

HOUSE BILL NO. 237

INTRODUCED BY McBRIDE, B. BROWN

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

IN THE HOUSE

| | |
|-------------------|---|
| January 15, 1981 | Introduced and referred to Committee on Taxation. |
| January 17, 1981 | Fiscal note requested. |
| January 22, 1981 | Fiscal note returned. |
| February 5, 1981 | Committee recommend bill do pass as amended. Report adopted. |
| February 6, 1981 | Bill printed and placed on members' desks. |
| February 7, 1981 | Second reading, do pass as amended. |
| February 9, 1981 | Correctly engrossed. |
| February 11, 1981 | Third reading, passed. Ayes, 77; Noes, 20. Transmitted to Senate. |

IN THE SENATE

| | |
|-------------------|--|
| February 12, 1981 | Introduced and referred to Committee on Taxation. |
| March 14, 1981 | Committee recommend bill be concurred in as amended. Report adopted. |
| March 17, 1981 | Second reading, concurred in. |
| March 19, 1981 | Third reading, concurred in as amended. Ayes, 45; Noes, 3. |

IN THE HOUSE

| | |
|----------------|--|
| March 20, 1981 | Returned from Senate with amendments. |
| April 7, 1981 | Second reading, pass consideration. |
| April 8, 1981 | Second reading, amendments concurred in. |
| April 9, 1981 | Third reading, amendments concurred in. Ayes, 88; Noes, 12. Sent to enrolling. Reported correctly enrolled. |

1 HOUSE BILL NO. 237
2 INTRODUCED BY McBride Bob Brown

3 BY REQUEST OF THE
4 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A CREDIT
7 AGAINST INDIVIDUAL INCOME TAX LIABILITY UNDER TITLE 15,
8 CHAPTER 30, MCA, FOR CAPITAL EXPENDITURES FOR
9 ENERGY-CONSERVING PURPOSES; ELIMINATING THE DEDUCTION FROM
10 INDIVIDUAL INCOME TAX LIABILITY FOR SUCH EXPENDITURES;
11 PROVIDING AN APPLICABILITY DATE; AND AMENDING SECTIONS
12 15-30-121, 15-30-131, AND 15-32-103 THROUGH 15-32-106, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Credit for energy-conserving
16 expenditures. (1) Subject to the restrictions of subsections
17 (2) and (3), a resident individual taxpayer may take as a
18 credit against the taxpayer's tax liability under chapter 30
19 a portion of his expenditure for a capital investment in a
20 building for an energy conservation purpose, determined as
21 follows:

- 22 (a) in the case of an expenditure for a residential
23 building, the lesser of:
24 (i) \$150; or
25 (ii) 10% of the expenditure; and

1 (b) in the case of an expenditure for a building not
2 used as a residence, the lesser of:

- 3 (i) \$300; or
4 (ii) 10% of the expenditure.

5 (2) The credit or the sum of the credits under
6 subsection (1):

- 7 (a) may not exceed the taxpayer's tax liability; and
8 (b) is subject to the provisions of 15-32-104.

9 (3) There is no carryback or carry-forward of the
10 credit permitted under this section, and the credit must be
11 applied in the year the expenditure is incurred, as
12 determined by the taxpayer's accounting method.

13 NEW SECTION. Section 2. Credit for energy-conserving
14 investments. There is a credit against tax liability under
15 this chapter as provided in [section 1].

16 Section 3. Section 15-30-121, MCA, is amended to read:

17 "15-30-121. Deductions allowed in computing net
18 income. In computing net income, there are allowed as
19 deductions:

20 (1) the items referred to in sections 161 and 211 of
21 the Internal Revenue Code of 1954, or as sections 161 and
22 211 shall be labeled or amended, subject to the following
23 exceptions which are not deductible:

- 24 (a) items provided for in 15-30-123;
25 (b) state income tax paid;

1 (2) federal income tax paid within the taxable year;

2 (3) child and dependent care expenses determined in
3 accordance with the provisions of section 214 of the
4 Internal Revenue Code of 1954 that were in effect for the
5 taxable year that began January 1, 1974. However, the
6 limitation set forth in section 214(e)(4) of the Internal
7 Revenue Code of 1954 as that section was in effect for the
8 taxable year that began January 1, 1974, applies only to
9 payments made to a child of the taxpayer who is under 19
10 years of age at the close of the taxable year and to
11 payments made to an individual with respect to whom a
12 deduction is allowable under 15-30-112(5) to the taxpayer or
13 the taxpayer's spouse.

14 ~~(4) that portion of an energy-related investment~~
15 ~~allowed as a deduction under 15-32-103.~~

16 (5)(4) in the case of an individual, political
17 contributions determined in accordance with the provisions
18 of section 218(a) and (b) of the Internal Revenue Code that
19 were in effect for the taxable year ended December 31,
20 1978."

21 Section 4. Section 15-30-131, MCA, is amended to read:

22 "15-30-131. Nonresident and temporary resident
23 taxpayers -- adjusted gross income -- deductions. (1) In the
24 case of a taxpayer other than a resident of this state,
25 adjusted gross income includes the entire amount of adjusted

1 gross income from sources within this state but shall not
2 include income from annuities, interest on bank deposits,
3 interest on bonds, notes, or other interest-bearing
4 obligations, or dividends on stock of corporations except to
5 the extent to which the same shall be a part of income from
6 any business, trade, profession, or occupation carried on in
7 this state. Adjusted gross income from sources within and
8 without this state shall be allocated and apportioned under
9 rules prescribed by the department.

10 (2) In the case of a taxpayer other than a resident of
11 this state who is a resident of a state that imposes a tax
12 on the income of natural persons residing within that state,
13 the deductions allowed in computing net income are
14 restricted to those directly connected with the production
15 of Montana income.

16 (3) In the case of a taxpayer other than a resident of
17 this state who is a resident of a state that does not impose
18 a tax on the income of natural persons residing within that
19 state, the deductions allowed in computing net income are
20 restricted to the greater of those directly relating to the
21 production of Montana income or a prorated amount of those
22 allowed under 15-30-121. For the purposes of this
23 subsection, deductions allowed under 15-30-121 apply only to
24 earned income and must be prorated according to the ratio
25 that the taxpayer's Montana earned income bears to his

1 federal earned income.

2 (4) A temporary resident shall be allowed those
3 deductions and the credit under [section 1] allowed a
4 resident to the extent that such deductions or credit were
5 actually incurred or expended in the state of Montana during
6 the course of his residency.

7 (5) For the purposes of this section, "earned income"
8 shall be defined as the same term is defined in section 43
9 of the Internal Revenue Code, or as that section may
10 subsequently be amended."

11 Section 5. Section 15-32-103, MCA, is amended to read:

12 "15-32-103. Deduction for energy-conserving
13 investments. (1) In addition to all other deductions from
14 ~~adjusted--gross--individual--income--allowed--in--computing~~
15 ~~taxable--income--under--chapter--30--or--from~~ gross corporate
16 income allowed in computing net income under chapter 31,
17 part 1, a taxpayer may deduct a portion of his expenditure
18 for a capital investment in a building for an energy
19 conservation purpose, in accordance with the following
20 schedule:

| | |
|-----------------------------------|--------------------------------|
| 21 If the installation or | If the installation or |
| 22 investment is made in | investment is made in |
| 23 a residential building: | a building not used as |
| 24 | a residence: |
| 25 100% of first \$1,000 expended | 100% of first \$2,000 expended |

| | |
|--------------------------------|------------------------------|
| 1 50% of next \$1,000 expended | 50% of next \$2,000 expended |
| 2 20% of next \$1,000 expended | 20% of next \$2,000 expended |
| 3 10% of next \$1,000 expended | 10% of next \$2,000 expended |

4 (2) This tax treatment is subject to approval of the
5 department of an application as provided in 15-32-106 and
6 may not be claimed for so much of the expenditure and
7 capital investment as is financed by a state, federal, or
8 private grant for energy conservation."

9 Section 6. Section 15-32-104, MCA, is amended to read:

10 "15-32-104. Limitations on deduction and credit. Tax
11 treatment under 15-32-103 and [section 1] is limited to:

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

18 Section 7. Section 15-32-105, MCA, is amended to read:

19 "15-32-105. Application to new construction -- rules.

20 (1) It is the intent of the legislature that no deduction or
21 credit under this part be allowed for capital investment for
22 an energy conservation practice in the new construction of a
23 building if that capital investment would have been made
24 under established standards of new construction. The
25 department of revenue shall adopt rules to implement this

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1 legislative intent. Such rules shall be based on the best
 2 currently available methods of analysis, including those of
 3 the national bureau of standards, the department of housing
 4 and urban development, and other federal agencies and
 5 professional societies and materials developed by the
 6 department. Provisions shall be made for an annual updating
 7 of rules and standards as required.

8 (2) The department may adopt rules to define standard
 9 components of conventional buildings and to establish other
 10 necessary elements of the definition of passive solar system
 11 consistent with the intent of 15-32-102.*

12 Section 8. Section 15-32-106, MCA, is amended to read:

13 *15-32-106. Procedure for obtaining benefit of
 14 deduction or credit. The department of revenue shall provide
 15 forms on which a taxpayer may apply for tax treatment under
 16 15-32-103 or [section 1]. Application shall be made to the
 17 department of revenue. The department of revenue shall
 18 approve an application which demonstrably promotes energy
 19 conservation or utilizes a recognized nonfossil form of
 20 energy generation. The department of revenue may refer an
 21 application involving energy generation to the department of
 22 natural resources and conservation for its advice, and the
 23 department of natural resources and conservation shall
 24 respond within 60 days. The department of revenue may refer
 25 an application involving energy conservation to the

1 department of administration for its advice, and the
 2 department of administration shall respond within 60 days.
 3 The department of revenue may deny an application which it
 4 finds to be impractical or ineffective.*

5 Section 9. Codification instruction. (1) Section 1 is
 6 intended to be codified as an integral part of Title 15,
 7 chapter 32, part 1, and the provisions of Title 15, chapter
 8 32, part 1, apply to section 1.

9 (2) Section 2 is intended to be codified as an
 10 integral part of Title 15, chapter 30, part 1, and the
 11 provisions of Title 15, chapter 30, apply to section 2.

12 Section 10. Applicability. This act applies to tax
 13 years beginning after December 31, 1980.

-End-

STATE OF MONTANA

REQUEST NO. 140-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 81, there is hereby submitted a Fiscal Note for HOUSE BILL 237 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to provide a credit against individual income tax liability under Title 15, for capital expenditures for energy conservation purposes, eliminating the deduction from individual income tax liability for such expenditures.

ASSUMPTIONS

1. 1978 individual income data: returns claiming energy conservation deduction, 22,248; deduction amount - \$8,988,491; average deduction - \$404; fiscal impact - \$472,000; average tax reduction - \$21.
2. Energy conservation credit - 10%
3. 1978 data applies to tax years 1981 and 1982.
4. Revenues from tax year 1981 accrue in FY 1982 and tax year 1982 accrue in FY 1983.
5. The energy conservation credit does not result in an increase in the willingness of individuals to invest in energy conservation expenditures.
6. Fiscal note does not take into account any other proposed legislation.
7. Fiscal note only addresses Fiscal Impact of energy conservation deduction/credit on individual income tax revenues.

FISCAL IMPACT

FY 82

FY 83

Individual Income Tax

| | | |
|----------------------------|------------------|------------------|
| Forgone under current law | \$472,000 | \$472,000 |
| Forgone under proposed law | 890,000 | 890,000 |
| Estimated Increase Forgone | <u>\$418,000</u> | <u>\$418,000</u> |

FUND INFORMATION

General Fund

| | | |
|----------------------------|------------------|------------------|
| Forgone under current law | \$302,080 | \$302,080 |
| Forgone under proposed law | 569,600 | 569,600 |
| Estimated Increase Forgone | <u>\$267,520</u> | <u>\$267,520</u> |

Long range building Program

Sinking Fund

| | | |
|----------------------------|------------------|------------------|
| Forgone under current law | \$ 51,920 | \$ 51,920 |
| Forgone under proposed law | 97,900 | 97,900 |
| Estimated Increase Forgone | <u>\$ 45,980</u> | <u>\$ 45,980</u> |

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 140-81

FISCAL NOTE

Form BD-15

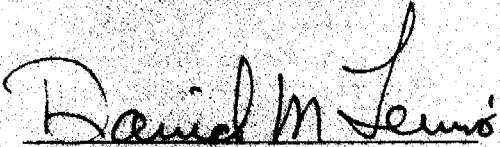
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FISCAL IMPACT

| | FY 82 | FY 83 |
|----------------------------|----------------|----------------|
| School Equalization Fund | | |
| Forgone under current law | \$118,000 | \$118,000 |
| Forgone under proposed law | <u>222,500</u> | <u>222,500</u> |
| Estimated Increase Forgone | \$104,500 | \$104,500 |

Prepared by the Department of Revenue



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-22-81

Approved by Committee
on Taxation

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20 building for an energy conservation purpose, determined as
21 follows:

22 (a) in the case of an expenditure for a residential
23 building, the lesser of:

24 (i) \$150; or

25 (ii) ~~10%~~ 5% of the expenditure; and

1 (b) in the case of an expenditure for a building not
2 used as a residence, the lesser of:

3 (i) \$300; or

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5 (2) The credit or the sum of the credits under
6 subsection (1):

7 (a) may not exceed the taxpayer's tax liability; and

8 (b) is subject to the provisions of 15-32-104.

9 (3) There is no carryback or carry-forward of the
10 credit permitted under this section, and the credit must be
11 applied in the year the expenditure is incurred, as
12 determined by the taxpayer's accounting method.

13 NEW SECTION. Section 2. Credit for energy-conserving
14 investments. There is a credit against tax liability under
15 this chapter as provided in [section 1].

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18 income. In computing net income, there are allowed as
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22 211 shall be labeled or amended, subject to the following
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3 accordance with the provisions of section 214 of the
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5 taxable year that began January 1, 1974. However, the
6 limitation set forth in section 214(e)(4) of the Internal
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9 payments made to a child of the taxpayer who is under 19
10 years of age at the close of the taxable year and to
11 payments made to an individual with respect to whom a
12 deduction is allowable under 15-30-112(5) to the taxpayer or
13 the taxpayer's spouse.

14 ~~(4)--that--portion--of--an--energy-related--investment~~
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17 contributions determined in accordance with the provisions
18 of section 218(a) and (b) of the Internal Revenue Code that
19 were in effect for the taxable year ended December 31,
20 1978."

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3 interest on bonds, notes, or other interest-bearing
4 obligations, or dividends on stock of corporations except to
5 the extent to which the same shall be a part of income from
6 any business, trade, profession, or occupation carried on in
7 this state. Adjusted gross income from sources within and
8 without this state shall be allocated and apportioned under
9 rules prescribed by the department.

10 (2) In the case of a taxpayer other than a resident of
11 this state who is a resident of a state that imposes a tax
12 on the income of natural persons residing within that state,
13 the deductions allowed in computing net income are
14 restricted to those directly connected with the production
15 of Montana income.

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3 deductions and the credit under [section 1] allowed a
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5 actually incurred or expended in the state of Montana during
6 the course of his residency.

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8 shall be defined as the same term is defined in section 43
9 of the Internal Revenue Code, or as that section may
10 subsequently be amended."

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16 income allowed in computing net income under chapter 31,
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19 conservation purpose, in accordance with the following
20 schedule:

| | | |
|----|--------------------------------|--------------------------------|
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| 23 | a residential building; | a building not used as |
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| 25 | 100% of first \$1,000 expended | 100% of first \$2,000 expended |

| | | |
|---|------------------------------|------------------------------|
| 1 | 50% of next \$1,000 expended | 50% of next \$2,000 expended |
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4 (2) This tax treatment is subject to approval of the
5 department of an application as provided in 15-32-106 and
6 may not be claimed for so much of the expenditure and
7 capital investment as is financed by a state, federal, or
8 private grant for energy conservation."

9 Section 6. Section 15-32-104, MCA, is amended to read:

10 "15-32-104. Limitations on deduction and credit. Tax
11 treatment under 15-32-103 and [section 1] is limited to:

- 12 (1) capital investments made after January 1, 1975;
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14 provision of gas or electricity derived from fossil fuel
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17 any one person or firm."

18 Section 7. Section 15-32-105, MCA, is amended to read:

19 "15-32-105. Application to new construction -- rules.

20 (1) It is the intent of the legislature that no deduction or
21 credit under this part be allowed for capital investment for
22 an energy conservation practice in the new construction of a
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24 under established standards of new construction. The
25 department of revenue shall adopt rules to implement this

1 legislative intent. Such rules shall be based on the best
 2 currently available methods of analysis, including those of
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 7 of rules and standards as required.

8 (2) The department may adopt rules to define standard
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 10 necessary elements of the definition of passive solar system
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 21 application involving energy generation to the department of
 22 natural resources and conservation for its advice, and the
 23 department of natural resources and conservation shall
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1 department of administration for its advice, and the
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 3 The department of revenue may deny an application which it
 4 finds to be impractical or ineffective."

5 Section 9. Codification instruction. (1) Section 1 is
 6 intended to be codified as an integral part of Title 15,
 7 chapter 32, part 1, and the provisions of Title 15, chapter
 8 32, part 1, apply to section 1.

9 (2) Section 2 is intended to be codified as an
 10 integral part of Title 15, chapter 30, part 1, and the
 11 provisions of Title 15, chapter 30, apply to section 2.

12 Section 10. Applicability. This act applies to tax
 13 years beginning after December 31, 1980.

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 8 without this state shall be allocated and apportioned under
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 17 this state who is a resident of a state that does not impose
 18 a tax on the income of natural persons residing within that
 19 state, the deductions allowed in computing net income are
 20 restricted to the greater of those directly relating to the
 21 production of Montana income or a prorated amount of those
 22 allowed under 15-30-121. For the purposes of this
 23 subsection, deductions allowed under 15-30-121 apply only to
 24 earned income and must be prorated according to the ratio
 25 that the taxpayer's Montana earned income bears to his

1 federal earned income.

2 (4) A temporary resident shall be allowed those
3 deductions and the credit under [section 1] allowed a
4 resident to the extent that such deductions or credit were
5 actually incurred or expended in the state of Montana during
6 the course of his residency.

7 (5) For the purposes of this section, "earned income"
8 shall be defined as the same term is defined in section 43
9 of the Internal Revenue Code, or as that section may
10 subsequently be amended."

11 Section 5. Section 15-32-103, MCA, is amended to read:

12 "15-32-103. Deduction for energy-conserving
13 investments. (1) In addition to all other deductions from
14 ~~adjusted--gross--individual--income--allowed--in--computing~~
15 ~~taxable--income--under--chapter--30--or--from~~ gross corporate
16 income allowed in computing net income under chapter 31,
17 part 1, a taxpayer may deduct a portion of his expenditure
18 for a capital investment in a building for an energy
19 conservation purpose, in accordance with the following
20 schedule:

| | | |
|----|--------------------------------|--------------------------------|
| 21 | If the installation or | If the installation or |
| 22 | investment is made in | investment is made in |
| 23 | a residential building: | a building not used as |
| 24 | | a residence: |
| 25 | 100% of first \$1,000 expended | 100% of first \$2,000 expended |

| | | |
|---|------------------------------|------------------------------|
| 1 | 50% of next \$1,000 expended | 50% of next \$2,000 expended |
| 2 | 20% of next \$1,000 expended | 20% of next \$2,000 expended |
| 3 | 10% of next \$1,000 expended | 10% of next \$2,000 expended |

4 (2) This tax treatment is subject to approval of the
5 department of an application as provided in 15-32-106 and
6 may not be claimed for so much of the expenditure and
7 capital investment as is financed by a state, federal, or
8 private grant for energy conservation."

9 Section 6. Section 15-32-104, MCA, is amended to read:

10 "15-32-104. Limitations on deduction and credit. Tax
11 treatment under 15-32-103 and [section 1] is limited to:

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

18 Section 7. Section 15-32-105, MCA, is amended to read:

19 "15-32-105. Application to new construction -- rules.

20 (1) It is the intent of the legislature that no deduction or
21 credit under this part be allowed for capital investment for
22 an energy conservation practice in the new construction of a
23 building if that capital investment would have been made
24 under established standards of new construction. The
25 department of revenue shall adopt rules to implement this

1 legislative intent. Such rules shall be based on the best
 2 currently available methods of analysis, including those of
 3 the national bureau of standards, the department of housing
 4 and urban development, and other federal agencies and
 5 professional societies and materials developed by the
 6 department. Provisions shall be made for an annual updating
 7 of rules and standards as required.

8 (2) The department may adopt rules to define standard
 9 components of conventional buildings and to establish other
 10 necessary elements of the definition of passive solar system
 11 consistent with the intent of 15-32-102."

12 Section 8. Section 15-32-106, MCA, is amended to read:

13 "15-32-106. Procedure for obtaining benefit of
 14 deduction or credit. The department of revenue shall provide
 15 forms on which a taxpayer may apply for tax treatment under
 16 15-32-103 or [section 1]. Application shall be made to the
 17 department of revenue. The department of revenue shall
 18 approve an application which demonstrably promotes energy
 19 conservation or utilizes a recognized nonfossil form of
 20 energy generation. The department of revenue may refer an
 21 application involving energy generation to the department of
 22 natural resources and conservation for its advice, and the
 23 department of natural resources and conservation shall
 24 respond within 60 days. The department of revenue may refer
 25 an application involving energy conservation to the

1 department of administration for its advice, and the
 2 department of administration shall respond within 60 days.
 3 The department of revenue may deny an application which it
 4 finds to be impractical or ineffective."

5 Section 9. Codification instruction. (1) Section 1 is
 6 intended to be codified as an integral part of Title 15,
 7 chapter 32, part 1, and the provisions of Title 15, chapter
 8 32, part 1, apply to section 1.

9 (2) Section 2 is intended to be codified as an
 10 integral part of Title 15, chapter 30, part 1, and the
 11 provisions of Title 15, chapter 30, apply to section 2.

12 Section 10. Applicability. This act applies to tax
 13 years beginning after December 31, 1980.

-End-

1 HOUSE BILL NO. 237
 2 INTRODUCED BY McBRIDE, B. BROWN
 3 BY REQUEST OF THE
 4 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A CREDIT
 7 AGAINST INDIVIDUAL INCOME TAX LIABILITY UNDER TITLE 15,
 8 CHAPTER 30, MCA, FOR CAPITAL EXPENDITURES FOR
 9 ENERGY-CONSERVING PURPOSES; ELIMINATING THE DEDUCTION FROM
 10 INDIVIDUAL INCOME TAX LIABILITY FOR SUCH EXPENDITURES;
 11 PROVIDING AN APPLICABILITY DATE; AND AMENDING SECTIONS
 12 15-30-121, 15-30-131, AND 15-32-103 THROUGH 15-32-106, MCA."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Credit for energy-conserving
 16 expenditures. (1) Subject to the restrictions of subsections
 17 (2) and (3), a resident individual taxpayer may take as a
 18 credit against the taxpayer's tax liability under chapter 30
 19 a portion of his expenditure for a capital investment in a
 20 building for an energy conservation purpose, determined as
 21 follows:

- 22 (a) in the case of an expenditure for a residential
 23 building, the lesser of:
 24 (i) \$150; or
 25 (ii) ~~10%~~ 5% ~~10%~~ 5% of the expenditure; and

1 (b) in the case of an expenditure for a building not
 2 used as a residence, the lesser of:

- 3 (i) \$300; or
 4 (ii) ~~10%~~ 5% ~~10%~~ 5% of the expenditure.

5 (2) The credit or the sum of the credits under
 6 subsection (1):

- 7 (a) may not exceed the taxpayer's tax liability; and
 8 (b) is subject to the provisions of 15-32-104.

9 (3) There is no carryback or carry-forward of the
 10 credit permitted under this section, and the credit must be
 11 applied in the year the expenditure is incurred, as
 12 determined by the taxpayer's accounting method.

13 NEW SECTION. Section 2. Credit for energy-conserving
 14 investments. There is a credit against tax liability under
 15 this chapter as provided in [section 1].

16 Section 3. Section 15-30-121, MCA, is amended to read:

17 "15-30-121. Deductions allowed in computing net
 18 income. In computing net income, there are allowed as
 19 deductions:

20 (1) the items referred to in sections 161 and 211 of
 21 the Internal Revenue Code of 1954, or as sections 161 and
 22 211 shall be labeled or amended, subject to the following
 23 exceptions which are not deductible:

- 24 (a) items provided for in 15-30-123;
 25 (b) state income tax paid;

1 (2) federal income tax paid within the taxable year;

2 (3) child and dependent care expenses determined in
3 accordance with the provisions of section 214 of the
4 Internal Revenue Code of 1954 that were in effect for the
5 taxable year that began January 1, 1974. However, the
6 limitation set forth in section 214(e)(4) of the Internal
7 Revenue Code of 1954 as that section was in effect for the
8 taxable year that began January 1, 1974, applies only to
9 payments made to a child of the taxpayer who is under 19
10 years of age at the close of the taxable year and to
11 payments made to an individual with respect to whom a
12 deduction is allowable under 15-30-112(5) to the taxpayer or
13 the taxpayer's spouse.

14 ~~(4)--that--portion--of--an--energy--related--investment~~
15 ~~allowed-as-a-deduction-under-15-32-103;~~

16 ~~(5)(4)~~ in the case of an individual, political
17 contributions determined in accordance with the provisions
18 of section 218(a) and (b) of the Internal Revenue Code that
19 were in effect for the taxable year ended December 31,
20 1978."

21 Section 4. Section 15-30-131, MCA, is amended to read:

22 "15-30-131. Nonresident and temporary resident
23 taxpayers -- adjusted gross income -- deductions. (1) In the
24 case of a taxpayer other than a resident of this state,
25 adjusted gross income includes the entire amount of adjusted

1 gross income from sources within this state but shall not
2 include income from annuities, interest on bank deposits,
3 interest on bonds, notes, or other interest-bearing
4 obligations, or dividends on stock of corporations except to
5 the extent to which the same shall be a part of income from
6 any business, trade, profession, or occupation carried on in
7 this state. Adjusted gross income from sources within and
8 without this state shall be allocated and apportioned under
9 rules prescribed by the department.

10 (2) In the case of a taxpayer other than a resident of
11 this state who is a resident of a state that imposes a tax
12 on the income of natural persons residing within that state,
13 the deductions allowed in computing net income are
14 restricted to those directly connected with the production
15 of Montana income.

16 (3) In the case of a taxpayer other than a resident of
17 this state who is a resident of a state that does not impose
18 a tax on the income of natural persons residing within that
19 state, the deductions allowed in computing net income are
20 restricted to the greater of those directly relating to the
21 production of Montana income or a prorated amount of those
22 allowed under 15-30-121. For the purposes of this
23 subsection, deductions allowed under 15-30-121 apply only to
24 earned income and must be prorated according to the ratio
25 that the taxpayer's Montana earned income bears to his

1 federal earned income.

2 (4) A temporary resident shall be allowed those
3 deductions and the credit under [section 1] allowed a
4 resident to the extent that such deductions or credit were
5 actually incurred or expended in the state of Montana during
6 the course of his residency.

7 (5) For the purposes of this section, "earned income"
8 shall be defined as the same term is defined in section 43
9 of the Internal Revenue Code, or as that section may
10 subsequently be amended."

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| 23 | a residential building: | a building not used as |
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5 department of an application as provided in 15-32-106 and
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21 credit under this part be allowed for capital investment for
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23 building if that capital investment would have been made
24 under established standards of new construction. The
25 department of revenue shall adopt rules to implement this

1 legislative intent. Such rules shall be based on the best
 2 currently available methods of analysis, including those of
 3 the national bureau of standards, the department of housing
 4 and urban development, and other federal agencies and
 5 professional societies and materials developed by the
 6 department. Provisions shall be made for an annual updating
 7 of rules and standards as required.

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 9 components of conventional buildings and to establish other
 10 necessary elements of the definition of passive solar system
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 19 conservation or utilizes a recognized nonfossil form of
 20 energy generation. The department of revenue may refer an
 21 application involving energy generation to the department of
 22 natural resources and conservation for its advice, and the
 23 department of natural resources and conservation shall
 24 respond within 60 days. The department of revenue may refer
 25 an application involving energy conservation to the

1 department of administration for its advice, and the
 2 department of administration shall respond within 60 days.
 3 The department of revenue may deny an application which it
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 6 intended to be codified as an integral part of Title 15,
 7 chapter 32, part 1, and the provisions of Title 15, chapter
 8 32, part 1, apply to section 1.

9 (2) Section 2 is intended to be codified as an
 10 integral part of Title 15, chapter 30, part 1, and the
 11 provisions of Title 15, chapter 30, apply to section 2.

12 Section 10. Applicability. This act applies to tax
 13 years beginning after December 31, 1980.

-End-

March 14, 1981

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 237 be amended as follows:

1. Page 1, line 25.
Following: " 5% "
Strike: "10%"
Insert: "5%"

2. Page 2, line 4.
Following: " 5% "
Strike: "10%"
Insert: "5%"