SENATE BILL 286

Introduced by Tveit, et al.

2/05	Introduced
2/06	Referred to Taxation
2/06	First Reading
2/18	Hearing
2/19	Tabled in Committee

Senate BILL NO. 286

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA CAPITAL COMPANY ACT TO INCLUDE AS QUALIFIED COMPANIES CERTAIN COMPANIES CAPITALIZED AT $50,000; AMENDING SECTIONS 90-8-202 AND 90-8-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 90-8-202, MCA, is amended to read:

"**90-8-202. Designation of qualified Montana capital companies -- tax credit.** (1) The board shall designate as qualified Montana capital companies those certified companies that:

(a) have been privately capitalized at a minimum level of $200,000; or

(b) are organized and domiciled in a county with a population of fewer than 15,000 or in an incorporated municipality with a population of fewer than 10,000, according to the last completed federal census, and are privately capitalized at a minimum level of $50,000.

(2) A certified company seeking designation as a qualified Montana capital company must make written application to the board on forms provided by the board. The

application must contain the information required by 90-8-204 and such other information as the board requires.

~~(2)~~(3) (a) The total amount of tax credits authorized for a single qualified company may not exceed $1,500,000. In the event the capitalization of the company is later increased, the company may apply for authorization of additional tax credits within the foregoing limitation.

(b) The total credits authorized for all companies may not exceed a total of $1 million prior to June 30, 1985. The total credits authorized for all companies between July 1, 1985, and June 30, 1987, may not exceed $1 million plus any portion of the $1 million available for authorization before June 30, 1985, that is allocated to qualified companies. The total credits authorized for all companies between July 1, 1987, and June 30, 1989, may not exceed $3 million plus any portion of the credits available for authorization before June 30, 1987, that is allocated to qualified companies. The total credits authorized for all companies between July 1, 1989, and June 30, 1991, may not exceed $3 million plus any portion of the credits available for authorization before June 30, 1989, that is allocated to qualified companies.

~~(3)~~(4) The credits shall be allocated to qualified companies in the order that completed applications for designation as qualified capital companies are received by the board, and the board shall certify to each such company

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its appropriate allocation.

~~(4)~~ (5) Investors in a qualified Montana capital company are entitled to the tax credits provided for in subsection ~~(5)~~ (6). Funds invested in a certified company prior to designation as a qualified Montana capital company may, at the discretion of the investor, be placed in an escrow account in a Montana financial institution pending designation of the company as a qualified Montana capital company.

~~(5)~~ (6) Subject to the provisions of subsections ~~(2)~~ (3) and ~~(8)~~ (9), an individual, small business corporation, partnership, trust, decedent's estate, or corporate taxpayer that makes a capital investment in a qualified Montana capital company is entitled to a tax credit equal to 50% of the investment, up to a maximum credit of $150,000 per taxpayer. The credit may be taken against the tax liability imposed on the investor pursuant to Title 15, chapter 30, 31, or 35. The credit for investments by a small business corporation electing to be taxed under 15-31-202 or a partnership may be claimed by the small business corporation shareholders or the partners.

~~(6)~~ (7) The tax credit allowed under subsection ~~(5)~~ (6) is to be credited against the taxpayer's income tax liability or coal severance tax liability for the taxable year in which the investment in a qualified Montana capital

company is made. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount of the credit which exceeds the tax liability may be carried back or carried forward in the following manner:

(a) If the sum of the amount of credit for the current taxable year plus the amount of credit, if any, carried forward from a previous taxable year exceeds the taxpayer's tax liability for the current taxable year, the excess must be carried back as a credit to the 3 preceding taxable years and, if the full credit remains unused, carried forward as a credit to the 15 succeeding taxable years.

(b) The amount of unused credit must be used to offset the entire tax liability of each of the 18 taxable years, beginning with the earliest and commencing to the next succeeding year until the credit is exhausted.

~~(7)~~ (8) The tax credit provided for in this section is available only to those taxpayers who invest in a qualified Montana capital company within 4 years of July 1, 1987.

~~(8)~~ (9) An individual, small business corporation, partnership, or corporate taxpayer who obtains the tax credit allowed under subsection ~~(5)~~ (6) may not obtain credits in excess of the $150,000 limit contained in subsection ~~(5)~~ (6) by making investments as more than one entity. A partner or shareholder in a small business corporation may not obtain more than $150,000 in credits as an individual and as the partnership or small business corporation. A corporate taxpayer that obtains the maximum $150,000 credit may not obtain additional credits through investments by wholly owned subsidiaries or affiliates."

Section 2. Section 90-8-204, MCA, is amended to read:

"**90-8-204. Application requirements.** A company applying to become either a certified or qualified Montana capital company shall include in its application evidence that it has disclosed or will disclose to all investors the following:

(1) the condition that a tax credit is not available for investment in a company until the company has been designated a qualified Montana capital company and the investor has received a certificate approving the credit from the board;

(2) the condition that a tax credit will not be made available until the company raises at least $200,000 in capital <u>or, in the case of a company designated under the provisions of 90-8-202(1)(b), at least $50,000 in capital</u>, and has been designated a qualified capital company, and the limits on tax credits that may be authorized; and

(3) the fact that the state of Montana is not liable for damages in accordance with 90-8-205."

<u>NEW SECTION.</u> **Section 3.** Effective date. [This act] is effective on passage and approval.

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