

HB 496 INTRODUCED BY BRADLEY, ET AL.
INCREASING PUBLIC CONTRACTOR TAX; CREATING WATER
SYSTEM BOARD AND GRANT PROGRAM

1/27	INTRODUCED		
1/27	REFERRED TO TAXATION		
1/28	FISCAL NOTE REQUESTED		
2/03	FISCAL NOTE RECEIVED		
2/17	HEARING		
3/23	TAKEN FROM COMMITTEE	49	46
3/24	2ND READING PASSED AS AMENDED	52	47
3/26	3RD READING PASSED	53	45
	TRANSMITTED TO SENATE		
4/09	RULES SUSPENDED TO ALLOW RECEIPT OF BILL AFTER DEADLINE	47	2
4/10	REFERRED TO LOCAL GOVERNMENT		
4/14	HEARING		
4/14	ADVERSE COMMITTEE REPORT ADOPTED AS AMENDED	29	21

1 House BILL NO. 496
 2 INTRODUCED BY Bradley Resnick McCallum
 3 Famell, Grady
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A GRANT
 5 PROGRAM FOR THE CONSTRUCTION OF PUBLIC WATER SYSTEMS;
 6 FUNDING THE GRANT PROGRAM THROUGH AN INCREASE IN THE PUBLIC
 7 CONTRACTOR'S TAX; ESTABLISHING A PUBLIC WATER SYSTEMS
 8 ACCOUNT AND A PUBLIC WATER SYSTEMS BOARD; AMENDING SECTIONS
 9 15-50-205 THROUGH 15-50-207; AND PROVIDING AN APPLICABILITY
 10 DATE."
 11

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

13 NEW SECTION. Section 1. Purpose. The purposes of
 14 [sections 1 through 8] are to establish a grant program for
 15 construction of needed public water systems, including water
 16 supply systems, sewer systems, and drainage systems; to
 17 protect and enhance the quality of drinking water and
 18 receiving waters; to reduce the burden on local taxpayers to
 19 fund major public works projects; to create jobs and
 20 stimulate economic activity by channeling taxes paid by
 21 public contractors directly into construction projects; and
 22 to establish an efficient, cost-effective structure to
 23 administer the grant program.

24 NEW SECTION. Section 2. Definitions. As used in
 25 [sections 1 through 8], the following definitions apply:

1 (1) "Board" means the public water systems board
 2 provided for in [section 9].

3 (2) "Construction cost" means any cost, incurred after
 4 notice to proceed, of site preparation, on-site engineering
 5 inspections and construction engineering activities,
 6 excavation, building, demolition, and repair and includes
 7 materials and labor necessary for these purposes.
 8 Construction cost does not include the cost of engineering
 9 or design work, feasibility studies, acquisition of land and
 10 capital facilities, or any cost incurred prior to notice to
 11 proceed.

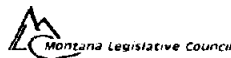
12 (3) "Grant cycle" means each calendar quarter during
 13 which applications for grants from the public water systems
 14 account are accepted.

15 (4) "Local government" means a county, city, town,
 16 special improvement district, county water or sewer
 17 district, or any other political subdivision of the state,
 18 except a school district.

19 (5) "Project" means the construction, repair,
 20 rehabilitation, reconstruction, replacement, or improvement
 21 of a public water system.

22 (6) "Public water system" means a water supply system,
 23 sewer system, or drainage system constructed, improved,
 24 operated, or maintained by a local government.

25 NEW SECTION. Section 3. Public water systems account.



1 (1) There is a public water systems account within the
2 state special revenue fund established in 17-2-102. This
3 account must receive one-half of the public contractor
4 license tax provided for in 15-50-205.

5 (2) Interest earned by the public water systems
6 account accrues to that account.

7 (3) Money from the public water systems account may be
8 spent to provide grants to local governments for projects
9 and to pay the administrative expenses of the public water
10 systems board.

11 NEW SECTION. Section 4. Public water systems board --
12 chairman -- meetings -- compensation -- funding. (1) The
13 public water systems board, established in [section 9],
14 shall elect a chairman from among its members.

15 (2) The board shall meet within 1 month after the
16 conclusion of each grant cycle and may meet at any other
17 time as necessary or as called by the chairman or a majority
18 of the members.

19 (3) Members are entitled to receive \$50 a day
20 compensation plus expenses, as provided in 2-18-501 through
21 2-18-503, for each day spent on official board business.

22 (4) The administrative and operating expenses of the
23 board must be paid from the public water systems account
24 provided for in [section 3].

25 NEW SECTION. Section 5. Powers of the board. The

1 board may:

2 (1) retain professional staff, consultants, and
3 advisers;

4 (2) adopt rules governing its proceedings and
5 determinations and the administration of [sections 1 through
6 8];

7 (3) award grants from the public water systems account
8 to local governments for public water system projects;

9 (4) enter into contractual arrangements with local
10 governments to specify the terms and conditions of grants;
11 and

12 (5) accept grants and other funds to be deposited in
13 the public water systems account and used in carrying out
14 [sections 1 through 8].

15 NEW SECTION. Section 6. Public water systems grant
16 program. (1) Not later than 60 days before the end of a
17 grant cycle, the board shall advertise or otherwise give
18 public notice of the availability of grants to local
19 governments for public water system projects.

20 (2) A local government may apply to the board for a
21 grant to finance up to one-third of the construction cost of
22 a public water system project.

23 (3) The application must describe the proposed
24 project, explain the need for the project, provide
25 information on project financing and the relationship of the

1 proposed grant to that financing, and include any other
2 pertinent information required by the board.

3 (4) The board shall review and evaluate all
4 applications received within each grant cycle under the
5 eligibility requirements of [section 7] and the evaluation
6 criteria of [section 8].

7 (5) The board shall award those grants it considers
8 appropriate not later than 60 days after the conclusion of
9 the grant cycle.

10 (6) The board shall limit each grant awarded so that
11 the total amount of all grants received by a sponsor for a
12 project does not exceed one-third of the construction cost.

13 (7) If a project is not begun within 1 year after a
14 grant is awarded, funds granted but unexpended revert to the
15 public water systems account and become available for other
16 grants, unless otherwise specified by contractual
17 arrangement between the board and the grant recipient.

18 NEW SECTION. Section 7. Eligibility for grants.

19 (1) To be eligible to receive funds from the public water
20 systems grant program, a proposed project must:

21 (a) conform to the definition of "project" in [section
22 2];

23 (b) be subject to competitive bidding among qualified
24 public contractors; and

25 (c) be sponsored by a local government that has:

1 (i) completed appropriate technical evaluations and
2 feasibility studies;

3 (ii) obtained necessary construction permits or
4 provided evidence that such permits are forthcoming; and

5 (iii) secured funding for all costs not proposed to be
6 paid from the grant.

7 (2) Proposals ineligible for grants include:

8 (a) engineering or feasibility studies intended to
9 determine if construction should proceed;

10 (b) projects that would otherwise receive the needed
11 grant from another source; and

12 (c) projects that propose to commence more than 1 year
13 after the grant award.

14 NEW SECTION. Section 8. Evaluation criteria. (1) The
15 board shall evaluate project applications and award grants
16 based on the degree to which the project:

17 (a) meets an emergency or urgent public need;

18 (b) protects public health;

19 (c) conserves or enhances water quality;

20 (d) results in more efficient use of water;

21 (e) serves residents in a cost-effective manner;

22 (f) offers a long-term solution to a public water
23 system need;

24 (g) demonstrates a new or innovative technology; and

25 (h) serves a large population or a large number of

1 communities.

2 (2) The board shall further consider the degree to
3 which the grant:

4 (a) makes economically feasible a project that might
5 not otherwise be constructed;

6 (b) significantly expedites the commencement of a
7 construction project;

8 (c) generates matching funds from nonstate sources;

9 (d) creates jobs, both on a long-term and short-term
10 basis;

11 (e) stimulates employment in an area of high
12 unemployment;

13 (f) serves a community that has exhausted other
14 potential funding sources that might have substituted for
15 the grant; and

16 (g) serves a community that is using all local revenue
17 sources that are reasonably available for funding public
18 water systems, taking into consideration local economic
19 conditions.

20 (3) The board shall award grants to those projects
21 providing the maximum public benefits under the evaluation
22 criteria in this section. The board shall attempt to achieve
23 geographical distribution in awarding grants to the most
24 qualified projects.

25 (4) The board shall document its decision on the

1 awarding of grants. The documentation must consist of
2 written findings on each application awarded a grant or the
3 use of an objective scoring system, based on the evaluation
4 criteria in this section, that is used to determine a
5 priority ranking for each eligible project application.

6 NEW SECTION. Section 9. Public water systems board --
7 composition -- operation -- allocation. (1) There is a
8 public water systems board composed of three members
9 appointed by the governor.

10 (2) The members are:

11 (a) one local government public works director;

12 (b) one public contractor with a Class A license and
13 with extensive experience in public water supply, sewer, or
14 drainage system projects; and

15 (c) one professional engineer, as defined in
16 37-67-101, with extensive experience in public water supply,
17 sewer, or drainage system projects.

18 (3) Terms are 3 calendar years.

19 (4) Vacancies of unexpired terms must be filled within
20 30 days.

21 (5) A majority of the membership constitutes a quorum
22 to conduct business. A favorable vote of at least a majority
23 of all members is required to adopt any resolution, motion,
24 or other decision.

25 (6) The public water systems board is allocated to the

1 department of commerce for administrative purposes only, as
2 prescribed in 2-15-121.

3 (7) The board may retain professional staff,
4 consultants, and advisers.

5 NEW SECTION. Section 10. Initial board appointment.

6 (1) Notwithstanding the provisions of [section 9], the
7 governor shall within 60 days following [the effective date
8 of this act] appoint the initial board as follows:

9 (a) one member must be appointed for a term of 1 year;

10 (b) one member must be appointed for a term of 2
11 years; and

12 (c) one member must be appointed for a term of 3
13 years.

14 (2) Initial board terms commence on January 1, 1988.

15 Section 11. Section 15-50-205, MCA, is amended to
16 read:

17 "15-50-205. Additional license tax imposed. (1) In
18 addition to the fees enumerated in 37-71-204, each public
19 contractor, unless he constructs or works on a federal
20 research facility, shall pay to the department of revenue an
21 additional license fee in a sum equal to ~~1%~~ 2% of the gross
22 receipts, as defined in 15-50-101, from public contracts
23 during the income year for which the license is issued.

24 (2) The additional license fee shall be computed upon
25 the basis of the entire contract for each separate contract

1 let by any of the public bodies as specified in
2 37-71-101(3).

3 (3) One-half of the additional license fee is eligible
4 for the tax credits that may be used by public contractors
5 under the provisions of 15-50-207. Fees retained or
6 collected by the state after the application of the tax
7 credits must be deposited in the general fund.

8 (4) One-half of the additional license fee must be
9 deposited in the public water systems account as provided
10 for in [section 3]."

11 Section 12. Section 15-50-206, MCA, is amended to
12 read:

13 "15-50-206. Withholding license fee from payments --
14 refunds. (1) The prime contractor shall withhold the
15 additional ~~1%~~ 2% license fee from payments to his
16 subcontractors and inform the department of revenue on
17 prescribed forms of the amount of the additional ~~1%~~ 2%
18 license fee in his account to be allocated and transferred
19 to the subcontractor. The notification to transfer portions
20 of the additional ~~1%~~ 2% license fee must be filed within 30
21 days after each payment is made to subcontractors. If any
22 prime contractor fails to file the required allocation and
23 transfer report at the time required by or under the
24 provisions of this chapter, a penalty computed at the rate
25 of 10% of the additional ~~1%~~ 2% license fee withheld from

1 subcontractors shall be due from the prime contractor.

2 (2) The state, county, city, or any agency or
3 department thereof, as described in 37-71-101(3), for whom
4 the contractor is performing public work shall withhold, in
5 addition to other amounts withheld as provided by law, ~~1%~~ 2%
6 of all payments due the contractor and shall transmit such
7 moneys to the department of revenue. In the event that the
8 ~~1%~~ 2% of gross receipts, as defined in 15-50-101, is not
9 withheld as provided, the contractor shall make payment of
10 these amounts to the department within 30 days after the
11 date on which the contractor receives each increment of
12 payment for work performed by the contractor.

13 (3) Any overpayment of the ~~1%~~ 2% of gross receipts, as
14 defined in 15-50-101, withheld or paid by any contractor
15 hereunder shall be refunded by the department of revenue at
16 the end of the income year upon written application
17 therefor."

18 Section 13. Section 15-50-207, MCA, is amended to
19 read:

20 "15-50-207. Credit against other taxes -- credit for
21 personal property taxes and certain fees. (1) The One-half
22 of the additional license fees withheld or otherwise paid as
23 provided herein may be used as a credit on the contractor's
24 corporation license tax provided for in chapter 31 of this
25 title or on the contractor's income tax provided for in

1 chapter 30, depending upon the type of tax the contractor is
2 required to pay under the laws of the state.

3 (2) Personal property taxes, fees in lieu of taxes on
4 motorcycles or quadricycles, or light vehicle license fees
5 as provided by 61-3-532 paid in Montana on any personal
6 property of the contractor which is used in the business of
7 the contractor and is located within this state may be
8 credited against one-half of the license fees required under
9 this chapter. However, in computing the tax credit allowed
10 by this section against the contractor's corporation license
11 tax or income tax, the personal property tax or light
12 vehicle license fee credit against the license fees herein
13 required shall not be considered as license fees paid for
14 the purpose of such income tax or corporation license tax
15 credit."

16 NEW SECTION. Section 14. Extension of authority. Any
17 existing authority of the department of revenue to make
18 rules on the subject of the provisions of this act is
19 extended to the provisions of this act.

20 NEW SECTION. Section 15. Applicability. This act
21 applies to taxable years beginning after December 31, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB496, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a grant program for the construction of public water systems; funding the grant program through an increase in the public contractor's tax; establishing a public water systems account and a public water systems board; amending sections 15-50-205 through 15-50-207; and providing an applicability date.

ASSUMPTIONS:

1. The gross receipts of public contractors will be \$288,800,000 in FY88 and \$281,900,000 in FY89 (derived from REAC estimates of public contractor's gross receipts tax revenue).
2. Public contractor tax credits will be \$1,502,000 in FY88 and \$1,466,000 in FY89 (derived from REAC estimates of public contractor's gross receipts tax revenue).
3. This proposal would apply to taxable years beginning after December 31, 1987. Therefore it would impact public contractors tax collections for the second half of FY88 and all of FY89.

FISCAL IMPACT:Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Public Contractor's Tax	\$ 1,386,000	\$ 2,830,000	\$ 1,444,000	\$ 1,353,000	\$ 4,172,000	\$ 2,819,000
Total Revenue	\$ 1,386,000	\$ 2,830,000	\$ 1,444,000	\$ 1,353,000	\$ 4,172,000	\$ 2,819,000

Expenditures: *

Public Water Systems Board	\$ 0	\$ 196,718	\$ 196,718	\$ 0	\$ 195,459	\$ 195,459
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* Expenditures for the Public Water Systems Board are paid from the Public Water Systems Account.

Fund Information

General Fund	\$ 1,386,000	\$ 1,386,000	\$ 0	\$ 1,353,000	\$ 1,353,000	\$ 0
Public Water Systems Account	\$ 0	\$ 1,444,000	\$ 1,444,000	\$ 0	\$ 2,819,000	\$ 2,819,000

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

This proposal does not specify whether the new tax would apply to projects already under construction on the applicability date. The effective date of January 1, 1988 will make it difficult for the board to both set up the new program and award grants for FY88. Six months does not seem to be enough time for both activities.

David L. Hunter DATE 2/2/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Dorothy Bradley DATE 2/5
 DOROTHY BRADLEY, PRIMARY SPONSOR

Fiscal Note for HB496, as introduced.

HB 496

ON TAXATION
WITHOUT RECOMMENDATION
MOTION TO MOVE FROM
COMMITTEE TO 2ND READING

1 House BILL NO. 496
2 INTRODUCED BY Bradley Travis McCallum
3 Famell Grady

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A GRANT
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6 FUNDING THE GRANT PROGRAM THROUGH AN INCREASE IN THE PUBLIC
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9 15-50-205 THROUGH 15-50-207; AND PROVIDING AN APPLICABILITY
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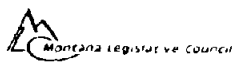
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7 (3) Money from the public water systems account may be
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9 and to pay the administrative expenses of the public water
10 systems board.

11 NEW SECTION. Section 4. Public water systems board --
12 chairman -- meetings -- compensation -- funding. (1) The
13 public water systems board, established in [section 9],
14 shall elect a chairman from among its members.

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16 conclusion of each grant cycle and may meet at any other
17 time as necessary or as called by the chairman or a majority
18 of the members.

19 (3) Members are entitled to receive \$50 a day
20 compensation plus expenses, as provided in 2-18-501 through
21 2-18-503, for each day spent on official board business.

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23 board must be paid from the public water systems account
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1 board may:

2 (1) retain professional staff, consultants, and
3 advisers;

4 (2) adopt rules governing its proceedings and
5 determinations and the administration of [sections 1 through
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8 to local governments for public water system projects;

9 (4) enter into contractual arrangements with local
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12 (5) accept grants and other funds to be deposited in
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14 [sections 1 through 8].

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16 program. (1) Not later than 60 days before the end of a
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18 public notice of the availability of grants to local
19 governments for public water system projects.

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21 grant to finance up to one-third of the construction cost of
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24 project, explain the need for the project, provide
25 information on project financing and the relationship of the

1 proposed grant to that financing, and include any other
2 pertinent information required by the board.

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4 applications received within each grant cycle under the
5 eligibility requirements of [section 7] and the evaluation
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8 appropriate not later than 60 days after the conclusion of
9 the grant cycle.

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14 grant is awarded, funds granted but unexpended revert to the
15 public water systems account and become available for other
16 grants, unless otherwise specified by contractual
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19 (1) To be eligible to receive funds from the public water
20 systems grant program, a proposed project must:

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22 2];

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24 public contractors; and

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2 feasibility studies;

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6 paid from the grant.

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21 days after each payment is made to subcontractors. If any
22 prime contractor fails to file the required allocation and
23 transfer report at the time required by or under the
24 provisions of this chapter, a penalty computed at the rate
25 of 10% of the additional ~~1%~~ 2% license fee withheld from

1 subcontractors shall be due from the prime contractor.

2 (2) The state, county, city, or any agency or
3 department thereof, as described in 37-71-101(3), for whom
4 the contractor is performing public work shall withhold, in
5 addition to other amounts withheld as provided by law, ~~1%~~ 2%
6 of all payments due the contractor and shall transmit such
7 moneys to the department of revenue. In the event that the
8 ~~1%~~ 2% of gross receipts, as defined in 15-50-101, is not
9 withheld as provided, the contractor shall make payment of
10 these amounts to the department within 30 days after the
11 date on which the contractor receives each increment of
12 payment for work performed by the contractor.

13 (3) Any overpayment of the ~~1%~~ 2% of gross receipts, as
14 defined in 15-50-101, withheld or paid by any contractor
15 hereunder shall be refunded by the department of revenue at
16 the end of the income year upon written application
17 therefor."

18 Section 13. Section 15-50-207, MCA, is amended to
19 read:

20 "15-50-207. Credit against other taxes -- credit for
21 personal property taxes and certain fees. (1) The One-half
22 of the additional license fees withheld or otherwise paid as
23 provided herein may be used as a credit on the contractor's
24 corporation license tax provided for in chapter 31 of this
25 title or on the contractor's income tax provided for in

1 chapter 30, depending upon the type of tax the contractor is
2 required to pay under the laws of the state.

3 (2) Personal property taxes, fees in lieu of taxes on
4 motorcycles or quadricycles, or light vehicle license fees
5 as provided by 61-3-532 paid in Montana on any personal
6 property of the contractor which is used in the business of
7 the contractor and is located within this state may be
8 credited against one-half of the license fees required under
9 this chapter. However, in computing the tax credit allowed
10 by this section against the contractor's corporation license
11 tax or income tax, the personal property tax or light
12 vehicle license fee credit against the license fees herein
13 required shall not be considered as license fees paid for
14 the purpose of such income tax or corporation license tax
15 credit."

16 NEW SECTION. Section 14. Extension of authority. Any
17 existing authority of the department of revenue to make
18 rules on the subject of the provisions of this act is
19 extended to the provisions of this act.

20 NEW SECTION. Section 15. Applicability. This act
21 applies to taxable years beginning after December 31, 1987.

-End-

1 HOUSE BILL NO. 496

2 INTRODUCED BY BRADLEY, DRISCOLL, MCCALLUM, FARRELL, GRADY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A GRANT
5 PROGRAM FOR THE CONSTRUCTION OF PUBLIC WATER SYSTEMS;
6 FUNDING THE GRANT PROGRAM THROUGH AN-INCREASE-IN-THE--PUBLIC
7 CONTRACTOR'S--TAX A GROSS RECEIPTS TAX ON PUBLIC CONTRACTS;
8 ESTABLISHING A PUBLIC WATER SYSTEMS ACCOUNT AND A PUBLIC
9 WATER SYSTEMS BOARD; AMENDING SECTIONS SECTION 15-50-205
10 THROUGH--15-50-207, MCA; AND PROVIDING AN APPLICABILITY
11 DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Purpose. The purposes of
15 [sections 1 through 8] are to establish a grant program for
16 construction of needed public water systems, including water
17 supply systems, sewer systems, and drainage systems; to
18 protect and enhance the quality of drinking water and
19 receiving waters; to reduce the burden on local taxpayers to
20 fund major public works projects; to create jobs and
21 stimulate economic activity by channeling taxes paid by
22 public contractors directly into construction projects; and
23 to establish an efficient, cost-effective structure to
24 administer the grant program.

25 NEW SECTION. Section 2. Definitions. As used in

1 [sections 1 through 8], the following definitions apply:

2 (1) "Board" means the public water systems board
3 provided for in [section 9].4 (2) "Construction cost" means any cost, incurred after
5 notice to proceed, of site preparation, on-site engineering
6 inspections and construction engineering activities,
7 excavation, building, demolition, and repair and includes
8 materials and labor necessary for these purposes.
9 Construction cost does not include the cost of engineering
10 or design work, feasibility studies, acquisition of land and
11 capital facilities, or any cost incurred prior to notice to
12 proceed.13 (3) "Grant cycle" means each calendar quarter during
14 which applications for grants from the public water systems
15 account are accepted.16 (4) "Local government" means a county, city, town,
17 special improvement district, county water or sewer
18 district, or any other political subdivision of the state,
19 except a school district.20 (5) "Project" means the construction, repair,
21 rehabilitation, reconstruction, replacement, or improvement
22 of a public water system.23 (6) "Public water system" means a water supply system,
24 sewer system, or drainage system constructed, improved,
25 operated, or maintained by a local government.

1 NEW SECTION. Section 3. Public water systems account.

2 (1) There is a public water systems account within the state
3 special revenue fund established in 17-2-102. This account
4 must receive ~~one-half-of-the-public-contractor--license~~ ALL
5 REVENUE FROM THE GROSS RECEIPTS tax provided for in
6 15-50-205.

7 (2) Interest earned by the public water systems
8 account accrues to that account.

9 (3) Money from the public water systems account may be
10 spent to provide grants to local governments for projects
11 and to pay the administrative expenses of the public water
12 systems board.

13 NEW SECTION. Section 4. Public water systems board --
14 chairman -- meetings -- compensation -- funding. (1) The
15 public water systems board, established in [section 9],
16 shall elect a chairman from among its members.

17 (2) The board shall meet within 1 month after the
18 conclusion of each grant cycle and may meet at any other
19 time as necessary or as called by the chairman or a majority
20 of the members.

21 (3) Members are entitled to receive \$50 a day
22 compensation plus expenses, as provided in 2-18-501 through
23 2-18-503, for each day spent on official board business.

24 (4) The administrative and operating expenses of the
25 board must be paid from the public water systems account

1 provided for in [section 3].

2 NEW SECTION. Section 5. Powers of the board. The
3 board may:

4 (1) retain professional staff, consultants, and
5 advisers;

6 (2) adopt rules governing its proceedings and
7 determinations and the administration of [sections 1 through
8 8];

9 (3) award grants from the public water systems account
10 to local governments for public water system projects;

11 (4) enter into contractual arrangements with local
12 governments to specify the terms and conditions of grants;
13 and

14 (5) accept grants and other funds to be deposited in
15 the public water systems account and used in carrying out
16 [sections 1 through 8].

17 NEW SECTION. Section 6. Public water systems grant
18 program. (1) Not later than 60 days before the end of a
19 grant cycle, the board shall advertise or otherwise give
20 public notice of the availability of grants to local
21 governments for public water system projects.

22 (2) A local government may apply to the board for a
23 grant to finance up to one-third of the construction cost of
24 a public water system project.

25 (3) The application must describe the proposed

1 project, explain the need for the project, provide
 2 information on project financing and the relationship of the
 3 proposed grant to that financing, and include any other
 4 pertinent information required by the board.

5 (4) The board shall review and evaluate all
 6 applications received within each grant cycle under the
 7 eligibility requirements of [section 7] and the evaluation
 8 criteria of [section 8].

9 (5) The board shall award those grants it considers
 10 appropriate not later than 60 days after the conclusion of
 11 the grant cycle.

12 (6) The board shall limit each grant awarded so that
 13 the total amount of all grants received by a sponsor for a
 14 project does not exceed one-third of the construction cost.

15 (7) If a project is not begun within 1 year after a
 16 grant is awarded, funds granted but unexpended revert to the
 17 public water systems account and become available for other
 18 grants, unless otherwise specified by contractual
 19 arrangement between the board and the grant recipient.

20 NEW SECTION. Section 7. Eligibility for grants.

21 (1) To be eligible to receive funds from the public water
 22 systems grant program, a proposed project must:

23 (a) conform to the definition of "project" in [section
 24 2];

25 (b) be subject to competitive bidding among qualified

1 public contractors; and

2 (c) be sponsored by a local government that has:

3 (i) completed appropriate technical evaluations and
 4 feasibility studies;

5 (ii) obtained necessary construction permits or
 6 provided evidence that such permits are forthcoming; and

7 (iii) secured funding for all costs not proposed to be
 8 paid from the grant.

9 (2) Proposals ineligible for grants include:

10 (a) engineering or feasibility studies intended to
 11 determine if construction should proceed;

12 (b) projects that would otherwise receive the needed
 13 grant from another source; and

14 (c) projects that propose to commence more than 1 year
 15 after the grant award.

16 NEW SECTION. Section 8. Evaluation criteria. (1) The
 17 board shall evaluate project applications and award grants
 18 based on the degree to which the project:

19 (a) meets an emergency or urgent public need;

20 (b) protects public health;

21 (c) conserves or enhances water quality;

22 (d) results in more efficient use of water;

23 (e) serves residents in a cost-effective manner;

24 (f) offers a long-term solution to a public water
 25 system need;

1 (g) demonstrates a new or innovative technology; and
 2 (h) serves a large population or a large number of
 3 communities.

4 (2) The board shall further consider the degree to
 5 which the grant:

6 (a) makes economically feasible a project that might
 7 not otherwise be constructed;

8 (b) significantly expedites the commencement of a
 9 construction project;

10 (c) generates matching funds from nonstate sources;

11 (d) creates jobs, both on a long-term and short-term
 12 basis;

13 (e) stimulates employment in an area of high
 14 unemployment;

15 (f) serves a community that has exhausted other
 16 potential funding sources that might have substituted for
 17 the grant; and

18 (g) serves a community that is using all local revenue
 19 sources that are reasonably available for funding public
 20 water systems, taking into consideration local economic
 21 conditions.

22 (3) The board shall award grants to those projects
 23 providing the maximum public benefits under the evaluation
 24 criteria in this section. The board shall attempt to achieve
 25 geographical distribution in awarding grants to the most

1 qualified projects.

2 (4) The board shall document its decision on the
 3 awarding of grants. The documentation must consist of
 4 written findings on each application awarded a grant or the
 5 use of an objective scoring system, based on the evaluation
 6 criteria in this section, that is used to determine a
 7 priority ranking for each eligible project application.

8 NEW SECTION. Section 9. Public water systems board --
 9 composition -- operation -- allocation. (1) There is a
 10 public water systems board composed of three members
 11 appointed by the governor.

12 (2) The members are:

13 (a) one local government public works director;

14 (b) one public contractor with a Class A license and
 15 with extensive experience in public water supply, sewer, or
 16 drainage system projects; and

17 (c) one professional engineer, as defined in
 18 37-67-101, with extensive experience in public water supply,
 19 sewer, or drainage system projects.

20 (3) Terms are 3 calendar years.

21 (4) Vacancies of unexpired terms must be filled within
 22 30 days.

23 (5) A majority of the membership constitutes a quorum
 24 to conduct business. A favorable vote of at least a majority
 25 of all members is required to adopt any resolution, motion,

1 or other decision.

2 (6) The public water systems board is allocated to the
3 department of commerce for administrative purposes only, as
4 prescribed in 2-15-121.

5 (7) The board may retain professional staff,
6 consultants, and advisers.

7 NEW SECTION. Section 10. Initial board appointment.

8 (1) Notwithstanding the provisions of [section 9], the
9 governor shall within 60 days following [the effective date
10 of this act] appoint the initial board as follows:

- 11 (a) one member must be appointed for a term of 1 year;
- 12 (b) one member must be appointed for a term of 2
13 years; and
- 14 (c) one member must be appointed for a term of 3
15 years.

16 (2) Initial board terms commence on January 1, 1988.

17 Section 11. Section 15-50-205, MCA, is amended to
18 read:

19 "15-50-205. Additional license tax AND GROSS RECEIPTS
20 TAX imposed. (1) In addition to the fees enumerated in
21 37-71-204, each public contractor, unless he constructs or
22 works on a federal research facility, shall pay to the
23 department of revenue:

24 (A) an additional license fee in a sum equal to ~~1%~~ 2%
25 1% of the gross receipts, as defined in 15-50-101, from

1 public contracts during the income year for which the
2 license is issued; AND

3 (B).

4 (2) The additional license fee AND THE GROSS RECEIPTS
5 TAX shall be computed upon the basis of the entire contract
6 for each separate contract let by any of the public bodies
7 as specified in 37-71-101(3).

8 (3) ~~One-half-of-the~~ THE additional license fee is
9 eligible for the tax credits that may be used by public
10 contractors under the provisions of 15-50-207. Fees retained
11 or collected by the state after the application of the tax
12 credits must be deposited in the general fund.

13 (4) ~~One-half--of--the--additional--license--fee~~ THE GROSS
14 RECEIPTS TAX must be deposited in the public water systems
15 account as provided for in [section 3]."

16 ~~Section 12--Section--15-50-206,--MEA,--is--amended--to~~
17 ~~read:~~

18 ~~"15-50-206--Withholding--license--fee--from--payments--~~
19 ~~refunds;--(1)--The--prime--contractor--shall--withhold--the~~
20 ~~additional--1% 2% license--fee--from--payments--to--his~~
21 ~~subcontractors--and--inform--the--department--of--revenue--on~~
22 ~~prescribed--forms--of--the--amount--of--the--additional--1% 2%~~
23 ~~license--fee--in--his--account--to--be--allocated--and--transferred~~
24 ~~to--the--subcontractor--The--notification--to--transfer--portions~~
25 ~~of--the--additional--1% 2% license--fee--must--be--filed--within--30~~

1 days after each payment is made to subcontractors. If any
 2 prime contractor fails to file the required allocation and
 3 transfer report at the time required by or under the
 4 provisions of this chapter, a penalty computed at the rate
 5 of 10% of the additional 1% 2% license fee withheld from
 6 subcontractors shall be due from the prime contractor.

7 {2} The state, county, city, or any agency or
 8 department thereof, as described in 37-72-101(3), for whom
 9 the contractor is performing public work shall withhold, in
 10 addition to other amounts withheld as provided by law, 1% 2%
 11 of all payments due the contractor and shall transmit such
 12 moneys to the department of revenue. In the event that the
 13 1% 2% of gross receipts, as defined in 15-50-101, is not
 14 withheld as provided, the contractor shall make payment of
 15 these amounts to the department within 30 days after the
 16 date on which the contractor receives each increment of
 17 payment for work performed by the contractor.

18 {3} Any overpayment of the 1% 2% of gross receipts, as
 19 defined in 15-50-101, withheld or paid by any contractor
 20 hereunder shall be refunded by the department of revenue at
 21 the end of the income year upon written application
 22 therefor.

23 Section 13, Section 15-50-207, MCA, is amended to
 24 read:

25 "15-50-207. Credit against other taxes. Credit for

1 personal property taxes and certain fees. (1) The One-half
 2 of the additional license fees withheld or otherwise paid as
 3 provided herein may be used as a credit on the contractor's
 4 corporation license tax provided for in chapter 31 of this
 5 title or on the contractor's income tax provided for in
 6 chapter 30, depending upon the type of tax the contractor is
 7 required to pay under the laws of the state.

8 {2} Personal property taxes, fees in lieu of taxes on
 9 motorcycles or quadricycles, or light vehicle license fees
 10 as provided by 61-3-532 paid in Montana on any personal
 11 property of the contractor which is used in the business of
 12 the contractor and is located within this state may be
 13 credited against one-half of the license fees required under
 14 this chapter. However, in computing the tax credit allowed
 15 by this section against the contractor's corporation license
 16 tax or income tax, the personal property tax or light
 17 vehicle license fee credit against the license fees herein
 18 required shall not be considered as license fees paid for
 19 the purpose of such income tax or corporation license tax
 20 credit."

21 NEW SECTION. Section 12. Extension of authority. Any
 22 existing authority of the department of revenue to make
 23 rules on the subject of the provisions of this act is
 24 extended to the provisions of this act.

25 NEW SECTION. Section 13. Applicability. This act

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1 applies to taxable years beginning after December 31, 1987.

-End-