply the bracket amount contained in subsection (1) by~~
 21 ~~the inflation factor for that taxable year and round the~~
 22 ~~cumulative brackets to the nearest \$100. The resulting~~
 23 ~~adjusted brackets are effective for that taxable year and~~
 24 ~~shall be used as the basis for imposition of the tax in~~
 25 ~~subsection (1) of this section. The department may adopt~~

1 ~~rules for adjusting the tax rate provided in subsection (1)~~
 2 ~~to reflect changes in federal adjusted gross income. The~~
 3 ~~rules must adjust the tax rate to maintain a rate that does~~
 4 ~~not exceed 7.5% of an individual's taxable income as~~
 5 ~~determined for the tax year beginning January 1, 1994."~~

6 **SECTION 3. SECTION 15-30-103, MCA, IS AMENDED TO READ:**
 7 "15-30-103. Rate of tax -- adjustment. (1) There shall
 8 be subject to subsection (2), there is levied, collected,
 9 and paid for each taxable year commencing on or after
 10 December 31, ~~1968~~ 1994, upon the taxable income of every
 11 taxpayer individual subject to this tax, after making
 12 allowance for exemptions and deductions as hereinafter
 13 provided, a tax at the rate of ~~7.4%~~ 7.3% of the individual's
 14 taxable income on the following brackets of taxable income
 15 as adjusted under subsection (2) at the following rates:

16 (a) ~~on the first \$1,000 of taxable income or any part~~
 17 ~~thereof, 2%~~
 18 (b) ~~on the next \$1,000 of taxable income or any part~~
 19 ~~thereof, 3%~~
 20 (c) ~~on the next \$2,000 of taxable income or any part~~
 21 ~~thereof, 4%~~
 22 (d) ~~on the next \$2,000 of taxable income or any part~~
 23 ~~thereof, 5%~~
 24 (e) ~~on the next \$2,000 of taxable income or any part~~
 25 ~~thereof, 6%~~

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

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

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

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

9 {j}--on-any-taxable-income-in-excess-of-\$35,000--or--any
10 part thereof, 11%.

11 (2) By--November--1--of--each--year,--the--department--shall
12 multiply--the--bracket--amount--contained--in--subsection--{i}--by
13 the--inflation--factor--for--that--taxable--year--and--round--the
14 cumulative--brackets--to--the--nearest--\$100.--The--resulting
15 adjusted--brackets--are--effective--for--that--taxable--year--and
16 shall--be--used--as--the--basis--for--imposition--of--the--tax--in
17 subsection--{i}--of--this--section (a) The department shall,
18 pursuant to subsection (2)(b), adjust the tax rate provided
19 in subsection (1) to reflect changes in federal adjusted
20 gross income. The adjustment must maintain a rate that
21 produces revenue that does not exceed 7.4% of taxable income
22 based upon the definition of federal adjusted gross income
23 as provided in 26 U.S.C. 62 on January 1, 1993. Prior to
24 adopting a change in rate, the department shall present the
25 proposed change to the revenue oversight committee for

1 review by the committee.

2 (b) (i) For purposes of subsection (2)(a), for tax year
3 1994 and each tax year thereafter, the department shall in
4 the succeeding year determine the change in the amount of
5 revenue collected resulting from changes made by the United
6 States congress to federal adjusted gross income, as defined
7 by the Internal Revenue Code, effective for that year.

8 (ii) Based on the determination in subsection (2)(b)(i),
9 the tax rate for the tax year following the determination
10 must be adjusted in increments of 0.1%.

11 (iii) A change in the rate may not be made unless the
12 amount of change exceeds \$4.5 million."

13 Section 4. Section 15-30-105, MCA, is amended to read:

14 "15-30-105. Tax on nonresident -- alternative tax based
15 on gross sales. (1) A like tax is imposed upon every person
16 not resident of this state, which tax shall must be levied,
17 collected, and paid annually at the rates rate specified in
18 15-30-103 with respect to his--entire--net the person's
19 taxable income. After-calculating-the-tax-imposed,--the--tax
20 due--and--payable--must--be--determined--based--upon--the--ratio--of
21 income--earned--in--Montana--to--total--income--Interest--income
22 from--installment--sales--of--real--or--tangible--commercial--or
23 business--property--located--in--Montana--is--considered--income
24 earned--in--Montana--

25 (2) Pursuant to the provisions of Article III, section

1 2, of the Multistate Tax Compact, every nonresident taxpayer
 2 required to file a return and whose only activity in Montana
 3 consists of making sales and who does not own or rent real
 4 estate or tangible personal property within Montana and
 5 whose annual gross volume of sales made in Montana during
 6 the taxable year does not exceed \$100,000 may elect to pay
 7 an income tax of 1/2 of 1% of the dollar volume of gross
 8 sales made in Montana during the taxable year. ~~Such~~ The tax
 9 ~~shall be~~ is in lieu of the tax imposed under 15-30-103. The
 10 gross volume of sales made in Montana during the taxable
 11 year shall ~~must~~ be determined according to the provisions of
 12 Article IV, sections 16 and 17, of the Multistate Tax
 13 Compact."

14 **Section 5.** Section 15-30-111, MCA, is amended to read:

15 "15-30-111. Adjusted gross income. (1) Adjusted gross
 16 income ~~shall be~~ is the taxpayer's federal income tax
 17 adjusted gross income as defined in section 62 of the
 18 Internal Revenue Code of 1954 or as that section may be
 19 labeled or amended and in addition ~~shall include~~ includes
 20 the following:

21 (a) interest received on obligations of another state
 22 or territory or county, municipality, district, or other
 23 political subdivision thereof;

24 ~~(b) refunds received of federal income tax to the~~
 25 ~~extent the deduction of such tax resulted in a reduction of~~

1 ~~Montana income tax liability;~~

2 ~~(c)(b)~~ that portion of a shareholder's income under
 3 subchapter S. of Chapter 1 of the Internal Revenue Code of
 4 1954, that has been reduced by any federal taxes paid by the
 5 subchapter S. corporation on the income; and

6 ~~(d)(c)~~ depreciation or amortization taken on a title
 7 plant as defined in 33-25-105(15).

8 (2) Notwithstanding the provisions of the federal
 9 Internal Revenue Code of 1954, as labeled or amended,
 10 adjusted gross income does not include the following which
 11 are exempt from taxation under this chapter:

12 (a) all interest income from obligations of the United
 13 States government, the state of Montana, county,
 14 municipality, district, or other political subdivision
 15 thereof;

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

20 (c) (i) except as provided in subsection (2)(c)(ii),
 21 the first \$3,600 of all pension and annuity income received
 22 as defined in 15-30-101;

23 (ii) for pension and annuity income described under
 24 subsection (2)(c)(i), as follows:

25 (A) each taxpayer filing singly, head of household, or

1 married filing separately shall reduce the total amount of
2 the exclusion provided in (2)(c)(i) by \$2 for every \$1 of
3 federal adjusted gross income in excess of \$30,000 as shown
4 on the taxpayer's return;

5 (B) in the case of married taxpayers filing jointly, if
6 both taxpayers are receiving pension or annuity income or if
7 only one taxpayer is receiving pension or annuity income,
8 the exclusion claimed as provided in subsection (2)(c)(i)
9 must be reduced by \$2 for every \$1 of federal adjusted gross
10 income in excess of \$30,000 as shown on their joint return;

11 (d) all Montana income tax refunds or tax refund
12 credits;

13 (e) gain required to be recognized by a liquidating
14 corporation under 15-31-113(1)(a)(ii);

15 (f) all tips covered by section 3402(k) of the Internal
16 Revenue Code of 1954, as amended and applicable on January
17 1, 1983, AND SERVICE CHARGES received by persons for
18 services rendered by them to patrons of premises licensed to
19 provide food, beverage, or lodging. FOR THE PURPOSES OF
20 THIS SUBSECTION (F), "SERVICE CHARGE" MEANS AN ARBITRARY
21 FIXED CHARGE ADDED TO THE CUSTOMER'S BILL BY THE PERSON'S
22 EMPLOYER IN LIEU OF A TIP. IT IS COLLECTED BY THE EMPLOYER
23 AND PAID TO THE PERSON BY THE EMPLOYER.

24 (g) all benefits received under the workers'
25 compensation laws;

1 (h) all health insurance premiums paid by an employer
2 for an employee if attributed as income to the employee
3 under federal law; and

4 (i) all money received because of a settlement
5 agreement or judgment in a lawsuit brought against a
6 manufacturer or distributor of "agent orange" for damages
7 resulting from exposure to "agent orange"; and

8 (j) for a single joint return of husband and wife, an
9 amount, not to exceed \$3,000, equal to 10% of the wages and
10 salary received by the spouse that earned the least amount
11 of wages and salary in the tax year.

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

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

were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

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

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

exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

Section 6. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) Except as provided in subsection (6), in the case of an individual, the exemptions provided by subsections (2) through (5) ~~shall be~~ are allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~0000~~ \$3,500 ~~shall be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the taxpayer.

(b) An additional exemption of ~~0000~~ \$3,500 ~~shall be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of ~~0000~~ \$3,500 ~~shall be~~ is allowed for taxable years beginning after December 31,

1 ~~1978~~ 1992, for the taxpayer if he the taxpayer has attained
2 the age of 65 before the close of his the taxpayer's taxable
3 year.

4 (b) An additional exemption of ~~8000~~ \$3,500 ~~shall-be~~ is
5 allowed for taxable years beginning after December 31, ~~1978~~
6 1992, for the spouse of the taxpayer if a separate return is
7 made by the taxpayer and if the spouse has attained the age
8 of 65 before the close of such the taxable year and, for the
9 calendar year in which the taxable year of the taxpayer
10 begins, has no gross income and is not the dependent of
11 another taxpayer.

12 (4) (a) An additional exemption of ~~8000~~ \$3,500 ~~shall-be~~
13 is allowed for taxable years beginning after December 31,
14 ~~1978~~ 1992, for the taxpayer if he the taxpayer is blind at
15 the close of his the taxpayer's taxable year.

16 (b) An additional exemption of ~~8000~~ \$3,500 ~~shall-be~~ is
17 allowed for taxable years beginning after December 31, ~~1978~~
18 1992, for the spouse of the taxpayer if a separate return is
19 made by the taxpayer and if the spouse is blind and, for the
20 calendar year in which the taxable year of the taxpayer
21 begins, has no gross income and is not the dependent of
22 another taxpayer. For the purposes of this subsection ~~(4)(b)~~
23 (b), the determination of whether the spouse is blind ~~shall~~
24 must be made as of the close of the taxable year of the
25 taxpayer, except that if the spouse dies during such the

1 taxable year, such the determination ~~shall~~ must be made as
2 of the time of such death.

3 (c) For purposes of this subsection (4), an individual
4 is blind only if his the individual's central visual acuity
5 does not exceed 20/200 in the better eye with correcting
6 lenses or if his the individual's visual acuity is greater
7 than 20/200 but is accompanied by a limitation in the fields
8 of vision such that the widest diameter of the visual field
9 subtends an angle no greater than 20 degrees.

10 (5) (a) An exemption of ~~8000~~ \$3,500 ~~shall-be~~ is allowed
11 for taxable years beginning after December 31, ~~1978~~ 1992,
12 for each dependent:

13 (i) whose gross income for the calendar year in which
14 the taxable year of the taxpayer begins is less than ~~8000~~
15 \$3,500; or

16 (ii) who is a child of the taxpayer and who:

17 (A) has not attained the age of 19 years at the close
18 of the calendar year in which the taxable year of the
19 taxpayer begins; or

20 (B) is a student.

21 (b) No An exemption ~~shall-be~~ is not allowed under this
22 subsection (5) for any dependent who has made a joint return
23 with his the dependent's spouse for the taxable year
24 beginning in the calendar year in which the taxable year of
25 the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection ~~(5)(d)(ii)~~ (ii), the term "educational institution" means only an educational institution which that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) (A) THE EXEMPTIONS PROVIDED FOR IN THIS SECTION ARE REDUCED BY 10% FOR EVERY \$5,000 OF FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$150,000.

(B) The For tax years beginning after December 31, 1992 1993, the department, by November 1 of each year, shall multiply all the exemptions provided in this section by the

inflation factor for that taxable year and round the product to the nearest \$10. The resulting adjusted exemptions are effective for that taxable year and ~~shall~~ must be used in calculating the tax imposed in 15-30-103."

Section 7. Section 15-30-117, MCA, is amended to read:

"15-30-117. Net operating loss -- computation. (1) A Montana net operating loss for a loss incurred in tax years beginning after December 31, 1992, must be determined in accordance with section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in accordance with the following:

(a) The net operating loss deduction for Montana purposes is increased by the following:

~~{i}--that portion of the federal income tax and motor vehicle tax allowed as a deduction under 15-30-121 or 15-30-131 which is attributable to income from a Montana trade or business; and~~

~~{ii} Montana wages and salaries allowed as a business deduction under 15-30-111(4).~~

(b) The net operating loss deduction for Montana purposes is decreased by the following:

~~{i} interest received on obligations of another state or territory or of a county, municipality, district, or political subdivision thereof allowed as nonbusiness income under 15-30-111(1)(a);~~

~~(ii) federal income tax refunds required to be reported under 15-30-111 and 15-30-131 as Montana business income;~~
~~(iii) state income tax; and~~
~~(iv) any other nonbusiness deductions allowed under 15-30-121 in excess of nonbusiness income.~~

(2) Notwithstanding the provisions of section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, a net operating loss does not include:

~~(a) income defined as exempt from state taxation under 15-30-111(2); or~~

~~(b) a zero bracket deduction provided for under section 63 of the Internal Revenue Code of 1954 or as that section may be labeled or amended."~~

Section 8. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) A standard deduction equal to 20% of adjusted gross income shall be is allowed if elected by the taxpayer on his on the taxpayer's return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum

(2) (a) Except as provided in subsections (2)(b) through (2)(d) (2)(E), the standard deduction shall be \$1,500 is 40% 30% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$2,500 OR MORE THAN \$5,000. r--as--adjusted under the provisions of subsection (2) except that in the case of

(b) For a single joint return of husband and wife, the standard deduction is 40% 30% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$4,000 OR MORE THAN \$10,000. or in the case of

(c) For a single individual who qualifies to file as a head of household on his the individual's federal income tax return, the maximum standard deduction shall be \$3,000 is 40% 30% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$3,000 OR MORE THAN \$7,500. r--as--adjusted--under--the provisions of subsection (2);

(d) The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction for married taxpayers filing separately is 40% 30% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$2,000 OR MORE THAN \$5,000.

(E) THE STANDARD DEDUCTIONS PROVIDED FOR IN THIS SUBSECTION (2) ARE REDUCED BY 10% FOR EVERY \$5,000 OF FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$150,000.

(3) For purposes of this section, the determination of whether an individual is married shall must be made as of the last day of the taxable year; provided, however, However, if one of the spouses dies during the taxable year, the determination shall must be made as of the date of death.

1 ~~(2)(4)~~ By For taxable years beginning after December
 2 31, ~~1994~~ 1993, by November 1 of each year, the department
 3 shall multiply the maximum standard deduction for single
 4 returns, qualified-head-of-household returns, and joint
 5 returns by the inflation factor for that taxable year and
 6 round the product to the nearest \$10. ~~The standard deduction~~
 7 ~~for joint returns and qualified head of household returns~~
 8 ~~shall be twice the amount for single returns.~~ The resulting
 9 adjusted deductions are effective for that taxable year and
 10 shall must be used in calculating the tax imposed in
 11 15-30-103."

12 **NEW SECTION. Section 9. Credit for sale of business.**

13 (1) (a) For tax years beginning after December 31, 1992, an
 14 individual who realizes a gain that must be included in
 15 Montana adjusted gross income, from the sale of a business,
 16 trade, or profession, is allowed a one-time credit against
 17 the tax imposed by 15-30-103.

18 (b) To be eligible for the credit, the individual,
 19 including the individual's parents, grandparents, children,
 20 and grandchildren, must have held the interest in the
 21 business, trade, or profession for at least 15 years.

22 (2) (a) Subject to the limitation contained in
 23 subsection (2)(b), the credit must be computed by
 24 multiplying the gain that was included in the Montana
 25 adjusted gross income from the sale times the individual's

1 highest federal tax rate in the tax year in which the gain
 2 from the sale is reported times this state's highest tax
 3 rate for that individual in the same year.

4 (b) For an individual who realized a gain in excess of
 5 \$1 million, the credit is reduced at the rate of ~~\$1~~ 1% for
 6 every \$2 \$20,000 of gain in excess of \$1 million.

7 (c) The credit provided for in this section is not
 8 refundable, nor may it be carried back or carried forward.

9 (3) For sales that occurred prior to December 31, 1992,
 10 and for which the gain for the sale of the business, trade,
 11 or profession is being reported on the installment basis,
 12 the individual shall satisfy the requirements of subsection
 13 (1)(b).

14 **Section 10. Section 15-30-126, MCA, is amended to read:**

15 "15-30-126. Small business corporation -- deduction for
 16 donation of computer equipment to schools. A small business
 17 corporation, as defined in 15-31-201, is allowed a deduction
 18 equal to the fair market value, not to exceed 30% of the
 19 small business corporation's net income, of a computer or
 20 other sophisticated technological equipment or apparatus
 21 intended for use with the computer donated to an elementary,
 22 secondary, or accredited postsecondary school located in
 23 Montana if:

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

substantially completed;

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

(3) the electing small business corporation receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of subsection (2); and

~~(4) the deduction allowed in this section is in lieu of the deduction allowed under 15-30-121 for charitable contributions.~~

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

"15-30-131. Nonresident and temporary part-year resident taxpayers -- adjusted gross income. (1) In the case of a nonresident or part-year resident taxpayer other than a resident of this state, adjusted gross income includes the entire amount of adjusted gross income ~~as provided for in 15-30-111~~ from sources within this state but does not include income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations, except to the extent to which the income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations are a part of income from any business, trade,

profession, or occupation carried on in this state. Interest income from installment sales of real or tangible commercial or business property located in Montana must be included in Montana adjusted gross income. Adjusted gross income from sources within and outside of this state must be allocated and apportioned under rules adopted by the department in accordance with the Multistate Tax Compact.

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

(3) The deductions allowed in computing net income are restricted to a prorated standard deduction, as adjusted, allowed under 15-30-122 and prorated exemptions, as adjusted, allowed under 15-30-112. The standard deduction and the claimable exemptions must be prorated according to the ratio that the taxpayer's Montana adjusted gross income bears to the taxpayer's federal adjusted gross income."

Section 12. Section 15-30-137, MCA, is amended to read:

"15-30-137. Determination of tax of estates and trusts. The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates rate contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable."

Section 13. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) A return must be filed as provided in subsections (2)(a) through (2)(d) on forms and according to rules prescribed by the department. The filing status used in subsection (2) must be the same status used for the individual's or married couple's federal income tax return.

(2) A return must be filed by:

(a) Every each single individual and--every-married individual-not-filing-a-joint-return-with-his-or-her--spouse and having a gross income for the taxable year of more than \$27,000, the combined amount of the standard deduction for a single individual plus the amount for the exemption claimable by the individual as provided in 15-30-112; as adjusted-under-the-provisions-of-subsection-(7)--and

(b) each individual filing as a head of household having gross income for the taxable year of more than the combined amount of the standard deduction for a head of household plus the amount for the exemption claimable by the individual as provided in 15-30-112;

(c) married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$27,000, the combined amount of the standard deduction for married individuals not filing separately plus the

amount for the exemption claimable by the individuals as provided in 15-30-112; and

(d) as-adjusted-under-the-provisions-of-subsection-(7)--shall-be-labile-for-a-return-to-be-filed-on-such--forms--and according--to--such--rules--as--the-department-may-prescribe married individuals filing separately with combined gross income exceeding one-half of the combined amount of the standard deduction for married individuals not filing separately plus the amount for the exemption claimable by the individual as provided in 15-30-112. The--gross--income amounts--referred--to--in--the--preceding--sentence--shall-be increased-by-\$800,--as--adjusted--under--the--provisions--of 15-30-112(6)--for---each---additional--personal--exemption allowance-the-taxpayer-is-entitled-to-claim-for-himself--and his-spouse-under-15-30-112(3)-and-(4);

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

(2)(4) In accordance with instructions set forth by the department, every taxpayer who is married, and who is living with husband--or--wife the taxpayer's spouse, and who is

1 required to file a return may, at his-or-her the taxpayer's
 2 option, file a joint return with husband-or-wife the spouse
 3 even though one of the spouses has neither gross income nor
 4 deductions. If a joint return is made, the tax shall must be
 5 computed on the aggregate taxable income and the liability
 6 with respect to the tax shall-be is joint and several. If a
 7 joint return has been filed for a taxable year, the spouses
 8 may not file separate returns after the time for filing the
 9 return of either has expired unless the department so
 10 consents.

11 ~~{3}~~(5) If any-such a taxpayer is unable to make his-own
 12 a return that is required to be made by the taxpayer, the
 13 return shall must be made by a duly authorized agent or by a
 14 guardian or other person charged with the care of the person
 15 or property of such the taxpayer.

16 ~~{4}~~(6) All taxpayers, including but not limited to
 17 those subject to the provisions of 15-30-202 and 15-30-241,
 18 shall compute the amount of income tax payable and shall, at
 19 the time of filing the return required by this chapter, pay
 20 to the department any balance of income tax remaining unpaid
 21 after crediting the amount withheld as provided by 15-30-202
 22 and/or and any payment made by reason of an estimated tax
 23 return provided for in 15-30-241; ~~provided; however,~~ if the
 24 tax so computed is greater by \$1 than the amount withheld
 25 and/or or paid by estimated return as provided in this

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

5 ~~{5}~~(7) As soon as practicable after the return is
 6 filed, the department shall examine and verify the tax.

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

16 ~~{7}~~(9) By November 1 of each year, the department shall
 17 multiply determine the minimum amount of gross income
 18 necessitating the filing of a return by-the-inflation-factor
 19 for the taxable year. These adjusted amounts are effective
 20 for that taxable year, and persons having gross incomes less
 21 than these adjusted amounts are not required to file a
 22 return.

23 ~~{8}~~(10) Individual income tax forms distributed by the
 24 department for each taxable year must contain instructions
 25 and tables based on the adjusted base year structure for

that taxable year.

(11) For the purposes of this section:

(a) "exemption" means an exemption provided by 15-30-112 and includes the adjustment provided in 15-30-112(6); and

(b) "standard deduction" means a deduction provided by 15-30-122 and includes the adjustment provided in 15-30-122(4)."

Section 14. Section 15-30-323, MCA, is amended to read:

"15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142(6)(8) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall must be added to the amount of the deficiency 5% thereof; ~~provided, however, that no of the deficiency. However, a deficiency penalty shall may not~~ be less than \$2. Interest ~~will~~ must be computed at the rate of 9% per annum or fraction thereof of a year on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall must in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon on the tax due at the rate of 9% per annum from the time when the

return was originally required to be filed to the time of payment."

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

"15-31-121. (Temporary FOR TAX YEAR 1993) Rate of tax -- minimum tax -- surtax. (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be is:

(a) 6-3/4% 7.08% of all the first \$500,000 of net income for the taxable period; and

(b) 7-1/4% 7.57% of all net income in excess of \$500,000 for the taxable period. The rate set forth in this subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

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

(A) 7% of all 7.33% OF THE FIRST \$500,000 OF taxable net income for the taxable period; AND

(B) 7.82% OF ALL NET INCOME IN EXCESS OF \$500,000 FOR THE TAXABLE PERIOD.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50 \$100.

~~(4) After the amount of tax liability has been computed under subsections (1) through (3), each corporation subject to taxation under this part shall add, as a surtax for tax year 1992, 2.3% of the tax liability and, as a surtax for tax year 1993, 4.7% of the tax liability, and the amount so derived is the amount due the state.~~

~~(5) The additional tax collected under subsection (4) must be deposited to the credit of the state general fund.~~

15-31-121. (Effective on receipt of taxes for tax year 1993 1994 AND THEREAFTER) Rate of tax -- minimum tax -- surtax. (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be is:

(a) 6 3/4% of all the first \$500,000 of net income for the taxable period; and

(b) 7 1/4% of all net income in excess of \$500,000 for the taxable period. The rate set forth in this subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

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

(A) 7% of all THE FIRST \$500,000 OF taxable net income

for the taxable period; AND

(B) 7.5% OF ALL NET INCOME IN EXCESS OF \$500,000 FOR THE TAXABLE PERIOD.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50 \$100.

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

Section 16. Section 15-31-202, MCA, is amended to read:

"15-31-202. Small business corporation not subject to chapter. (1) A small business corporation is not subject to the taxes imposed by this chapter. The corporate net income or loss of the corporation is included in the stockholders' adjusted gross income as defined in 15-30-111.

(2) Each small business corporation is required to pay the minimum fee of \$10 \$25 required by 15-31-204."

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

"15-31-204. Minimum fee of small business corporations unaffected. Notwithstanding the provisions of 15-31-121, small business corporations shall pay a minimum fee of \$10 \$25."

Section 18. Section 15-31-131, MCA, is amended to read:

1 "15-31-131. Credit for dependent care assistance. (1)
2 There is a credit against the taxes otherwise due under this
3 chapter allowable to an employer for amounts paid or
4 incurred during the taxable year by the employer for
5 dependent care assistance actually provided to or on behalf
6 of an employee if the assistance is furnished by a
7 registered or licensed day-care provider and pursuant to a
8 program that meets the requirements of section 89(k) and
9 129(d)(2) through (6) of the Internal Revenue Code.

10 (2) (a) The amount of the credit allowed under
11 subsection (1) is 20% of the amount paid or incurred by the
12 employer during the taxable year, but the credit may not
13 exceed \$1,250 of day-care assistance actually provided to or
14 on behalf of the employee.

15 (b) For the purposes of this subsection, marital status
16 must be determined under the rules of section 21(e)(3) and
17 (4) of the Internal Revenue Code.

18 (c) In the case of an onsite facility, the amount upon
19 which the credit allowed under subsection (1) is based, with
20 respect to any dependent, must be based upon utilization and
21 the value of the services provided.

22 (3) An amount paid or incurred during the taxable year
23 of an employer in providing dependent care assistance to or
24 on behalf of any employee does not qualify for the credit
25 allowed under subsection (1) if the amount was paid or

1 incurred to an individual described in section 129(c)(1) or
2 (2) of the Internal Revenue Code.

3 (4) An amount paid or incurred by an employer to
4 provide dependent care assistance to or on behalf of an
5 employee does not qualify for the credit allowed under
6 subsection (1):

7 (a) to the extent the amount is paid or incurred
8 pursuant to a salary reduction plan; or

9 (b) if the amount is paid or incurred for services not
10 performed within this state.

11 (5) If the credit allowed under subsection (1) is
12 claimed, the amount of any deduction allowed or allowable
13 under this chapter for the amount that qualifies for the
14 credit (or upon which the credit is based) must be reduced
15 by the dollar amount of the credit allowed. The election to
16 claim a credit allowed under this section must be made at
17 the time of filing the tax return.

18 (6) The amount upon which the credit allowed under
19 subsection (1) is based may not be included in the gross
20 income of the employee to whom the dependent care assistance
21 is provided. However, the amount excluded from the income of
22 an employee under this section may not exceed the
23 limitations provided in section 129(b) of the Internal
24 Revenue Code. For purposes of Title 15, chapter 30, part 2,
25 with respect to an employee to whom dependent care

assistance is provided, "wages" does not include any amount excluded under this subsection. ~~Amounts-excluded-under--this subsection--do-not-qualify-as-expenses-for-which-a-deduction is-allowed-to-the-employee-under-15-30-121-~~

(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise through the fifth year succeeding the tax year in which the credit was first allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

(8) If the taxpayer is an S corporation, as defined in section 1361 of the Internal Revenue Code, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro rata share of the corporation's costs that qualify for the credit. In all other respects, the effect of the tax credit applies to the corporation as otherwise provided by law.

(9) For purposes of the credit allowed under subsection

(1):

(a) The definitions and special rules contained in

section 129(e) of the Internal Revenue Code apply to the extent applicable.

(b) "Employer" means an employer carrying on a business, trade, occupation, or profession in this state.

(c) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on January 1, 1989."

Section 19. Section 15-32-303, MCA, is amended to read:

"15-32-303. Deduction for purchase of Montana produced organic fertilizer. In addition to all other deductions from ~~adjusted---gross--individual--income--allowed--in--computing taxable-income-under-Title-15y-chapter--30y--or~~ from gross corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer may deduct his expenditures made by the taxpayer for organic fertilizer produced in Montana and used in Montana if the expenditure was not otherwise deducted in computing taxable income."

Section 20. Section 13-37-218, MCA, is amended to read:

"13-37-218. Limitations on receipts from political committees. (1) A candidate for the state senate may receive no more than \$1,000 in total combined monetary contributions from all political committees contributing to his the campaign, and a candidate for the state house of representatives may receive no more than \$600 in total combined monetary contributions from all political committees contributing to his the campaign. The foregoing

1 limitations shall must be multiplied by the inflation factor
 2 as defined in ~~15-30-101(6)~~ subsection (2) for the year in
 3 which general elections are held after ~~1984~~, and the
 4 resulting figure shall must be rounded off to the nearest
 5 \$50 increment. The commissioner of political practices shall
 6 publish the revised limitations as a rule. In-kind
 7 contributions may not be included in computing these
 8 limitation totals. The limitation provided in this section
 9 does not apply to contributions made by a political party
 10 eligible for a primary election under 13-10-601.

11 (2) "Inflation factor" means a number determined for
 12 each year by dividing the consumer price index for June of
 13 the year by the consumer price index for June 1980. The
 14 consumer price index to be used in determining the inflation
 15 factor is the consumer price index, United States city
 16 average, for all items, using the 1967 base of 100 as
 17 published by the bureau of labor statistics of the U.S.
 18 department of labor."

19 NEW SECTION. Section 21. Codification instruction.
 20 [Section 8 9] is intended to be codified as an integral part
 21 of Title 15, chapter 30, and the provisions of Title 15,
 22 chapter 30, apply to [section 8 9].

23 NEW SECTION. Section 22. Transition. (1)
 24 Notwithstanding the provisions of 15-30-111, the adjusted
 25 gross income of an individual includes refunds of federal

1 income tax received for tax years prior to December 31,
 2 1992, to the extent that the deduction of the tax resulted
 3 in a reduction of Montana income tax liability.

4 (2) Notwithstanding the provisions of 15-30-122, all
 5 itemized deductions allowed pursuant to 26 U.S.C. 161 and
 6 211 that may be carried forward, including but not limited
 7 to the contributions carryover, investment interest expense
 8 carryover, home mortgage interest amortization, bond premium
 9 amortisation, and deduction for income in respect of a
 10 decedent, may be continued to be carried forward for a
 11 period not to exceed 5 years.

12 NEW SECTION. Section 23. Repealer. Sections 15-30-121,
 13 15-30-156, 15-30-157, 15-30-159, and 15-30-160, AND
 14 15-30-199, MCA, are repealed.

15 NEW SECTION. Section 24. Effective date -- retroactive
 16 applicability. (1) {This EXCEPT AS PROVIDED IN SUBSECTION
 17 (2), [THIS act] is effective on passage and approval and
 18 applies retroactively, within the meaning of 1-2-109, to tax
 19 years beginning after December 31, 1992.

20 (2) (A) [SECTION 2] IS EFFECTIVE ON PASSAGE AND
 21 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF
 22 1-2-109, TO THE TAX YEARS BEGINNING AFTER DECEMBER 31, 1992.

23 (B) [SECTION 3] IS EFFECTIVE ON PASSAGE AND APPROVAL
 24 AND APPLIES TO TAX YEARS BEGINNING AFTER DECEMBER 31, 1994.

25 NEW SECTION. SECTION 25. TERMINATION. [SECTION 2]

HB 0671/03

1 TERMINATES DECEMBER 31, 1994.

-End-

HOUSE BILL NO. 671

INTRODUCED BY GILBERT, ELLIOTT, BIRD,
DRISCOLL, GRINDE, SCHYE, MERCER, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
INDIVIDUAL INCOME TAX LAWS AND AMENDING CORPORATE LICENSE
AND INCOME TAX LAWS; PROVIDING A SINGLE INCOME TAX RATE;
REPLACING ITEMIZED INCOME TAX DEDUCTIONS WITH STANDARD
DEDUCTIONS AND INCREASING THE EXEMPTION AMOUNT; CHANGING THE
METHOD OF INDEXING THE STANDARD DEDUCTION AND EXEMPTION
AMOUNTS; PROVIDING FOR A ONE-TIME TAX CREDIT RESULTING FROM
GAIN FROM THE SALE OF A BUSINESS HELD FOR 15 OR MORE YEARS;
INCREASING THE RATE OF THE CORPORATE LICENSE OR INCOME TAX
FOR CORPORATIONS WITH TAXABLE INCOME OVER \$500,000;
INCREASING THE MINIMUM CORPORATE TAX TO \$100; INCREASING THE
SMALL BUSINESS CORPORATION MINIMUM FEE TO \$25; AMENDING
SECTIONS 13-37-218, 15-30-101, 15-30-103, 15-30-105,
15-30-111, 15-30-112, 15-30-117, 15-30-122, 15-30-126,
15-30-131, 15-30-137, 15-30-142, 15-30-323, 15-31-121,
15-31-131, 15-31-202, 15-31-204, AND 15-32-303, MCA;
REPEALING SECTIONS 15-30-121, 15-30-156, 15-30-157,
15-30-159, AND 15-30-160, AND 15-30-199, MCA; AND PROVIDING
AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

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

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

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

~~(b) the exemptions contained in 15-30-112, but
unadjusted by 15-30-112(6), in effect on June 30 of the
taxable year;~~

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

(2) "Consumer price index for Montana" means the
consumer price index for all urban consumers, United States
city average, for all items, using the 1967 1982-1984 base
index of 100, as that base index is periodically adjusted,
as published by the bureau of labor statistics of the U.S.
department of labor, multiplied by 0.5.

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

(4) "Dividend" means any distribution made by a
corporation out of its earnings or profits to its

shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as--herein--defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

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

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

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

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for Montana for June of the taxable year by the consumer price index for Montana for June, ~~1980~~ 1994 1993.

(9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or

personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

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

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

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

(13) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code, or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profitsharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts after cessation of regular employment received from fully matured, privately purchased annuity contracts.

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

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

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

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

(17) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(18) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

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

Section 2. Section 15-30-103, MCA, is amended to read:

"15-30-103. (TEMPORARY FOR TAX YEARS 1993 AND 1994)

Rate of tax ~~adjustment~~. ~~(1)~~ There shall be Subject to subsection (2) there THERE is levied, collected, and paid for each taxable year commencing on or after December 31, 1968 1992, upon the taxable income of every taxpayer individual subject to this tax, after making allowance for exemptions and deductions as hereinafter provided, a tax at the rate of ~~7+5% 7+3% 7.2%~~ of the individual's taxable income on the following brackets of taxable income as adjusted under subsection (2) at the following rates:

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

1 {b}--on-the-next-\$1,000-of-taxable-income--or--any--part
 2 thereof; 3%;
 3 {c}--on--the--next--\$2,000-of-taxable-income-or-any-part
 4 thereof; 4%;
 5 {d}--on-the-next-\$2,000-of-taxable-income--or--any--part
 6 thereof; 5%;
 7 {e}--on--the--next--\$2,000-of-taxable-income-or-any-part
 8 thereof; 6%;
 9 {f}--on-the-next-\$2,000-of-taxable-income--or--any--part
 10 thereof; 7%;
 11 {g}--on--the--next--\$4,000-of-taxable-income-or-any-part
 12 thereof; 8%;
 13 {h}--on-the-next-\$6,000-of-taxable-income--or--any--part
 14 thereof; 9%;
 15 {i}--on--the--next-\$15,000-of-taxable-income-or-any-part
 16 thereof; 10%;
 17 {j}--on-any-taxable-income-in-excess-of-\$35,000--or--any
 18 part-thereof; 11%.
 19 {2}--By--November--1--of--each--year,--the--department--shall
 20 multiply--the--bracket--amount--contained--in--subsection--(1)--by
 21 the--inflation--factor--for--that--taxable--year--and--round--the
 22 cumulative--brackets--to--the--nearest--\$100.--The--resulting
 23 adjusted--brackets--are--effective--for--that--taxable--year--and
 24 shall--be--used--as--the--basis--for--imposition--of--the--tax--in
 25 subsection--(1)--of--this--section The department may adopt

1 rules for adjusting the tax rate provided in subsection (1)
 2 to reflect changes in federal adjusted gross income. The
 3 rules must adjust the tax rate to maintain a rate that does
 4 not exceed 7.5% of an individual's taxable income as
 5 determined for the tax year beginning January 1, 1994."

6 SECTION 3. SECTION 15-30-103, MCA, IS AMENDED TO READ:

7 "15-30-103. Rate of tax -- adjustment. (1) There--shall
 8 be Subject to subsection (2), there is levied, collected,
 9 and paid for each taxable year commencing on or after
 10 December 31, 1960 1994, upon the taxable income of every
 11 taxpayer individual subject to this tax, after making
 12 allowance for exemptions and deductions as--hereinafter
 13 provided, a tax at the rate of 7.4% 7.3% of the individual's
 14 taxable income on the following brackets of taxable income
 15 as adjusted under subsection (2) at the following rates:

16 {a}--on--the--first-\$1,000-of-taxable-income-or-any-part
 17 thereof; 2%;
 18 {b}--on-the-next-\$1,000-of-taxable-income--or--any--part
 19 thereof; 3%;
 20 {c}--on--the--next--\$2,000-of-taxable-income-or-any-part
 21 thereof; 4%;
 22 {d}--on-the-next-\$2,000-of-taxable-income--or--any--part
 23 thereof; 5%;
 24 {e}--on--the--next--\$2,000-of-taxable-income-or-any-part
 25 thereof; 6%;

1 (f) ~~--on the next \$2,000 of taxable income or any part~~
 2 ~~thereof, 7%;~~
 3 (g) ~~--on the next \$4,000 of taxable income or any part~~
 4 ~~thereof, 8%;~~
 5 (h) ~~--on the next \$6,000 of taxable income or any part~~
 6 ~~thereof, 9%;~~
 7 (i) ~~--on the next \$15,000 of taxable income or any part~~
 8 ~~thereof, 10%;~~
 9 (j) ~~--on any taxable income in excess of \$35,000 or any~~
 10 ~~part thereof, 11%.~~
 11 (2) ~~By November 1 of each year, the department shall~~
 12 ~~multiply the bracket amount contained in subsection (1) by~~
 13 ~~the inflation factor for that taxable year and round the~~
 14 ~~cumulative brackets to the nearest \$100. The resulting~~
 15 ~~adjusted brackets are effective for that taxable year and~~
 16 ~~shall be used as the basis for imposition of the tax in~~
 17 ~~subsection (1) of this section (a) The department shall,~~
 18 ~~pursuant to subsection (2)(b), adjust the tax rate provided~~
 19 ~~in subsection (1) to reflect changes in federal adjusted~~
 20 ~~gross income. The adjustment must maintain a rate that~~
 21 ~~produces revenue that does not exceed 7.4% of taxable income~~
 22 ~~based upon the definition of federal adjusted gross income~~
 23 ~~as provided in 26 U.S.C. 62 on January 1, 1993. Prior to~~
 24 ~~adopting a change in rate, the department shall present the~~
 25 ~~proposed change to the revenue oversight committee for~~

1 review by the committee.

2 (b) (i) For purposes of subsection (2)(a), for tax year
 3 1994 and each tax year thereafter, the department shall in
 4 the succeeding year determine the change in the amount of
 5 revenue collected resulting from changes made by the United
 6 States congress to federal adjusted gross income, as defined
 7 by the Internal Revenue Code, effective for that year.

8 (ii) Based on the determination in subsection (2)(b)(i),
 9 the tax rate for the tax year following the determination
 10 must be adjusted in increments of 0.1%.

11 (iii) A change in the rate may not be made unless the
 12 amount of change exceeds \$4.5 million."

13 Section 4. Section 15-30-105, MCA, is amended to read:

14 "15-30-105. Tax on nonresident -- alternative tax based
 15 on gross sales. (1) A like tax is imposed upon every person
 16 not resident of this state, which tax shall must be levied,
 17 collected, and paid annually at the rates rate specified in
 18 15-30-103 with respect to his--entire--net the person's
 19 taxable income. After calculating the tax imposed, the tax
 20 due--and--payable--must--be--determined--based--upon--the--ratio--of
 21 income--earned--in--Montana--to--total--income--interest--income
 22 from--installment--sales--of--real--or--tangible--commercial--or
 23 business--property--located--in--Montana--is--considered--income
 24 earned--in--Montana--

25 (2) Pursuant to the provisions of Article III, section

1 2, of the Multistate Tax Compact, every nonresident taxpayer
 2 required to file a return and whose only activity in Montana
 3 consists of making sales and who does not own or rent real
 4 estate or tangible personal property within Montana and
 5 whose annual gross volume of sales made in Montana during
 6 the taxable year does not exceed \$100,000 may elect to pay
 7 an income tax of 1/2 of 1% of the dollar volume of gross
 8 sales made in Montana during the taxable year. ~~Such~~ The tax
 9 ~~shall be~~ is in lieu of the tax imposed under 15-30-103. The
 10 gross volume of sales made in Montana during the taxable
 11 year ~~shall must~~ be determined according to the provisions of
 12 Article IV, sections 16 and 17, of the Multistate Tax
 13 Compact."

14 **Section 5.** Section 15-30-111, MCA, is amended to read:

15 "15-30-111. **Adjusted gross income.** (1) Adjusted gross
 16 income ~~shall be~~ is the taxpayer's federal income tax
 17 adjusted gross income as defined in section 62 of the
 18 Internal Revenue Code of 1954 or as that section may be
 19 labeled or amended and in addition ~~shall include~~ includes
 20 the following:

21 (a) interest received on obligations of another state
 22 or territory or county, municipality, district, or other
 23 political subdivision thereof;

24 ~~{b}--refunds--received--of--federal--income--tax--to--the~~
 25 ~~extent--the--deduction--of--such--tax--resulted--in--a--reduction--of~~

1 ~~Montana-income-tax-liability;~~

2 ~~{c}{b}~~ that portion of a shareholder's income under
 3 subchapter S. of Chapter 1 of the Internal Revenue Code of
 4 1954, that has been reduced by any federal taxes paid by the
 5 subchapter S. corporation on the income; and

6 ~~{d}{c}~~ depreciation or amortization taken on a title
 7 plant as defined in 33-25-105(15).

8 (2) Notwithstanding the provisions of the federal
 9 Internal Revenue Code of 1954, as labeled or amended,
 10 adjusted gross income does not include the following which
 11 are exempt from taxation under this chapter:

12 (a) all interest income from obligations of the United
 13 States government, the state of Montana, county,
 14 municipality, district, or other political subdivision
 15 thereof;

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

20 (c) (i) except as provided in subsection (2)(c)(ii),
 21 the first \$3,600 of all pension and annuity income received
 22 as defined in 15-30-101;

23 (ii) for pension and annuity income described under
 24 subsection (2)(c)(i), as follows:

25 (A) each taxpayer filing singly, head of household, or

married filing separately shall reduce the total amount of the exclusion provided in (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, AND SERVICE CHARGES received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging, FOR THE PURPOSES OF THIS SUBSECTION (F), "SERVICE CHARGE" MEANS AN ARBITRARY FIXED CHARGE ADDED TO THE CUSTOMER'S BILL BY THE PERSON'S EMPLOYER IN LIEU OF A TIP. IT IS COLLECTED BY THE EMPLOYER AND PAID TO THE PERSON BY THE EMPLOYER.

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law; and

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange"; and

(j) for a single joint return of husband and wife, an amount, not to exceed \$3,000, equal to 10% of the wages and salary received by the spouse that earned the least amount of wages and salary in the tax year.

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

(4) A taxpayer who, in determining federal adjusted gross income, has reduced his the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries

were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

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

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

exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

Section 6. Section 15-30-112, MCA, is amended to read:

"15-30-112. **Exemptions.** (1) Except as provided in subsection (6), in the case of an individual, the exemptions provided by subsections (2) through (5) ~~shall-be~~ are allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the taxpayer.

(b) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed for taxable years beginning after December 31,

1 ~~1978~~ 1992, for the taxpayer if he the taxpayer has attained
2 the age of 65 before the close of his the taxpayer's taxable
3 year.

4 (b) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is
5 allowed for taxable years beginning after December 31, ~~1978~~
6 1992, for the spouse of the taxpayer if a separate return is
7 made by the taxpayer and if the spouse has attained the age
8 of 65 before the close of ~~such~~ the taxable year and, for the
9 calendar year in which the taxable year of the taxpayer
10 begins, has no gross income and is not the dependent of
11 another taxpayer.

12 (4) (a) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~
13 is allowed for taxable years beginning after December 31,
14 ~~1978~~ 1992, for the taxpayer if he the taxpayer is blind at
15 the close of his the taxpayer's taxable year.

16 (b) An additional exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is
17 allowed for taxable years beginning after December 31, ~~1978~~
18 1992, for the spouse of the taxpayer if a separate return is
19 made by the taxpayer and if the spouse is blind and, for the
20 calendar year in which the taxable year of the taxpayer
21 begins, has no gross income and is not the dependent of
22 another taxpayer. For the purposes of this subsection ~~(4)(b)~~
23 (b), the determination of whether the spouse is blind ~~shall~~
24 must be made as of the close of the taxable year of the
25 taxpayer, except that if the spouse dies during ~~such~~ the

1 taxable year, ~~such~~ the determination ~~shall~~ must be made as
2 of the time of such death.

3 (c) For purposes of this subsection (4), an individual
4 is blind only if his the individual's central visual acuity
5 does not exceed 20/200 in the better eye with correcting
6 lenses or if his the individual's visual acuity is greater
7 than 20/200 but is accompanied by a limitation in the fields
8 of vision such that the widest diameter of the visual field
9 subtends an angle no greater than 20 degrees.

10 (5) (a) An exemption of ~~\$800~~ \$3,500 ~~shall-be~~ is allowed
11 for taxable years beginning after December 31, ~~1978~~ 1992,
12 for each dependent:

13 (i) whose gross income for the calendar year in which
14 the taxable year of the taxpayer begins is less than ~~\$800~~
15 \$3,500; or

16 (ii) who is a child of the taxpayer and who:

17 (A) has not attained the age of 19 years at the close
18 of the calendar year in which the taxable year of the
19 taxpayer begins; or

20 (B) is a student.

21 (b) ~~No~~ An exemption ~~shall-be~~ is not allowed under this
22 subsection (5) for any dependent who has made a joint return
23 with his the dependent's spouse for the taxable year
24 beginning in the calendar year in which the taxable year of
25 the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection ~~{5}{d}{iii}~~ (ii), the term "educational institution" means only an educational institution which that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) (A) THE EXEMPTIONS PROVIDED FOR IN THIS SECTION ARE REDUCED BY 10% FOR EVERY \$5,000 OF FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$150,000.

(B) The For tax years beginning after December 31, 1992 1993, the department, by November 1 of each year, shall multiply all the exemptions provided in this section by the

inflation factor for that taxable year and round the product to the nearest \$10. The resulting adjusted exemptions are effective for that taxable year and ~~shall~~ must be used in calculating the tax imposed in 15-30-103."

Section 7. Section 15-30-117, MCA, is amended to read:

"15-30-117. Net operating loss -- computation. (1) A Montana net operating loss for a loss incurred in tax years beginning after December 31, 1992, must be determined in accordance with section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in accordance with the following:

(a) The net operating loss deduction for Montana purposes is increased by ~~the following:~~

~~{i}--that-portion-of-the-federal-income-tax-and-motor vehicle-tax-allowed-as-a-deduction-under-15-30-121-or 15-30-131-which-is-attributable-to-income-from-a-Montana trade-or-business;-and~~

~~{ii}~~ Montana wages and salaries allowed as a business deduction under 15-30-111(4).

(b) The net operating loss deduction for Montana purposes is decreased by the following:

~~{i}~~ interest received on obligations of another state or territory or of a county, municipality, district, or political subdivision thereof allowed as nonbusiness income under 15-30-111(1)(a);

1 ~~{iii}-federal-income-tax-refunds-required-to-be--reported~~
 2 ~~under-15-30-111-and-15-30-131-as-Montana-business-income,~~
 3 ~~{iii}-state-income-tax,-and~~
 4 ~~{iv}-any--other--nonbusiness--deductions--allowed--under~~
 5 ~~15-30-121-in-excess-of-nonbusiness-income.~~

6 (2) Notwithstanding the provisions of section 172 of
 7 the Internal Revenue Code of 1954 or as that section may be
 8 labeled or amended, a net operating loss does not include:

9 (a) income defined as exempt from state taxation under
 10 15-30-111(2); or

11 (b) ~~a zero-bracket deduction provided for under section~~
 12 ~~63 of the Internal Revenue Code of 1954 or as that section~~
 13 ~~may be labeled or amended."~~

14 **Section 8.** Section 15-30-122, MCA, is amended to read:

15 "15-30-122. Standard deduction. (1) A standard
 16 deduction equal to 20% of adjusted gross income ~~shall be~~ is
 17 allowed ~~if elected by the taxpayer on his~~ on the taxpayer's
 18 return. ~~The standard deduction shall be in lieu of all~~
 19 ~~deductions allowed under 15-30-121. The maximum~~

20 (2) (a) Except as provided in subsections (2)(b)
 21 through ~~(2)(d)~~ (2)(E), the standard deduction ~~shall be~~
 22 ~~\$1,500~~ is 40% 30% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT
 23 ~~LESS THAN \$2,000~~ \$2,500 OR MORE THAN \$5,000. --as--adjusted
 24 ~~under the provisions of subsection (2); except that in the~~
 25 ~~case of~~

1 (b) For a single joint return of husband and wife, the
 2 standard deduction is 40% 30% OF MONTANA ADJUSTED GROSS
 3 INCOME, BUT NOT LESS THAN \$4,000 OR MORE THAN \$10,000. or in
 4 the case of

5 (c) For a single individual who qualifies to file as a
 6 head of household on his the individual's federal income tax
 7 return, the ~~maximum~~ standard deduction ~~shall be \$3,000~~ is
 8 ~~40% 30% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN~~
 9 ~~\$3,000 OR MORE THAN \$7,500. --as--adjusted--under--the~~
 10 ~~provisions of subsection (2);~~

11 (d) The standard deduction ~~shall not be allowed to~~
 12 ~~either the husband or the wife if the tax of one of the~~
 13 ~~spouses is determined without regard to the standard~~
 14 ~~deduction for married taxpayers filing separately is 40% 30%~~
 15 ~~OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$2,000~~
 16 ~~OR MORE THAN \$5,000.~~

17 (E) THE STANDARD DEDUCTIONS PROVIDED FOR IN THIS
 18 SUBSECTION (2) ARE REDUCED BY 10% FOR EVERY \$5,000 OF
 19 FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$150,000.

20 (3) For purposes of this section, the determination of
 21 whether an individual is married ~~shall~~ must be made as of
 22 the last day of the taxable year; ~~provided, however,~~
 23 However, if one of the spouses dies during the taxable year,
 24 the determination ~~shall~~ must be made as of the date of
 25 death.

1 ~~(2)(4)~~ By For taxable years beginning after December
 2 31, 1994 1993, by November 1 of each year, the department
 3 shall multiply the ~~maximum~~ standard deduction for single
 4 returns, qualified-head-of-household returns, and joint
 5 returns by the inflation factor for that taxable year and
 6 round the product to the nearest \$10. ~~The standard deduction~~
 7 ~~for joint returns and qualified head of household returns~~
 8 ~~shall be twice the amount for single returns.~~ The resulting
 9 adjusted deductions are effective for that taxable year and
 10 ~~shall~~ must be used in calculating the tax imposed in
 11 15-30-103."

12 NEW SECTION. Section 9. Credit for sale of business.
 13 (1) (a) For tax years beginning after December 31, 1992, an
 14 individual who realizes a gain that must be included in
 15 Montana adjusted gross income, from the sale of a business,
 16 trade, or profession, is allowed a one-time credit against
 17 the tax imposed by 15-30-103.

18 (b) To be eligible for the credit, the individual,
 19 including the individual's parents, grandparents, children,
 20 and grandchildren, must have held the interest in the
 21 business, trade, or profession for at least 15 years.

22 (2) (a) Subject to the limitation contained in
 23 subsection (2)(b), the credit must be computed by
 24 multiplying the gain that was included in the Montana
 25 adjusted gross income from the sale times the individual's

1 highest federal tax rate in the tax year in which the gain
 2 from the sale is reported times this state's highest tax
 3 rate for that individual in the same year.

4 (b) For an individual who realized a gain in excess of
 5 \$1 million, the credit is reduced at the rate of ~~\$1 1%~~
 6 every ~~\$2~~ \$20,000 of gain in excess of \$1 million.

7 (c) The credit provided for in this section is not
 8 refundable, nor may it be carried back or carried forward.

9 (3) For sales that occurred prior to December 31, 1992,
 10 and for which the gain for the sale of the business, trade,
 11 or profession is being reported on the installment basis,
 12 the individual shall satisfy the requirements of subsection
 13 (1)(b).

14 **Section 10.** Section 15-30-126, MCA, is amended to read:

15 "15-30-126. ~~Small business corporation -- deduction for~~
 16 ~~donation of computer equipment to schools.~~ A small business
 17 corporation, as defined in 15-31-201, is allowed a deduction
 18 equal to the fair market value, not to exceed 30% of the
 19 small business corporation's net income, of a computer or
 20 other sophisticated technological equipment or apparatus
 21 intended for use with the computer donated to an elementary,
 22 secondary, or accredited postsecondary school located in
 23 Montana if:

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

1 substantially completed;

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

4 (3) the electing small business corporation receives a
5 written statement from the donee in which the donee agrees
6 to accept the property and representing that the use and
7 disposition of the property will be in accordance with the
8 provisions of subsection (2); and

9 ~~{4}--the deduction allowed in this section is in lieu of~~
10 ~~the--deduction--allowed--under--15-30-121--for--charitable~~
11 ~~contributions."~~

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

13 "15-30-131. Nonresident and temporary part-year
14 resident taxpayers -- adjusted gross income. (1) In the case
15 of a nonresident or part-year resident taxpayer other than a
16 resident of this state, adjusted gross income includes the
17 entire amount of adjusted gross income ~~as provided for in~~
18 ~~15-30-111~~ from sources within this state but does not
19 include income from annuities, interest on bank deposits,
20 interest on bonds, notes, or other interest-bearing
21 obligations, or dividends on stock of corporations, except
22 to the extent to which the income from annuities, interest
23 on bank deposits, interest on bonds, notes, or other
24 interest-bearing obligations, or dividends on stock of
25 corporations are a part of income from any business, trade,

1 profession, or occupation carried on in this state. Interest
2 income from installment sales of real or tangible commercial
3 or business property located in Montana must be included in
4 Montana adjusted gross income. Adjusted gross income from
5 sources within and outside of this state must be allocated
6 and apportioned under rules adopted by the department in
7 accordance with the Multistate Tax Compact.

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

11 (3) The deductions allowed in computing net income are
12 restricted to a prorated standard deduction, as adjusted,
13 allowed under 15-30-122 and prorated exemptions, as
14 adjusted, allowed under 15-30-112. The standard deduction
15 and the claimable exemptions must be prorated according to
16 the ratio that the taxpayer's Montana adjusted gross income
17 bears to the taxpayer's federal adjusted gross income."

18 **Section 12.** Section 15-30-137, MCA, is amended to read:

19 "15-30-137. Determination of tax of estates and trusts.
20 The amount of tax must be determined from taxable income of
21 an estate or trust in the same manner as the tax on taxable
22 income of individuals, by applying the rates rate contained
23 in 15-30-103. Credits allowed individuals under Title 15,
24 chapter 30, also apply to estates and trusts when
25 applicable."

Section 13. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) A return must be filed as provided in subsections (2)(a) through (2)(d) on forms and according to rules prescribed by the department. The filing status used in subsection (2) must be the same status used for the individual's or married couple's federal income tax return.

(2) A return must be filed by:

(a) Every each single individual and ~~every married individual not filing a joint return with his or her spouse~~ and having a gross income for the taxable year of more than ~~\$17,000~~, the combined amount of the standard deduction for a single individual plus the amount for the exemption claimable by the individual as provided in 15-30-112; as adjusted under the provisions of subsection (7), and

(b) each individual filing as a head of household having gross income for the taxable year of more than the combined amount of the standard deduction for a head of household plus the amount for the exemption claimable by the individual as provided in 15-30-112;

(c) married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$27,000, the combined amount of the standard deduction for married individuals not filing separately plus the

amount for the exemption claimable by the individuals as provided in 15-30-112; and

(d) ~~as adjusted under the provisions of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe married individuals filing separately with combined gross income exceeding one-half of the combined amount of the standard deduction for married individuals not filing separately plus the amount for the exemption claimable by the individual as provided in 15-30-112. The gross income amounts referred to in the preceding sentence shall be increased by \$800, as adjusted under the provisions of 15-30-112(6), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4).~~

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

(2)(4) In accordance with instructions set forth by the department, every taxpayer who is married, and who is living with husband ~~or wife~~ the taxpayer's spouse, and who is

1 required to file a return may, at his-or-her the taxpayer's
 2 option, file a joint return with husband-or-wife the spouse
 3 even though one of the spouses has neither gross income nor
 4 deductions. If a joint return is made, the tax ~~shall~~ must be
 5 computed on the aggregate taxable income and the liability
 6 with respect to the tax ~~shall-be~~ is joint and several. If a
 7 joint return has been filed for a taxable year, the spouses
 8 may not file separate returns after the time for filing the
 9 return of either has expired unless the department so
 10 consents.

11 ~~{3}{5}~~ If any-such a taxpayer is unable to make his-own
 12 a return that is required to be made by the taxpayer, the
 13 return ~~shall~~ must be made by a duly authorized agent or by a
 14 guardian or other person charged with the care of the person
 15 or property of such the taxpayer.

16 ~~{4}{6}~~ All taxpayers, including but not limited to
 17 those subject to the provisions of 15-30-202 and 15-30-241,
 18 shall compute the amount of income tax payable and shall, at
 19 the time of filing the return required by this chapter, pay
 20 to the department any balance of income tax remaining unpaid
 21 after crediting the amount withheld as provided by 15-30-202
 22 and/or and any payment made by reason of an estimated tax
 23 return provided for in 15-30-241~~7-provided7-however7~~ if the
 24 tax so computed is greater by \$1 than the amount withheld
 25 and/or or paid by estimated return as provided in this

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

5 ~~{5}{7}~~ As soon as practicable after the return is
 6 filed, the department shall examine and verify the tax.

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

16 ~~{7}{9}~~ By November 1 of each year, the department shall
 17 ~~multiply~~ determine the minimum amount of gross income
 18 necessitating the filing of a return ~~by-the-inflation-factor~~
 19 for the taxable year. These adjusted amounts are effective
 20 for that taxable year, and persons having gross incomes less
 21 than these adjusted amounts are not required to file a
 22 return.

23 ~~{8}{10}~~ Individual income tax forms distributed by the
 24 department for each taxable year must contain instructions
 25 and tables based on the adjusted base year structure for

that taxable year.

(11) For the purposes of this section:

(a) "exemption" means an exemption provided by 15-30-112 and includes the adjustment provided in 15-30-112(6); and

(b) "standard deduction" means a deduction provided by 15-30-122 and includes the adjustment provided in 15-30-122(4)."

Section 14. Section 15-30-323, MCA, is amended to read:

"15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142(6)(8) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall must be added to the amount of the deficiency 5% thereof; ~~provided; however; that~~ no of the deficiency. However, a deficiency penalty shall may not be less than \$2. Interest ~~will~~ must be computed at the rate of 9% per annum or fraction thereof of a year on the additional assessment. Except as otherwise expressly provided in this subsection, the interest ~~shall~~ must in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon on the tax due at the rate of 9% per annum from the time when the

return was originally required to be filed to the time of payment."

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

"15-31-121. (Temporary FOR TAX YEAR 1993) Rate of tax -- minimum tax -- surtax. (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 ~~shall be~~ is:

(a) ~~6-3/4%~~ 7.08% of all the first \$500,000 of net income for the taxable period; and

(b) ~~7-1/4%~~ 7.57% of all net income in excess of \$500,000 for the taxable period. ~~The rate set forth in this subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.~~

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

(A) ~~7%~~ 7.33% OF THE FIRST \$500,000 OF taxable net income for the taxable period; AND

(B) 7.82% OF ALL NET INCOME IN EXCESS OF \$500,000 FOR THE TAXABLE PERIOD.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50 \$100.

~~{4}--After the amount of tax liability has been computed under subsections {1} through {3}, each corporation--subject to--taxation--under this part shall add, as a surtax for tax year 1992, 2.3% of the tax liability and, as a--surtax--for tax--year 1993, 4.7% of the tax liability, and the amount so derived is the amount due the state.~~

~~{5}--The additional tax collected under--subsection--{4} must be deposited to the credit of the state general fund.~~

15-31-121. (Effective on receipt of taxes for tax year 1993 1994 AND THEREAFTER) Rate of tax -- minimum tax -- surtax. (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be is:

(a) 6 3/4% of all the first \$500,000 of net income for the taxable period; and

(b) 7 1/4% of all net income in excess of \$500,000 for the taxable period. The rate set forth in this subsection {1}--shall--be--effective--for--all--taxable--years--ending--on--or--after--February--28,--1971. This rate--is--retroactive--to--and effective--for--all--taxable--years--ending--on--or--after--February 28,--1971.

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

(A) 7% of all THE FIRST \$500,000 OF taxable net income

for the taxable period; AND

(B) 7.5% OF ALL NET INCOME IN EXCESS OF \$500,000 FOR THE TAXABLE PERIOD.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50 \$100.

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

Section 16. Section 15-31-202, MCA, is amended to read:

"15-31-202. Small business corporation not subject to chapter. (1) A small business corporation is not subject to the taxes imposed by this chapter. The corporate net income or loss of the corporation is included in the stockholders' adjusted gross income as defined in 15-30-111.

(2) Each small business corporation is required to pay the minimum fee of \$10 \$25 required by 15-31-204."

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

"15-31-204. Minimum fee of small business corporations unaffected. Notwithstanding the provisions of 15-31-121, small business corporations shall pay a minimum fee of \$10 \$25."

Section 18. Section 15-31-131, MCA, is amended to read:

1 "15-31-131. Credit for dependent care assistance. (1)
 2 There is a credit against the taxes otherwise due under this
 3 chapter allowable to an employer for amounts paid or
 4 incurred during the taxable year by the employer for
 5 dependent care assistance actually provided to or on behalf
 6 of an employee if the assistance is furnished by a
 7 registered or licensed day-care provider and pursuant to a
 8 program that meets the requirements of section 89(k) and
 9 129(d)(2) through (6) of the Internal Revenue Code.

10 (2) (a) The amount of the credit allowed under
 11 subsection (1) is 20% of the amount paid or incurred by the
 12 employer during the taxable year, but the credit may not
 13 exceed \$1,250 of day-care assistance actually provided to or
 14 on behalf of the employee.

15 (b) For the purposes of this subsection, marital status
 16 must be determined under the rules of section 21(e)(3) and
 17 (4) of the Internal Revenue Code.

18 (c) In the case of an onsite facility, the amount upon
 19 which the credit allowed under subsection (1) is based, with
 20 respect to any dependent, must be based upon utilization and
 21 the value of the services provided.

22 (3) An amount paid or incurred during the taxable year
 23 of an employer in providing dependent care assistance to or
 24 on behalf of any employee does not qualify for the credit
 25 allowed under subsection (1) if the amount was paid or

1 incurred to an individual described in section 129(c)(1) or
 2 (2) of the Internal Revenue Code.

3 (4) An amount paid or incurred by an employer to
 4 provide dependent care assistance to or on behalf of an
 5 employee does not qualify for the credit allowed under
 6 subsection (1):

7 (a) to the extent the amount is paid or incurred
 8 pursuant to a salary reduction plan; or

9 (b) if the amount is paid or incurred for services not
 10 performed within this state.

11 (5) If the credit allowed under subsection (1) is
 12 claimed, the amount of any deduction allowed or allowable
 13 under this chapter for the amount that qualifies for the
 14 credit (or upon which the credit is based) must be reduced
 15 by the dollar amount of the credit allowed. The election to
 16 claim a credit allowed under this section must be made at
 17 the time of filing the tax return.

18 (6) The amount upon which the credit allowed under
 19 subsection (1) is based may not be included in the gross
 20 income of the employee to whom the dependent care assistance
 21 is provided. However, the amount excluded from the income of
 22 an employee under this section may not exceed the
 23 limitations provided in section 129(b) of the Internal
 24 Revenue Code. For purposes of Title 15, chapter 30, part 2,
 25 with respect to an employee to whom dependent care

1 assistance is provided, "wages" does not include any amount
 2 excluded under this subsection. ~~Amounts-excluded-under--this~~
 3 ~~subsection--do-not-qualify-as-expenses-for-which-a-deduction~~
 4 ~~is-allowed-to-the-employee-under-15-30-121.~~

5 (7) Any tax credit otherwise allowable under this
 6 section that is not used by the taxpayer in a particular
 7 year may be carried forward and offset against the
 8 taxpayer's tax liability for the next succeeding tax year.
 9 Any credit remaining unused in the next succeeding tax year
 10 may be carried forward and used in the second succeeding tax
 11 year, and likewise through the fifth year succeeding the tax
 12 year in which the credit was first allowed or allowable. A
 13 credit may not be carried forward beyond the fifth
 14 succeeding tax year.

15 (8) If the taxpayer is an S corporation, as defined in
 16 section 1361 of the Internal Revenue Code, and the taxpayer
 17 elects to take tax credit relief, the election may be made
 18 on behalf of the corporation's shareholders. A shareholder's
 19 credit must be computed using the shareholder's pro rata
 20 share of the corporation's costs that qualify for the
 21 credit. In all other respects, the effect of the tax credit
 22 applies to the corporation as otherwise provided by law.

23 (9) For purposes of the credit allowed under subsection

24 (1):

25 (a) The definitions and special rules contained in

1 section 129(e) of the Internal Revenue Code apply to the
 2 extent applicable.

3 (b) "Employer" means an employer carrying on a
 4 business, trade, occupation, or profession in this state.

5 (c) "Internal Revenue Code" means the federal Internal
 6 Revenue Code as amended and in effect on January 1, 1989."

7 **Section 19.** Section 15-32-303, MCA, is amended to read:

8 "15-32-303. Deduction for purchase of Montana produced
 9 organic fertilizer. In addition to all other deductions from
 10 ~~adjusted---gross--individual--income--allowed--in--computing~~
 11 ~~taxable-income-under-Title-15,chapter--30,--or~~ from gross
 12 corporate income allowed in computing net income under Title
 13 15, chapter 31, part 1, a taxpayer may deduct his
 14 expenditures made by the taxpayer for organic fertilizer
 15 produced in Montana and used in Montana if the expenditure
 16 was not otherwise deducted in computing taxable income."

17 **Section 20.** Section 13-37-218, MCA, is amended to read:

18 "13-37-218. Limitations on receipts from political
 19 committees. (1) A candidate for the state senate may receive
 20 no more than \$1,000 in total combined monetary contributions
 21 from all political committees contributing to his the
 22 campaign, and a candidate for the state house of
 23 representatives may receive no more than \$600 in total
 24 combined monetary contributions from all political
 25 committees contributing to his the campaign. The foregoing

1 limitations ~~shall~~ must be multiplied by the inflation factor
 2 as defined in ~~15-30-101(8)~~ subsection (2) for the year in
 3 which general elections are held ~~after--1984~~, and the
 4 resulting figure ~~shall~~ must be rounded off to the nearest
 5 \$50 increment. The commissioner of political practices shall
 6 publish the revised limitations as a rule. In-kind
 7 contributions may not be included in computing these
 8 limitation totals. The limitation provided in this section
 9 does not apply to contributions made by a political party
 10 eligible for a primary election under 13-10-601.

11 (2) "Inflation factor" means a number determined for
 12 each year by dividing the consumer price index for June of
 13 the year by the consumer price index for June 1980. The
 14 consumer price index to be used in determining the inflation
 15 factor is the consumer price index, United States city
 16 average, for all items, using the 1967 base of 100 as
 17 published by the bureau of labor statistics of the U.S.
 18 department of labor."

19 NEW SECTION. Section 21. Codification instruction.
 20 [Section 0 9] is intended to be codified as an integral part
 21 of Title 15, chapter 30, and the provisions of Title 15,
 22 chapter 30, apply to [section 0 9].

23 NEW SECTION. Section 22. Transition. (1)
 24 Notwithstanding the provisions of 15-30-111, the adjusted
 25 gross income of an individual includes refunds of federal

1 income tax received for tax years prior to December 31,
 2 1992, to the extent that the deduction of the tax resulted
 3 in a reduction of Montana income tax liability.

4 (2) Notwithstanding the provisions of 15-30-122, all
 5 itemized deductions allowed pursuant to 26 U.S.C. 161 and
 6 211 that may be carried forward, including but not limited
 7 to the contributions carryover, investment interest expense
 8 carryover, home mortgage interest amortization, bond premium
 9 amortization, and deduction for income in respect of a
 10 decedent, may be continued to be carried forward for a
 11 period not to exceed 5 years.

12 NEW SECTION. Section 23. Repealer. Sections 15-30-121,
 13 15-30-156, 15-30-157, 15-30-159, and 15-30-160, AND
 14 15-30-199, MCA, are repealed.

15 NEW SECTION. Section 24. Effective date -- retroactive
 16 applicability. (1) {This EXCEPT AS PROVIDED IN SUBSECTION
 17 (2), [THIS act] is effective on passage and approval and
 18 applies retroactively, within the meaning of 1-2-109, to tax
 19 years beginning after December 31, 1992.

20 (2) (A) [SECTION 2] IS EFFECTIVE ON PASSAGE AND
 21 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF
 22 1-2-109, TO THE TAX YEARS BEGINNING AFTER DECEMBER 31, 1992.

23 (B) [SECTION 3] IS EFFECTIVE ON PASSAGE AND APPROVAL
 24 AND APPLIES TO TAX YEARS BEGINNING AFTER DECEMBER 31, 1994.

25 NEW SECTION. SECTION 25. TERMINATION. [SECTION 2]

HB 0671/03

1 TERMINATES DECEMBER 31, 1994.

-End-

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 671 and recommend as follows:

1. Page 2, line 17.

Strike: "for Montana"

2. Page 2, line 22.

Strike: ", multiplied by 0.5"

3. Page 3, lines 20 and 21.

Following: "index" on line 20

Strike: remainder of line 20 through "Montana" on line 21

4. Page 3, line 22.

Strike: "for Montana"

Following: "1993"

Insert: ", then subtracting 1, then multiplying by 0.5, then adding 1"

5. Page 6, line 13 through page 8, line 5.

Strike: section 2 in its entirety

Re-number: subsequent sections

6. Page 8, line 10.

Strike: "1994"

Insert: "1992"

7. Page 8, line 13.

Strike: "7.3%"

Insert: "6.7%"

8. Page 9, line 21.

Strike: "7.4%"

Insert: "6.7%"

9. Page 14, line 8.

Following: "(j)"

Insert: "except as provided in subsection (7),"

10. Page 14, lines 9 and 10.

Following: "the" on line 9

Strike: remainder of line 9 through "salary" on line 10

Insert: "earned income"

11. Page 14, line 11.

Strike: "wages and salary"

Insert: "earned income"

12. Page 16, line 7.

Following: line 6

Insert: "(7) The amount specified in subsection (2)(j) is reduced by 6.25% for every \$5,000 of federal adjusted gross income in excess of \$100,000."

13. Page 16, lines 14, 17, and 24.

Strike: "\$3,500"

Insert: "\$2,710"

14. Page 17, lines 4, 12, and 16.

Strike: "\$3,500"

Insert: "\$2,710"

15. Page 18, lines 10 and 15.

Strike: "\$3,500"

Insert: "\$2,710"

16. Page 19, line 21.

Strike: "10%"

Insert: "6.25%"

17. Page 19, line 22.

Strike: "\$150,000"

Insert: "\$100,000"

18. Page 21, line 22.

Strike: "30%"

Insert: "40%"

19. Page 21, line 23.

Strike: "LESS THAN"

Strike: "\$2,500 OR"

20. Page 22, lines 2, 8, and 14.

Strike: "30%"

Insert: "40%"

21. Page 22, line 3.

Strike: "LESS THAN \$4,000 OR"

22. Page 22, lines 8 and 9.

Following: "NOT" on line 8

Strike: remainder of line 8 through "OR" on line 9

ADOPT

REJECT

902138CC.Hss

F.C.C.R.#1
HB 671
902138CC.Hss

April 24, 1993
Page 3 of 3

23. Page 22, lines 15 and 16.

Following: "NOT" on line 15

Strike: remainder of line 15 through "OR" on line 16

24. Page 22, line 18.

Strike: "10%

Insert: "6.25%

25. Page 22, line 19.

Strike: "\$150,000"

Insert: "\$100,000"

26. Page 39, lines 20 and 22.

Strike: "9"

Insert: "8"

27. Page 40, lines 16 and 17.

Strike: "(1)" on line 16

Following: "this" on line 16

Strike: remainder of line 16 through "[THIS]" on line 17

Insert: "[This]"

28. Page 40, lines 20 through 24.

Strike: subsection (2) in its entirety

29. Page 40, line 25 through page 41, line 1.

Strike: section 25 in its entirety

And this Free Conference Committee report be adopted.


For the House:

For the Senate:


Rep. Gilbert, Chair


Sen. Doherty, Chair


Rep. M. Hanson


Sen. Towe


Rep. Elliott


Sen. Grosfield

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 22, 1993

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

The Honorable Fred Van Valkenburg
President of the Senate
State Capitol
Helena MT 59620

Dear Speaker Mercer and President Van Valkenburg:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return House Bill 671, "AN ACT GENERALLY REVISING INDIVIDUAL INCOME TAX LAWS AND AMENDING CORPORATE LICENSE AND INCOME TAX LAWS; PROVIDING A SINGLE INCOME TAX RATE; REPLACING ITEMIZED INCOME TAX DEDUCTIONS WITH STANDARD DEDUCTIONS AND INCREASING THE EXEMPTION AMOUNT; CHANGING THE METHOD OF INDEXING THE STANDARD DEDUCTION AND EXEMPTION AMOUNTS; PROVIDING FOR ONE-TIME TAX CREDIT RESULTING FROM GAIN FROM THE SALE OF A BUSINESS HELD FOR 15 OR MORE YEARS; INCREASING THE RATE OF THE CORPORATE LICENSE OR INCOME TAX FOR CORPORATIONS WITH TAXABLE INCOME OVER \$500,000; INCREASING THE MINIMUM CORPORATE TAX TO \$100; INCREASING THE SMALL BUSINESS CORPORATION MINIMUM FEE TO \$25; AMENDING SECTIONS 13-37-218, 15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-112, 15-30-117, 15-30-122, 15-30-126, 15-30-131, 15-30-137, 15-30-142, 15-30-323, 15-31-121, 15-31-131, 15-31-202, 15-31-204, AND 15-32-303, MCA; REPEALING SECTIONS 15-30-121, 15-30-156, 15-30-157, 15-30-159, 15-30-160, AND 15-30-199, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE with the attached amendments for the following reasons.

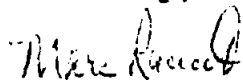
The proposed amendments allow the provisions of House Bill 671 to apply to all Montanans fairly and proportionately. House Bill 671 in its present form does not require that.

I am also returning House Bill 671 at this point in order for members of both houses to know its precise provisions before they finally consider Senate Bill 235. I want to advise as well that in the event Senate Bill 235 does not pass both houses of the Legislature, then I will not be in a position to act favorably upon

House Bill 671 in the event it is returned to me for further consideration.

I urge your adoption of the proposed amendments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marc Racicot", with a stylized flourish at the end.

MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL NO. 671
(REFERENCE BILL)
April 22, 1993

1. Page 2, line 17
Following: "price index"
Strike: "for Montana"
2. Page 2, line 22
Following: "department of labor"
Strike: ", multiplied by 0.5"
3. Page 3, line 20 and 21
Following: "price index" on line 20
Strike: "for Montana"
4. Page 3, line 22
Following: "index"
Strike: "for Montana"
Following: "1993"
Insert: ", then subtracting 1, then multiplying by 0.5, then adding 1"
5. Pages 6, line 13 through page 8, line 5
Following: line 12 on page 6
Strike: Section 2 in it's entirety
Renumber: subsequent sections
6. Page 8, line 10
Following: "1968"
Strike: "1994"
Insert: "1992"
7. Page 8, line 13
Following: "7.4"
Strike: "7.3"
Insert: "6.7%"
8. Page 9, line 21
Following: "exceed"
Strike: "7.4"
Insert: "6.7%"
9. Page 14, lines 9 and 8
Following: "of the" on line 9
Strike: "wages and salary"
Insert: "earned income"
10. Line 11
Following: "of"

- Strike: "wages and salary"
Insert: "earned income"
11. Page 16, line 14
Following: "\$800"
Strike: "\$3,500"
Insert: "\$2,900"
 12. Page 16, line 17
Following: "\$800"
Strike: "\$3,500"
Insert: "\$2,900"
 13. Page 16, line 24
Following: "\$800"
Strike: "\$3,500"
Insert: "\$2,900"
 14. Page 17, line 4
Following: "\$800"
Strike: "\$3,500"
Insert: "\$2,900"
 15. Page 17, line 12
Following: "\$800"
Strike: "\$3,500"
Insert: "\$2,900"
 16. Page 17, line 16
Following: "\$800"
Strike: "\$3,500"
Insert: "\$2,900"
 17. Page 18, line 10
Following: "\$800"
Strike: "\$3,500"
Insert: "\$2,900"
 18. Page 18, line 15
Following: line 14
Strike: "\$3,500"
Insert: "\$2,900"
 19. Page 19, line 21
Following: "BY"
Strike: "10"
Insert: "7%"
 20. Page 19, Line 22
Following: "OF"
Strike: "\$150,000"
Insert: "\$130,000"

21. Page 21, line 23
Following: line 22
Strike: "~~LESS THAN \$2,000 \$2,500 OR~~"
22. Page 22, line 3
Following: "~~NOT~~"
Strike: "~~LESS THAN \$4,000 OR~~"
23. Page 22, lines 8 and 9
Following: "~~NOT~~" on line 8
Strike: "~~LESS THAN \$3,000 OR~~"
24. Page 22, lines 15 and 16
Following: "~~NOT~~" on line 15
Strike: "~~LESS THAN \$2,000 OR~~" on line 16
25. Page 22, Line 18
Following: "~~BY~~"
Strike: "~~10¹~~"
Insert: "7¹"
26. Page 22, Line 19
Following: "~~OF~~"
Strike: "~~\$150,000~~"
Insert: "\$130,000"
27. Page 39, lines 20 and 22
Strike: "2"
Insert: "8"
28. Page 40, lines 16 and 17
Following: "applicability."
Strike: "(1)" on line 16 through "(2)," on line 17
29. Page 40, line 20 through Page 41, line 1
Strike: subsection (2) and Section 25 in their entirety

HOUSE BILL NO. 671

INTRODUCED BY GILBERT, ELLIOTT, BIRD,
DRISCOLL, GRINDE, SCHYE, MERCER, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
INDIVIDUAL INCOME TAX LAWS AND AMENDING CORPORATE LICENSE
AND INCOME TAX LAWS; PROVIDING A SINGLE INCOME TAX RATE;
REPLACING ITEMIZED INCOME TAX DEDUCTIONS WITH STANDARD
DEDUCTIONS AND INCREASING THE EXEMPTION AMOUNT; CHANGING THE
METHOD OF INDEXING THE STANDARD DEDUCTION AND EXEMPTION
AMOUNTS; PROVIDING FOR A ONE-TIME TAX CREDIT RESULTING FROM
GAIN FROM THE SALE OF A BUSINESS HELD FOR 15 OR MORE YEARS;
INCREASING THE RATE OF THE CORPORATE LICENSE OR INCOME TAX
FOR CORPORATIONS WITH TAXABLE INCOME OVER \$500,000;
INCREASING THE MINIMUM CORPORATE TAX TO \$100; INCREASING THE
SMALL BUSINESS CORPORATION MINIMUM FEE TO \$25; AMENDING
SECTIONS 13-37-218, 15-30-101, 15-30-103, 15-30-105,
15-30-111, 15-30-112, 15-30-117, 15-30-122, 15-30-126,
15-30-131, 15-30-137, 15-30-142, 15-30-323, 15-31-121,
15-31-131, 15-31-202, 15-31-204, AND 15-32-303, MCA;
REPEALING SECTIONS 15-30-121, 15-30-156, 15-30-157,
15-30-159, AND 15-30-160, AND 15-30-199, MCA; AND PROVIDING
AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY
DATE."

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

Section 1. Section 15-30-101, MCA, is amended to read:

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

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

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

~~(b) the exemptions contained in 15-30-112, but
unadjusted by 15-30-112(6), in effect on June 30 of the
taxable year;~~

~~(c) (b) the maximum standard deduction provided in
15-30-122, but unadjusted by subsection (2) (4) of
15-30-122, in effect on June 30 of the taxable year.~~

(2) "Consumer price index for Montana" means the
consumer price index for all urban consumers, United States
city average, for all items, using the 1967 1982-1984 base
index of 100, as that base index is periodically adjusted,
as published by the bureau of labor statistics of the U.S.
department of labor, ~~multiplied by 0.5.~~

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

(4) "Dividend" means any distribution made by a
corporation out of its earnings or profits to its

1 shareholders or members, whether in cash or in other
2 property or in stock of the corporation, other than stock
3 dividends ~~as--herein--defined~~. "Stock dividends" means new
4 stock issued, for surplus or profits capitalized, to
5 shareholders in proportion to their previous holdings.

6 (5) "Fiduciary" means a guardian, trustee, executor,
7 administrator, receiver, conservator, or any person, whether
8 individual or corporate, acting in any fiduciary capacity
9 for any person, trust, or estate.

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

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

19 (8) "Inflation factor" means a number determined for
20 each taxable year by dividing the consumer price index for
21 Montana for June of the taxable year by the consumer price
22 index for-Montana for June-1980 1994 1993, THEN SUBTRACTING
23 1, THEN MULTIPLYING BY 0.5, THEN ADDING 1.

24 (9) "Information agents" includes all individuals,
25 corporations, associations, and partnerships, in whatever

1 capacity acting, including lessees or mortgagors of real or
2 personal property, fiduciaries, brokers, real estate
3 brokers, employers, and all officers and employees of the
4 state or of any municipal corporation or political
5 subdivision of the state, having the control, receipt,
6 custody, disposal, or payment of interest, rent, salaries,
7 wages, premiums, annuities, compensations, remunerations,
8 emoluments, or other fixed or determinable annual or
9 periodical gains, profits, and income with respect to which
10 any person or fiduciary is taxable under this chapter.

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

12 (11) "Net income" means the adjusted gross income of a
13 taxpayer less the deductions allowed by this chapter.

14 (12) "Paid", for the purposes of the deductions and
15 credits under this chapter, means paid or accrued or paid or
16 incurred, and the terms "paid or incurred" and "paid or
17 accrued" ~~shall~~ must be construed according to the method of
18 accounting upon the basis of which the taxable income is
19 computed under this chapter.

20 (13) "Pension and annuity income" means:

21 (a) systematic payments of a definitely determinable
22 amount from a qualified pension plan, as that term is used
23 in section 401 of the Internal Revenue Code, or systematic
24 payments received as the result of contributions made to a
25 qualified pension plan that are paid to the recipient or

1 recipient's beneficiary upon the cessation of employment;

2 (b) payments received as the result of past service and
3 cessation of employment in the uniformed services of the
4 United States;

5 (c) lump-sum distributions from pension or
6 profitsharing plans to the extent that the distributions are
7 included in federal adjusted gross income;

8 (d) distributions from individual retirement, deferred
9 compensation, and self-employed retirement plans recognized
10 under sections 401 through 408 of the Internal Revenue Code
11 to the extent that the distributions are not considered to
12 be premature distributions for federal income tax purposes;
13 or

14 (e) amounts after cessation of regular employment
15 received from fully matured, privately purchased annuity
16 contracts.

17 (14) "Purposely" is as defined in 45-2-101.

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

23 (16) "Resident" applies only to natural persons and
24 includes, for the purpose of determining liability to the
25 tax imposed by this chapter with reference to the income of

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

6 (17) "Taxable income" means the adjusted gross income of
7 a taxpayer less the deductions and exemptions provided for
8 in this chapter.

9 (18) "Taxable year" means the taxpayer's taxable year
10 for federal income tax purposes.

11 (19) "Taxpayer" includes any person or fiduciary,
12 resident or nonresident, subject to a tax imposed by this
13 chapter and does not include corporations."

14 **Section 2--Section 15-30-103, MCA, is amended to read:--**

15 ~~"15-30-103.---(TEMPORARY---FOR---TAX---YEARS---1993-AND-1994)~~
16 ~~Rate-of-tax ---adjustment---(1)---There---shall---be Subject---to~~
17 ~~subsection---(2)---there THERE is levied, collected, and paid~~
18 ~~for each taxable year commencing on or after December 31,~~
19 ~~1960 1992, upon the taxable income of every taxpayer~~
20 ~~individual subject to this tax after making allowance for~~
21 ~~exemptions and deductions as hereinafter provided, a tax at~~
22 ~~the rate of 7.5% 7.3% 7.2% of the individual's taxable~~
23 ~~income on the following brackets of taxable income as~~
24 ~~adjusted under subsection (2) at the following rates:~~

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

1 thereof, 2%;

2 (b) on the next \$17,000 of taxable income or any part

3 thereof, 3%;

4 (c) on the next \$27,000 of taxable income or any part

5 thereof, 4%;

6 (d) on the next \$27,000 of taxable income or any part

7 thereof, 5%;

8 (e) on the next \$27,000 of taxable income or any part

9 thereof, 6%;

10 (f) on the next \$27,000 of taxable income or any part

11 thereof, 7%;

12 (g) on the next \$47,000 of taxable income or any part

13 thereof, 8%;

14 (h) on the next \$67,000 of taxable income or any part

15 thereof, 9%;

16 (i) on the next \$157,000 of taxable income or any part

17 thereof, 10%;

18 (j) on any taxable income in excess of \$357,000 or any

19 part thereof, 11%;

20 (2) By November 1 of each year, the department shall

21 multiply the bracket amount contained in subsection (1) by

22 the inflation factor for that taxable year and round the

23 cumulative brackets to the nearest \$100. The resulting

24 adjusted brackets are effective for that taxable year and

25 shall be used as the basis for imposition of the tax in

1 subsection (1) of this section The department may adopt

2 rules for adjusting the tax rate provided in subsection (1)

3 to reflect changes in federal adjusted gross income. The

4 rules must adjust the tax rate to maintain a rate that does

5 not exceed 7.5% of an individual's taxable income as

6 determined for the tax year beginning January 1, 1994."

7 **SECTION 2. SECTION 15-30-103, MCA, IS AMENDED TO READ:**

8 "15-30-103. Rate of tax -- adjustment. (1) There shall

9 be Subject to subsection (2), there is levied, collected,

10 and paid for each taxable year commencing on or after

11 December 31, 1968 1994 1992, upon the taxable income of

12 every taxpayer individual subject to this tax, after making

13 allowance for exemptions and deductions as--hereinafter

14 provided, a tax at the rate of 7.4% 7.3% 6.7% of the

15 individual's taxable income on the following brackets of

16 taxable income as adjusted under subsection (2) at the

17 following rates:

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

19 thereof, 2%;

20 (b) on the next \$17,000 of taxable income or any part

21 thereof, 3%;

22 (c) on the next \$27,000 of taxable income or any part

23 thereof, 4%;

24 (d) on the next \$27,000 of taxable income or any part

25 thereof, 5%;

1 ~~{e}--on-the-next-\$2,000-of-taxable-income--or--any--part~~
 2 ~~thereof, 6%;~~
 3 ~~{f}--on--the--next--\$2,000-of-taxable-income-or-any-part~~
 4 ~~thereof, 7%;~~
 5 ~~{g}--on-the-next-\$4,000-of-taxable-income--or--any--part~~
 6 ~~thereof, 8%;~~
 7 ~~{h}--on--the--next--\$6,000-of-taxable-income-or-any-part~~
 8 ~~thereof, 9%;~~
 9 ~~{i}--on-the-next-\$15,000-of-taxable-income-or--any--part~~
 10 ~~thereof, 10%;~~
 11 ~~{j}--on--any--taxable-income-in-excess-of-\$35,000-or-any~~
 12 ~~part--thereof, 11%.~~
 13 (2) ~~By November 1 of each year, the department shall~~
 14 ~~multiply the bracket amount contained in subsection (1) by~~
 15 ~~the inflation factor for that taxable year and round the~~
 16 ~~cumulative brackets to the nearest \$100. The resulting~~
 17 ~~adjusted brackets are effective for that taxable year and~~
 18 ~~shall be used as the basis for imposition of the tax in~~
 19 ~~subsection (1) of this section~~ (a) The department shall,
 20 pursuant to subsection (2)(b), adjust the tax rate provided
 21 in subsection (1) to reflect changes in federal adjusted
 22 gross income. The adjustment must maintain a rate that
 23 produces revenue that does not exceed 7.4% 6.7% of taxable
 24 income based upon the definition of federal adjusted gross
 25 income as provided in 26 U.S.C. 62 on January 1, 1993. Prior

1 to adopting a change in rate, the department shall present
 2 the proposed change to the revenue oversight committee for
 3 review by the committee.

4 (b) (i) For purposes of subsection (2)(a), for tax year
 5 1994 and each tax year thereafter, the department shall in
 6 the succeeding year determine the change in the amount of
 7 revenue collected resulting from changes made by the United
 8 States congress to federal adjusted gross income, as defined
 9 by the Internal Revenue Code, effective for that year.

10 (ii) Based on the determination in subsection (2)(b)(i),
 11 the tax rate for the tax year following the determination
 12 must be adjusted in increments of 0.1%.

13 (iii) A change in the rate may not be made unless the
 14 amount of change exceeds \$4.5 million."

15 Section 3. Section 15-30-105, MCA, is amended to read:

16 "15-30-105. Tax on nonresident -- alternative tax based
 17 on gross sales. (1) A like tax is imposed upon every person
 18 not resident of this state, which tax shall must be levied,
 19 collected, and paid annually at the rates rate specified in
 20 15-30-103 with respect to his--entire--net the person's
 21 taxable income. After calculating the tax imposed, the tax
 22 due and payable must be determined based upon the ratio of
 23 income earned in Montana to total income, interest income
 24 from installment sales of real or tangible commercial or
 25 business property located in Montana is considered income

1 earned-in-Montana:

2 (2) Pursuant to the provisions of Article III, section
3 2, of the Multistate Tax Compact, every nonresident taxpayer
4 required to file a return and whose only activity in Montana
5 consists of making sales and who does not own or rent real
6 estate or tangible personal property within Montana and
7 whose annual gross volume of sales made in Montana during
8 the taxable year does not exceed \$100,000 may elect to pay
9 an income tax of 1/2 of 1% of the dollar volume of gross
10 sales made in Montana during the taxable year. ~~Such~~ The tax
11 ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The
12 gross volume of sales made in Montana during the taxable
13 year ~~shall must~~ be determined according to the provisions of
14 Article IV, sections 16 and 17, of the Multistate Tax
15 Compact."

16 **Section 4.** Section 15-30-111, MCA, is amended to read:

17 "15-30-111. Adjusted gross income. (1) Adjusted gross
18 income ~~shall--be~~ is the taxpayer's federal income tax
19 adjusted gross income as defined in section 62 of the
20 Internal Revenue Code of 1954 or as that section may be
21 labeled or amended and in addition ~~shall-incide~~ includes
22 the following:

23 (a) interest received on obligations of another state
24 or territory or county, municipality, district, or other
25 political subdivision thereof;

1 ~~(b)--refunds-received-of--federal--income--tax--to--the~~
2 ~~extent--the-deduction-of-such-tax-resulted-in-a-reduction-of~~
3 ~~Montana-income-tax-liability;~~

4 ~~(c)(b)~~ that portion of a shareholder's income under
5 subchapter S. of Chapter 1 of the Internal Revenue Code of
6 1954, that has been reduced by any federal taxes paid by the
7 subchapter S. corporation on the income; and

8 ~~(d)(c)~~ depreciation or amortization taken on a title
9 plant as defined in 33-25-105(15).

10 (2) Notwithstanding the provisions of the federal
11 Internal Revenue Code of 1954, as labeled or amended,
12 adjusted gross income does not include the following which
13 are exempt from taxation under this chapter:

14 (a) all interest income from obligations of the United
15 States government, the state of Montana, county,
16 municipality, district, or other political subdivision
17 thereof;

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

22 (c) (i) except as provided in subsection (2)(c)(ii),
23 the first \$3,600 of all pension and annuity income received
24 as defined in 15-30-101;

25 (ii) for pension and annuity income described under

1 subsection (2)(c)(i), as follows:

2 (A) each taxpayer filing singly, head of household, or
3 married filing separately shall reduce the total amount of
4 the exclusion provided in (2)(c)(i) by \$2 for every \$1 of
5 federal adjusted gross income in excess of \$30,000 as shown
6 on the taxpayer's return;

7 (B) in the case of married taxpayers filing jointly, if
8 both taxpayers are receiving pension or annuity income or if
9 only one taxpayer is receiving pension or annuity income,
10 the exclusion claimed as provided in subsection (2)(c)(i)
11 must be reduced by \$2 for every \$1 of federal adjusted gross
12 income in excess of \$30,000 as shown on their joint return;

13 (d) all Montana income tax refunds or tax refund
14 credits;

15 (e) gain required to be recognized by a liquidating
16 corporation under 15-31-113(1)(a)(ii);

17 (f) all tips covered by section 3402(k) of the Internal
18 Revenue Code of 1954, as amended and applicable on January
19 1, 1983, AND SERVICE CHARGES received by persons for
20 services rendered by them to patrons of premises licensed to
21 provide food, beverage, or lodging. FOR THE PURPOSES OF
22 THIS SUBSECTION (F), "SERVICE CHARGE" MEANS AN ARBITRARY
23 FIXED CHARGE ADDED TO THE CUSTOMER'S BILL BY THE PERSON'S
24 EMPLOYER IN LIEU OF A TIP. IT IS COLLECTED BY THE EMPLOYER
25 AND PAID TO THE PERSON BY THE EMPLOYER.

1 (g) all benefits received under the workers'
2 compensation laws;

3 (h) all health insurance premiums paid by an employer
4 for an employee if attributed as income to the employee
5 under federal law; and

6 (i) all money received because of a settlement
7 agreement or judgment in a lawsuit brought against a
8 manufacturer or distributor of "agent orange" for damages
9 resulting from exposure to "agent orange"; and

10 (j) EXCEPT AS PROVIDED IN SUBSECTION (7), for a single
11 joint return of husband and wife, an amount, not to exceed
12 \$3,000, equal to 10% of the wages-and-salary EARNED INCOME
13 received by the spouse that earned the least amount of wages
14 and-salary EARNED INCOME in the tax year.

15 (3) A shareholder of a DISC that is exempt from the
16 corporation license tax under 15-31-102(1)(1) shall include
17 in his the shareholder's adjusted gross income the earnings
18 and profits of the DISC in the same manner as provided by
19 federal law (section 995, Internal Revenue Code) for all
20 periods for which the DISC election is effective.

21 (4) A taxpayer who, in determining federal adjusted
22 gross income, has reduced his the taxpayer's business
23 deductions by an amount for wages and salaries for which a
24 federal tax credit was elected under section 44B of the
25 Internal Revenue Code of 1954 or as that section may be

labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

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

(6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married couple deduction exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the

amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(7) THE AMOUNT SPECIFIED IN SUBSECTION (2)(J) IS REDUCED BY 6.25% FOR EVERY \$5,000 OF FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$100,000. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

Section 5. Section 15-30-112, MCA, is amended to read:

"15-30-112. **Exemptions.** (1) Except as provided in subsection (6), in the case of an individual, the exemptions provided by subsections (2) through (5) ~~shall be~~ are allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~\$800~~ \$3,750 ~~\$2,710~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 1992, for the taxpayer.

(b) An additional exemption of ~~\$800~~ \$3,750 ~~\$2,710~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 1992, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the

1 calendar year in which the taxable year of the taxpayer
2 begins, has no gross income and is not the dependent of
3 another taxpayer.

4 (3) (a) An additional exemption of ~~\$800~~ \$3,500 \$2,710
5 ~~shall-be~~ is allowed for taxable years beginning after
6 December 31, ~~1978~~ 1992, for the taxpayer if he the taxpayer
7 has attained the age of 65 before the close of his the
8 taxpayer's taxable year.

9 (b) An additional exemption of ~~\$800~~ \$3,500 \$2,710 ~~shall~~
10 ~~be~~ is allowed for taxable years beginning after December 31,
11 ~~1978~~ 1992, for the spouse of the taxpayer if a separate
12 return is made by the taxpayer and if the spouse has
13 attained the age of 65 before the close of such the taxable
14 year and, for the calendar year in which the taxable year of
15 the taxpayer begins, has no gross income and is not the
16 dependent of another taxpayer.

17 (4) (a) An additional exemption of ~~\$800~~ \$3,500 \$2,710
18 ~~shall-be~~ is allowed for taxable years beginning after
19 December 31, ~~1978~~ 1992, for the taxpayer if he the taxpayer
20 is blind at the close of his the taxpayer's taxable year.

21 (b) An additional exemption of ~~\$800~~ \$3,500 \$2,710 ~~shall~~
22 ~~be~~ is allowed for taxable years beginning after December 31,
23 ~~1978~~ 1992, for the spouse of the taxpayer if a separate
24 return is made by the taxpayer and if the spouse is blind
25 and, for the calendar year in which the taxable year of the

1 taxpayer begins, has no gross income and is not the
2 dependent of another taxpayer. For the purposes of this
3 subsection ~~(4)(b)~~ (b), the determination of whether the
4 spouse is blind ~~shall~~ must be made as of the close of the
5 taxable year of the taxpayer, except that if the spouse dies
6 during such the taxable year, such the determination ~~shall~~
7 must be made as of the time of such death.

8 (c) For purposes of this subsection (4), an individual
9 is blind only if his the individual's central visual acuity
10 does not exceed 20/200 in the better eye with correcting
11 lenses or if his the individual's visual acuity is greater
12 than 20/200 but is accompanied by a limitation in the fields
13 of vision such that the widest diameter of the visual field
14 subtends an angle no greater than 20 degrees.

15 (5) (a) An exemption of ~~\$800~~ \$3,500 \$2,710 ~~shall-be~~ is
16 allowed for taxable years beginning after December 31, ~~1978~~
17 1992, for each dependent:

18 (i) whose gross income for the calendar year in which
19 the taxable year of the taxpayer begins is less than ~~\$800~~
20 \$3,500 \$2,710; or

21 (ii) who is a child of the taxpayer and who:

22 (A) has not attained the age of 19 years at the close
23 of the calendar year in which the taxable year of the
24 taxpayer begins; or

25 (B) is a student.

(b) No ~~An~~ exemption ~~shall-be~~ is not allowed under this subsection (5) for any dependent who has made a joint return with ~~his~~ the dependent's spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection ~~(5)(d)(ii)~~ (ii), the term "educational institution" means only an educational institution which that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) (A) THE EXEMPTIONS PROVIDED FOR IN THIS SECTION ARE

REDUCED BY ~~10%~~ 6.25% FOR EVERY \$5,000 OF FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF ~~\$150,000~~ \$100,000.

(B) The For tax years beginning after December 31, 1992 1993, the department, by November 1 of each year, shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest \$10. The resulting adjusted exemptions are effective for that taxable year and ~~shall~~ must be used in calculating the tax imposed in 15-30-103."

Section 6. Section 15-30-117, MCA, is amended to read:

"15-30-117. Net operating loss -- computation. (1) A Montana net operating loss for a loss incurred in tax years beginning after December 31, 1992, must be determined in accordance with section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in accordance with the following:

(a) The net operating loss deduction for Montana purposes is increased by the following:

~~(i) --that--portion--of--the--federal--income--tax--and--motor vehicle--tax--allowed--as--a--deduction--under--15-30-121--or 15-30-131--which--is--attributable--to--income--from--a--Montana trade--or--business;--and~~

~~(ii) Montana wages and salaries allowed as a business deduction under 15-30-111(4).~~

(b) The net operating loss deduction for Montana

purposes is decreased by the following:

(i) interest received on obligations of another state or territory or of a county, municipality, district, or political subdivision thereof allowed as nonbusiness income under 15-30-111(1)(a);

(ii) federal income tax refunds required to be reported under 15-30-111 and 15-30-131 as Montana business income;

(iii) state income tax; and

(iv) any other nonbusiness deductions allowed under 15-30-121 in excess of nonbusiness income.

(2) Notwithstanding the provisions of section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, a net operating loss does not include:

(a) income defined as exempt from state taxation under 15-30-111(2); or

(b) a zero-bracket deduction provided for under section 63 of the Internal Revenue Code of 1954 or as that section may be labeled or amended."

Section 7. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. (1) A standard deduction equal to 20% of adjusted gross income shall be allowed if elected by the taxpayer on his or her taxpayer's return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum

(2) (a) Except as provided in subsections (2)(b)

through (2)(d) (2)(E), the standard deduction shall be \$1,500 is 40% 30% 40% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$2,000 \$2,500 OR MORE THAN \$5,000. as adjusted under the provisions of subsection (2), except that in the case of

(b) For a single joint return of husband and wife, the standard deduction is 40% 30% 40% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$4,000 OR MORE THAN \$10,000. or in the case of

(c) For a single individual who qualifies to file as a head of household on his or her the individual's federal income tax return, the maximum standard deduction shall be \$3,000 is 40% 30% 40% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$3,000 OR MORE THAN \$7,500. as adjusted under the provisions of subsection (2);

(d) The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction for married taxpayers filing separately is 40% 30% 40% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN \$2,000 OR MORE THAN \$5,000.

(E) THE STANDARD DEDUCTIONS PROVIDED FOR IN THIS SUBSECTION (2) ARE REDUCED BY 10% 6.25% FOR EVERY \$5,000 OF FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$150,000 \$100,000.

(3) For purposes of this section, the determination of whether an individual is married ~~shall~~ must be made as of the last day of the taxable year; ~~provided, however,~~ However, if one of the spouses dies during the taxable year, the determination ~~shall~~ must be made as of the date of death.

~~(2)(4)~~ By For taxable years beginning after December 31, 1994 1993, by November 1 of each year, the department shall multiply the ~~maximum~~ standard deduction for single returns, qualified-head-of-household returns, and joint returns by the inflation factor for that taxable year and round the product to the nearest \$10. ~~The standard deduction for joint returns and qualified head of household returns shall be twice the amount for single returns.~~ The resulting adjusted deductions are effective for that taxable year and ~~shall~~ must be used in calculating the tax imposed in 15-30-103."

NEW SECTION. Section 8. Credit for sale of business.

(1) (a) For tax years beginning after December 31, 1992, an individual who realizes a gain that must be included in Montana adjusted gross income, from the sale of a business, trade, or profession, is allowed a one-time credit against the tax imposed by 15-30-103.

(b) To be eligible for the credit, the individual, including the individual's parents, grandparents, children,

and grandchildren, must have held the interest in the business, trade, or profession for at least 15 years.

(2) (a) Subject to the limitation contained in subsection (2)(b), the credit must be computed by multiplying the gain that was included in the Montana adjusted gross income from the sale times the individual's highest federal tax rate in the tax year in which the gain from the sale is reported times this state's highest tax rate for that individual in the same year.

(b) For an individual who realized a gain in excess of \$1 million, the credit is reduced at the rate of ~~9~~ 1¢ for every ~~\$2~~ \$20,000 of gain in excess of \$1 million.

(c) The credit provided for in this section is not refundable, nor may it be carried back or carried forward.

(3) For sales that occurred prior to December 31, 1992, and for which the gain for the sale of the business, trade, or profession is being reported on the installment basis, the individual shall satisfy the requirements of subsection (1)(b).

Section 9. Section 15-30-126, MCA, is amended to read:

"15-30-126. Small business corporation -- deduction for donation of computer equipment to schools. A small business corporation, as defined in 15-31-201, is allowed a deduction equal to the fair market value, not to exceed 30% of the small business corporation's net income, of a computer or

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

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

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

10 (3) the electing small business corporation receives a
11 written statement from the donee in which the donee agrees
12 to accept the property and representing that the use and
13 disposition of the property will be in accordance with the
14 provisions of subsection (2);-and

15 ~~(4)--the deduction allowed in this section is in lieu of~~
16 ~~the deduction allowed under 15-30-121 for charitable~~
17 ~~contributions."~~

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

19 "15-30-131. Nonresident and temporary part-year
20 resident taxpayers -- adjusted gross income. (1) In the case
21 of a nonresident or part-year resident taxpayer other than a
22 resident of this state, adjusted gross income includes the
23 entire amount of adjusted gross income as provided for in
24 15-30-111 from sources within this state but does not
25 include income from annuities, interest on bank deposits,

1 interest on bonds, notes, or other interest-bearing
2 obligations, or dividends on stock of corporations, except
3 to the extent to which the income from annuities, interest
4 on bank deposits, interest on bonds, notes, or other
5 interest-bearing obligations, or dividends on stock of
6 corporations are a part of income from any business, trade,
7 profession, or occupation carried on in this state. Interest
8 income from installment sales of real or tangible commercial
9 or business property located in Montana must be included in
10 Montana adjusted gross income. Adjusted gross income from
11 sources within and outside of this state must be allocated
12 and apportioned under rules adopted by the department in
13 accordance with the Multistate Tax Compact.

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

17 (3) The deductions allowed in computing net income are
18 restricted to a prorated standard deduction, as adjusted,
19 allowed under 15-30-122 and prorated exemptions, as
20 adjusted, allowed under 15-30-112. The standard deduction
21 and the claimable exemptions must be prorated according to
22 the ratio that the taxpayer's Montana adjusted gross income
23 bears to the taxpayer's federal adjusted gross income."

24 **Section 11.** Section 15-30-137, MCA, is amended to read:

25 "15-30-137. Determination of tax of estates and trusts.

The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates rate contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable."

Section 12. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) A return must be filed as provided in subsections (2)(a) through (2)(d) on forms and according to rules prescribed by the department. The filing status used in subsection (2) must be the same status used for the individual's or married couple's federal income tax return.

(2) A return must be filed by:

(a) Every each single individual and--every-married individual-not-filing-a-joint-return-with-his-or-her--sponse and having a gross income for the taxable year of more than \$17,000, the combined amount of the standard deduction for a single individual plus the amount for the exemption claimable by the individual as provided in 15-30-112; as adjusted-under-the-provisions-of-subsection-(7), and

(b) each individual filing as a head of household having gross income for the taxable year of more than the combined amount of the standard deduction for a head of

household plus the amount for the exemption claimable by the individual as provided in 15-30-112;

(c) married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$27,000, the combined amount of the standard deduction for married individuals not filing separately plus the amount for the exemption claimable by the individuals as provided in 15-30-112; and

(d) as-adjusted-under-the-provisions-of-subsection-(7), shall-be-liable-for-a-return-to-be-filed-on-such--forms--and according--to--such--rules--as--the-department-may-prescribe married individuals filing separately with combined gross income exceeding one-half of the combined amount of the standard deduction for married individuals not filing separately plus the amount for the exemption claimable by the individual as provided in 15-30-112. The--gross--income amounts--referred--to--in--the--preceding--sentence--shall-be increased-by-\$800,--as--adjusted--under--the--provisions--of 15-30-112(6),--for--each--additional--personal--exemption allowance-the-taxpayer-is-entitled-to-claim-for-himself--and his-spouse-under-15-30-112(3)-and-(4)-

(3) A nonresident shall-be is required to file a return if his the nonresident's gross income for the taxable year derived from sources within Montana exceeds the total amount of the prorated exemption deduction and prorated standard

deduction he--is--entitled--to--claim--for--himself--and--his claimable by the nonresident and the nonresident's spouse under the provisions of 15-30-112(2), (3), and (4).

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

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

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

to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or and any payment made by reason of an estimated tax return provided for in 15-30-241~~;-provided;-however;~~ if the tax so computed is greater by \$1 than the amount withheld and/or or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or or payment of estimated tax exceeds by more than \$1 the amount of income tax as computed, the taxpayer ~~shall--be~~ is entitled to a refund of the excess.

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

(6)(8) If the amount of tax as verified is greater than the amount theretofore paid, the excess ~~shall~~ must be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof of a year on the additional tax. In such that case, there ~~shall~~ be is no penalty because of such the understatement, provided the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

(7)(9) By November 1 of each year, the department shall ~~multiply~~ determine the minimum amount of gross income necessitating the filing of a return ~~by-the-inflation-factor~~ for the taxable year. These adjusted amounts are effective

1 for that taxable year, and persons having gross incomes less
2 than these adjusted amounts are not required to file a
3 return.

4 ~~(8)~~(10) Individual income tax forms distributed by the
5 department for each taxable year must contain instructions
6 and tables based on the adjusted base year structure for
7 that taxable year.

8 (11) For the purposes of this section:

9 (a) "exemption" means an exemption provided by
10 15-30-112 and includes the adjustment provided in
11 15-30-112(6); and

12 (b) "standard deduction" means a deduction provided by
13 15-30-122 and includes the adjustment provided in
14 15-30-122(4)."

15 **Section 13.** Section 15-30-323, MCA, is amended to read:

16 "15-30-323. Penalty for deficiency. (1) If the payment
17 required by 15-30-142~~(6)~~(8) is not made within 60 days or if
18 the understatement is due to negligence on the part of the
19 taxpayer but without fraud, there shall must be added to the
20 amount of the deficiency 5% thereof; ~~provided, however, that~~
21 no of the deficiency. However, a deficiency penalty shall
22 may not be less than \$2. Interest ~~will~~ must be computed at
23 the rate of 9% per annum or fraction thereof of a year on
24 the additional assessment. Except as otherwise expressly
25 provided in this subsection, the interest shall must in all

1 cases be computed from the date the return and tax were
2 originally due as distinguished from the due date as it may
3 have been extended to the date of payment.

4 (2) If the time for filing a return is extended, the
5 taxpayer shall pay in addition interest thereon on the tax
6 due at the rate of 9% per annum from the time when the
7 return was originally required to be filed to the time of
8 payment."

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

10 "15-31-121. (~~Temporary~~ FOR TAX YEAR 1993) Rate of tax
11 -- minimum tax -- surtax. (1) Except as provided in
12 subsection (2), the percentage of net income to be paid
13 under 15-31-101 ~~shall be~~ is:

14 (a) 6-3/4% 7.08% of all the first \$500,000 of net
15 income for the taxable period; and

16 (b) 7-1/4% 7.57% of all net income in excess of
17 \$500,000 for the taxable period. The rate set forth in this
18 subsection (1) shall be effective for all taxable years
19 ending on or after February 28, 1971. This rate is
20 retroactive to and effective for all taxable years ending on
21 or after February 28, 1971.

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

25 (A) 7% of all 7.33% OF THE FIRST \$500,000 OF taxable

net income for the taxable period; AND

(B) 7.82% OF ALL NET INCOME IN EXCESS OF \$500,000 FOR THE TAXABLE PERIOD.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50 \$100.

~~{4}--After-the-amount-of-tax-liability-has-been-computed under-subsections-{1}-through-{3}, each corporation--subject to--taxation--under-this-part-shall-add, as a surtax for tax year-1992, 2.3% of the tax liability and, as a surtax for tax year-1993, 4.7% of the tax liability, and the amount so derived is the amount due the state.~~

~~{5}--The additional tax collected under subsection {4} must be deposited to the credit of the state general fund.~~

15-31-121. (Effective on receipt of taxes for tax year 1993 1994 AND THEREAFTER) Rate of tax -- minimum tax -- surtax. (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be is:

(a) 6 3/4% of all the first \$500,000 of net income for the taxable period; and

(b) 7 1/4% of all net income in excess of \$500,000 for the taxable period. The rate set forth in this subsection {1} shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and

~~effective--for-all-taxable-years-ending-on-or-after-February 28, 1971.~~

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

(A) 7% of all THE FIRST \$500,000 OF taxable net income for the taxable period; AND

(B) 7.5% OF ALL NET INCOME IN EXCESS OF \$500,000 FOR THE TAXABLE PERIOD.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50 \$100.

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

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

"15-31-202. Small business corporation not subject to chapter. (1) A small business corporation is not subject to the taxes imposed by this chapter. The corporate net income or loss of the corporation is included in the stockholders' adjusted gross income as defined in 15-30-111.

(2) Each small business corporation is required to pay the minimum fee of \$10 \$25 required by 15-31-204."

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

"15-31-204. Minimum fee of small business corporations unaffected. Notwithstanding the provisions of 15-31-121, small business corporations shall pay a minimum fee of \$25."

Section 17. Section 15-31-131, MCA, is amended to read:

"15-31-131. Credit for dependent care assistance. (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the taxable year by the employer for dependent care assistance actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the requirements of section 89(k) and 129(d)(2) through (6) of the Internal Revenue Code.

(2) (a) The amount of the credit allowed under subsection (1) is 20% of the amount paid or incurred by the employer during the taxable year, but the credit may not exceed \$1,250 of day-care assistance actually provided to or on behalf of the employee.

(b) For the purposes of this subsection, marital status must be determined under the rules of section 21(e)(3) and (4) of the Internal Revenue Code.

(c) In the case of an onsite facility, the amount upon which the credit allowed under subsection (1) is based, with

respect to any dependent, must be based upon utilization and the value of the services provided.

(3) An amount paid or incurred during the taxable year of an employer in providing dependent care assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code.

(4) An amount paid or incurred by an employer to provide dependent care assistance to or on behalf of an employee does not qualify for the credit allowed under subsection (1):

(a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or

(b) if the amount is paid or incurred for services not performed within this state.

(5) If the credit allowed under subsection (1) is claimed, the amount of any deduction allowed or allowable under this chapter for the amount that qualifies for the credit (or upon which the credit is based) must be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section must be made at the time of filing the tax return.

(6) The amount upon which the credit allowed under subsection (1) is based may not be included in the gross

1 income of the employee to whom the dependent care assistance
 2 is provided. However, the amount excluded from the income of
 3 an employee under this section may not exceed the
 4 limitations provided in section 129(b) of the Internal
 5 Revenue Code. For purposes of Title 15, chapter 30, part 2,
 6 with respect to an employee to whom dependent care
 7 assistance is provided, "wages" does not include any amount
 8 excluded under this subsection. ~~Amounts excluded under this~~
 9 ~~subsection do not qualify as expenses for which a deduction~~
 10 ~~is allowed to the employee under 15-30-121.~~

11 (7) Any tax credit otherwise allowable under this
 12 section that is not used by the taxpayer in a particular
 13 year may be carried forward and offset against the
 14 taxpayer's tax liability for the next succeeding tax year.
 15 Any credit remaining unused in the next succeeding tax year
 16 may be carried forward and used in the second succeeding tax
 17 year, and likewise through the fifth year succeeding the tax
 18 year in which the credit was first allowed or allowable. A
 19 credit may not be carried forward beyond the fifth
 20 succeeding tax year.

21 (8) If the taxpayer is an S corporation, as defined in
 22 section 1361 of the Internal Revenue Code, and the taxpayer
 23 elects to take tax credit relief, the election may be made
 24 on behalf of the corporation's shareholders. A shareholder's
 25 credit must be computed using the shareholder's pro rata

1 share of the corporation's costs that qualify for the
 2 credit. In all other respects, the effect of the tax credit
 3 applies to the corporation as otherwise provided by law.

4 (9) For purposes of the credit allowed under subsection
 5 (1):

6 (a) The definitions and special rules contained in
 7 section 129(e) of the Internal Revenue Code apply to the
 8 extent applicable.

9 (b) "Employer" means an employer carrying on a
 10 business, trade, occupation, or profession in this state.

11 (c) "Internal Revenue Code" means the federal Internal
 12 Revenue Code as amended and in effect on January 1, 1989."

13 **Section 18.** Section 15-32-303, MCA, is amended to read:

14 "15-32-303. Deduction for purchase of Montana produced
 15 organic fertilizer. In addition to all other deductions from
 16 ~~adjusted gross individual income allowed in computing~~
 17 ~~taxable income under Title 15, chapter 30, or~~ from gross
 18 corporate income allowed in computing net income under Title
 19 15, chapter 31, part 1, a taxpayer may deduct his
 20 expenditures made by the taxpayer for organic fertilizer
 21 produced in Montana and used in Montana if the expenditure
 22 was not otherwise deducted in computing taxable income."

23 **Section 19.** Section 13-37-218, MCA, is amended to read:

24 "13-37-218. Limitations on receipts from political
 25 committees. (1) A candidate for the state senate may receive

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

17 (2) "Inflation factor" means a number determined for
 18 each year by dividing the consumer price index for June of
 19 the year by the consumer price index for June 1980. The
 20 consumer price index to be used in determining the inflation
 21 factor is the consumer price index, United States city
 22 average, for all items, using the 1967 base of 100 as
 23 published by the bureau of labor statistics of the U.S.
 24 department of labor."

25 NEW SECTION. Section 20. Codification instruction.

1 [Section 8 9 8] is intended to be codified as an integral
 2 part of Title 15, chapter 30, and the provisions of Title
 3 15, chapter 30, apply to [section 8 9 8].

4 NEW SECTION. Section 21. Transition. (1)
 5 Notwithstanding the provisions of 15-30-111, the adjusted
 6 gross income of an individual includes refunds of federal
 7 income tax received for tax years prior to December 31,
 8 1992, to the extent that the deduction of the tax resulted
 9 in a reduction of Montana income tax liability.

10 (2) Notwithstanding the provisions of 15-30-122, all
 11 itemized deductions allowed pursuant to 26 U.S.C. 161 and
 12 211 that may be carried forward, including but not limited
 13 to the contributions carryover, investment interest expense
 14 carryover, home mortgage interest amortization, bond premium
 15 amortization, and deduction for income in respect of a
 16 decedent, may be continued to be carried forward for a
 17 period not to exceed 5 years.

18 NEW SECTION. Section 22. Repealer. Sections 15-30-121,
 19 15-30-156, 15-30-157, 15-30-159, and 15-30-160, AND
 20 15-30-199, MCA, are repealed.

21 NEW SECTION. Section 23. Effective date -- retroactive
 22 applicability. ~~(1)~~ ~~{THIS EXCEPT-AS--PROVIDED--IN--SUBSECTION~~
 23 ~~(2)}~~--~~{THIS~~ [THIS act] is effective on passage and approval
 24 and applies retroactively, within the meaning of 1-2-109, to
 25 tax years beginning after December 31, 1992.

1 ~~{2}--{A}-{SECTION--2}--IS--EFFECTIVE--ON--PASSAGE--AND~~
2 ~~APPROVAL--AND--APPLIES--RETROACTIVELY, WITHIN THE MEANING OF~~
3 ~~1-2-1997 TO THE TAX YEARS BEGINNING AFTER DECEMBER 317-1992-~~
4 ~~{B}--{SECTION-3}-IS-EFFECTIVE-ON-PASSAGE-AND-APPROVAL~~
5 ~~AND-APPLIES-TO-TAX-YEARS-BEGINNING-AFTER-DECEMBER-317-1994-~~
6 ~~NEW-SECTION--SECTION-25--TERMINATION-----{SECTION--2}~~
7 ~~TERMINATES-DECEMBER-317-1994-~~

-End-