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 RECOMMENDED AMENDMENTS NOT CONCURRED IN.
	IN THE SENATE	
APRIL 22, 1993		SECOND READING, GOVERNOR'S RECOMMENDED AMENDMENTS CONCURRED IN.
		THIRD READING, GOVERNOR'S RECOMMENDED 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.

House BILL NO. 671

INTRODUCED BY Gilbert, Scott, Bird, Driscoll, Ewer, 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, 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 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.

(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

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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. Rate of tax -- adjustment. (1) ~~There--shall be~~ Subject to subsection (2), 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% 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%;~~

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

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

~~thereof,-4%;~~

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

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

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

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

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

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

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

(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~~ The department may adopt rules for adjusting the tax rate provided in subsection (1) to reflect changes in federal adjusted gross income. The rules must adjust the tax rate to maintain a rate that does

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

Section 3. 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 2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. ~~Such~~ The tax ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The 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)(l) 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, ~~1978~~ 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, ~~1978~~ 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)(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) ~~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 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), the standard deduction ~~shall-be-$1,500~~ is $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 $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 $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 $5,000.

(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, 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 $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 15-30-111~~ 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 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

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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 ~~$1,000,~~ 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 ~~$2,000,~~ 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 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 13. 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 14. Section 15-31-121, MCA, is amended to read:

"15-31-121. **(Temporary) 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 7% of all taxable net income for the taxable period.

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

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

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

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

NEW SECTION. **Section 23.** **Effective date -- retroactive applicability.** [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.

-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' 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

Fiscal Note Request, HB671, 2nd reading, with floor amendments
Form BD-15 page 2
(continued)

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:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Individual Income Tax	$328,943,000	$359,163,000	$30,220,000	$339,696,000	$375,582,000	$35,886,000
Corporation License Tax	65,246,000	67,930,000	2,684,000	66,804,000	69,571,000	2,767,000
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
Counties	5,528,000	5,755,000	227,000	5,922,000	6,168,000	246,000
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.

HB 671

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

SECOND READING

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% 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%;~~

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

~~(c)--on--the--next--$2,000-of-taxable-income-or-any-part thereof,-4%;~~

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

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

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

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

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

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

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

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

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

"15-30-103. Rate of tax -- adjustment. (1) ~~There--shall be~~ Subject to subsection (2), there is levied, collected, and paid for each taxable year commencing on or after December 31, ~~1968~~ 1994, 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 7.4% 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%;~~

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

~~(c)--on-the-next-$2,000-of-taxable-income--or--any--part thereof,-4%;~~

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

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

~~(f) on the next $2,000 of taxable income or any part thereof, 7%;~~

~~(g) on the next $4,000 of taxable income or any part thereof, 8%;~~

~~(h) on the next $6,000 of taxable income or any part thereof, 9%;~~

~~(i) on the next $15,000 of taxable income or any part thereof, 10%;~~

~~(j) on any taxable income in excess of $35,000 or any part thereof, 11%~~.

(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

2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. ~~Such~~ The tax ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The 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 5. 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)(l) 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, ~~1970~~ 1992, for the taxpayer.

(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, 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, ~~1970~~ 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, ~~1978~~ 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, ~~1978~~ 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)(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% OF MONTANA ADJUSTED GROSS INCOME, BUT NOT LESS THAN $2,000 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% 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. ~~,--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 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 ~~$1,000,~~ 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 ~~$2,000,~~ 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 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 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 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--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 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 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 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

THIRD READING
AS AMENDED

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%;~~

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

~~(c) on the next $2,000 of taxable income or any part thereof, 4%;~~

~~(d) on the next $2,000 of taxable income or any part thereof, 5%;~~

~~(e) on the next $2,000 of taxable income or any part thereof, 6%;~~

~~(f) on the next $2,000 of taxable income or any part thereof, 7%;~~

~~(g) on the next $4,000 of taxable income or any part thereof, 8%;~~

~~(h) on the next $6,000 of taxable income or any part thereof, 9%;~~

~~(i) on the next $15,000 of taxable income or any part thereof, 10%;~~

~~(j) on any taxable income in excess of $35,000 or any part thereof, 11%.~~

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

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

"15-30-103. Rate of tax -- adjustment. (1) ~~There shall be~~ Subject to subsection (2), there is levied, collected, and paid for each taxable year commencing on or after December 31, ~~1968~~ 1994, 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 ~~7.4%~~ 7.3% 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%;~~

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

~~(c) on the next $2,000 of taxable income or any part thereof, 4%;~~

~~(d) on the next $2,000 of taxable income or any part thereof, 5%;~~

~~(e) on the next $2,000 of taxable income or any part thereof, 6%;~~

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

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

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

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

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

(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

2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. ~~Such~~ The tax ~~shall be~~ is in lieu of the tax imposed under 15-30-103. The 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 5. 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, 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)(l) 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,

~~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, ~~1978~~ 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, ~~1978~~ 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)(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 ~~$2,000~~ $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% 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. ~~,--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.

~~(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 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 ~~$1,000,~~ 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 ~~$2,000,~~ 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 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 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

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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 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-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 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 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 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

REFERENCE BILL

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%;~~

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

~~(c)--on--the--next--$2,000-of-taxable-income-or-any-part thereof,-4%;~~

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

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

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

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

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

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

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

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

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

"15-30-103. Rate of tax -- adjustment. (1) ~~There--shall be~~ Subject to subsection (2), there is levied, collected, and paid for each taxable year commencing on or after December 31, ~~1968~~ 1994, 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 ~~7.4%~~ 7.3% 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%;~~

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

~~(c)--on--the--next--$2,000-of-taxable-income-or-any-part thereof,-4%;~~

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

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

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

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

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

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

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

(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

2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. ~~Such~~ The tax ~~shall be~~ is in lieu of the tax imposed under 15-30-103. The 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 5. 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, 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)(l) 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,

~~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, ~~1978~~ 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, ~~1978~~ 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)(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 ~~$2,000~~ $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% 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. ~~,--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.

~~(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 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 ~~$1,000,~~ 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 ~~$2,000,~~ 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 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 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 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-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 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 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 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-

Free Conference Committee
on House Bill 671
Report No. 1, April 24, 1993

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
Renumber: 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"

ADOPT

REJECT

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

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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:
Bob Gilbert	Steve Doherty
Rep. Gilbert, Chair	Sen. Doherty, Chair
Marian Hanson	Thomas E. Towe
Rep. M. Hanson	Sen. Towe
Elliott	Lorents Grosfield
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

TELEPHONE: (406) 444-3111 FAX: (406) 444-5529

House Bill 671 in the event it is returned to me for further consideration.

I urge your adoption of the proposed amendments.

Sincerely,

Marc Racicot

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"

Gov's Amend
HB 671

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: "10%"
Insert: "7%"

26. Page 22, Line 19
Following: "OF"
Strike: "$150,000"
Insert: "$130,000"

27. Page 39, lines 20 and 22
Strike: "9"
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

REFERENCE BILL: Includes Free Conference Committee Report Dated 4-24-93

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, THEN SUBTRACTING 1, THEN MULTIPLYING BY 0.5, THEN ADDING 1.

(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%;~~

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

~~(c) on the next $2,000 of taxable income or any part thereof, 4%;~~

~~(d) on the next $2,000 of taxable income or any part thereof, 5%;~~

~~(e) on the next $2,000 of taxable income or any part thereof, 6%;~~

~~(f) on the next $2,000 of taxable income or any part thereof, 7%;~~

~~(g) on the next $4,000 of taxable income or any part thereof, 8%;~~

~~(h) on the next $6,000 of taxable income or any part thereof, 9%;~~

~~(i) on the next $15,000 of taxable income or any part thereof, 10%;~~

~~(j) on any taxable income in excess of $35,000 or any part thereof, 11%.~~

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

SECTION 2. SECTION 15-30-103, MCA, IS AMENDED TO READ:

"15-30-103. Rate of tax -- adjustment. (1) ~~There shall be~~ Subject to subsection (2), there is levied, collected, and paid for each taxable year commencing on or after December 31, ~~1968~~ ~~1994~~ 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 ~~7.4%~~ ~~7.3%~~ 6.7% 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%;~~

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

~~(c) on the next $2,000 of taxable income or any part thereof, 4%;~~

~~(d) on the next $2,000 of taxable income or any part thereof, 5%;~~

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

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

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

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

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

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

(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%~~ 6.7% 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 3. 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 2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. ~~Such~~ The tax ~~shall--be~~ is in lieu of the tax imposed under 15-30-103. The 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, 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) EXCEPT AS PROVIDED IN SUBSECTION (7), for a single joint return of husband and wife, an amount, not to exceed $3,000, equal to 10% of the ~~wages-and-salary~~ EARNED INCOME received by the spouse that earned the least amount of ~~wages-and-salary~~ EARNED INCOME in the tax year.

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) 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.

(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~~ ~~$3,500~~ $2,710 ~~shall be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 1992, for the taxpayer.

(b) An additional exemption of ~~$800~~ ~~$3,500~~ $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 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~~ $2,710 ~~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~~ $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 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~~ $2,710 ~~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~~ $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 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~~ $2,710 ~~shall-be~~ is allowed for taxable years beginning after December 31, ~~1978~~ 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~~ $2,710; 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)(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~~ 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%~~ 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~~ 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 ~~$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 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 15-30-111~~ 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 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 ~~$1,000,~~ 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 ~~$2,000,~~ 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 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 13. 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 14. 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 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~~ 9 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~~ 9 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, 15-30-156, 15-30-157, 15-30-159, and 15-30-160, AND 15-30-199, MCA, are repealed.

NEW SECTION. **Section 23.** Effective date -- retroactive applicability. ~~(1) [This~~ ~~EXCEPT--AS--PROVIDED--IN--SUBSECTION (2),--[THIS~~ [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-