

May 17, 2007

The Honorable Brad Johnson
Secretary of State
State Capitol
Helena, MT 59620

Dear Secretary Johnson:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill (SB) 514, **“AN ACT REVISING CERTAIN PROVISIONS RELATED TO THE ADMINISTRATION OF INDIVIDUAL INCOME TAXES; REQUIRING THE DEPARTMENT OF REVENUE TO PROVIDE ONE NOTICE OF A TAX DEFICIENCY TO MARRIED TAXPAYERS FILING SEPARATELY ON THE SAME FORM; REQUIRING THE DEPARTMENT OF REVENUE TO REPORT TO THE INTERNAL REVENUE SERVICE THE NET AMOUNT OF STATE TAXES REFUNDED TO MARRIED TAXPAYERS FILING SEPARATELY ON THE SAME FORM; REVISING THE UNIFORM PENALTY ASSESSMENTS ON DELINQUENT INDIVIDUAL INCOME TAXES AND CERTAIN OTHER TAXES; PROVIDING THAT INTEREST ASSESSMENTS ON DELINQUENT INCOME TAXES ARE BASED ONLY ON THE FEDERAL UNDERPAYMENT RATE ASSESSED AGAINST INDIVIDUAL INCOME TAXPAYERS; CLARIFYING THE TAXATION OF FEDERAL INCOME TAX REFUNDS; CLARIFYING THAT UNDERPAYMENT INTEREST ON ESTIMATED INDIVIDUAL INCOME TAXES IS NOT REQUIRED UNDER CERTAIN CONDITIONS; AMENDING SECTIONS 15-1-216, 15-30-111, 15-30-241, 15-39-105, AND 15-39-107, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.”**

SB 514 amends Montana statutes governing the administration of individual income taxes, primarily providing lower penalties to taxpayers who file late tax returns. Those advocating for the bill cast it as a measure that would bring Montana’s income tax laws in conformity with federal income tax laws.

My primary reason for vetoing SB 514 is its cost. The fiscal note for the bill estimates that SB 514 would cost the state general fund in excess of \$5 million in fiscal years 2008 and 2009 and in excess of \$8 million in the following biennium. This multi-million dollar impact on the state general fund is not part of the state budget passed by the Legislature meeting in special session. Because the bill would result in significant ongoing revenue reduction to the State without providing a replacement revenue source, it would be fiscally irresponsible for me to do anything but veto the bill.

Additionally, I comment on the substance of the bill. Although it was cast as a measure to conform Montana’s late filing income tax penalties to federal law, SB 514 “cherry picks” the provisions of federal law it mirrors to the disadvantage of the state treasury and taxpayers who pay their state income taxes on time. The late filing of income taxes costs the state, and therefore other taxpayers, through the higher administrative actions necessary to ensure proper collections. While SB 514 would require the state to impose a lower monthly penalty rate on late tax filers, equivalent to the federal rate, it fails to recognize and adopt other penalties imposed by the federal government against late income tax filers, which prevent a net loss to the federal treasury. Therefore, SB 514 does not mirror late filing provisions of federal tax law in their entirety, a feature that would be subsidized by those who pay their state income taxes on time.

With the \$8 million ongoing impact on the state general fund, I ask you to sustain my veto of SB

514.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division