

HOUSE BILL NO. 326

1/22 Introduced  
1/22 Referred to Taxation  
1/23 Fiscal Note Requested  
1/28 Fiscal Note Received  
2/13 Hearing  
Died in Committee

1 HOUSE BILL NO. 326  
2 INTRODUCED BY Hanna

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE EXISTING  
5 INDIVIDUAL INCOME TAX AND IMPOSING A STATE INCOME TAX BASED  
6 ON A PERCENTAGE OF THE FEDERAL INCOME TAX PAYABLE ON MONTANA  
7 TAXABLE INCOME; AMENDING SECTIONS 7-34-2416, 13-37-218,  
8 13-37-303, 15-6-201, 15-30-101, 15-30-162, 15-30-241,  
9 15-30-303, 15-30-323, 15-31-114, 15-31-202, 15-32-104,  
10 15-32-106, 15-32-303, 15-32-402, 15-33-106, 53-2-101,  
11 53-6-111, 67-11-303, 90-4-503, AND 90-8-104, MCA; REPEALING  
12 SECTIONS 15-30-103, 15-30-105, 15-30-111 THROUGH 15-30-116,  
13 15-30-121 THROUGH 15-30-123, 15-30-125, 15-30-126,  
14 15-30-131, 15-30-132, 15-30-135 THROUGH 15-30-137,  
15 15-30-142, 15-30-143, 15-30-171 THROUGH 15-30-179,  
16 15-32-109, AND 15-32-201 THROUGH 15-32-203, MCA; AND  
17 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."  
18

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
20 Section 1. Section 15-30-101, MCA, is amended to read:  
21 "15-30-101. Definitions. For the purpose of this  
22 chapter, unless otherwise required by the context, the  
23 following definitions apply:  
24 {1} "Base-year-structure" means the following elements  
25 of the income tax structure:

1 {a} the tax brackets established in 15-30-103, but  
2 unadjusted by subsection (2) of 15-30-103, in effect on June  
3 30 of the taxable year;  
4 {b} the exemptions contained in 15-30-112, but  
5 unadjusted by subsections (7) and (8) of 15-30-112, in  
6 effect on June 30 of the taxable year;  
7 {c} the maximum standard deduction provided in  
8 15-30-122, but unadjusted by subsection (2) of 15-30-122, in  
9 effect on June 30 of the taxable year;  
10 {2} "Consumer price index" means the consumer price  
11 index, United States city average, for all items, using the  
12 1967 base of 100 as published by the bureau of labor  
13 statistics of the U.S. department of labor;  
14 {3}(1) "Department" means the department of revenue.  
15 {4} "Dividend" means any distribution made by a  
16 corporation out of its earnings or profits to its  
17 shareholders or members, whether in cash or in other  
18 property or in stock of the corporation, other than stock  
19 dividends as herein defined. "Stock dividends" means new  
20 stock issued for surplus or profits capitalized to  
21 shareholders in proportion to their previous holdings;  
22 {5}(2) "Fiduciary" means a guardian, trustee,  
23 executor, administrator, receiver, conservator, or any  
24 person, whether individual or corporate, acting in any  
25 fiduciary capacity for any person, trust, or estate.



1        ~~{6}~~{3} "Foreign country" or "foreign government" means  
2 any jurisdiction other than the one embraced within the  
3 United States, its territories and possessions.

4        {4} "Individual" means a natural person, whether  
5 married or unmarried, adult or minor, subject to payment of  
6 an income tax under the Internal Revenue Code.

7        ~~{7}--"Gross income" means the taxpayer's gross income~~  
8 ~~for federal income tax purposes as defined in section 61 of~~  
9 ~~the Internal Revenue Code of 1954 or as that section may be~~  
10 ~~labeled or amended, excluding unemployment compensation~~  
11 ~~included in federal gross income under the provisions of~~  
12 ~~section 85 of the Internal Revenue Code of 1954 as amended.~~

13        ~~{8}--"Inflation factor" means a number determined for~~  
14 ~~each taxable year by dividing the consumer price index for~~  
15 ~~June of the taxable year by the consumer price index for~~  
16 ~~June 1980.~~

17        ~~{9}~~{5} "Information agents" includes all individuals,  
18 corporations, associations, and partnerships, in whatever  
19 capacity acting, including lessees or mortgagors of real or  
20 personal property, fiduciaries, employers, and all officers  
21 and employees of the state or of any municipal corporation  
22 or political subdivision of the state, having the control,  
23 receipt, custody, disposal, or payment of interest, rent,  
24 salaries, wages, premiums, annuities, compensations,  
25 remunerations, emoluments, or other fixed or determinable

1 annual or periodical gains, profits, and income with respect  
2 to which any person or fiduciary is taxable under this  
3 chapter.

4        {6} "Internal Revenue Code" or "IRC" means the  
5 Internal Revenue Code of 1954, as amended.

6        {7} "Person" means an individual, a trust or estate,  
7 or a partnership.

8        ~~{10}--"Knowingly" is as defined in 45-2-101.~~

9        ~~{11}--"Net income" means the adjusted gross income of a~~  
10 ~~taxpayer less the deductions allowed by this chapter.~~

11        ~~{12}--"Paid" for the purposes of the deductions and~~  
12 ~~credits under this chapter, means paid or accrued or paid or~~  
13 ~~incurred, and the terms "paid or incurred" and "paid or~~  
14 ~~accrued" shall be construed according to the method of~~  
15 ~~accounting upon the basis of which the taxable income is~~  
16 ~~computed under this chapter.~~

17        ~~{13}--"Purposely" is as defined in 45-2-101.~~

18        ~~{14}--"Received" for the purpose of computation of~~  
19 ~~taxable income under this chapter, means received or accrued~~  
20 ~~and the term "received or accrued" shall be construed~~  
21 ~~according to the method of accounting upon the basis of~~  
22 ~~which the taxable income is computed under this chapter.~~

23        ~~{15}~~{8} "Resident" applies only to natural persons and  
24 includes, for the purpose of determining liability to the  
25 tax imposed by this chapter with reference to the income of

1 any taxable year, any person domiciled in the state of  
 2 Montana and any other person who maintains a permanent place  
 3 of abode within the state even though temporarily absent  
 4 from the state and has not established a residence  
 5 elsewhere.

6 ~~{16} "Taxable income" means the adjusted gross income~~  
 7 ~~of a taxpayer less the deductions and exemptions provided~~  
 8 ~~for in this chapter.~~

9 {17}(9) "Taxable year" means the taxpayer's taxable  
 10 year for federal income tax purposes.

11 {18}(10) "Taxpayer" includes any person or fiduciary,  
 12 resident or nonresident, subject to a tax imposed by this  
 13 chapter and does not include corporations."

14 NEW SECTION. Section 2. State income tax as  
 15 percentage of federal tax. (1) A state income tax is  
 16 imposed and must be paid and collected for each taxable year  
 17 upon:

18 (a) the federal adjusted taxable income derived from  
 19 sources within and without Montana of each resident and  
 20 fiduciary required to make a return and pay federal income  
 21 taxes under the IRC; and

22 (b) the federal adjusted taxable income derived from  
 23 sources within Montana of each nonresident and fiduciary  
 24 required to make a return and pay federal income taxes under  
 25 the IRC.

1 (2) "Federal adjusted taxable income" means the  
 2 taxpayer's taxable income as determined for federal income  
 3 taxes under the provisions of the IRC with the following  
 4 additional deductions:

5 (a) all benefits received under any federal employees'  
 6 retirement plan not in excess of \$3,600;

7 (b) all benefits paid under the teachers' retirement  
 8 law which are specified as exempt from taxation by 19-4-706;

9 (c) all benefits paid under The Public Employees'  
 10 Retirement System Act which are specified as exempt from  
 11 taxation by 19-3-105;

12 (d) all benefits paid under the highway patrol  
 13 retirement law which are specified as exempt from taxation  
 14 by 19-6-705;

15 (e) all benefits, not in excess of \$3,600, received as  
 16 an annuity, pension, or endowment under any private or  
 17 corporate retirement plan or system;

18 (f) Montana income tax refunds or credits;

19 (g) interest income from obligations of the United  
 20 States government to the extent the income is exempt from  
 21 state income tax under federal law; and

22 (h) interest received on obligations of any state,  
 23 territory, county, municipality, district, or other  
 24 political subdivision.

25 (3) A shareholder of a corporation for which the

1 election provided for under subchapter S. of the Internal  
 2 Revenue Code of 1954 is in effect but for which the election  
 3 provided under 15-31-202 is not in effect may deduct from  
 4 his federal taxable income any part of the corporation's  
 5 undistributed taxable income, net operating loss, capital or  
 6 other gains, and profits or losses required to be included  
 7 in the shareholder's federal taxable income by reason of the  
 8 election under subchapter S. However, to the shareholder's  
 9 federal taxable income must be added distributions received  
 10 from the corporation to the extent the distributions would  
 11 be treated as taxable dividends if the subchapter S.  
 12 election were not in effect.

13 (4) Nonresidents taking any of the deductions listed  
 14 in subsection (2) may claim only that percentage of itemized  
 15 deductions and the personal exemption deduction allowed from  
 16 federal adjusted gross income which the percentage of  
 17 adjusted gross income earned from sources within Montana  
 18 bears to the taxpayer's federal adjusted gross income.

19 (5) If a taxpayer's federal adjusted taxable income is  
 20 adjusted for state income tax purposes to include any of the  
 21 additional deductions or modifications of subsections (2)  
 22 through (4), the taxpayer's federal income tax liability  
 23 must be recomputed on this adjusted figure to allow the  
 24 state income tax rate to be applied against it.

25 NEW SECTION. Section 3. Rate of tax -- variations.

1 (1) The rate of state income tax is \_\_\_\_% of a taxpayer's  
 2 federal income tax liability, adjusted as provided in  
 3 [section 2(5)].

4 (2) (a) The department may adopt a rule modifying the  
 5 rate of tax:

6 (i) if changes in the IRC are made or other changed  
 7 circumstances occur that would substantially reduce the  
 8 revenue produced by the state income tax below the level  
 9 established by the legislature for the biennium;

10 (ii) if the legislature is not in session; and

11 (iii) after consultation with the president of the  
 12 senate, the speaker of the house of representatives, and the  
 13 chairmen of the following legislative committees:

14 (A) senate taxation;

15 (B) senate finance and claims;

16 (C) house taxation;

17 (D) house appropriations; and

18 (E) legislative finance.

19 (b) The department may, if necessary:

20 (i) make the modified percentage retroactive to the  
 21 previous January 1; and

22 (ii) publish new withholding tables and estimated tax  
 23 return requirements.

24 NEW SECTION. Section 4. Nonresidents -- determination  
 25 of in-state income. A nonresident's income from sources

1 within Montana includes income derived from all property  
 2 owned in this state and from every business, trade,  
 3 profession, or occupation carried on in this state. It does  
 4 not include income from annuities, interest on bank  
 5 deposits, interest on notes, bonds, or other  
 6 interest-bearing obligations, or dividends on stock of  
 7 corporations, except to the extent to which this income is a  
 8 part of the income derived from a business, trade,  
 9 profession, or occupation carried on in this state. In the  
 10 case of a business, trade, profession, or occupation carried  
 11 on partly within and partly without this state by a  
 12 nonresident, the income from sources within this state must  
 13 be determined by apportionment and allocation under rules  
 14 adopted by the department.

15 NEW SECTION. Section 5. Tax return -- contents.

16 (1) Each individual or fiduciary mentioned in [section  
 17 2(1)] shall file a return with the department showing:

18 (a) the amount of tax due and payable as reported on  
 19 the taxpayer's federal income tax return or as recomputed as  
 20 required in [section 3(1)];

21 (b) the amount of tax due under [section 3], less  
 22 credits, if any, claimed against the tax;

23 (c) any other information necessary for administration  
 24 of the state income tax, as may be prescribed by the  
 25 department.

1 (2) If a taxpayer is unable to make his own return, an  
 2 authorized agent, guardian, or other person charged with the  
 3 care of the person or property of the taxpayer shall file  
 4 the return.

5 NEW SECTION. Section 6. Payment of the state income  
 6 tax -- refunds -- interest. (1) All taxpayers required to  
 7 file a state income tax return shall compute the amount of  
 8 state income tax due and shall, at the time the return is  
 9 filed, pay to the department any balance of tax in excess of  
 10 \$1 remaining unpaid after crediting the amount withheld as  
 11 provided under 15-30-202 or any payment of estimated tax as  
 12 provided under 15-30-242.

13 (2) If the withheld or the estimated tax paid exceeds  
 14 the state income tax due by more than \$1, the department  
 15 shall refund the excess to the taxpayer within 30 days after  
 16 receiving the return.

17 (3) Except as provided in 15-30-321, interest at a  
 18 rate of 9% a year must be added to any state income tax, or  
 19 portion of tax, not paid from the due date until paid,  
 20 whether the taxpayer has been granted a filing extension or  
 21 not.

22 (4) If a joint return is made by husband and wife, the  
 23 liability with respect to the tax is joint and several.

24 Section 7. Section 7-34-2416, MCA, is amended to read:  
 25 "7-34-2416. Tax-exempt status of bonds. Bonds issued

1 by a county pursuant to the provisions of 7-34-2411 through  
2 7-34-2418 are declared to be issued for an essential public  
3 and governmental purpose by a political subdivision within  
4 the meaning of ~~15-30-111(2)(a)~~ [section 2(2)(h)]."

5 Section 8. Section 13-37-218, MCA, is amended to read:

6 "13-37-218. Limitations on receipts from political  
7 committees. A candidate for the state senate may receive no  
8 more than \$1,000 in total combined monetary contributions  
9 from all political committees contributing to his campaign,  
10 and a candidate for the state house of representatives may  
11 receive no more than \$600 in total combined monetary  
12 contributions from all political committees contributing to  
13 his campaign. ~~The foregoing limitations shall be multiplied  
14 by the inflation factor as defined in 15-30-101(8) for the  
15 year in which general elections are held after 1984; the  
16 resulting figure shall be rounded off to the nearest \$50  
17 increment.~~ The commissioner of political practices shall  
18 publish the revised limitations as a rule. In-kind  
19 contributions may not be included in computing these  
20 limitation totals. The limitation provided in this section  
21 does not apply to contributions made by a political party  
22 eligible for a primary election under 13-10-601."

23 Section 9. Section 13-37-303, MCA, is amended to read:

24 "13-37-303. Donation by taxpayer. (1) An individual  
25 whose withheld income tax or payment of estimated tax

1 exceeds by more than \$1 his income tax liability for the  
2 taxable year may donate \$1 to be paid to the fund. In the  
3 case of a joint return, ~~as provided in 15-30-142,~~ of a  
4 husband and wife having an income tax overpayment as defined  
5 in 15-30-149 of \$2 or more, each spouse may donate \$1 be  
6 paid to the fund.

7 (2) An individual with an unpaid tax liability may at  
8 the time of payment donate an extra \$1 to be paid to the  
9 fund.

10 (3) The department shall provide a place on the face  
11 of the blank form of return, provided for in 15-30-144,  
12 where an individual may make the donations provided for in  
13 subsections (1) and (2). The form shall adequately explain  
14 the individual's option to donate \$1 to the fund."

15 Section 10. Section 15-6-201, MCA, is amended to read:

16 "15-6-201. Exempt categories. (1) The following  
17 categories of property are exempt from taxation:

18 (a) the property of:

19 (i) the United States, the state, counties, cities,  
20 towns, school districts;

21 (ii) irrigation districts organized under the laws of  
22 Montana and not operating for profit;

23 (iii) municipal corporations; and

24 (iv) public libraries;

25 (b) buildings, with land they occupy and furnishings

1 therein, owned by a church and used for actual religious  
2 worship or for residences of the clergy, together with  
3 adjacent land reasonably necessary for convenient use of  
4 such buildings;

5 (c) property used exclusively for agricultural and  
6 horticultural societies, for educational purposes, and for  
7 hospitals;

8 (d) property that meets the following conditions:

9 (i) is owned and held by any association or  
10 corporation organized under Title 35, chapter 2, 3, 20, or  
11 21;

12 (ii) is devoted exclusively to use in connection with a  
13 cemetery or cemeteries for which a permanent care and  
14 improvement fund has been established as provided for in  
15 Title 35, chapter 20, part 3; and

16 (iii) is not maintained and operated for private or  
17 corporate profit;

18 (e) institutions of purely public charity;

19 (f) evidence of debt secured by mortgages of record  
20 upon real or personal property in the state of Montana;

21 (g) public art galleries and public observatories not  
22 used or held for private or corporate profit;

23 (h) all household goods and furniture, including but  
24 not limited to clocks, musical instruments, sewing machines,  
25 and wearing apparel of members of the family, used by the

1 owner for personal and domestic purposes or for furnishing  
2 or equipping the family residence;

3 (i) a truck canopy cover or topper weighing less than  
4 300 pounds and having no accommodations attached. Such  
5 property is also exempt from the fee in lieu of tax.

6 (j) a bicycle, as defined in 61-1-123, used by the  
7 owner for personal transportation purposes;

8 (k) automobiles and trucks having a rated capacity of  
9 three-quarters of a ton or less;

10 (l) fixtures, buildings, and improvements owned by a  
11 cooperative association or nonprofit corporation organized  
12 to furnish potable water to its members or customers for  
13 uses other than the irrigation of agricultural land;

14 (m) the right of entry that is a property right  
15 reserved in land or received by mesne conveyance (exclusive  
16 of leasehold interests), devise, or succession to enter land  
17 whose surface title is held by another to explore, prospect,  
18 or dig for oil, gas, coal, or minerals; and

19 (n) property owned and used by a corporation or  
20 association organized and operated exclusively for the care  
21 of the developmentally disabled, mentally ill, or  
22 vocationally handicapped as defined in 18-5-101, which is  
23 not operated for gain or profit.

24 (2) (a) The term "institutions of purely public  
25 charity" includes organizations owning and operating



1 facilities for the care of the retired or aged or  
2 chronically ill, which are not operated for gain or profit.

3 (b) The terms "public art galleries" and "public  
4 observatories" include only those art galleries and  
5 observatories, whether of public or private ownership, that  
6 are open to the public without charge at all reasonable  
7 hours and are used for the purpose of education only.

8 ~~(3)--The following portions of the appraised value of a  
9 capital investment made after January 1, 1979, in a  
10 recognized nonfossil form of energy generation, as defined  
11 in 15-32-102, are exempt from taxation for a period of 10  
12 years following installation of the property:~~

13 ~~(a)--\$20,000 in the case of a single family residential  
14 dwelling;~~

15 ~~(b)--\$100,000 in the case of a multifamily residential  
16 dwelling or a nonresidential structure."~~

17 Section 11. Section 15-30-162, MCA, is amended to  
18 read:

19 "15-30-162. Investment credit. (1) There is allowed as  
20 a credit against the tax imposed by 15-30-103 [section 2] a  
21 percentage of the credit allowed with respect to certain  
22 depreciable property under section 38 of the Internal  
23 Revenue Code of 1954, as amended, or as section 38 may be  
24 renumbered or amended. However, rehabilitation costs as set  
25 forth under section 46(a)(2)(F) of the Internal Revenue Code

1 of 1954, or as section 46(a)(2)(F) may be renumbered or  
2 amended, are not to be included in the computation of the  
3 investment credit. The credit is allowed for the purchase  
4 and installation of certain qualified property defined by  
5 section 38 of the Internal Revenue Code of 1954, as amended,  
6 if the property meets all of the following qualifications:

7 (a) it was placed in service in Montana; and

8 (b) it was used for the production of Montana adjusted  
9 gross income.

10 (2) The amount of the credit allowed for the taxable  
11 year is 5% of the amount of credit determined under section  
12 46(a)(2) of the Internal Revenue Code of 1954, as amended,  
13 or as section 46(a)(2) may be renumbered or amended.

14 (3) Notwithstanding the provisions of subsection (2),  
15 the investment credit allowed for the taxable year may not  
16 exceed the taxpayer's tax liability for the taxable year or  
17 \$500, whichever is less.

18 (4) If property for which an investment credit is  
19 claimed is used both inside and outside this state, only a  
20 portion of the credit is allowed. The credit must be  
21 apportioned according to a fraction the numerator of which  
22 is the number of days during the taxable year the property  
23 was located in Montana and the denominator of which is the  
24 number of days during the taxable year the taxpayer owned  
25 the property. The investment credit may be applied only to

1 the tax liability of the taxpayer who purchases and places  
2 in service the property for which an investment credit is  
3 claimed. The credit may not be allocated between spouses  
4 unless the property is used by a partnership or small  
5 business corporation of which they are partners or  
6 shareholders.

7 (5) The investment credit allowed by this section is  
8 subject to recapture as provided for in section 47 of the  
9 Internal Revenue Code of 1954, as amended, or as section 47  
10 may be renumbered or amended."

11 Section 12. Section 15-30-241, MCA, is amended to  
12 read:

13 "15-30-241. Declaration of estimated tax. (1) Every  
14 individual ~~except farmers, ranchers, or stockmen~~ shall, at  
15 the time prescribed in subsection (3) of this section, make  
16 a declaration of his estimated tax for the taxable year if  
17 ~~his net income from sources other than wages, salaries,~~  
18 ~~bonuses, or other emoluments can reasonably be expected to~~  
19 ~~equal or exceed his net income from wages, salaries, bonuses~~  
20 ~~or other emoluments, which are subject to withholding~~ he is  
21 required to file a declaration of his estimated tax under  
22 the provisions of the IRC.

23 (2) In the declaration required under subsection (1)  
24 of this section, the individual shall state:

25 (a) the amount which he estimates as the amount of tax

1 under ~~15-30-103~~ [section 3] for the taxable year;

2 (b) the amount which he estimates will be withheld  
3 from wages paid by his employer if said individual is an  
4 employee;

5 (c) the excess of the amount estimated under  
6 subsection (2)(a) over the amount estimated under subsection  
7 (2)(b), which excess for purposes of this section shall be  
8 considered the estimated tax for the taxable year;

9 (d) such other information as may be prescribed in  
10 rules promulgated by the department.

11 (3) The declaration required under subsection (1) of  
12 this section shall be filed with the department on or before  
13 April 15 of the taxable year, except that if the  
14 requirements of subsection (1) of this section are first  
15 met:

16 (a) after April 1 and before October 1 of the taxable  
17 year, the declaration shall be filed on or before October 15  
18 of the taxable year;

19 (b) after October 1 of the taxable year, the  
20 declaration shall be filed on or before February 15 of the  
21 succeeding taxable year.

22 (4) An individual may make amendments of a declaration  
23 filed during the taxable year under subsection (3) of this  
24 section under rules prescribed by the department.

25 (5) If, on or before February 15 of the succeeding

1 taxable year, the taxpayer files a return for the taxable  
 2 year for which the declaration is required and pays in full  
 3 the amount computed on his return as payable, then under  
 4 rules prescribed by the department:

5 (a) if the declaration is not required to be filed  
 6 during the taxable year but is required to be filed on or  
 7 before such February 15, such return shall for the purposes  
 8 of this section be considered as such declaration; and

9 (b) if the tax shown on the return is greater than the  
 10 estimated tax shown in a declaration previously made or in  
 11 the last amendments thereof, such return shall for the  
 12 purposes of this section be considered as the amendment of  
 13 the declaration permitted by subsection (4) of this section  
 14 to be filed on or before such February 15.

15 (6) The department shall promulgate rules governing  
 16 reasonable extensions of time for filing declarations and  
 17 paying the estimated tax except in the case of taxpayers who  
 18 are abroad, and no such extension shall be for more than 6  
 19 months.

20 (7) If the taxpayer is unable to make his own  
 21 declaration, the declaration shall be made by a duly  
 22 authorized agent or by the guardian or other person charged  
 23 with the care of the person or property of such taxpayer.

24 (8) Any individual who fails to file a declaration of  
 25 estimated tax as required by this section is not subject to

1 the penalties set forth in 15-30-321."

2 Section 13. Section 15-30-303, MCA, is amended to  
 3 read:

4 "15-30-303. Confidentiality of tax records. (1) Except  
 5 in accordance with proper judicial order or as otherwise  
 6 provided by law, it is unlawful for the department or any  
 7 deputy, assistant, agent, clerk, or other officer or  
 8 employee to divulge or make known in any manner the amount  
 9 of income or any particulars set forth or disclosed in any  
 10 report or return required under this chapter or any other  
 11 information secured in the administration of this chapter.  
 12 It is also unlawful to divulge or make known in any manner  
 13 any federal return or federal return information disclosed  
 14 on any return or report required by rule of the department  
 15 or under this chapter.

16 (2) The officers charged with the custody of such  
 17 reports and returns shall not be required to produce any of  
 18 them or evidence of anything contained in them in any action  
 19 or proceeding in any court, except in any action or  
 20 proceeding to which the department is a party under the  
 21 provisions of this chapter or any other taxing act or on  
 22 behalf of any party to any action or proceedings under the  
 23 provisions of this chapter or such other act when the  
 24 reports or facts shown thereby are directly involved in such  
 25 action or proceedings, in either of which events the court

1 may require the production of and may admit in evidence so  
2 much of said reports or of the facts shown thereby as are  
3 pertinent to the action or proceedings and no more.

4 (3) Nothing herein shall be construed to prohibit:

5 (a) the delivery to a taxpayer or his duly authorized  
6 representative of a certified copy of any return or report  
7 filed in connection with his tax;

8 (b) the publication of statistics so classified as to  
9 prevent the identification of particular reports or returns  
10 and the items thereof; or

11 (c) the inspection by the attorney general or other  
12 legal representative of the state of the report or return of  
13 any taxpayer who shall bring action to set aside or review  
14 the tax based thereon or against whom an action or  
15 proceeding has been instituted in accordance with the  
16 provisions of 15-30-311 and 15-30-322.

17 (4) Reports and returns shall be preserved for 3 years  
18 and thereafter until the department orders them to be  
19 destroyed.

20 (5) Any offense against subsections (1) through (4) of  
21 this section shall be punished by a fine not exceeding  
22 \$1,000 or by imprisonment in the county jail not exceeding 1  
23 year, or both, at the discretion of the court, and if the  
24 offender be an officer or employee of the state, he shall be  
25 dismissed from office and be incapable of holding any public

1 office in this state for a period of 1 year thereafter.

2 (6) Notwithstanding the provisions of this section,  
3 the department may permit the commissioner of internal  
4 revenue of the United States or the proper officer of any  
5 state imposing a tax upon the incomes of individuals or the  
6 authorized representative of either such officer to inspect  
7 the return of income of any individual or may furnish to  
8 such officer or his authorized representative an abstract of  
9 the return of income of any individual or supply him with  
10 information concerning any item of income contained in any  
11 return or disclosed by the report of any investigation of  
12 the income or return of income of any individual, but such  
13 permission shall be granted or such information furnished to  
14 such officer or his representative only if the statutes of  
15 the United States or of such other state, as the case may  
16 be, grant substantially similar privileges to the proper  
17 officer of this state charged with the administration of  
18 this chapter.

19 ~~(7) Further notwithstanding any of the provisions of~~  
20 ~~this section, the department shall furnish to the division~~  
21 ~~of motor vehicles of the department of justice all~~  
22 ~~information necessary to identify those persons qualifying~~  
23 ~~for the additional exemption for blindness pursuant to~~  
24 ~~15-30-112(4) for the purpose of enabling said division to~~  
25 ~~administer the provisions of 61-5-105."~~

1 Section 14. Section 15-30-323, MCA, is amended to  
2 read:

3 "15-30-323. Penalty for deficiency. (1) If the payment  
4 required by ~~15-30-142(6)~~ section 6 is not made within 60  
5 days or if the understatement is due to negligence on the  
6 part of the taxpayer but without fraud, there shall be added  
7 to the amount of the deficiency 5% thereof; provided,  
8 however, that no deficiency penalty shall be less than \$2.  
9 Interest will be computed at the rate of 9% per annum or  
10 fraction thereof on the additional assessment. Except as  
11 otherwise expressly provided in this subsection, the  
12 interest shall in all cases be computed from the date the  
13 return and tax were originally due as distinguished from the  
14 due date as it may have been extended to the date of  
15 payment.

16 (2) If the time for filing a return is extended, the  
17 taxpayer shall pay in addition interest thereon at the rate  
18 of 9% per annum from the time when the return was originally  
19 required to be filed to the time of payment."

20 Section 15. Section 15-31-114, MCA, is amended to  
21 read:

22 "15-31-114. Deductions allowed in computing income. In  
23 computing the net income, the following deductions shall be  
24 allowed from the gross income received by such corporation  
25 within the year from all sources:

1 (1) All the ordinary and necessary expenses paid or  
2 incurred during the taxable year in the maintenance and  
3 operation of its business and properties, including  
4 reasonable allowance for salaries for personal services  
5 actually rendered, subject to the limitation hereinafter  
6 contained, rentals or other payments required to be made as  
7 a condition to the continued use or possession of property  
8 to which the corporation has not taken or is not taking  
9 title or in which it has no equity. No deduction shall be  
10 allowed for salaries paid upon which the recipient thereof  
11 has not paid Montana state income tax; provided, however,  
12 that where domestic corporations are taxed on income derived  
13 from without the state, salaries of officers paid in  
14 connection with securing such income shall be deductible.

15 (2) (a) All losses actually sustained and charged off  
16 within the year and not compensated by insurance or  
17 otherwise, including a reasonable allowance for the wear and  
18 tear and obsolescence of property used in the trade or  
19 business, such allowance to be determined according to the  
20 provisions of section 167 of the Internal Revenue Code in  
21 effect with respect to the taxable year. All elections for  
22 depreciation shall be the same as the elections made for  
23 federal income tax purposes. No deduction shall be allowed  
24 for any amount paid out for any buildings, permanent  
25 improvements, or betterments made to increase the value of

1 any property or estate, and no deduction shall be made for  
 2 any amount of expense of restoring property or making good  
 3 the exhaustion thereof for which an allowance is or has been  
 4 made.

5 (b) (i) There shall be allowed as a deduction for the  
 6 taxable period a net operating loss deduction determined  
 7 according to the provisions of this subsection. The net  
 8 operating loss deduction is the aggregate of net operating  
 9 loss carryovers to such taxable period plus the net  
 10 operating loss carrybacks to such taxable period. The term  
 11 "net operating loss" means the excess of the deductions  
 12 allowed by this section, 15-31-114, over the gross income,  
 13 with the modifications specified in (ii) of this subsection.  
 14 If for any taxable period beginning after December 31, 1970,  
 15 a net operating loss is sustained, such loss shall be a net  
 16 operating loss carryback to each of the three taxable  
 17 periods preceding the taxable period of such loss and shall  
 18 be a net operating loss carryover to each of the five  
 19 taxable periods following the taxable period of such loss. A  
 20 net operating loss for any taxable period ending after  
 21 December 31, 1975, in addition to being a net operating loss  
 22 carryback to each of the three preceding taxable periods,  
 23 shall be a net operating loss carryover to each of the seven  
 24 taxable periods following the taxable period of such loss.  
 25 The portion of such loss which shall be carried to each of

1 the other taxable years shall be the excess, if any, of the  
 2 amount of such loss over the sum of the net income for each  
 3 of the prior taxable periods to which such loss was carried.  
 4 For purposes of the preceding sentence, the net income for  
 5 such prior taxable period shall be computed with the  
 6 modifications specified in (ii)(B) of this subsection and by  
 7 determining the amount of the net operating loss deduction  
 8 without regard to the net operating loss for the loss period  
 9 or any taxable period thereafter, and the net income so  
 10 computed shall not be considered to be less than zero.

11 (ii) The modifications referred to in (i) of this  
 12 subsection shall be as follows:

13 (A) No net operating loss deduction shall be allowed.

14 (B) The deduction for depletion shall not exceed the  
 15 amount which would be allowable if computed under the cost  
 16 method.

17 (C) Any net operating loss carried over to any taxable  
 18 years beginning after December 31, 1978, must be calculated  
 19 under the provisions of this section effective for the  
 20 taxable year for which the return claiming the net operating  
 21 loss carryover is filed.

22 (iii) A net operating loss deduction shall be allowed  
 23 only with regard to losses attributable to the business  
 24 carried on within the state of Montana.

25 (iv) In the case of a merger of corporations, the

1 surviving corporation shall not be allowed a net operating  
 2 loss deduction for net operating losses sustained by the  
 3 merged corporations prior to the date of merger. In the case  
 4 of a consolidation of corporations, the new corporate entity  
 5 shall not be allowed a deduction for net operating losses  
 6 sustained by the consolidated corporations prior to the date  
 7 of consolidation.

8 (v) Notwithstanding the provisions of 15-31-531,  
 9 interest shall not be paid with respect to a refund of tax  
 10 resulting from a net operating loss carryback or carryover.

11 (vi) The net operating loss deduction shall not be  
 12 allowed with respect to taxable periods which ended on or  
 13 before December 31, 1970, but shall be allowed only with  
 14 respect to taxable periods beginning on or after January 1,  
 15 1971.

16 (3) In the case of mines, other natural deposits, oil  
 17 and gas wells, and timber, a reasonable allowance for  
 18 depletion and for depreciation of improvements; such  
 19 reasonable allowance to be determined according to the  
 20 provisions of the Internal Revenue Code in effect for the  
 21 taxable year. All elections made under the Internal Revenue  
 22 Code with respect to capitalizing or expensing exploration  
 23 and development costs and intangible drilling expenses for  
 24 corporation license tax purposes shall be the same as the  
 25 elections made for federal income tax purposes.

1 (4) The amount of interest paid within the year on its  
 2 indebtedness incurred in the operation of the business from  
 3 which its income is derived; but no interest shall be  
 4 allowed as a deduction if paid on an indebtedness created  
 5 for the purchase, maintenance, or improvement of property or  
 6 for the conduct of business unless the income from such  
 7 property or business would be taxable under this part.

8 (5) (a) Taxes paid within the year, except the  
 9 following:

10 (i) Taxes imposed by this part.

11 (ii) Taxes assessed against local benefits of a kind  
 12 tending to increase the value of the property assessed.

13 (iii) Taxes on or according to or measured by net  
 14 income or profits imposed by authority of the government of  
 15 the United States.

16 (iv) Taxes imposed by any other state or country upon  
 17 or measured by net income or profits.

18 (b) Taxes deductible under this part shall be  
 19 construed to include taxes imposed by any county, school  
 20 district, or municipality of this state.

21 (6) Light vehicle license fees, as provided by  
 22 61-3-532, paid within the year.

23 ~~(7) That portion of an energy-related investment~~  
 24 ~~allowed as a deduction under 15-32-103.~~

25 ~~(8)~~(7) (a) Except as provided in subsection (b),

1 charitable contributions and gifts that qualify for  
2 deduction under section 170 of the Internal Revenue Code, as  
3 amended.

4 (b) The public service commission shall not allow in  
5 the rate base of a regulated corporation the inclusion of  
6 contributions made under this subsection.

7 ~~(9)~~(8) In lieu of the deduction allowed under  
8 subsection ~~(8)~~ (7), the taxpayer may deduct the fair market  
9 value, not to exceed 30% of the taxpayer's net income, of a  
10 computer or other sophisticated technological equipment or  
11 apparatus intended for use with the computer donated to an  
12 elementary, secondary, or accredited postsecondary school  
13 located in Montana if:

14 (a) the contribution is made no later than 5 years  
15 after the manufacture of the donated property is  
16 substantially completed;

17 (b) the property is not transferred by the donee in  
18 exchange for money, other property, or services; and

19 (c) the taxpayer receives a written statement from the  
20 donee in which the donee agrees to accept the property and  
21 representing that the use and disposition of the property  
22 will be in accordance with the provisions of (b) of this  
23 subsection ~~(9)~~ (8)."

24 Section 16. Section 15-31-202, MCA, is amended to  
25 read:

1 "15-31-202. Election by small business corporation.  
2 (1) A small business corporation may elect not to be subject  
3 to the taxes imposed by this chapter.

4 (2) If a small business corporation makes an election  
5 under subsection (1), then:

6 (a) with respect to the taxable years of the  
7 corporation for which such election is in effect, such  
8 corporation is not subject to the taxes imposed by this  
9 chapter and, with respect to such taxable years and all  
10 succeeding taxable years, the provisions of this part apply  
11 to such corporation; and

12 (b) with respect to the taxable years of a shareholder  
13 of such corporation in which or with which the taxable years  
14 of the corporation for which such election is in effect end,  
15 the provisions of this part apply to such shareholder, and  
16 with respect to such taxable years and all succeeding  
17 taxable years, the provisions of this part apply to such  
18 shareholder.

19 (3) An election under subsection (1) must be made in  
20 accordance with rules prescribed by the department of  
21 revenue.

22 (4) This election is not effective unless the  
23 corporate net income or loss of such electing corporation is  
24 included in the stockholders' federal adjusted gross taxable  
25 income as defined in ~~15-30-111~~ [section 2].



1 (5) Every electing corporation is required to pay the  
2 minimum fee of \$10 required by 15-31-204."

3 Section 17. Section 15-32-104, MCA, is amended to  
4 read:

5 "15-32-104. Limitations on deduction and credit. Tax  
6 treatment under 15-32-103 ~~and 15-32-109~~ is limited to:

7 (1) capital investments made after January 1, 1975;

8 (2) persons and firms not primarily engaged in the  
9 provision of gas or electricity derived from fossil fuel  
10 extraction or conventional hydroelectric development; and

11 (3) a ceiling of \$100,000 in tax savings per year to  
12 any one person or firm."

13 Section 18. Section 15-32-106, MCA, is amended to  
14 read:

15 "15-32-106. Procedure for obtaining benefit of  
16 deduction or credit. The department of revenue shall provide  
17 forms on which a taxpayer may apply for tax treatment under  
18 15-32-103 ~~or 15-32-109~~. Application shall be made to the  
19 department of revenue. The department of revenue shall  
20 approve an application which demonstrably promotes energy  
21 conservation or utilizes a recognized nonfossil form of  
22 energy generation. The department of revenue may refer an  
23 application involving energy generation to the department of  
24 natural resources and conservation for its advice, and the  
25 department of natural resources and conservation shall

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

7 Section 19. Section 15-32-303, MCA, is amended to  
8 read:

9 "15-32-303. Deduction for purchase of Montana produced  
10 organic fertilizer. In addition to all other deductions from  
11 ~~adjusted---gross---individual---income---allowed---in---computing~~  
12 ~~taxable-income-under-Title-15,chapter--30,--or--from~~ gross  
13 corporate income allowed in computing net income under Title  
14 15, chapter 31, part 1, a taxpayer corporation may deduct  
15 ~~his~~ its expenditures for organic fertilizer produced in  
16 Montana and used in Montana if the expenditure was not  
17 otherwise deducted in computing taxable income."

18 Section 20. Section 15-32-402, MCA, is amended to  
19 read:

20 "15-32-402. Commercial investment credit --  
21 wind-generated electricity. (1) ~~An---~~ An individual, A  
22 corporation, partnership, or small business corporation as  
23 defined in 15-31-201 that makes an investment of \$5,000 or  
24 more in certain depreciable property qualifying under  
25 section 38 of the Internal Revenue Code of 1954, as amended,

1 for a commercial system located in Montana which generates  
 2 electricity by means of wind power is entitled to a tax  
 3 credit against taxes imposed by 15-30-103 or 15-31-121 in an  
 4 amount equal to 35% of the eligible costs, to be taken as a  
 5 credit only against taxes due as a consequence of taxable or  
 6 net income produced by one of the following:

7 (a) manufacturing plants located in Montana that  
 8 produce wind energy generating equipment;

9 (b) a new business facility or the expanded portion of  
 10 an existing business facility for which the wind energy  
 11 generating equipment supplies, on a direct contract sales  
 12 basis, the basic energy needed; or

13 (c) the wind energy generating equipment in which the  
 14 investment for which a credit is being claimed was made.

15 (2) For purposes of determining the amount of the tax  
 16 credit that may be claimed under subsection (1), eligible  
 17 costs include only those expenditures that qualify under  
 18 section 38 of the Internal Revenue Code of 1954, as amended,  
 19 and that are associated with the purchase, installation, or  
 20 upgrading of:

21 (a) generating equipment;

22 (b) safety devices and storage components;

23 (c) transmission lines necessary to connect with  
 24 existing transmission facilities; and

25 (d) transmission lines necessary to connect directly

1 to the purchaser of the electricity when no other  
 2 transmission facilities are available.

3 (3) Eligible costs under subsection (2) must be  
 4 reduced by the amount of any grants provided by the state or  
 5 federal government for the system."

6 Section 21. Section 15-33-106, MCA, is amended to  
 7 read:

8 "15-33-106. Capital gains -- dividends exempted. Any  
 9 capital gains or dividend income realized by an individual  
 10 or a corporation from an investment in an SBIC organized in  
 11 accordance with this part is exempt from taxation under the  
 12 provisions of Title 15, ~~chapters 30 and~~ chapter 31."

13 Section 22. Section 53-2-101, MCA, is amended to read:

14 "53-2-101. Definitions. Unless the context requires  
 15 otherwise, in this chapter the following definitions apply:

16 (1) "Department" means the department of social and  
 17 rehabilitation services provided for in Title 2, chapter 15,  
 18 part 22.

19 (2) "Public assistance" or "assistance" means any type  
 20 of monetary or other assistance furnished under this title  
 21 to a person by a state or county agency, regardless of the  
 22 original source of the assistance.

23 (3) "Needy person" is one who is eligible for public  
 24 assistance under the laws of this state.

25 (4) "Net monthly income" means one-twelfth of the

1 difference between the net-income federal adjusted taxable  
 2 income for the taxable year as the that term net--income is  
 3 defined in ~~15-30-101~~ [section 2] and the state income tax  
 4 paid as determined by the state income tax return filed  
 5 during the current year.

6 (5) "Ward Indian" is hereby defined as an Indian who  
 7 is living on an Indian reservation set aside for tribal use  
 8 or is a member of a tribe or nation accorded certain rights  
 9 and privileges by treaty or by federal statutes. If and when  
 10 the federal Social Security Act is amended to define a "ward  
 11 Indian", such definition shall supersede the foregoing  
 12 definition."

13 Section 23. Section 53-6-111, MCA, is amended to read:  
 14 "53-6-111. Department charged with general  
 15 administration of medical assistance -- adoption of rules to  
 16 punish fraud. (1) The department of social and  
 17 rehabilitation services is hereby authorized and empowered  
 18 to administer and supervise a vendor payment program of  
 19 medical assistance under the powers, duties, and functions  
 20 provided in chapter 2 of this title, as amended, and as  
 21 contemplated by the provisions of Title XIX of the federal  
 22 Social Security Act.

23 (2) The department shall adopt rules establishing a  
 24 system of penalties and sanctions applicable to providers of  
 25 medical assistance services and supplies who engage in

1 fraudulent, abusive, or improper activities. The department  
 2 shall define by rule those activities which are fraudulent,  
 3 abusive, or improper.

4 (3) The penalties or sanctions imposed include but are  
 5 not limited to:

6 (a) required courses of education in the rules  
 7 governing the medicaid program;

8 (b) withholding of payments to offset previous  
 9 improper payments to a provider;

10 (c) suspension of payments to a provider pending  
 11 resolution of a dispute involving fraudulent, abusive, or  
 12 improper activities;

13 (d) suspension of participation in the program for a  
 14 specified period of time; and

15 (e) permanent termination of participation in the  
 16 medical assistance program.

17 (4) The department is entitled to recover from a  
 18 provider all amounts paid as a result of fraudulent,  
 19 abusive, or improper activities, together with interest at  
 20 the rate set by ~~15-30-142~~ [section 6] for tax deficiencies  
 21 from the date of such payment.

22 (5) In all cases in which a penalty or sanction may be  
 23 imposed, a provider is entitled to a hearing under the  
 24 provisions of Title 2, chapter 4, part 6."

25 Section 24. Section 67-11-303, MCA, is amended to

1 read:

2 "67-11-303. Bonds and obligations. (1) An authority  
3 may borrow money for any of its corporate purposes and issue  
4 its bonds therefor, including refunding bonds, in such form  
5 and upon such terms as it may determine, payable out of any  
6 revenues of the authority, including revenues derived from:

7 (a) an airport or air navigation facility or  
8 facilities;

9 (b) taxes levied pursuant to 67-11-301 or other law  
10 for airport purposes;

11 (c) grants or contributions from the federal  
12 government; or

13 (d) other sources.

14 (2) The bonds may be issued by resolution of the  
15 authority, without an election and without any limitation of  
16 amount, except that no such bonds may be issued at any time  
17 if the total amount of principal and interest to become due  
18 in any year on such bonds and on any then outstanding bonds  
19 for which revenues from the same source or sources are  
20 pledged exceeds the amount of such revenues to be received  
21 in that year as estimated in the resolution authorizing the  
22 issuance of the bonds. The authority shall take all action  
23 necessary and possible to impose, maintain, and collect  
24 rates, charges, rentals, and taxes, if any are pledged,  
25 sufficient to make the revenues from the pledged source in

1 such year at least equal to the amount of such principal and  
2 interest due in that year.

3 (3) The bonds may be sold at public or private sale  
4 and may bear interest at a rate not exceeding the limitation  
5 of 17-5-102. Except as otherwise provided herein, any bonds  
6 issued pursuant to this chapter by an authority may be  
7 payable as to principal and interest solely from revenues of  
8 the authority and shall state on their face the applicable  
9 limitations or restrictions regarding the source from which  
10 such principal and interest are payable.

11 (4) Bonds issued by an authority or municipality  
12 pursuant to the provisions of this chapter are declared to  
13 be issued for an essential public and governmental purpose  
14 by a political subdivision within the meaning of  
15 ~~15-30-111(2)(a)~~ [section 2(2)(h)].

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

1           (6) Subject to the conditions stated in this  
 2 subsection (6), the governing body of any municipality  
 3 having a population in excess of 10,000, with respect to  
 4 bonds issued pursuant to this chapter by the municipality or  
 5 by an authority in which the municipality is included, may  
 6 by resolution covenant that in the event that at any time  
 7 all revenues, including taxes, appropriated and collected  
 8 for such bonds are insufficient to pay principal or interest  
 9 then due, it will levy a general tax upon all of the taxable  
 10 property in the municipality for the payment of such  
 11 deficiency; and may further covenant that at any time a  
 12 deficiency is likely to occur within 1 year for the payment  
 13 of principal and interest due on such bonds, it will levy a  
 14 general tax upon all the taxable property in the  
 15 municipality for the payment of such deficiency, and such  
 16 taxes are not subject to any limitation of rate or amount  
 17 applicable to other municipal taxes but are limited to a  
 18 rate estimated to be sufficient to produce the amount of the  
 19 deficiency. In the event more than one municipality having a  
 20 population in excess of 10,000 is included in an authority  
 21 issuing bonds pursuant to this chapter, the municipalities  
 22 may apportion the obligation to levy taxes for the payment  
 23 of, or in anticipation of, a deficiency in the revenues  
 24 appropriated for such bonds in such manner as the  
 25 municipalities may determine. The resolution shall state the

1 principal amount and purpose of the bonds and the substance  
 2 of the covenant respecting deficiencies. No such resolution  
 3 becomes effective until the question of its approval has  
 4 been submitted to the qualified electors of the municipality  
 5 at a special election called for the purpose by the  
 6 governing body of the municipality and a majority of the  
 7 electors voting on the question have voted in favor thereof.  
 8 The notice and conduct of the election is governed, to the  
 9 extent applicable, as provided for municipal general  
 10 obligation bonds in chapter 7, part 42, for an election  
 11 called by cities and towns, and as provided for county  
 12 general obligation bonds in chapter 7, part 22, for an  
 13 election called by counties. If a majority of the electors  
 14 voting thereon vote against approval of the resolution, the  
 15 municipality has no authority to make the covenant or to  
 16 levy a tax for the payment of deficiencies pursuant to this  
 17 section, but such municipality or authority may nevertheless  
 18 issue bonds under this chapter payable solely from the  
 19 sources referred to in subsection (1) above."

20           Section 25. Section 90-4-503, MCA, is amended to read:  
 21           "90-4-503. Residential conservation service  
 22 established. ~~{}~~ There is a residential conservation service  
 23 established in Montana under the National Energy  
 24 Conservation Policy Act of 1978, which shall be administered  
 25 by the department according to the provisions of P.L. 95-619

1 and this part.

2 ~~{2}--This--part--is--supplemental--to--the--provisions--of~~  
3 ~~15-32-107-administered-by-the-public-service-commission."~~

4 Section 26. Section 90-8-104, MCA, is amended to read:  
5 "90-8-104. Definitions. As used in this chapter,  
6 unless the context requires otherwise, the following  
7 definitions apply:

8 (1) "Board" means the Montana economic development  
9 board provided for in 2-15-1805.

10 (2) "Capital base" means equity capital or net worth.

11 (3) "Certified Montana capital company" means:

12 (a) a development credit corporation created pursuant  
13 to Title 32, chapter 4; or

14 (b) a profit or nonprofit entity organized and  
15 existing under the laws of Montana, created for the purpose  
16 of making venture or risk capital available for qualified  
17 investments and that has been certified by the board.

18 (4) "Montana business" means a business which is  
19 located or principally based within Montana.

20 (5) "Qualified investment" means a debt or equity  
21 financing of or a purchase and leaseback financing of a  
22 Montana business that meets both of the following criteria:

23 (a) the business is engaged in one or more of the  
24 following activities:

25 (i) manufacturing;

1 (ii) agricultural, fishery, or forestry production and  
2 processing;

3 (iii) mineral production and processing, except for  
4 conventional oil and gas exploration;

5 ~~{iv}-recognized-nonfossil-forms-of-energy-generation-as~~  
6 ~~defined-in-15-32-102(5);~~

7 ~~{v}{iv}~~ transportation;

8 ~~{vi}{v}~~ research and development of products or  
9 processes associated with any of the activities enumerated  
10 in (i) through ~~{v}~~ (iv) above;

11 ~~{vii}{vi}~~ wholesale or retail distribution activities  
12 for which products produced in Montana comprise 50% or more  
13 of the gross sales receipts;

14 ~~{viii}{vii}~~ any activity conducted in the state for  
15 which 50% or more of the gross receipts are derived from the  
16 sale of products or services outside Montana; and

17 ~~{ix}{viii}~~ tourism; and

18 (b) the business is a small business as defined in  
19 rules adopted by the board.

20 (6) "Qualified Montana capital company" means a  
21 certified Montana capital company that has been designated a  
22 qualified capital company under the provisions of 90-8-202  
23 so that investors in the company may receive the tax credits  
24 authorized in 90-8-202."

25 NEW SECTION. Section 27. Limitation of act. Nothing

1 in this act may be construed to affect any tax liability, or  
2 actions or causes of actions incident to these actions, that  
3 arose or might have arisen under Title 15, chapter 30, as  
4 that chapter read prior to [the effective date of this act].

5 NEW SECTION. Section 28. Codification instruction.  
6 Sections 2 through 6 are intended to be codified as an  
7 integral part of Title 15, chapter 30, part 1, and the  
8 provisions of Title 15, chapter 30, apply to sections 2  
9 through 6.

10 NEW SECTION. Section 29. Repealer. Sections  
11 15-30-103, 15-30-105, 15-30-111 through 15-30-116, 15-30-121  
12 through 15-30-123, 15-30-125, 15-30-126, 15-30-131,  
13 15-30-132, 15-30-135 through 15-30-137, 15-30-142,  
14 15-30-143, 15-30-171 through 15-30-179, 15-32-109, and  
15 15-32-201 through 15-32-203, MCA, are repealed.

16 NEW SECTION. Section 30. Effective date. This act is  
17 effective on passage and approval and applies to taxable  
18 years beginning after December 31, 1984.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 182-85

Form BD-15

In compliance with a written request received January 24, 19 85, there is hereby submitted a Fiscal Note for H.B. 326 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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 OF PROPOSED LEGISLATION:

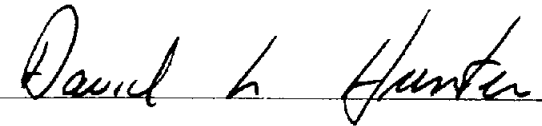
An act repealing the existing individual income tax and imposing a state income tax based on a percentage of the federal income tax payable on Montana taxable income.

ASSUMPTIONS:

1. There is no impact on revenues because it is assumed that the rate of state income tax specified in Section 3, page 8, line 1 of the proposed legislation is a revenue neutral rate. The flat rate that would have been applicable for CY 1977 through CY 1981 are as follows:

CY 1981	21.19%
CY 1980	21.92%
CY 1979	24.80%
CY 1978	28.57%
CY 1977	28.21%

2. Expenditures associated with the costs of administering the individual income tax will decrease an estimated \$100,000 each year. In FY 86 there will be a one time \$42,000 expenditure for rewriting the income tax data processing system.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Jan 28, 1985