

SENATE BILL NO. 173

INTRODUCED BY A. ELLIS

BY REQUEST OF THE REVENUE AND TAXATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE INCOME TAXATION OF INDIVIDUALS, PARTNERSHIPS, AND SUBCHAPTER S. CORPORATIONS, INCLUDING TRUSTS AND ESTATES, TO RELATE THE STATE INDIVIDUAL INCOME TAX TO FEDERAL TAXABLE INCOME; REDUCING MARGINAL TAX RATES ON TAXABLE INCOME; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO INCLUDE CERTAIN INCOME INCLUDING INTEREST ON NON-MONTANA LOCAL GOVERNMENT BONDS; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO EXCLUDE CERTAIN INCOME INCLUDING INTEREST ON U.S. GOVERNMENT OBLIGATIONS, RAILROAD RETIREMENT INCOME, TRIBAL SOURCE INCOME, A PORTION OF RETIREMENT INCOME, TIP INCOME, UNEMPLOYMENT COMPENSATION, AND PREMIUMS FOR MEDICAL AND LONG-TERM INSURANCE; ELIMINATING MOST STATE INCOME TAX DEDUCTIONS; PROVIDING A TRANSITION PROVISION; AMENDING SECTIONS 7-13-308, 7-14-1133, 7-14-1636, 7-34-2416, 13-37-218, 15-1-112, 15-6-134, 15-24-2402, 15-24-2404, 15-30-101, 15-30-102, 15-30-103, 15-30-105, 15-30-106, 15-30-133, 15-30-134, 15-30-135, 15-30-137, 15-30-142, 15-30-166, 15-30-241, 15-30-303, 15-30-323, 15-31-131, 15-31-202, 15-32-102, 15-32-104, 15-32-106, 15-61-202, 15-61-203, 15-62-204, 15-63-202, 15-63-203, 19-2-1004, 19-17-407, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 33-27-101, 33-27-102, 33-27-103, 37-4-104, 53-2-211, 67-11-303, 87-2-102, AND 87-2-105, MCA; REPEALING SECTIONS 15-24-1401, 15-24-1402, 15-30-107, 15-30-110, 15-30-111, 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-116, 15-30-117, 15-30-121, 15-30-122, 15-30-123, 15-30-125, 15-30-126, 15-30-127, 15-30-129, 15-30-131, 15-30-136, 15-30-156, 15-30-157, 15-30-161, 15-30-162, 15-30-163, 15-30-164, 15-30-180, 15-31-135, 15-31-136, 15-31-137, 15-32-107, 15-32-108, 15-32-109, 15-32-115, 15-32-201, 15-32-202, 15-32-203, 15-32-301, 15-32-302, 15-32-303, 15-32-401, 15-32-402, 15-32-403, 15-32-404, 15-32-405, 15-32-406, 15-32-407, 15-32-601, 15-32-602, 15-32-603, 15-32-604, 15-32-609, 15-32-610, 15-32-611, AND 69-3-713, MCA, AND SECTION 9, CHAPTER 537, LAWS OF 1997; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 7-13-308, MCA, is amended to read:

"7-13-308. Revenue bonds and obligations. (1) A joint district may borrow money for any purpose provided in this part and issue bonds, including refunding bonds, in a form and upon terms ~~as~~ that it may determine, payable from any revenue of the joint district, including revenue from:

- (a) service charges authorized in 7-13-307;
- (b) grants or contributions from the state or federal government; or
- (c) other sources.

(2) The bonds may be issued by resolution of the joint district without an election and without any limitation of the amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any then-outstanding bonds for which revenue from the same source or sources is pledged exceeds the amount of the revenue to be received in that year as estimated in the resolution authorizing the issuance of the bonds. The board shall take all action necessary and possible to impose, maintain, and collect rates, charges, rentals, and taxes, if any are pledged, sufficient to make the revenue from the pledged source in a year at least equal to the amount of the principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this part, bonds issued pursuant to this part by a joint district may be payable in principal and interest solely from ~~revenues~~ revenue of the joint district and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

(4) Bonds issued by a joint district under this part are issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-111(2)(a).~~

(5) For the security of any bond, the joint district may by resolution make and enter into any covenant, agreement, or indenture. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this part prior to the payment of current costs of operation and maintenance of the solid waste management system."

Section 2. Section 7-14-1133, MCA, is amended to read:

"7-14-1133. Bonds and obligations. (1) Except for providing financial support to a private development organization, including a corporation organized under Title 32, chapter 4, whose purpose is to advance the economic development of its jurisdiction and of the state and its citizens, an authority may borrow money for any of its corporate purposes and issue bonds, including refunding bonds, for any of its corporate purposes. The

bonds may be in the form and upon terms ~~as~~ that it determines, payable out of any revenue of the authority, including revenue derived from:

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

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any ~~then-outstanding~~ then-outstanding bonds for which revenue from the same source is pledged exceeds the amount of revenue to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to make the revenue from the pledged source in ~~such~~ that year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenue of the authority or from particular port, transportation, storage, or other facilities of the authority. The bonds must state on their face the applicable limitations or restrictions regarding the source from which principal and interest are payable.

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

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

(b) As further security for the bonds, the authority, with the approval of the governing body of the county or municipality that created the authority, may pledge, lease, sell, mortgage, or grant a security interest in all or any portion of its port, transportation, storage, or other facilities, whether or not the facilities are financed by the bonds. The instrument effecting the pledge, lease, sale, mortgage, or security interest may contain any

agreements and provisions customarily contained in instruments securing bonds, as the commissioners of the authority consider advisable. The provisions must be consistent with this part and are subject to and must be in accordance with the laws of this state governing mortgages, trust indentures, security agreements, or instruments. The instrument may provide that in the event of a default in the payment of principal or interest on the bonds or in the performance of any agreement contained in the proceedings authorizing the bonds or instrument, the payment or performance may be enforced by mandamus or by the appointment of a receiver in equity. The receiver may collect charges, rental, or fees and may apply the revenue from the mortgaged property or collateral in accordance with the proceedings or the provisions of the instrument.

(6) Nothing in ~~this section or 7-14-1134~~ or this section may be construed to limit the use of port authority revenue, including federal and state money as described in 7-14-1136, to make grants and loans or to otherwise provide financial and other support to private development organizations, including corporations organized under the provisions of the development corporation act in Title 32, chapter 4. The credit of the state, county, or municipal ~~governments~~ government or their agencies or authorities may not be pledged to provide financial support to the development organizations."

Section 3. Section 7-14-1636, MCA, is amended to read:

"7-14-1636. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue bonds for its purposes, including refunding bonds, in a form and upon terms ~~as~~ that it determines, payable out of any revenue of the authority, including revenue derived from:

- (a) a railroad;
- (b) taxes levied pursuant to 7-14-1632;
- (c) grants or contributions from the federal government; or
- (d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in a year on the bonds and on any then-outstanding bonds for which revenue from the same source is pledged exceeds the amount of the revenue to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are pledged, sufficient to make the revenue from the pledged source in the year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102.

Bonds issued by an authority pursuant to this part may be payable as to principal and interest solely from revenue of the authority and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

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

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

Section 4. Section 7-34-2416, MCA, is amended to read:

"7-34-2416. Tax-exempt status of bonds. Bonds issued by a county pursuant to the provisions of 7-34-2411 and 7-34-2413 through 7-34-2418 are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-111(2)(a).~~"

Section 5. Section 13-37-218, MCA, is amended to read:

"13-37-218. Limitations on receipts from political committees. 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 candidate's 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 candidate's campaign. ~~The foregoing limitations shall~~ in this section must be multiplied by the inflation factor, as defined in 15-30-101~~(8)~~, for the year in which general elections are held, ~~after 1984, the~~ 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 must 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."

Section 6. Section 15-1-112, MCA, is amended to read:

"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing jurisdictions. (1) On or before January 1, 1996, for the reduction in payment under subsection (4) and by June

1 of 1996, 1997, and 1998 for all other reimbursements in this section, the department of revenue shall determine a reimbursement amount associated with reducing the tax rate in 15-6-138 and provide that information to each county treasurer. The reimbursement amount must be determined for each local government taxing jurisdiction that levied mills on the taxable value of property described in 15-6-138 in the corresponding tax year. However, the reimbursement does not apply to property described in 15-6-138 that ~~has~~ had a reduced tax rate benefit under 15-24-1402 prior to [the effective date of this act].

(2) (a) The reimbursement amount to be used as the basis for the payment reduction under subsection (4) is the product of multiplying the tax year 1995 taxable value of property described in 15-6-138 for each local government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction and then multiplying by 1/9th.

(b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996 is the amount determined under subsection (2)(a) unless the tax year 1996 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

(ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated 1996 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual tax year 1996 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1996 tax is greater than the 1995 tax, the reimbursement amount is zero.

(c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997 is the amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

(ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated 1997 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual tax year 1997 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1997 tax is greater than the 1995 tax, the reimbursement amount is zero.

(d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998 is the amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

(ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated 1998 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual tax year 1998 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1998 tax is greater than the 1995 tax, the reimbursement amount is zero.

(3) (a) For purposes of this section, "local government taxing jurisdiction" means a local government rather than a state taxing jurisdiction that levied mills against property described in 15-6-138, including county governments, incorporated city and town governments, consolidated county and city governments, tax increment financing districts, local elementary and high school districts, local community college districts, miscellaneous districts, and special districts. The term includes countywide mills levied for equalization of school retirement or transportation.

(b) The term does not include county or state school equalization levies provided for in 20-9-331, 20-9-333, and 20-9-360. It also does not include any state levy for welfare programs provided for in 53-2-813.

(c) Each tax increment financing district must receive the benefit of the state mill on the incremental taxable value of the district.

(4) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1996 by an amount equal to 38% of the reimbursement amount determined under subsection (2)(a) for all of the local government taxing jurisdictions in the county.

(5) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(6) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department

under subsection (2).

(7) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(8) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(9) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(10) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(11) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(12) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).

(13) (a) The reimbursement amount for tax year 1999 and each subsequent tax year for 9 years must be progressively reduced each year by 10% of the reimbursement amount for tax year 1998, according to the following schedule:

Tax Year	Percentage of 1998 Reimbursement Amount
1999	90
2000	80
2001	70

2002	60
2003	50
2004	40
2005	30
2006	20
2007	10
2008 and following years	0

(b) The reimbursement amount for each tax year must be the basis for reducing the amount remitted to the state for the levy imposed under 20-9-360 in December of the same year and June of the following year.

(14) The county treasurer shall use the funds from the reduced payment to the state for the levy imposed under 20-9-360 to reimburse each local government taxing jurisdiction in the amount determined by the department under subsection (2). The reimbursement must be distributed to funds within local government taxing jurisdictions in the same manner as taxes on property described in 15-6-138 are distributed. The reimbursement in June must be distributed based on the prior year's mill levy, and the reimbursement in December must be based on the current year's mill levy.

(15) Each local government taxing jurisdiction receiving reimbursements shall consider the amount of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the amount that would otherwise have to be raised by the mill levy.

(16) A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no longer be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created after January 1, 1996, will not be considered for revenue loss or reimbursement purposes. If a local government taxing jurisdiction that existed prior to January of 1996 is split between two or more taxing jurisdictions or is annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the revenue loss and reimbursement is attributed to the new jurisdictions."

Section 7. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) subject to 15-6-201(1)(z) and (1)(aa) and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-201(1)(z) and (1)(aa) and subsections (1)(f) and (1)(g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those

specifically included in another class;

(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(e) subject to 15-6-201(1)(z), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

(g) (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) (i) Except as provided in ~~15-24-1402~~ or 15-24-1501 and subsection (2)(a)(ii) of this section, property described in subsections (1)(a), (1)(b), (1)(e), (1)(f), and (1)(g) of this section is taxed at 3.794% of its taxable market value in tax year 1999.

(ii) The taxable percentage rate in subsection (2)(a)(i) must be adjusted downward by subtracting 0.0835 percentage points each year until the tax rate is equal to or less than 3.46%.

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a)(ii) of its market value multiplied by a percentage figure based on income and determined from the following table:

Income	Income	Percentage
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Single Person	Married Couple Head of Household	Multiplier
\$0 - \$ 6,000	\$0 - \$ 8,000	20%
6,001 - 9,200	8,001 - 14,000	50%
9,201 - 15,000	14,001 - 20,000	70%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

- (A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and
- (B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a)(i).

(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

Section 8. Section 15-24-2402, MCA, is amended to read:

"15-24-2402. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Expansion" means that after December 31, 1991, the industry has added qualifying property within the jurisdiction either in the first tax year in which the taxable value decrease provided for in 15-24-2403 is to be received or in the preceding tax year. Expansion does not include property that:

- ~~_____ (a) has qualified for the tax exemption under 15-24-1402; or~~
- ~~_____ (b) will create an adverse impact on existing state, county, or municipal services.~~

(2) "Industry" is a firm that engages in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget and that engages in the:

(a) processing of Montana raw materials, such as minerals, ore, oil, gas, coal, agricultural products, and forestry products; or

(b) processing of semifinished products produced in Montana that are used by the industry as a raw material in further manufacturing.

(3) "Qualifying employee" means a person:

(a) whose job was created as a result of expansion; and

(b) whose position pays not less than three-quarters of the amount of the average wage as determined by the quarterly statistical report published by the department of labor and industry.

(4) "Qualifying property" means machinery and equipment that result in the hiring of qualifying employees used for the manufacture or processing of products described in subsection (2)."

Section 9. Section 15-24-2404, MCA, is amended to read:

"15-24-2404. Exclusion from other property tax reductions or exemptions. If a taxable value decrease is taken pursuant to this part, other property tax reductions or exemptions, including but not limited to those provided in 15-6-135, ~~15-24-1402~~, and 15-24-1501, are not allowed for the qualifying property."

Section 10. 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 15-30-103(2), in effect on June 30 of the taxable year;~~

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

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

(1) "Adjusted gross income" means adjusted gross income as defined in section 62 of the Internal Revenue Code (26 U.S.C. 62).

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the ~~1967~~ 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity that is not treated as a partnership, S. corporation, individual, or trust for federal income tax purposes.

~~(3)~~(4) "Department" means the department of revenue.

~~(4)~~(5) "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.

(6) "Federal taxable income", when referring to an individual, means taxable income as defined and described in section 63 of the Internal Revenue Code (26 U.S.C. 63) and, when referring to a trust or estate, means taxable income as defined and described in Subtitle A, Chapter 1, Subchapter J., of the Internal Revenue Code.

~~(5)~~(7) "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)~~(8) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its 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 (26 U.S.C. 61) 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 (26 U.S.C. 85) as amended.~~

(9) "Head of household" means a head of household as defined and described in section 2(b) of the Internal Revenue Code (26 U.S.C. 2(b)).

~~(8)~~(10) "Inflation factor" means a number determined for each ~~taxable tax~~ year by dividing the consumer price index for June of the ~~taxable tax~~ year by the consumer price index for June 1980 2003.

~~(9)~~(11) "Information agents" includes all individuals, corporations, associations, and partnerships, acting in whatever capacity, 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.

(12) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

(13) "Joint return" means a single return made jointly by a married individual with that individual's spouse.

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

(15) "Limited liability company" has the meaning provided in 35-8-102.

~~(16)~~ (16) "Montana lottery" "Lottery winnings" means income paid either in lump sum or in annual payments to:

(a) a resident taxpayer on a lottery ticket; or

(b) a nonresident taxpayer on a lottery ticket purchased in Montana.

(17) "Married individual" means a married individual as defined and described in section 7703 of the Internal Revenue Code (26 U.S.C. 7703).

(18) (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) interest received or accrued while a resident of the state or from installment sales of real property or tangible commercial or business personal property located in the state;

(iv) dividends received or accrued while a resident of the state;

(v) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

(vi) net income or loss derived from farming activities carried on in the state or while a resident of the state;

(vii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;

(viii) net royalties to the extent that the property is used in the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax period and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax period. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time that the person paying the rental or royalty obtained possession or at the time that the royalties were received or accrued while a resident of the state.

(ix) patent royalties to the extent that the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties were received or accrued while a resident of the state;

(x) net copyright royalties to the extent that printing or other publication originates in the state or the royalties were received or accrued while a resident of the state;

(xi) partnership income, gain, credit, loss, deduction, or expense, or item of income, gain, credit, loss, deduction, or expense, derived from a trade, business, occupation, or profession carried on in the state or derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state or taken into account while a resident of the state;

(xii) an S. corporation's separately and nonseparately stated income, gain, credit, loss, deduction, or expense, or item of income, gain, credit, loss, deduction, or expense, derived from a trade, business, occupation, or profession carried on in the state or derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state or taken into account while a resident of the state;

(xiii) income, gain, credit, loss, deduction, or expense, or item of income, gain, credit, loss, deduction, or expense, of an estate or trust with nexus with the state;

(xiv) social security benefits received or accrued while a resident of the state;

(xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state; and

(xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks.

(b) The term does not include compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana.

(19) "Montana taxable income" means federal taxable income as determined for federal income tax purposes and adjusted as provided in [section 15].

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

(13)(20) "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 accrued" and "paid or incurred" must be construed according to the method of accounting upon the basis of which the used to compute federal taxable income is computed under

this chapter.

(21) "Partner" means a member of a partnership or other entity that is treated as a partnership.

(22) "Partnership" means a partnership, a limited liability company, or another entity that is treated as a partnership for federal income tax purposes.

~~(14)~~(23) "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 (26 U.S.C. 401), 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 profit-sharing 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 (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

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

~~(15)~~(24) "Purposely" is as defined in 45-2-101.

~~(16)~~(25) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued, and the term "received or accrued" must be construed according to the method of accounting upon the basis of which the used to compute federal taxable income is computed under this chapter.

~~(17)~~(26) "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 who has not established a residence elsewhere, when referring to the taxes imposed in this chapter, means an individual who has a residence in the state pursuant to the rules set forth in 1-1-215.

(27) "S. corporation" means an S. corporation, a limited liability company, or another entity that is treated as an S. corporation for federal income tax purposes.

(28) "Shareholder" means a shareholder or member of an S. corporation or other entity treated as an S.

corporation.

~~(18)~~(29) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

~~(30)~~ "Surviving spouse" means a surviving spouse as defined and described in section 2(a) of the Internal Revenue Code (26 U.S.C. 2(a)).

~~(19)~~ "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(20)~~(31) "Taxable year" or "tax year" means the taxpayer's taxable year for federal income tax purposes.

~~(21)~~(32) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include ~~corporations~~ a C. corporation."

Section 11. Section 15-30-102, MCA, is amended to read:

"15-30-102. Construction of net income. For the purpose of raising revenue, the net income required to be shown on returns under this chapter and taken as the basis for determining the tax hereunder ~~shall not be~~ may not be classified or held or construed to be property. All income except what has been expressly exempted under the provisions of the Internal Revenue Code or this chapter and income not permitted to be taxed under the constitution of this state or the constitution or laws of the United States ~~shall~~ must be included and considered in determining the net income of taxpayers subject to tax within the ~~provision~~ provisions of this chapter."

Section 12. Section 15-30-103, MCA, is amended to read:

"15-30-103. Rate of tax. (1) There ~~shall~~ must be levied, collected, and paid for each ~~taxable~~ tax year commencing on or after ~~December 31, 1968~~ January 1, 2002, upon the Montana taxable income of every taxpayer subject to this tax, ~~after making allowance for exemptions and deductions as hereinafter provided~~; a tax on the following brackets of Montana 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%.~~
- (a) for every married individual who makes a joint return and for every surviving spouse:
- (i) on the first \$6,000 of Montana taxable income or any part of that income, 4%;
- (ii) on the next \$35,000 of Montana taxable income or any part of that income, 5%;
- (iii) on the next \$84,000 of Montana taxable income or any part of that income, 6%;
- (iv) on any Montana taxable income in excess of \$125,000 or any part of that income, 6.6%;
- (b) for every head of household:
- (i) on the first \$4,800 of Montana taxable income or any part of that income, 4%;
- (ii) on the next \$28,000 of Montana taxable income or any part of that income, 5%;
- (iii) on the next \$67,200 of Montana taxable income or any part of that income, 6%;
- (iv) on any Montana taxable income in excess of \$100,000 or any part of that income, 6.6%;
- (c) for every individual other than a surviving spouse or head of household who is not a married individual:
- (i) on the first \$3,000 of Montana taxable income or any part of that income, 4%;
- (ii) on the next \$17,500 of Montana taxable income or any part of that income, 5%;
- (iii) on the next \$42,000 of Montana taxable income or any part of that income, 6%;
- (iv) on any Montana taxable income in excess of \$62,500 or any part of that income, 6.6%;
- (d) for every married individual who does not make a joint return and for every estate or trust not exempt from taxation under the Internal Revenue Code:
- (i) on the first \$3,000 of Montana taxable income or any part of that income, 4%;
- (ii) on the next \$17,500 of Montana taxable income or any part of that income, 5%;
- (iii) on the next \$42,000 of Montana taxable income or any part of that income, 6%;
- (iv) on any Montana taxable income in excess of \$62,500 or any part of that income, 6.6%.
- (2) By November 1 of each year, the department shall multiply the bracket ~~amount~~ amounts contained in subsection (1) by the inflation factor for that ~~taxable~~ tax year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that ~~taxable~~ tax year and ~~shall~~ must be used as the basis for imposition of the tax in subsection (1) ~~of this section.~~"

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

"15-30-105. Tax on nonresident. (1) (a) A tax on income earned in Montana is imposed upon on each person not a resident of this state. The tax must be levied, collected, and paid annually at the rates specified in 15-30-103 with respect to the nonresident's entire net 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. Income derived from Montana lottery winnings is considered income earned in Montana nonresident equal to the tax computed under 15-30-103 as if the nonresident were a resident during the entire tax period, multiplied by the ratio of Montana source income to total income from all sources as determined for federal income tax purposes.

(b) This subsection (1) does not permit any item of income, gain, credit, loss, deduction, or expense to be counted more than once in determining the amount of Montana source income, and the department may adopt rules that are reasonably necessary to prevent duplication or to provide for allocation of particular items of income, gain, credit, loss, deduction, or expense.

(2) Pursuant to the provisions of Article III, section 2, of the Multistate Tax Compact, each nonresident taxpayer who is 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. The tax is in lieu of the tax imposed under 15-30-103 and subsection (1)(a) of this section. The gross volume of sales made in Montana during the tax year must be determined according to the provisions of Article IV, sections 16 and 17, of the Multistate Tax Compact."

Section 14. Section 15-30-106, MCA, is amended to read:

"15-30-106. Tax on lump-sum distributions. (1) There is imposed a separate tax on lump-sum distributions.

(2) The tax is 10% of the amount of tax determined under section 402(e) of the Internal Revenue Code of 1954, ~~as amended, or as section 402(e) may be renumbered or amended~~ (26 U.S.C. 402(e)).

(3) All means available for the administration and enforcement of income taxes ~~shall~~ must be applied to the tax on lump-sum distributions."

NEW SECTION. **Section 15. Adjustments to federal taxable income to determine Montana taxable**

income. (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

(2) The following are added to federal taxable income:

(a) to the extent that it is not exempt from taxation by Montana under federal law, interest from obligations of a territory or another state or any political subdivision of a territory or another state and exempt-interest dividends attributable to that interest except to the extent already included in federal taxable income;

(b) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for a purpose other than an eligible medical expense or long-term care of the employee or account holder or a dependent of the employee or account holder;

(c) a nonqualified withdrawal from a family education savings account provided for in Title 15, chapter 62, to the extent that in any tax year beginning before January 1, 2001, it was deducted from income in calculating Montana individual income taxes or that in any tax year beginning after December 31, 2001, it was subtracted from federal taxable income to determine Montana taxable income;

(d) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63, used for a purpose other than for eligible costs for the purchase of a single-family residence.

(3) To the extent included as income or gain or not already excluded as a deduction or expense in determining federal taxable income, the following are subtracted from federal taxable income:

(a) if exempt from taxation by Montana under federal law:

(i) interest from obligations of the United States government and exempt-interest dividends attributable to that interest;

(ii) railroad retirement benefits; and

(iii) tribal source income;

(b) up to \$4,700 of pension and annuity income received, reduced by \$2 for every \$1 of federal adjusted gross income over \$60,000 included in either a separate or joint federal income tax return;

(c) salary received from the armed forces by residents who entered into active duty from Montana and are serving on active duty in the regular armed forces;

(d) all service charges that are covered by section 3401 or tips or gratuities that are covered by section 3402(k) of the Internal Revenue Code (26 U.S.C. 3401 or 3402(k)) received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

(e) unemployment compensation included in federal gross income under the provisions of section 85

of the Internal Revenue Code (26 U.S.C. 85);

(f) up to \$3,000 or, if a joint return is filed, up to \$6,000, in excluded annual contributions under Title 15, chapter 63, to a first-time home buyer savings account, interest and other income retained in the account earned on the funds, and any withdrawal for payment of eligible costs for the first-time purchase of a single-family residence;

(g) up to \$3,000 in excluded annual contributions under Title 15, chapter 61, to a medical care savings account, interest and other income earned on the funds and retained in the account, and any withdrawal for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder;

(h) up to \$3,000 in excluded annual contributions to a family education savings individual trust account or savings account established under Title 15, chapter 62;

(i) premium payments made by the taxpayer for the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for insurance policies or certificates for:

(i) medical care, as defined in section 213(d) of the Internal Revenue Code (26 U.S.C. 213(d)); and

(ii) long-term care that provides coverage primarily for any qualified long-term care services as defined in section 7702B(c) of the Internal Revenue Code (26 U.S.C. 7702B(c)).

Section 16. Section 15-30-133, MCA, is amended to read:

"15-30-133. Income tax involving partnership -- partnership statements required. (1) Individuals carrying on a business in partnership shall be liable for Partners and not partnerships are subject to income tax, only in their individual capacity. There shall be included, in computing the net income of each partner, his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or if his net income for such taxable year is computed upon the basis of a period different from that upon the basis for which the net income of the partnership is computed, then there shall be included his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal or calendar year upon the basis of which the partner's net income is computed. Taxpayers who are members of partnerships are required by the department to A partnership that has Montana source income shall file an information return on forms prescribed by the department on or before the 15th day of the 5th month following the close of the partnership's annual accounting period and, at the request of the department, shall furnish a copy of their its federal partnership return.

(2) A partner of a partnership that has Montana source income and a resident who is a partner of a

partnership during any part of the tax period shall include a copy of the partner's federal schedule of the partner's share of income, deductions, and credits when filing the Montana individual income tax return.

(3) If two or more nonresident partners whose only Montana source income derives from the partnership consent, a partnership with resident and nonresident partners may elect to file a composite tax return and remit a composite tax payment on behalf of all consenting nonresident partners whose only Montana source income derives from the partnership, as provided in [section 22]. The electing partnership and the consenting nonresident partners are not required to file the returns otherwise required by this section or pay the income taxes otherwise imposed in this chapter.

(4) The department may disallow a partner's distributive share of loss, deduction, or credit of a partnership or item of loss, deduction, or credit of a partnership if the partnership does not file a return as required by subsection (1)."

Section 17. Section 15-30-134, MCA, is amended to read:

"15-30-134. Determination of status -- effect of federal marital status elections. For purposes of this chapter:

(1) the determination of whether an individual is married shall be made as of the close of his taxable year, except that if his spouse dies during his taxable year, such determination shall be made as of the time of such death marital status, dependent status, status as an association, partnership, or individual, and any other status must be made as provided in the Internal Revenue Code; and

(2) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(2) any status that a taxpayer claims or elects in a federal income tax return with respect to the taxpayer or another individual or that the taxpayer or other individual is determined to have for federal income tax purposes conclusively determines the status of that individual; and

(3) a joint Montana individual income tax return must be filed for any tax year for which a joint federal income tax return is filed unless one of the individuals is a nonresident."

Section 18. Section 15-30-135, MCA, is amended to read:

"15-30-135. Tax on beneficiaries or fiduciaries of estates or trusts. (1) A tax ~~shall be~~ is imposed ~~upon either on~~ on the fiduciaries ~~or and~~ and the beneficiaries of estates and trusts ~~as hereinafter provided, except to the extent such estates and trusts shall be held for educational, charitable, or religious purposes, which tax shall be~~

levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust, including:

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

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

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

—— (d) ~~income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of a minor, to be held or distributed as the court may direct in the same manner and to the same extent as federal income tax is imposed on them under the Internal Revenue Code.~~

(2) The fiduciary ~~shall be~~ is responsible for making the return of income for the estate or trust for which ~~he the fiduciary~~ acts, whether the fiduciary or the beneficiaries are ~~taxable~~ responsible for the payment of the tax with reference to the income of ~~such the~~ estate or trust. ~~In cases under subsections (a) and (d) of subsection (1), the~~ The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income, whether or not distributed before the close of the ~~taxable tax~~ year for which the return is made and, at the request of the department, shall furnish a copy of the federal income tax return for the estate or trust. A beneficiary of an estate or trust shall include a copy of the federal schedule of the beneficiary's share of income, deductions, and credits when filing the Montana individual income tax return.

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

—— (4) ~~The fiduciary of a trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but any amount contributed to such fund by the employer and all earnings of such fund shall be included in computing the income~~

of the distributee in the year in which distributed or made available to him:

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

Section 19. 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~~ is determined from Montana taxable income of an estate or trust ~~in the same manner as the tax on taxable income of individuals~~; by applying the rates contained in ~~15-30-103~~ 15-30-103(1)(d). Credits allowed to individuals under Title 15, chapter 30, also apply to estates and trusts when applicable."

Section 20. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax ~~--penalty and interest -- refunds -- credits.~~ (1) ~~For both resident and nonresident taxpayers, each single~~ Each individual, including each nonresident with Montana source income, and each estate or trust shall file ~~each married individual not filing a joint return with a spouse and having a gross income for the tax year of more than \$1,500, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the tax year of more than \$3,000, as adjusted under the provisions of subsection (7), are liable for a return to be filed on forms and according to rules that the department may prescribe~~ if required to file a federal income tax return pursuant to the Internal Revenue Code. The gross income amounts referred to in the preceding sentence must be increased by \$800, as adjusted under the provisions of 15-30-112(6), for each additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the taxpayer's spouse under 15-30-112(3) and (4).

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

~~(3)~~(2) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an

authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

~~(4)~~(3) 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 any payment made by reason of an estimated tax return provided for in 15-30-241. However, the tax computed must be greater by \$1 than the amount withheld and paid by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

~~(5)~~(4) As soon as practicable after the return is filed, the department shall examine and verify the tax.

~~(6)~~(5) If the amount of tax as verified is greater than the amount paid, the excess 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 as provided in 15-1-216. In that case, there may not be a penalty because of the understatement if the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

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

~~(8)~~(6) Individual income tax forms distributed by the department for each tax year must contain instructions and tables based on the adjusted base year structure for that tax year."

NEW SECTION. Section 21. Taxation of S. corporations and shareholders. (1) Except as provided in the Internal Revenue Code, shareholders and not S. corporations are subject to tax. An S. corporation that has Montana source income shall file an information return on forms prescribed by the department on or before the 15th day of the 5th month following the close of the corporation's annual accounting period and, at the request of the department, shall furnish a copy of its federal income tax return for an S. corporation.

(2) A shareholder of an S. corporation that has Montana source income and a resident who is a shareholder of an S. corporation during any part of the tax period shall include a copy of the federal schedule of the shareholder's share of income, deductions, and credits when filing the Montana individual income tax return.

(3) If two or more nonresident shareholders whose only Montana source income derives from the S. corporation consent, an S. corporation with resident and nonresident shareholders may elect to file a composite tax return and remit a composite tax payment, as provided in [section 22], on behalf of all consenting nonresident

shareholders whose only Montana source income derives from the S. corporation. The electing S. corporation and the consenting nonresident shareholders are not required to file the returns otherwise required by this section or to pay the income taxes otherwise imposed in this chapter.

(4) The department may disallow a shareholder's percentage of ownership of any separately or nonseparately stated loss, deduction, or credit of an S. corporation or item of loss, deduction, or credit of an S. corporation if the S. corporation does not file a return as required by subsection (1).

NEW SECTION. Section 22. Composite returns and tax. (1) Prior written permission from the department is required to file a composite return. The return must be made on forms that the department prescribes and must be filed on or before the due date for filing a Montana individual income tax return, subject to extension as provided for individual income tax returns.

(2) For the purposes of this section, a "participant" is a consenting nonresident partner or S. corporation shareholder.

(3) A tax on each participant is determined as follows:

(a) Each participant's distributive or allocable share of the entity's income, gain, credit, loss, deduction, and expense as determined for federal income tax purposes must be aggregated, and that aggregate amount for each participant must be reduced by the basic standard deduction of an individual who is not married and who is not a surviving spouse or head of household, as determined under section 63(c)(2) of the Internal Revenue Code (26 U.S.C. 63(c)(2)), and by the personal exemption for one individual, as determined under section 151(d) of the Internal Revenue Code (26 U.S.C. 151(d)), to determine each participant's composite return federal taxable income.

(b) The entity shall determine:

(i) each item of income, gain, credit, loss, deduction, and expense that is Montana source income or otherwise attributable to Montana; and

(ii) each participant's distributive or allocable share of those items listed in subsection (3)(b)(i).

(c) The distributive or allocable share of the items described in subsection (3)(b)(i) must be aggregated for each participant to determine each participant's composite return Montana source income.

(d) A preliminary tax is calculated for each participant on the composite return federal taxable income determined under subsection (3)(a) in accordance with the table at 15-30-103(1)(c), adjusted as provided in 15-30-103(2), as follows:

(i) on the first \$8,400 of composite return federal taxable income or any part of that income, 3.9%;

(ii) on the next \$26,400 of composite return federal taxable income or any part of that income, 4.9%;
(iii) on the next \$43,200 of composite return federal taxable income or any part of that income, 5.8%; and
(iv) on any composite return federal taxable income in excess of \$78,000 or any part of that income, 6.8%.

(e) The tax determined under subsection (3)(d) for each participant is multiplied by a fraction, the numerator of which is the participant's composite return Montana source income and the denominator of which is the participant's composite return federal taxable income, to determine the amount of tax assessed with respect to that participant.

(4) By November 1 of each year, the department shall multiply the bracket amounts contained in subsection (3)(d) by the inflation factor for that tax year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that tax year and must be used as the basis for imposition of the tax calculated in subsection (3)(e).

(5) The electing entity:

(a) shall remit to the department the total of all taxes determined under subsection (3)(e) for each participant;

(b) is responsible for any assessments of additional tax, penalties, and interest, which additional assessments must be based on the total liability reflected in the composite return;

(c) shall represent the participants in any appeal, claim for refund, hearing, or court proceeding in any matters relating to the filing of the composite return;

(d) shall make quarterly estimated tax payments as prescribed by 15-30-241; and

(e) shall maintain a file of powers of attorney executed by each participant included in the composite return, authorizing the entity to file the composite return and to act on behalf of each participant.

(6) The department may adopt rules that are necessary to implement and administer this section.

Section 23. Section 15-30-166, MCA, is amended to read:

"15-30-166. (Temporary) Credit for contributions to qualified endowment. (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-103 or 15-31-101 in an amount equal to 50% of the present value of the aggregate amount of the charitable gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is \$10,000. The credit allowed under this section may not exceed the taxpayer's income tax liability.

(2) The credit allowed under this section ~~may not be claimed by an individual taxpayer if the taxpayer has included the full amount of the contribution upon which the amount of the credit was computed as a deduction under 15-30-121(1) or 15-30-136(2) must be reduced by 7% of the amount of the contribution deducted in the taxpayer's federal income tax return.~~

(3) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made. ~~(Terminates December 31, 2001--sec. 9, Ch. 537, L. 1997.)"~~

Section 24. Section 15-30-241, MCA, is amended to read:

"15-30-241. Estimated tax -- payment -- exceptions -- interest. (1) (a) Each individual subject to tax under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through employer withholding, as provided in 15-30-202, through payment of estimated tax in four installments, as provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax payments, at least:

- (i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or
- (ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding tax year was a period of 12 months and if the individual filed a return for the tax year.

(b) Payment of estimated taxes under this section is not required if:

- (i) the combined tax liability of employer withholding and estimated tax for the current year is less than \$500 after reductions for credits and withholding;
- (ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12 months, and if the individual was a citizen or resident of the United States throughout that tax year;
- (iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that the department determines to constitute good cause; or
- (iv) the individual retired in the tax year after having attained the age of 62 or if the individual became disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year following the tax year in which the individual retired or became disabled.

(2) Estimated taxes must be paid in four installments according to one of the following schedules:

(a) For each taxpayer whose tax year begins on January 1, estimated tax payments are due on the following dates:

Installment	Date
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First	April 15
Second	June 15
Third	September 15
Fourth	January 15 of the following tax year

(b) For each taxpayer whose tax year begins on a date other than January 1, estimated tax payments are due on the following dates:

Installment	Date
First	15th day of the 4th month following the beginning of the tax year
Second	15th day of the 6th month following the beginning of the tax year
Third	15th day of the 9th month following the beginning of the tax year
Fourth	15th day of the month following the close of the tax year

(3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding installment must be proportionally changed so that the balance of the required annual payment is paid in equal installments over the remaining period of time.

(b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes, the taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is required. For estimated taxes required to be paid beginning with the second installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth installments, respectively. For estimated taxes required to be paid beginning with the third installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth installment.

(4) (a) If for any required installment the taxpayer determines that the installment payment is less than the amount determined under subsection (3)(a), the lower amount may be paid as an annualized income installment.

(b) For any required installment, the annualized income installment is the applicable percentage described in subsection (4)(c) applied to the tax computed on the basis of annualized taxable income in the tax

year for the months ending before the due date for the installment less the total amount of any prior required installments for the tax year.

(c) For the purposes of this subsection (4), the applicable percentage is determined according to the following schedule:

Required Installment	Applicable Percentage
First	22.5%
Second	45%
Third	67.5%
Fourth	90%

(d) A reduction in a required installment resulting from the application of an annualized income installment must be recaptured by increasing the amount of the next required installment, determined under subsection (3)(a), by the amount of the reduction. Any subsequent installment must be increased by the amount of the reduction until the amount has been recaptured.

(5) (a) If an estimated tax, an employer withholding tax, or a combination of estimated tax and employer withholding tax is underpaid, there must be added to the amount due under this chapter interest equal to 12% a year on the amount of the underpayment. The interest is computed on the amount of the underpayment, as determined in subsection (5)(b), for the period from the time the payment was due to the date payment was made or to the 15th day of the 4th month of the year following the tax year in which the payment was to be made, whichever is earlier.

(b) For the purpose of determining the amount of interest due in subsection (5)(a), the amount of the underpayment is the required installment amount less the installment amount paid, if any, on or before the due date for the installment.

(c) For the purpose of determining the amount of interest due in subsection (5)(a), an estimated payment must be credited against unpaid required installments in the order in which those installments are required to be paid.

(d) For each married taxpayer filing separately on the same form, the interest provided for in subsection (5)(a) must be computed on the combined tax liability after reductions for credits and withholding, as shown on the taxpayer's return.

(e) Interest may not be charged with respect to any underpayment of the fourth installment of estimated taxes if:

(i) the taxpayer pays in full the amount computed on the return as payable; and

(ii) the taxpayer files a return on or before the last day of the month following the close of the tax year referred to in subsection (2)(a) or (2)(b).

(6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66 2/3% of the taxpayer's gross income, ~~as defined in 15-30-101(7)~~, as determined for federal income tax purposes, from farming or ranching operations, or both.

(7) The department shall promulgate rules governing reasonable extensions of time for paying the estimated tax. An extension may not be for more than 6 months."

Section 25. Section 15-30-303, MCA, is amended to read:

"15-30-303. (Temporary) Confidentiality of tax records. (1) Except as provided in subsections (7) and (8) or in accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

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

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

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom

an action or proceeding has been instituted in accordance with the provisions of 15-30-311.

(4) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$1,000 or by imprisonment in the county jail for a term not exceeding 1 year, or both. If the offender is an officer or employee of the state, the offender must be dismissed from office and may not hold any public office in this state for a period of 1 year after dismissal.

(6) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

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

(8) The department shall furnish:

~~(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-112(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;~~

~~(b)~~(a) to the department of public health and human services information acquired under 15-30-301, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

~~(c)~~(b) to the department of labor and industry for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and

industry is an employee, an independent contractor, or self-employed;

~~(d)~~(c) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

~~(e)~~(d) to the board of regents information required under 20-26-1111;

~~(f)~~(e) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

~~(g)~~(f) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns. (Terminates June 30, 2001--sec. 7, Ch. 461, L. 1999.)

15-30-303. (Effective July 1, 2001) Confidentiality of tax records. (1) Except as provided in subsections (7) and (8) or in accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

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

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

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

(4) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$1,000 or by imprisonment in the county jail for a term not exceeding 1 year, or both. If the offender is an officer or employee of the state, the offender must be dismissed from office and may not hold any public office in this state for a period of 1 year after dismissal.

(6) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

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

(8) The department shall furnish:

~~(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-112(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;~~

~~(b)~~(a) to the department of public health and human services information acquired under 15-30-301, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public

assistance fraud and abuse, provided notice to the applicant has been given;

~~(e)~~(b) to the department of labor and industry for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed;

~~(d)~~(c) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

~~(e)~~(d) to the board of regents information required under 20-26-1111;

~~(f)~~(e) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

~~(g)~~(f) to the department of transportation the ratio of gross farm income to total gross income based on the most recent income tax return filed by an applicant applying for a refund under 15-70-223, provided that notice to the applicant has been given as provided in 15-70-223. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns."

Section 26. Section 15-30-323, MCA, is amended to read:

"15-30-323. Penalty and interest for deficiency. (1) If the payment required by 15-30-142~~(6)~~(5) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, the penalty imposed in 15-1-216(1)(c) must be added to the amount of the deficiency. Interest on the additional assessment must be computed as provided in 15-1-216. Except as otherwise provided in this subsection, the interest in all cases must 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 on the tax due, as provided in 15-1-216, from the time when the return was originally required to be filed to the time of payment."

Section 27. 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 129(d)(2) through (6) of the Internal Revenue Code (26 U.S.C. 129(d)(2) through (d)(6)).

(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 (26 U.S.C. 21(e)(3) and (e)(4)).

(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 tax~~ 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 (26 U.S.C. 129(c)(1) or (c)(2)).

(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 (26 U.S.C. 129(b)). 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)~~(6) 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)~~(7) If the taxpayer is an S. corporation, as defined in section 1361 of the Internal Revenue Code (26 U.S.C. 1361), 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)~~(8) For purposes of the credit allowed under subsection (1):

(a) ~~The~~ the definitions and special rules contained in section 129(e) of the Internal Revenue Code (26 U.S.C. 129(e)) apply to the extent applicable; and

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

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

"15-31-202. Small business corporation not subject to chapter. A Except to the extent that it is taxable under the Internal Revenue Code, a small business corporation is not subject to the taxes imposed by this chapter. ~~The corporate net~~ Items of income, or gain, credit, loss, deduction, or expense of the corporation and nonseparately computed income or loss of the corporation ~~is~~ are included in the stockholders' ~~adjusted gross~~ income ~~as defined in 15-30-114~~ and are taxed as provided under Title 15, chapter 30."

Section 29. Section 15-32-102, MCA, is amended to read:

"15-32-102. Definitions. As used in this part, the following definitions apply:

(1) "Building" means:

(a) a single or multiple dwelling, including a mobile home or manufactured home; or
 (b) a building used for commercial, industrial, or agricultural purposes that is enclosed with walls and a roof.

(2) "Capital investment" means any material or equipment purchased and installed in a building or land with or without improvements.

(3) "Energy conservation purpose" means one or both of the following results of an investment:

(a) reducing the waste or dissipation of energy; or
 (b) reducing the amount of energy required to accomplish a given quantity of work.

(4) "Geothermal system" means a system that transfers energy either from the ground, by way of a closed loop, or from ground water, by way of an open loop, for the purpose of heating or cooling a residential building.

(5) "Low emission wood or biomass combustion device" means a noncatalytic stove or furnace that:

(a) (i) is specifically designed to burn wood pellets or other nonfossil biomass pellets; and

(ii) has a particulate emission rate of less than 4.1 grams per an hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, ~~as adopted by the department of environmental quality pursuant to 15-32-203~~; or

(iii) has an air-to-fuel ratio of 35 to 1 or greater when tested in conformance with the standard method for measuring the air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances, ~~as adopted by the department of environmental quality pursuant to 15-32-203~~; or

(b) burns wood or other nonfossil biomass and has a particulate emission rate of less than 4.1 grams per an hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, ~~as adopted by the department of environmental quality pursuant to 15-32-203~~.

(6) "Passive solar system" means a direct thermal energy system that uses the structure of a building and its operable components to provide heating or cooling during the appropriate times of the year by using the climate resources available at the site. It includes only those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy and that are not standard components of a conventional building.

(7) "Recognized nonfossil forms of energy generation" means:

(a) a system that captures energy or converts energy sources into usable sources by using:

(i) solar energy, including passive solar systems;

(ii) wind;

(iii) solid waste; or

(iv) the decomposition of organic wastes;

(b) a system that produces electric power from solid wood wastes; or

(c) a small system that uses water power by means of an impoundment that is not over 20 acres in surface area."

Section 30. Section 15-32-104, MCA, is amended to read:

"15-32-104. Limitations on deduction and credit. Tax treatment under 15-32-103 ~~and 15-32-109~~ is

limited to:

- (1) capital investments ~~made after January 1, 1975~~;
- (2) persons and firms not primarily engaged in the provision of gas or electricity derived from fossil fuel extraction or conventional hydroelectric development; and
- (3) a ceiling of \$100,000 in tax savings ~~per each~~ year to any one person or firm."

Section 31. Section 15-32-106, MCA, is amended to read:

"15-32-106. Procedure for obtaining benefit of deduction ~~or credit~~. ~~The department of revenue shall provide forms on which a taxpayer may apply for a tax credit under 15-32-109. The department of revenue shall approve a deduction ~~or credit~~ under 15-32-103 ~~or 15-32-109~~ that demonstrably promotes energy conservation or uses a recognized nonfossil form of energy generation. The department of revenue may refer a deduction ~~or credit~~ involving energy generation to the department of environmental quality for its advice, and the department of environmental quality shall respond within 60 days. The department of revenue may refer a deduction ~~or credit~~ involving energy conservation to the department of administration for its advice, and the department of administration shall respond within 60 days. The department of revenue may deny a deduction ~~or credit~~ that it finds to be impractical or ineffective."~~

Section 32. Section 15-61-202, MCA, is amended to read:

"15-61-202. Tax exemption -- conditions. (1) Except as provided in this section, the amount of principal provided for in subsection (2) contributed annually by an employee or account holder to an account and all interest or other income on that principal may be excluded from the ~~adjusted gross~~ Montana taxable income of the employee or account holder and are exempt from taxation, ~~in accordance with 15-30-111(2)(j)~~, as long as the principal and interest or other income is contained within the account or withdrawn only for payment of eligible medical expenses or for the long-term care of the employee or account holder or a dependent of the employee or account holder. Any part of the principal or income, or both, that has been excluded from taxation pursuant to this section and that is withdrawn from an account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a purpose other than an eligible medical expense or the long-term care of the employee or account holder or a dependent of the employee or account holder.

(2) An employee or account holder may exclude as an annual contribution in 1 year not more than \$3,000. There is no limitation on the amount of funds contributed and interest or other income on those funds that

may be retained tax-free within an account.

(3) A deduction ~~pursuant to 15-30-124~~ is not allowed to an employee or account holder for an amount contributed to an account. An employee or account holder may not deduct ~~pursuant to 15-30-124~~ or exclude ~~pursuant to 15-30-114~~ an amount representing a loss in the value of an investment contained in an account.

(4) An employee or account holder may in 1 year deposit into an account more than the amount excluded pursuant to subsection (2) if the exemption claimed by the employee or account holder in the year does not exceed \$3,000. An employee or account holder who deposits more than \$3,000 into an account in a year may exclude from the employee's or account holder's ~~adjusted gross~~ Montana taxable income in accordance with ~~15-30-114(2)(j)~~ in a subsequent year any part of \$3,000 ~~per~~ for each year not previously excluded.

(5) The transfer of money in an account owned by one employee or account holder to the account of another employee or account holder within the immediate family of the first employee or account holder does not subject either employee or account holder to tax liability under this section. Amounts contained within the account of the receiving employee or account holder are subject to the requirements and limitations provided in this section.

(6) The employee or account holder who establishes the account is the owner of the account. An employee or account holder may withdraw money in an account and deposit the money in another account with a different or with the same account administrator without incurring tax liability.

(7) The amount of a disbursement of any assets of a medical care savings account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an employee or account holder does not subject the employee or account holder to tax liability.

(8) Within 30 days of being furnished proof of the death of the employee or account holder, the account administrator shall distribute the principal and accumulated interest or other income in the account to the estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

Section 33. Section 15-61-203, MCA, is amended to read:

"15-61-203. Withdrawal of funds from account for purposes other than medical expenses and long-term care. (1) An employee or account holder may withdraw money from the individual's medical care savings account for any purpose other than an eligible medical expense or the long-term care of the employee or account holder or a dependent of the employee or account holder only on the last business day of the account administrator's business year. Money withdrawn from an account pursuant to this subsection that had been excluded from taxation pursuant to 15-61-202 must be taxed as ordinary income of the employee or account

holder.

(2) If the employee or account holder withdraws money from the account other than for eligible medical expenses or long-term care or other than on the last business day of the account administrator's business year, the administrator shall withhold from the amount of the withdrawal and, on behalf of the employee or account holder, pay as a penalty to the department of revenue an amount equal to 10% of the amount of the withdrawal. Payments made to the department pursuant to this section must be deposited in the general fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the employee or account holder if it had been excluded from taxation pursuant to 15-61-202.

(3) For the purposes of this section, "last business day of the account administrator's business year", as applied to an account administrator who is also the account holder or an employee, means the last weekday in December."

Section 34. Section 15-62-204, MCA, is amended to read:

"15-62-204. Higher education expenses -- exemption from taxable income. A person may in any year deposit into an individual trust or savings account up to \$3,000 that is ~~deductible for tax purposes under 15-30-111(2)(i)~~ excluded from Montana taxable income to pay the qualified higher education expenses for the benefit of a designated beneficiary."

Section 35. Section 15-63-202, MCA, is amended to read:

"15-63-202. Tax exemption -- conditions. (1) Except as provided in this section, the amount of principal provided for in subsection (2) contributed annually by an account holder to an account and all interest or other income on the principal may be excluded from the ~~adjusted gross~~ Montana taxable income of the account holder and is exempt from taxation, ~~in accordance with 15-30-111(2)(k)~~, as long as the principal and interest or other income is contained within the account or withdrawn only for eligible costs for the purchase of a single-family residence by a first-time home buyer. Any part of the principal or income, or both, withdrawn from an account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a purpose other than for eligible costs for the purchase of a single-family residence.

(2) (a) An account holder who files singly, head of household, or married filing separately may exclude as an annual contribution in 1 year up to \$3,000.

(b) An account holder who files jointly may exclude as annual contribution in 1 year up to \$6,000.

(c) There is no limitation on the amount of principal contributed and interest or other income on the

principal that may be retained tax-free within an account.

(d) An account holder may not contribute to the first-time home buyer savings account for a period exceeding 10 years.

(3) An account holder may not deduct pursuant to ~~15-30-124~~ or exclude pursuant to ~~15-30-114~~ an amount representing a loss in the value of an investment contained in an account.

(4) Each year, an account holder may deposit into an account more than the amount excluded pursuant to subsection (2) if the exemption claimed by the account holder in the year does not exceed the amount specified in subsection (2)(a) or (2)(b). An account holder who deposits more than the amount specified in subsection (2)(a) or (2)(b) into an account in a year may exclude from the account holder's ~~adjusted gross~~ Montana taxable income, ~~in accordance with 15-30-111(2)(k)~~; in a subsequent year any part of the amount specified in subsection (2)(a) or (2)(b) ~~per~~ for each year not previously excluded.

(5) The transfer of money by a person other than the account holder to the account of an account holder does not subject the account holder to tax liability under this section. Amounts contained within the account of the receiving account holder are subject to the requirements and limitations provided in this section. The person other than the account holder who transfers money to the account is not entitled to the tax exemption under this section.

(6) The account holder who establishes the account, individually or jointly, is the owner of the account. An account holder may withdraw money in an account and deposit the money in another account with a different account administrator or with the same account administrator without incurring tax liability.

(7) The account holder shall use the money in the account for the eligible costs related to the purchase of a single-family residence within 10 years following the year in which the account was established. Any principal ~~and~~ or income in the account that was excluded from taxation under this section and is not expended on eligible costs at the time of purchase of a single-family residence or any principal or income that was excluded from taxation under this section and is remaining in the account on December 31 of the last year of the 10-year period must be taxed as ordinary income.

(8) The amount of a disbursement of any assets of a first-time home buyer savings account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an account holder does not subject the account holder to tax liability.

(9) Within 30 days of being furnished proof of the death of the account holder, the account administrator shall distribute the principal and accumulated interest or other income in the account to the estate of the account holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

Section 36. Section 15-63-203, MCA, is amended to read:

"15-63-203. Withdrawal of funds from account for purposes other than eligible costs for first-time home purchase. (1) An account holder may withdraw money from the first-time home buyer's savings account for any purpose other than eligible costs for the first-time purchase of a single-family residence only on the last business day of the account administrator's business year. Money withdrawn from an account pursuant to this subsection that had been excluded from taxation pursuant to 15-63-202 must be taxed as ordinary income of the account holder.

(2) If the account holder withdraws money from the account other than for eligible costs for the purchase of a single-family residence or other than on the last business day of the account administrator's business year, the account administrator shall withhold from the amount of the withdrawal and, on behalf of the account holder, pay as a penalty to the department an amount equal to 10% of the amount of the withdrawal. Payments made to the department pursuant to this section must be deposited in the general fund. Money withdrawn from an account pursuant to this subsection must be taxed as ordinary income of the account holder if it was excluded from taxation pursuant to 15-63-202.

(3) For the purposes of this section, "last business day of the account administrator's business year", as applied to an account administrator who is also the account holder, means the last weekday in December."

Section 37. Section 19-2-1004, MCA, is amended to read:

"19-2-1004. Exemption from taxes and legal process. Except as provided in 19-2-907 and 19-2-909, the right of a person to any benefit or payment from the retirement systems and the money in the pension trust funds is not:

- (1) subject to execution, garnishment, attachment, or any other process;
- (2) subject to state, county, or municipal taxes except for:
 - (a) a benefit or annuity received in excess of ~~\$3,600~~ or adjusted by an amount determined pursuant to ~~15-30-111(2)(c)(ii)~~ [section 15]; or
 - (b) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as provided in 19-3-315, 19-5-402, 19-6-402, 19-7-403, 19-8-502, 19-9-710, or 19-13-601; or
- (3) assignable except as specifically provided in this chapter."

Section 38. Section 19-17-407, MCA, is amended to read:

"19-17-407. Exemption from taxation. The ~~first \$3,600~~ or the amount determined pursuant to

~~15-30-111(2)(e)(ii)~~ [section 15] of benefits received under this part is exempt from state, county, and municipal taxation."

Section 39. Section 19-18-612, MCA, is amended to read:

"19-18-612. Protection of benefits from legal process and taxation -- nonassignability. (1) Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, payments made or to be made under this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not assign the right, and the association and trustees may not recognize any assignment or pay over any sum assigned.

(2) The ~~first \$3,600 or the~~ amount determined pursuant to ~~15-30-111(2)(e)(ii)~~ [section 15] of benefits received under this part is exempt from state, county, and municipal taxation."

Section 40. Section 19-19-504, MCA, is amended to read:

"19-19-504. Protection of benefits from legal process and taxation. (1) Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, the benefits provided for in this part are not subject to execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are unassignable except as specifically provided in 19-19-505.

(2) The ~~first \$3,600 or the~~ amount determined pursuant to ~~15-30-111(2)(e)(ii)~~ [section 15] of benefits received under this part is exempt from state, county, and municipal taxation."

Section 41. Section 19-20-706, MCA, is amended to read:

"19-20-706. Exemption from taxation and legal process. Except as provided in 19-20-305 and 19-20-306, the retirement allowances or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

(1) exempted from any state, county, or municipal tax of the state of Montana except for:

(a) a retirement allowance received in excess of ~~\$3,600 or adjusted by~~ an amount determined pursuant to ~~15-30-111(2)(e)(ii)~~ [section 15]; or

(b) a withdrawal paid under 19-20-603 of a member's contributions picked up by an employer after June

30, 1985, as provided in 19-20-602;

(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

(3) unassignable except as specifically provided in this chapter."

Section 42. Section 19-21-212, MCA, is amended to read:

"19-21-212. Exemption from taxation, legal process, and assessments. Except for execution or withholding for the payment of child support or for the payment of spousal support for a spouse or former spouse who is the custodial parent of the child, contracts, benefits, and contributions under the optional retirement program and the earnings on the contributions are:

(1) except for a retirement allowance received in excess of ~~\$3,600~~ or adjusted by an amount determined pursuant to ~~15-30-111(2)(c)(ii)~~ [section 15], exempt from any state, county, or municipal tax;

(2) not subject to execution, garnishment, attachment, or other process;

(3) not covered or assessable by an insurance guaranty association; and

(4) unassignable except as specifically provided in the contracts."

Section 43. Section 33-27-101, MCA, is amended to read:

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

Section 44. Section 33-27-102, MCA, is amended to read:

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

Section 45. Section 33-27-103, MCA, is amended to read:

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

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

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

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

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

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

Section 46. Section 37-4-104, MCA, is amended to read:

"37-4-104. Twelve-month period for disposition of deceased or disabled dentist's practice by personal representative -- restrictions. (1) For the purpose of selling or otherwise disposing of a deceased or a disabled licensee's dental practice and for a period not to exceed 12 months, a person who is not licensed to practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist may contract with a dentist to manage the dental practice at an establishment where dental operations, oral surgery, or dental services are provided.

(2) A personal representative may not:

(a) govern the clinical sufficiency, suitability, reliability, or efficacy of a particular service, product, process, or activity as it relates to the delivery of dental care;

(b) preclude or otherwise restrict a dentist's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care;

(c) allow any person other than a dentist to supervise and control the selection, compensation, terms, conditions, obligations, or privileges of employment or retention of clinical personnel in the dental practice;

(d) determine or limit a fee charged by the dentist or limit the methods of payment accepted by a dentist or the dentist's practice; or

(e) limit or define the scope of services offered by the dentist.

(3) For the purposes of this section:

(a) "clinical" means having a significant relationship, whether real or potential, direct or indirect, to the actual rendering or outcome of dental care, the practice of dentistry, or the quality of dental care being rendered

to a patient;

(b) "disabled" ~~has the same meaning as provided for the term "permanently and totally disabled" in 15-30-114~~ 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; and

(c) "personal representative" of the estate of a deceased dentist has the same meaning as provided for the term in 72-1-103.

(4) The 12-month period provided for in subsection (1) begins when:

(a) the personal representative of the estate of a deceased dentist files a verified copy of the death certificate of the deceased with the department; or

(b) the personal representative of the disabled dentist files a verified copy of a document signed by a licensed physician that attests to the dentist's disability."

Section 47. Section 53-2-211, MCA, is amended to read:

"53-2-211. Department to share eligibility data. (1) The department shall make available to the unemployment compensation program of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for medicaid, FAIM financial assistance, as defined in 53-2-902, and food stamps. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation program of the state and for no other purpose.

(2) The department shall make available to the unemployment compensation and the workers' compensation programs of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for low-income energy assistance, and weatherization. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state and for no other purpose.

(3) (a) Subject to federal restrictions, the department may request information from the department of labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers' compensation, or occupational benefits, the department of labor and industry may request information from the

department of revenue pertaining to income as provided in 15-30-303(8)(~~e~~)(b).

(b) The information must be used by the department for the purpose of determining fraud, abuse, or eligibility for benefits.

(4) The department may, to the extent permitted by federal law, make available to an agency of the state or to any other organization information contained in its files and records pertaining to the eligibility of persons for medicaid, FAIM financial assistance, as defined in 53-2-902, food stamps, low-income energy assistance, weatherization, or other public assistance. The information may be disclosed only for purposes directly connected with the administration of a program or purpose of the agency and may not be used by the agency for any other purpose."

Section 48. Section 67-11-303, MCA, is amended to read:

"67-11-303. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue its bonds for those purposes, including refunding bonds, in the form and upon the terms that it may determine, payable out of any revenue of the authority, including revenue derived from:

- (a) an airport or air navigation facility or facilities;
- (b) taxes levied pursuant to 67-11-301 or other law for airport purposes;
- (c) grants or contributions from the federal government; or
- (d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any ~~then-outstanding~~ then-outstanding bonds for which revenue from the same source or sources ~~are~~ is pledged exceeds the amount of revenue to be received in that year as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, rentals, and taxes, if any are pledged, sufficient to make the revenue from the pledged source in the year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this section, any bonds issued pursuant to this chapter by an authority may be payable as to principal and interest solely from revenue of the authority and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

(4) Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of~~

~~15-30-111(2)(a).~~

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

(6) Subject to the conditions stated in this subsection, the governing body of any municipality having a population in excess of 10,000, with respect to bonds issued pursuant to this chapter by the municipality or by an authority in which the municipality is included, may by resolution covenant that in the event that at any time all revenue, including taxes, appropriated and collected for the bonds is insufficient to pay principal or interest then due, it will levy a general tax upon all of the taxable property in the municipality for the payment of the deficiency. The governing body may further covenant that at any time a deficiency is likely to occur within 1 year for the payment of principal and interest due on such bonds, it will levy a general tax upon all the taxable property in the municipality for the payment of the deficiency, and the taxes are not subject to any limitation of rate or amount applicable to other municipal taxes but are limited to a rate estimated to be sufficient to produce the amount of the deficiency. In the event that more than one municipality having a population in excess of 10,000 is included in an authority issuing bonds pursuant to this chapter, the municipalities may apportion the obligation to levy taxes for the payment of, or in anticipation of, a deficiency in the revenue appropriated for the bonds in a manner that the municipalities may determine. The resolution must state the principal amount and purpose of the bonds and the substance of the covenant respecting deficiencies. A resolution may not be effective until the question of its approval has been submitted to the qualified electors of the municipality at a special election called for that purpose by the governing body of the municipality and a majority of the electors voting on the question have voted in favor of the resolution. The special election must be held in conjunction with a regular or primary election. The notice and conduct of the election is governed, to the extent applicable, as provided for municipal general obligation bonds in Title 7, chapter 7, part 42, for an election called by cities and towns and as provided for county general obligation bonds in Title 7, chapter 7, part 22, for an election called by counties. If a majority of the electors voting on the issue vote against approval of the resolution, the municipality may not make the covenant or levy a tax for the payment of deficiencies pursuant to this section, but the municipality or authority may issue bonds under this chapter payable solely from the sources referred to in subsection (1)."

Section 49. Section 87-2-102, MCA, is amended to read:

"87-2-102. Resident defined. In determining a resident for the purpose of issuing resident fishing, hunting, and trapping licenses, the following provisions apply:

(1) (a) A member of the regular armed forces of the United States, a member's dependent, as defined in ~~45-30-113~~ subsection (1)(b), who resides in the member's Montana household, or a member of the armed forces of a foreign government attached to the regular armed forces of the United States is considered a resident for the purposes of this chapter if:

~~(a)~~(i) the member was a resident of Montana under the provisions of subsection (4) at the time the member entered the armed forces and continues to meet residency criteria of subsections (4)(b) through (4)(e);
or

~~(b)~~(ii) the member is currently stationed in and assigned to active duty in Montana, has resided in Montana for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety course approved by the department, as provided in 87-2-105, or a certificate verifying the successful completion of a hunter safety course in any state or province. The 30-day residence requirement is waived in time of war. Reassignment to another state, United States territory, or country terminates Montana residency for purposes of this section, except that a reassigned member continues to qualify as a resident if the member's spouse and dependents continue to physically reside in Montana and the member continues to meet the residency criteria of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular armed forces as a "home of record" or "home of residence" in that member's armed forces records does not determine the member's residency for purposes of this section.

(b) The term "dependent" means any of the following individuals over half of whose support was received from the member:

(i) a son or daughter of the member or a descendant of either;

(ii) a stepson or stepdaughter of the member;

(iii) a brother, sister, stepbrother, or stepsister of the member;

(iv) the father or mother of the member or an ancestor of either;

(v) a stepfather or stepmother of the member;

(vi) a son or daughter of a brother or sister of the member;

(vii) a brother or sister of the father or mother of the member;

(viii) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the member;

(ix) an individual who, for the year, has as the individual's principal place of abode the home of the

member and is a member of the member's household; or

(x) an individual who:

(A) is a descendant of a brother or sister of the father or mother of the member;

(B) for the year, received institutional care required by reason of a physical or mental disability; and

(C) before receiving institutional care, was a member of the same household as the member.

(2) A person who has physically resided in Montana as the person's principal or primary home or place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before making application for any license is eligible to receive hunting, fishing, and trapping licenses. As used in this section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary home or place of abode.

(3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of this section by physically residing in Montana as the person's principal or primary home or place of abode for not less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident hunting, fishing, or trapping license.

(4) In addition to the requirements of subsection (2) or (3), a person shall meet all of the following criteria to be considered a resident for purposes of this section:

(a) ~~the~~ The person's principal or primary home or place of abode is in Montana;_

(b) ~~the~~ The person files Montana state income tax returns as a resident if required to file;_

(c) ~~the~~ The person licenses and titles in Montana as required by law any vehicles that the person owns and operates in Montana;_

(d) ~~the~~ The person does not possess or apply for any resident hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or trapping privileges in another state or country; and_

(e) ~~if~~ If the person registers to vote, the person registers only in Montana.

(5) A student who is enrolled full-time in a ~~post-secondary~~ postsecondary educational institution out of state and who would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2) or (3) is considered a resident for purposes of this section.

(6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within Montana, considered a resident for the purpose of making application for a fishing license as long as the person remains an enrollee in a Montana camp.

(7) A person who does not reside in Montana but who meets all of the following requirements is a

resident for purposes of obtaining hunting and fishing licenses:

(a) The person's principal employment is within this state and the income from this employment is the principal source of the applicant's family income.

(b) The person is required to pay and has paid Montana income tax in a timely manner and proper amount.

(c) The person has been employed within this state on a full-time basis for at least 12 consecutive months immediately preceding each application.

(d) The person's state of residency has laws substantially similar to this subsection (7).

(8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents, legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this section. The minor is considered a resident for purposes of this section regardless of whether the minor resides primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be required to show proof of the parental, guardianship, or custodial relationship to the minor.

(9) A person is not considered a resident for the purposes of this section if the person:

(a) claims residence in any other state or country for any purpose; or

(b) is an absentee property owner paying property tax on property in Montana.

(10) A license agent is not considered a representative of the state for the purpose of determining a license applicant's residence status."

Section 50. Section 87-2-105, MCA, is amended to read:

"87-2-105. (Temporary) Safety instruction required. (1) A hunting license may not be issued to a resident person who is under the age of 18 years of age unless the person authorized to issue the license receives proof of competency as provided by this section.

(2) A hunting license may not be issued to a nonresident person who is under the age of 18 years of age unless the person authorized to issue the license receives proof of competency, as provided in this section, or a certificate verifying that the nonresident has successfully completed a course in the safe handling of firearms in any state or province.

(3) A hunting license may not be issued to a member of the regular armed forces of the United States or to a member of the armed forces of a foreign government attached to the armed forces of the United States who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to a member's dependents, as defined in ~~45-30-113~~ 87-2-102, who reside in the member's Montana household;

unless the person authorized to issue the license receives proof of competency, as provided in this section, or a certificate verifying that the member or dependent has successfully completed a hunter safety course in any state or province.

(4) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or receives proof of completion of a bowhunter education course from the national bowhunter education foundation. Neither the department nor the license agent is required to provide records of past archery license purchases. As part of the department's bow and arrow licensing procedures, the department shall notify the public regarding bowhunter education requirements.

(5) The department shall provide for a course of instruction in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of firearms. The department may designate as an instructor any person it finds to be competent to give instructions in the handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of competency in the safe handling of firearms to a person successfully completing the course.

(6) The department shall provide for a course of instruction from the national bowhunter education foundation and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give the national bowhunter education foundation instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion from the national bowhunter education foundation to any person successfully completing the course.

(7) The department may adopt rules regarding how a person authorized to issue a license determines proof of competency.

87-2-105. (Effective July 1, 2001) Safety instruction required. (1) A hunting license may not be issued to a resident person who is under 18 years of age unless the person authorized to issue the license receives a certificate of completion from the Montana youth hunter safety and education course established in subsection (5).

(2) A hunting license may not be issued to a nonresident person who is under 18 years of age unless the person authorized to issue the license receives a certificate of completion from the Montana youth hunter safety and education course established in subsection (5) or a certificate verifying that the nonresident has successfully completed a hunter safety course in any state or province.

(3) A hunting license may not be issued to a member of the regular armed forces of the United States

or to a member of the armed forces of a foreign government attached to the armed forces of the United States who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to a member's dependents, as defined in ~~15-30-113~~ 87-2-102, who reside in the member's Montana household; unless the person authorized to issue the license receives proof of completion of a hunter safety course approved by the department or a certificate verifying that the member or dependent has successfully completed a hunter safety course in any state or province.

(4) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or receives proof of completion of a bowhunter education course from the national bowhunter education foundation. Neither the department nor the license agent is required to provide records of past archery license purchases. As part of the department's bow and arrow licensing procedures, the department shall notify the public regarding bowhunter education requirements.

(5) The department shall provide for a youth hunter safety and education course that includes instruction in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of hunter safety and education. The department may designate as an instructor any person it finds to be competent to give instructions to youth in hunter safety and education, including the handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from Montana's youth hunter safety and education course to a person successfully completing the course.

(6) The department shall provide for a course of instruction from the national bowhunter education foundation and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give the national bowhunter education foundation instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion from the national bowhunter education foundation to any person successfully completing the course.

(7) The department may develop an adult hunter education course.

(8) The department may adopt rules regarding how a person authorized to issue a license determines proof of completion or achievement."

NEW SECTION. Section 51. Transition. (1) As used in this section, the following definitions apply:

(a) "Transition item" means any difference arising prior to January 1, 2002, from a difference in federal

and Montana income tax laws in:

- (i) the amount, character, realization, or recognition of income or an item of income, gain, or credit;
- (ii) the amount, character, allowance, or disallowance of loss or an item of loss, deduction, or expense;

or

(iii) the basis of an asset or liability that will not after December 31, 2001, increase or decrease a taxpayer's federal taxable income.

(b) "Transition adjustment" means the net sum of all positive and negative adjustments to a taxpayer's Montana taxable income related to transition items provided in subsection (3).

(2) No adjustment to Montana taxable income may be made to take transition items into account except that a taxpayer may elect to make a transition adjustment to Montana taxable income to take a transition item into account as provided in this section.

(3) On or before the due date, including extensions, of a return for the tax year ending after December 31, 2001, and before January 1, 2003, a taxpayer may on forms that the department prescribes file an election to make a transition adjustment to Montana taxable income. The election must specify and account for all transition items, including but not limited to the following:

(a) If a taxpayer has a disallowed passive activity loss within the meaning of section 469 of the Internal Revenue Code (26 U.S.C. 469) that is carried over to a tax year ending after December 31, 2001, and before January 1, 2003, and if the amount of the federal carryover is not the same amount as the Montana carryover, the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is smaller than the federal carryover and the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover is larger than the federal carryover.

(b) If a taxpayer has excess long-term or short-term net capital loss described in section 1212(b)(1) of the Internal Revenue Code (26 U.S.C. 1212(b)(1)) that is carried over to a tax year ending after December 31, 2001, and before January 1, 2003, and if the amount of the federal carryover is not the same amount as the Montana carryover, the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana carryover is smaller than the federal carryover and the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana carryover is larger than the federal carryover.

(c) If a taxpayer or a taxpayer and the taxpayer's spouse made an election on the taxpayer's federal return to defer income ratably for 4 years because of a conversion from an IRA, other than a Roth IRA, to a Roth IRA pursuant to section 408A(d)(3) of the Internal Revenue Code (26 U.S.C. 408A(d)(3)) but included all the income in the taxpayer's Montana income tax return, the sum of the balance of the federal deferred amount as

of January 1, 2002, is a negative adjustment to the taxpayer's Montana taxable income.

(d) Notwithstanding the deduction that a taxpayer would be allowed for net operating loss carryovers and net operating loss carrybacks under section 172(a) of the Internal Revenue Code (26 U.S.C. 172(a)) in a tax year ending after December 31, 2001, and before January 1, 2003, if the taxpayer's federal net operating loss is different from the taxpayer's Montana net operating loss as of December 31, 2001, no adjustment to the taxpayer's Montana taxable income may be made.

(e) If a taxpayer has an asset with a different adjusted basis for federal and Montana income tax purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c), the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is higher than the federal adjusted basis and the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

(f) If a taxpayer has a liability with a different adjusted basis for federal and Montana income tax purposes after taking into account the effect of the adjustments provided in subsections (3)(a), (3)(b), and (3)(c), the difference is a negative adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is higher than the federal adjusted basis and the difference is a positive adjustment to the taxpayer's Montana taxable income if the Montana adjusted basis is lower than the federal adjusted basis.

(g) If a taxpayer received a refund of federal income tax the deduction of which in a tax year beginning after December 31, 2000, resulted in a reduction of Montana income tax liability, the refund is, to the extent the deduction resulted in a reduction of Montana income tax liability, a positive adjustment to the taxpayer's Montana taxable income.

(4) The department is authorized to adopt rules and require facts and information to be reported that it considers necessary to administer the transition adjustment provided in this section.

NEW SECTION. Section 52. Repealer. Sections 15-24-1401, 15-24-1402, 15-30-107, 15-30-110, 15-30-111, 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-116, 15-30-117, 15-30-121, 15-30-122, 15-30-123, 15-30-125, 15-30-126, 15-30-127, 15-30-129, 15-30-131, 15-30-136, 15-30-156, 15-30-157, 15-30-161, 15-30-162, 15-30-163, 15-30-164, 15-30-180, 15-31-135, 15-31-136, 15-31-137, 15-32-107, 15-32-108, 15-32-109, 15-32-115, 15-32-201, 15-32-202, 15-32-203, 15-32-301, 15-32-302, 15-32-303, 15-32-401, 15-32-402, 15-32-403, 15-32-404, 15-32-405, 15-32-406, 15-32-407, 15-32-601, 15-32-602, 15-32-603, 15-32-604, 15-32-609, 15-32-610, 15-32-611, and 69-3-713, MCA, and section 9, chapter 537, Laws of 1997, are repealed.

NEW SECTION. **Section 53. Codification instruction.** [Sections 15, 21, and 22] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 15, 21, and 22].

NEW SECTION. **Section 54. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 55. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 56. Applicability.** [This act] applies to tax years beginning after December 31, 2001.

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