

SENATE BILL NO. 22

INTRODUCED BY VAN VALKENBURG, C. SMITH, THAYER, HARPER,  
VINCENT, MAZUREK, SIMON, CRIPPEN

IN THE SENATE

JANUARY 20, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 3, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 4, 1987	PRINTING REPORT.
FEBRUARY 6, 1987	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 10, 1987	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 11, 1987	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 12, 1987	ENGROSSING REPORT.
FEBRUARY 13, 1987	THIRD READING, PASSED. AYES, 50; NOES, 0.  TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 18, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
APRIL 9, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 11, 1987	SECOND READING, CONCURRED IN.
APRIL 13, 1987	THIRD READING, CONCURRED IN. AYES, 94; NOES, 0.  RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 16, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 17, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1                    SENATE    BILL NO.    22  
2    INTRODUCED BY HALLIGAN

3  
4    A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING GROSS VEHICLE  
5    WEIGHT ENFORCEMENT OFFICERS TO CARRY FIREARMS PROVIDED BY  
6    THE DEPARTMENT OF HIGHWAYS; AMENDING SECTIONS 61-12-203 AND  
7    61-12-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
8    FOR RULEMAKING AUTHORITY ONLY."

9  
10    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11            Section 1. Section 61-12-203, MCA, is amended to read:

12            "61-12-203. Official attire required for making  
13    arrests ~~and carrying firearms~~. Qualified employees may make  
14    arrests throughout the state only when dressed in official  
15    uniform and displaying the official badge authorized by the  
16    department. ~~Authorized employees may not carry firearms~~  
17    ~~unless officially attired."~~

18            Section 2. Section 61-12-204, MCA, is amended to read:

19            "61-12-204. Identification badge and uniform.  
20    Employees of the department engaged in the enforcement of  
21    this part shall wear and prominently display an  
22    identification badge or device with the employee's name and  
23    title shown on the identification badge or device. The  
24    department may shall authorize uniform dress for department  
25    employees engaged in such enforcement."

1            NEW SECTION. Section 3. Authorized employees to carry  
2    firearms. Employees appointed under 61-12-201, when attired  
3    and identified as required in 61-12-203 and 61-12-204 and  
4    when engaged in the enforcement of the provisions of the  
5    statutes enumerated in 61-12-206, shall carry firearms.

6            NEW SECTION. Section 4. Department of highways to  
7    furnish equipment. The department of highways shall furnish  
8    all employees appointed under 61-12-201 with uniforms and  
9    equipment necessary for the performance of their duties. Any  
10    such uniforms and equipment remain the property of the state  
11    of Montana.

12            NEW SECTION. Section 5. Department of highways to  
13    adopt rules. The department of highways shall adopt rules  
14    necessary for the implementation of [sections 3 and 4].

15            NEW SECTION. Section 6. Codification instruction.  
16    Sections 3 and 4 are intended to be codified as an integral  
17    part of Title 61, chapter 12, part 2, and the provisions of  
18    Title 61, chapter 12, part 2, apply to sections 3 and 4.

19            NEW SECTION. Section 7. Effective date. This section  
20    and section 5, which requires the department of highways to  
21    adopt rules on the subject of this act, are effective on  
22    passage and approval.

-End-



-2-    INTRODUCED BILL  
          50-22

1  
 2 INTRODUCTION BY *Senate BILL NO. 22*  
*Senators: Volkening, Smith, Allyn, Hoyer*  
*Vincent, Wozniak, Moran*

3 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA  
 4 CAPITAL COMPANY ACT TO REDEFINE "CAPITAL BASE"; TO ALTER  
 5 CERTIFICATION REQUIREMENTS; TO INCREASE THE AMOUNT OF TAX  
 6 CREDITS AVAILABLE TO A SINGLE COMPANY AND ALL COMPANIES; TO  
 7 CONTINUE THE AVAILABILITY OF TAX CREDITS UNTIL JUNE 30,  
 8 1989; AMENDING SECTIONS 90-8-104, 90-8-201, AND 90-8-202,  
 9 MCA; AND PROVIDING AN EFFECTIVE DATE."  
 10

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

12 Section 1. Section 90-8-104, MCA, is amended to read:  
 13 "90-8-104. Definitions. As used in this chapter,  
 14 unless the context requires otherwise, the following  
 15 definitions apply:

- 16 (1) "Board" means the Montana economic development  
 17 board provided for in 2-15-1805.
- 18 (2) "Capital base" means equity capital ~~or net worth~~  
 19 raised by a certified Montana capital company for which tax  
 20 credits were claimed under this chapter.
- 21 (3) "Certified Montana capital company" means:  
 22 (a) a development credit corporation created pursuant  
 23 to Title 32, chapter 4; or  
 24 (b) a profit or nonprofit entity organized and  
 25

1 existing under the laws of Montana, created for the purpose  
 2 of making venture or risk capital available for qualified  
 3 investments and that has been certified by the board.

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

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

- 9 (a) the business is engaged in one or more of the  
 10 following activities:  
 11 (i) manufacturing;  
 12 (ii) agricultural, fishery, or forestry production and  
 13 processing;  
 14 (iii) mineral production and processing, except for  
 15 conventional oil and gas exploration;  
 16 (iv) recognized nonfossil forms of energy generation as  
 17 defined in 15-32-102(5);  
 18 (v) transportation;  
 19 (vi) research and development of products or processes  
 20 associated with any of the activities enumerated in (i)  
 21 through (v) above;  
 22 (vii) wholesale or retail distribution activities for  
 23 which products produced in Montana comprise 50% or more of  
 24 the gross sales receipts;  
 25 (viii) any activity conducted in the state for which



1 50% or more of the gross receipts are derived from the sale  
2 of products or services outside Montana; and

3 (ix) tourism; and

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

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

11 Section 2. Section 90-8-201, MCA, is amended to read:

12 "90-8-201. Certification of Montana capital companies.

13 (1) Every 6 months, commencing January 1, 1984, or 3 months  
14 after rules are adopted to implement this chapter, whichever  
15 occurs first, the board shall certify Montana capital  
16 companies. A company seeking to be certified as a Montana  
17 capital company must make written application to the board  
18 on forms provided by the board. The application must contain  
19 the information required by 90-8-204 and such other  
20 information as the board requires. The application and  
21 certificate must specify the level of capitalization that  
22 the company expects to qualify for the tax credits provided  
23 for in 90-8-202.

24 (2) The application must show that the applicant's  
25 purpose is to ~~encourage--and--assist--in--the--creation;~~

1 ~~development--and--expansion-of-Montana-based-businesses-and~~  
2 ~~to-provide--maximum--opportunities--for--the--employment--of~~  
3 ~~Montanans-by-making-venture-capital-available-to-sound-small~~  
4 ~~Montana--firms~~ increase the general economic welfare of the  
5 state of Montana by:

6 (a) making investment capital available to businesses  
7 in Montana; and

8 (b) allowing for investment of up to 25% of its funds  
9 in businesses outside Montana if such investment is likely  
10 to produce an investment in Montana.

11 (3) Certifiable applicants include but are not limited  
12 to local and community development corporations, small  
13 business administration 503 corporations, and small business  
14 investment companies.

15 (4) Certification is a prerequisite to and must be  
16 completed before seeking designation as a qualified capital  
17 company."

18 Section 3. Section 90-8-202, MCA, is amended to read:

19 "90-8-202. Designation of qualified Montana capital  
20 companies -- tax credit. (1) The board shall designate as  
21 qualified Montana capital companies those certified  
22 companies that have been privately capitalized at a minimum  
23 level of \$200,000. A certified company seeking designation  
24 as a qualified Montana capital company must make written  
25 application to the board on forms provided by the board.

1 The application must contain the information required by  
2 90-8-204 and such other information as the board requires.

3 (2) (a) The total amount of tax credits authorized for  
4 a single qualified company may not exceed ~~33757000~~  
5 \$1,500,000. In the event the capitalization of the company  
6 is later increased, the company may apply for authorization  
7 of additional tax credits within the foregoing limitation.

8 (b) The total credits authorized for all companies may  
9 not exceed a total of \$1 million prior to June 30, 1985. The  
10 total credits authorized for all companies between July 1,  
11 1985, and June 30, 1987, may not exceed \$1 million plus any  
12 portion of the \$1 million available for authorization before  
13 June 30, 1985, that is allocated to qualified companies. The  
14 total credits authorized for all companies between July 1,  
15 1987, and June 30, 1989, may not exceed \$3 million plus any  
16 portion of the credits available for authorization before  
17 June 30, 1987, that is allocated to qualified companies.

18 (3) The credits shall be allocated to qualified  
19 companies in the order that completed applications for  
20 designation as qualified capital companies are received by  
21 the board, and the board shall certify to each such company  
22 its appropriate allocation.

23 ~~(3)(4)~~ Investors in a qualified Montana capital  
24 company are entitled to the tax credits provided for in  
25 subsection ~~(4)~~ (5). Funds invested in a certified company

1 prior to designation as a qualified Montana capital company  
2 may, at the discretion of the investor, be placed in an  
3 escrow account in a Montana financial institution pending  
4 designation of the company as a qualified Montana capital  
5 company.

6 ~~(4)(5)~~ Subject to the provisions of subsection (2), an  
7 individual, small business corporation, partnership, or  
8 corporate taxpayer who makes a capital investment in a  
9 qualified Montana capital company is entitled to a tax  
10 credit equal to ~~25%~~ 50% of the investment, up to a maximum  
11 credit of ~~\$257000~~ \$150,000 per taxpayer. The credit may be  
12 taken against the tax liability imposed on the investor  
13 pursuant to Title 15, chapter 30 or 31. The credit for  
14 investments by a small business corporation electing to be  
15 taxed under 15-31-202 or a partnership may be claimed by the  
16 small business corporation shareholders or the partners.

17 ~~(5)(6)~~ The tax credit allowed under subsection ~~(4)~~ (5)  
18 is to be credited against the taxpayer's income tax  
19 liability for the taxable year in which the investment in a  
20 qualified Montana capital company is made. If the amount of  
21 the tax credit exceeds the taxpayer's tax liability for the  
22 taxable year, the amount of the credit which exceeds the tax  
23 liability may be carried back or carried forward in  
24 accordance with the provisions of section 46(b) of the  
25 Internal Revenue Code ~~of-1954~~, as amended.

1        (6)(7) The tax credit provided for in this section is  
2 available only to those taxpayers who invest in a qualified  
3 Montana capital company within 5 2 years of ~~April-18, 1983~~  
4 July 1, 1987."

5        NEW SECTION. Section 4. Extension of authority. Any  
6 existing authority of the Montana economic development board  
7 to make rules on the subject of the provisions of this act  
8 is extended to the provisions of this act.

9        NEW SECTION. Section 5. Saving clause. This act does  
10 not affect rights and duties that matured, penalties that  
11 were incurred, or proceedings that were begun before the  
12 effective date of this act.

13        NEW SECTION. Section 6. Effective date. This act is  
14 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB022, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act increasing the tax credits allowed investors in qualified Montana capital companies; and providing for an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's individual and corporate income tax estimates provide the basis for comparison.
2. Corporate tax collections will be \$53,063,000 in FY88 and \$58,995,000 in FY89. Payments by financial institutions will be \$6,140,000 of the total in FY88 and \$6,826,250 in FY89.
3. Individual income tax collections will be \$208,088,000 in FY88 and \$229,991,000 in FY89.
4. Corporations will claim \$100,000 in capital company credits in FY88 and \$120,000 in FY89 under current law. Individuals will claim \$75,000 in FY88 and \$75,000 in FY89 (Department of Revenue estimates).
5. All of the corporate claimants are financial institutions (actual experience).
6. \$1,500,000 in total credits will be claimed each year because of the liberalization of the credit.

FISCAL IMPACT:


Revenue Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Individual Income Tax	\$208,088,000	\$207,558,000	(\$ 530,000)	\$229,991,000	\$229,469,000	(\$ 522,000)
Corporate License Tax	53,063,000	52,268,000	( 795,000)	58,995,000	58,212,000	( 783,000)

Fund Information:

General Fund	\$163,992,000	\$163,552,000	(\$ 440,000)	\$181,456,000	\$181,021,696	(\$ 434,304)
Foundation Program	64,060,000	63,887,500	( 172,500)	70,881,000	70,711,600	( 169,400)
Sinking Fund	28,187,000	28,110,500	( 76,500)	31,188,000	31,113,104	( 74,896)
Local Governments	4,912,000	4,276,000	( 636,000)	5,461,000	4,834,600	( 626,400)

 DATE 1/27/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

 DATE 1/28/87  
 FRED VAN VALKENBURG, PRIMARY SPONSOR  
 Fiscal Note for SB022, as introduced.



INDIVIDUAL INCOME TAX

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Total	208,088,000	207,558,000	( 530,000)	229,991,000	\$229,469,000	(\$ 522,000)
General Fund	133,176,320	132,837,120	( 339,200)	147,194,240	\$146,860,160	(\$ 334,080)
Foundation Program	52,022,000	51,889,500	( 132,500)	57,497,750	57,367,250	( 130,500)
Sinking Fund	22,889,680	22,831,380	( 58,300)	25,299,010	25,241,590	( 57,420)

CORPORATE INCOME TAX

Total Regular	46,923,000	46,923,000	0	52,168,750	52,168,750	0
Financial Inst.	6,140,000	5,345,000	( 795,000)	6,826,250	6,043,250	( 783,000)
General Fund	30,816,640	30,714,880	( 101,760)	34,261,760	34,161,536	( 100,224)
Foundation Program	12,037,750	11,998,000	( 39,750)	13,383,500	13,344,350	( 39,150)
Sinking Fund	5,296,610	5,279,120	( 17,490)	5,888,740	5,871,514	( 17,226)
Local Governments	4,912,000	4,276,000	( 636,000)	5,461,000	4,834,600	( 626,400)

TOTAL INCOME TAXES

General Fund	163,992,960	163,552,000	( 440,960)	181,456,000	181,021,696	( 434,304)
Foundation Program	64,059,750	63,887,500	( 172,250)	70,881,250	70,711,600	( 169,650)
Sinking Fund	28,186,290	28,110,500	( 75,790)	31,187,750	31,113,104	( 74,646)
Local Governments	4,912,000	4,276,000	( 636,000)	5,461,000	4,834,600	( 626,400)

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 22

INTRODUCED BY VAN VALKENBURG, C. SMITH, THAYER, HARPER,  
VINCENT, MAZUREK, SIMON, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA  
CAPITAL COMPANY ACT TO REDEFINE "CAPITAL BASE"; TO ALTER  
CERTIFICATION REQUIREMENTS; TO INCREASE THE AMOUNT OF TAX  
CREDITS AVAILABLE TO A SINGLE COMPANY AND ALL COMPANIES; TO  
CONTINUE THE AVAILABILITY OF TAX CREDITS UNTIL JUNE 30, ~~1989~~  
1991; AMENDING SECTIONS 90-8-104, 90-8-201, AND 90-8-202,  
MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 90-8-104, MCA, is amended to read:  
"90-8-104. Definitions. As used in this chapter,  
unless the context requires otherwise, the following  
definitions apply:

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

(2) "Capital base" means equity capital ~~or net worth~~  
raised by a certified Montana capital company for which tax  
credits were claimed under this chapter.

(3) "Certified Montana capital company" means:  
(a) a development credit corporation created pursuant  
to Title 32, chapter 4; or

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

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

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

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

(i) manufacturing;  
(ii) agricultural, fishery, or forestry production and  
processing;

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

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

(v) transportation;

(vi) research and development of products or processes  
associated with any of the activities enumerated in (i)  
through (v) above;

(vii) wholesale or retail distribution activities for  
which products produced in Montana comprise 50% or more of  
the gross sales receipts;

1 (viii) any activity conducted in the state for which  
2 50% or more of the gross receipts are derived from the sale  
3 of products or services outside Montana; and

4 (ix) tourism; and

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

7 (6) "Qualified Montana capital company" means a  
8 certified Montana capital company that has been designated a  
9 qualified capital company under the provisions of 90-8-202  
10 so that investors in the company may receive the tax credits  
11 authorized in 90-8-202."

12 Section 2. Section 90-8-201, MCA, is amended to read:

13 "90-8-201. Certification of Montana capital companies.

14 (1) Every 6 months, commencing January 1, 1984, or 3 months  
15 after rules are adopted to implement this chapter, whichever  
16 occurs first, the board shall certify Montana capital  
17 companies. A company seeking to be certified as a Montana  
18 capital company must make written application to the board  
19 on forms provided by the board. The application must contain  
20 the information required by 90-8-204 and such other  
21 information as the board requires. The application and  
22 certificate must specify the level of capitalization that  
23 the company expects to qualify for the tax credits provided  
24 for in 90-8-202.

25 (2) The application must show that the applicant's

1 purpose is to encourage--and--assist--in--the--creation,  
2 development,--and--expansion--of--Montana--based--businesses--and  
3 to--provide--maximum--opportunities--for--the--employment--of  
4 Montanans--by--making--venture--capital--available--to--sound--small  
5 Montana-firms increase the general economic welfare of the  
6 state of Montana by:

7 (a) making investment capital available to businesses  
8 in Montana; and

9 (b) allowing for investment of up to 25% of its funds  
10 in businesses outside Montana if such investment is likely  
11 to produce an investment in Montana.

12 (3) Certifiable applicants include but are not limited  
13 to local and community development corporations, small  
14 business administration 503 corporations, and small business  
15 investment companies.

16 (4) Certification is a prerequisite to and must be  
17 completed before seeking designation as a qualified capital  
18 company."

19 Section 3. Section 90-8-202, MCA, is amended to read:

20 "90-8-202. Designation of qualified Montana capital  
21 companies -- tax credit. (1) The board shall designate as  
22 qualified Montana capital companies those certified  
23 companies that have been privately capitalized at a minimum  
24 level of \$200,000. A certified company seeking designation  
25 as a qualified Montana capital company must make written

1 application to the board on forms provided by the board.  
 2 The application must contain the information required by  
 3 90-8-204 and such other information as the board requires.

4 (2) (a) The total amount of tax credits authorized for  
 5 a single qualified company may not exceed \$375,000  
 6 \$1,500,000. In the event the capitalization of the company  
 7 is later increased, the company may apply for authorization  
 8 of additional tax credits within the foregoing limitation.

9 (b) The total credits authorized for all companies may  
 10 not exceed a total of \$1 million prior to June 30, 1985. The  
 11 total credits authorized for all companies between July 1,  
 12 1985, and June 30, 1987, may not exceed \$1 million plus any  
 13 portion of the \$1 million available for authorization before  
 14 June 30, 1985, that is allocated to qualified companies. The  
 15 total credits authorized for all companies between July 1,  
 16 1987, and June 30, 1989, may not exceed \$3 million plus any  
 17 portion of the credits available for authorization before  
 18 June 30, 1987, that is allocated to qualified companies. THE  
 19 TOTAL CREDITS AUTHORIZED FOR ALL COMPANIES BETWEEN JULY 1,  
 20 1989, AND JUNE 30, 1991, MAY NOT EXCEED \$3 MILLION PLUS ANY  
 21 PORTION OF THE CREDITS AVAILABLE FOR AUTHORIZATION BEFORE  
 22 JUNE 30, 1989, THAT IS ALLOCATED TO QUALIFIED COMPANIES.

23 (3) The credits shall be allocated to qualified  
 24 companies in the order that completed applications for  
 25 designation as qualified capital companies are received by

1 the board, and the board shall certify to each such company  
 2 its appropriate allocation.

3 ~~(3)~~(4) Investors in a qualified Montana capital  
 4 company are entitled to the tax credits provided for in  
 5 subsection ~~(4)~~ (5). Funds invested in a certified company  
 6 prior to designation as a qualified Montana capital company  
 7 may, at the discretion of the investor, be placed in an  
 8 escrow account in a Montana financial institution pending  
 9 designation of the company as a qualified Montana capital  
 10 company.

11 ~~(4)~~(5) Subject to the provisions of subsection (2), an  
 12 individual, small business corporation, partnership, or  
 13 corporate taxpayer who makes a capital investment in a  
 14 qualified Montana capital company is entitled to a tax  
 15 credit equal to 25% 50% of the investment, up to a maximum  
 16 credit of \$25,000 \$150,000 per taxpayer. The credit may be  
 17 taken against the tax liability imposed on the investor  
 18 pursuant to Title 15, chapter 30 or 31. The credit for  
 19 investments by a small business corporation electing to be  
 20 taxed under 15-31-202 or a partnership may be claimed by the  
 21 small business corporation shareholders or the partners.

22 ~~(5)~~(6) The tax credit allowed under subsection ~~(4)~~ (5)  
 23 is to be credited against the taxpayer's income tax  
 24 liability for the taxable year in which the investment in a  
 25 qualified Montana capital company is made. If the amount of

1 the tax credit exceeds the taxpayer's tax liability for the  
2 taxable year, the amount of the credit which exceeds the tax  
3 liability may be carried back or carried forward in  
4 accordance with the provisions of section 46(b) of the  
5 Internal Revenue Code of 1954, as amended.

6 ~~(6)~~(7) The tax credit provided for in this section is  
7 available only to those taxpayers who invest in a qualified  
8 Montana capital company within 5 ~~2~~ 4 years of ~~April 1987~~  
9 July 1, 1987."

10 NEW SECTION. Section 4. Extension of authority. Any  
11 existing authority of the Montana economic development board  
12 to make rules on the subject of the provisions of this act  
13 is extended to the provisions of this act.

14 NEW SECTION. Section 5. Saving clause. This act does  
15 not affect rights and duties that matured, penalties that  
16 were incurred, or proceedings that were begun before the  
17 effective date of this act.

18 NEW SECTION. Section 6. Effective date. This act is  
19 effective July 1, 1987.

-End-

## SENATE BILL NO. 22

INTRODUCED BY VAN VALKENBURG, C. SMITH, THAYER, HARPER,  
VINCENT, MAZUREK, SIMON, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA  
CAPITAL COMPANY ACT TO REDEFINE "CAPITAL BASE"; TO ALTER  
CERTIFICATION REQUIREMENTS; TO INCREASE THE AMOUNT OF TAX  
CREDITS AVAILABLE TO A SINGLE COMPANY AND ALL COMPANIES; TO  
CONTINUE THE AVAILABILITY OF TAX CREDITS UNTIL JUNE 30, 1989  
1991; AMENDING SECTIONS 90-8-104, 90-8-201, AND 90-8-202,  
AND 90-8-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 90-8-104, MCA, is amended to read:

"90-8-104. Definitions. As used in this chapter,  
unless the context requires otherwise, the following  
definitions apply:

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

(2) "Capital base" means equity capital ~~or net worth~~  
raised by a certified Montana capital company for which tax  
credits were claimed under this chapter AND ADDITIONS TO NET  
WORTH CAUSED BY INCREASES IN RETAINED EARNINGS.

(3) "Certified Montana capital company" means:

(a) a development credit corporation created pursuant

to Title 32, chapter 4; or

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

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

(5) "Qualified investment" means:

(A) a debt or equity financing of ~~or a purchase and~~  
~~leaseback financing of~~ a Montana business that meets both of  
the following criteria:

~~(a)~~ (I) the business is engaged in one or more of the  
following activities:

~~(i)~~ (A) manufacturing;

~~(ii)~~ (B) agricultural, fishery, or forestry production  
and processing;

~~(iii)~~ (C) mineral production and processing, except for  
conventional oil and gas exploration;

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

~~(v)~~ (E) transportation;

~~(vi)~~ (F) research and development of products or  
processes associated with any of the activities enumerated  
in ~~(i)~~ (A) through ~~(v)~~ (E) above;

~~(vii)~~ (G) wholesale or retail distribution activities

1 for which products produced in Montana comprise 50% or more  
2 of the gross sales receipts;

3 ~~(viii)~~(H) any activity conducted in the state for  
4 which 50% or more of the gross receipts are derived from the  
5 sale of products or services outside Montana; and

6 ~~(ix)~~(I) tourism; and

7 ~~(b)~~(II) the business is a small business as defined in  
8 rules adopted by the board; OR

9 (B) A DEBT OR EQUITY FINANCING OF A BUSINESS OUTSIDE  
10 MONTANA IF SUCH INVESTMENT IS LIKELY TO PRODUCE A QUALIFIED  
11 INVESTMENT IN MONTANA, AS LONG AS SUCH INVESTMENT DOES NOT  
12 EXCEED 25% OF THE CAPITAL BASE OF THE CAPITAL COMPANY.

13 (6) "Qualified Montana capital company" means a  
14 certified Montana capital company that has been designated a  
15 qualified capital company under the provisions of 90-8-202  
16 so that investors in the company may receive the tax credits  
17 authorized in 90-8-202."

18 Section 2. Section 90-8-201, MCA, is amended to read:

19 "90-8-201. Certification of Montana capital companies.

20 (1) Every 6 months, commencing January 1, 1984, or 3 months  
21 after rules are adopted to implement this chapter, whichever  
22 occurs first, the board shall certify Montana capital  
23 companies. A company seeking to be certified as a Montana  
24 capital company must make written application to the board  
25 on forms provided by the board. The application must contain

1 the information required by 90-8-204 and such other  
2 information as the board requires. The application and  
3 certificate must specify the level of capitalization that  
4 the company expects to qualify for the tax credits provided  
5 for in 90-8-202.

6 (2) The application must show that the applicant's  
7 purpose is to ~~encourage--and--assist--in--the--creation,~~  
8 ~~development--and--expansion--of--Montana--based--businesses--and~~  
9 ~~to--provide--maximum--opportunities--for--the--employment--of~~  
10 ~~Montanans--by--making--venture--capital--available--to--sound--small~~  
11 ~~Montana--firms~~ increase the general economic welfare of the  
12 state of Montana by:

13 (a) making investment capital available to businesses  
14 in Montana; and

15 (b) allowing for investment of up to 25% of its funds  
16 in businesses outside Montana if such investment is likely  
17 to produce an A QUALIFIED investment in Montana.

18 (3) Certifiable applicants include but are not limited  
19 to local and community development corporations, small  
20 business administration 503 corporations, and small business  
21 investment companies.

22 (4) Certification is a prerequisite to and must be  
23 completed before seeking designation as a qualified capital  
24 company."

25 Section 3. Section 90-8-202, MCA, is amended to read:

1 "90-8-202. Designation of qualified Montana capital  
 2 companies -- tax credit. (1) The board shall designate as  
 3 qualified Montana capital companies those certified  
 4 companies that have been privately capitalized at a minimum  
 5 level of \$200,000. A certified company seeking designation  
 6 as a qualified Montana capital company must make written  
 7 application to the board on forms provided by the board.  
 8 The application must contain the information required by  
 9 90-8-204 and such other information as the board requires.

10 (2) (a) The total amount of tax credits authorized for  
 11 a single qualified company may not exceed ~~\$375,000~~  
 12 \$1,500,000. In the event the capitalization of the company  
 13 is later increased, the company may apply for authorization  
 14 of additional tax credits within the foregoing limitation.

15 (b) The total credits authorized for all companies may  
 16 not exceed a total of \$1 million prior to June 30, 1985. The  
 17 total credits authorized for all companies between July 1,  
 18 1985, and June 30, 1987, may not exceed \$1 million plus any  
 19 portion of the \$1 million available for authorization before  
 20 June 30, 1985, that is allocated to qualified companies. The  
 21 total credits authorized for all companies between July 1,  
 22 1987, and June 30, 1989, may not exceed \$3 million plus any  
 23 portion of the credits available for authorization before  
 24 June 30, 1987, that is allocated to qualified companies. THE  
 25 TOTAL CREDITS AUTHORIZED FOR ALL COMPANIES BETWEEN JULY 1,

1 1989, AND JUNE 30, 1991, MAY NOT EXCEED \$3 MILLION PLUS ANY  
 2 PORTION OF THE CREDITS AVAILABLE FOR AUTHORIZATION BEFORE  
 3 JUNE 30, 1989, THAT IS ALLOCATED TO QUALIFIED COMPANIES.

4 (3) The credits shall be allocated to qualified  
 5 companies in the order that completed applications for  
 6 designation as qualified capital companies are received by  
 7 the board, and the board shall certify to each such company  
 8 its appropriate allocation.

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

17 (5) Subject to the provisions of subsection (2), an  
 18 individual, small business corporation, partnership, or  
 19 corporate taxpayer who makes a capital investment in a  
 20 qualified Montana capital company is entitled to a tax  
 21 credit equal to ~~25%~~ 50% of the investment, up to a maximum  
 22 credit of ~~\$25,000~~ \$150,000 per taxpayer. The credit may be  
 23 taken against the tax liability imposed on the investor  
 24 pursuant to Title 15, chapter 30 or 31. The credit for  
 25 investments by a small business corporation electing to be



1 taxed under 15-31-202 or a partnership may be claimed by the  
2 small business corporation shareholders or the partners.

3 ~~f5~~(6) The tax credit allowed under subsection ~~f4~~ (5)  
4 is to be credited against the taxpayer's income tax  
5 liability for the taxable year in which the investment in a  
6 qualified Montana capital company is made. If the amount of  
7 the tax credit exceeds the taxpayer's tax liability for the  
8 taxable year, the amount of the credit which exceeds the tax  
9 liability may be carried back or carried forward in  
10 accordance with the provisions of section 46(b) of the  
11 Internal Revenue Code of 1954, as amended.

12 ~~f6~~(7) The tax credit provided for in this section is  
13 available only to those taxpayers who invest in a qualified  
14 Montana capital company within ~~5~~ 2 ~~4~~ years of ~~April 1, 1987~~  
15 July 1, 1987."

16 SECTION 4. SECTION 90-8-301, MCA, IS AMENDED TO READ:

17 "90-8-301. Qualified investments -- penalty. (1) A  
18 qualified Montana capital company receiving investments for  
19 which a taxpayer has applied and received a tax credit must  
20 use its capital base to make qualified investments according  
21 to the following schedule:

22 (a) at least 30% of its capital base raised through  
23 investments for which tax credits were taken within 3 years  
24 of the date on which the certified company was designated as  
25 a qualified certified capital company by the board, and at

1 least 30% of its capital base caused by increases in  
2 retained earnings within 3 years of the end of the fiscal  
3 year during which the retained earnings were earned;

4 (b) at least 50% of its capital base raised through  
5 investments for which tax credits were taken within 4 years  
6 of the date on which the certified company was designated as  
7 a qualified certified capital company by the board, and at  
8 least 50% of its capital base caused by increases in  
9 retained earnings within 4 years of the end of the fiscal  
10 year during which the retained earnings were earned; and

11 (c) at least 70% of its capital base raised through  
12 investments for which tax credits were taken within 5 years  
13 of the date on which the certified company was designated as  
14 a qualified certified capital company by the board, and at  
15 least 70% of its capital base caused by increases in  
16 retained earnings within 5 years of the end of the fiscal  
17 year during which the retained earnings were earned.

18 (2) Following each annual examination, the  
19 commissioner of financial institutions shall notify the  
20 department of revenue of any companies that are not in  
21 compliance with this section.

22 (3) A qualified Montana capital company that fails to  
23 make qualified investments pursuant to subsection (1) shall  
24 pay to the department of revenue a penalty equal to all of  
25 the tax credits allowed to the taxpayers investing in that

1 company during that time period, with interest at 1% a month  
2 from the date the tax credits were certified as allocated to  
3 the qualified Montana capital company. The department of  
4 revenue may abate the penalty if the capital company  
5 establishes reasonable cause for the failure to make  
6 qualified investments pursuant to subsection (1) and that  
7 the failure was not due to neglect on the part of the  
8 company. The department of revenue shall deposit any amount  
9 received under this subsection to the credit of the state  
10 general fund."

11 NEW SECTION. Section 5. Extension of authority. Any  
12 existing authority of the Montana economic development board  
13 to make rules on the subject of the provisions of this act  
14 is extended to the provisions of this act.

15 NEW SECTION. Section 6. Saving clause. This act does  
16 not affect rights and duties that matured, penalties that  
17 were incurred, or proceedings that were begun before the  
18 effective date of this act.

19 NEW SECTION. Section 7. Effective date. This act is  
20 effective July 1, 1987.

-End-

## 1 SENATE BILL NO. 22

2 INTRODUCED BY VAN VALKENBURG, C. SMITH, THAYER, HARPER,  
3 VINCENT, MAZUREK, SIMON, CRIPPEN  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA  
6 CAPITAL COMPANY ACT TO REDEFINE "CAPITAL BASE"; TO ALTER  
7 CERTIFICATION REQUIREMENTS; TO INCREASE THE AMOUNT OF TAX  
8 CREDITS AVAILABLE TO A SINGLE COMPANY AND ALL COMPANIES; TO  
9 CONTINUE THE AVAILABILITY OF TAX CREDITS UNTIL JUNE 30, ~~1989~~  
10 1991; AMENDING SECTIONS 90-8-104, 90-8-201, AND 90-8-202,  
11 AND 90-8-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

14 Section 1. Section 90-8-104, MCA, is amended to read:

15 "90-8-104. Definitions. As used in this chapter,  
16 unless the context requires otherwise, the following  
17 definitions apply:

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

20 (2) "Capital base" means equity capital ~~or net worth~~  
21 raised by a certified Montana capital company for which tax  
22 credits were claimed under this chapter AND ADDITIONS TO NET  
23 WORTH CAUSED BY INCREASES IN RETAINED EARNINGS.

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

25 (a) a development credit corporation created pursuant

1 to Title 32, chapter 4; or

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

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

8 (5) "Qualified investment" means:

9 ~~(A) a debt or equity financing of or a purchase and~~  
10 ~~leaseback financing of~~ a Montana business that meets both of  
11 the following criteria:

12 ~~(i)~~(I) the business is engaged in one or more of the  
13 following activities:

14 ~~(i)~~(A) manufacturing;

15 ~~(i)~~(B) agricultural, fishery, or forestry production  
16 and processing;

17 ~~(i)~~(C) mineral production and processing, except for  
18 conventional oil and gas exploration;

19 ~~(i)~~(D) recognized nonfossil forms of energy  
20 generation as defined in 15-32-102(5);

21 ~~(v)~~(E) transportation;

22 ~~(vi)~~(F) research and development of products or  
23 processes associated with any of the activities enumerated  
24 in ~~(i)~~ (A) through ~~(v)~~ (E) above;

25 ~~(vii)~~(G) wholesale or retail distribution activities

1 for which products produced in Montana comprise 50% or more  
2 of the gross sales receipts;

3 ~~(viii)~~(H) any activity conducted in the state for  
4 which 50% or more of the gross receipts are derived from the  
5 sale of products or services outside Montana; and

6 ~~(ix)~~(I) tourism; and

7 ~~(b)~~(II) the business is a small business as defined in  
8 rules adopted by the board; OR

9 (B) A DEBT OR EQUITY FINANCING OF A BUSINESS OUTSIDE  
10 MONTANA IF SUCH INVESTMENT IS LIKELY TO PRODUCE A QUALIFIED  
11 INVESTMENT IN MONTANA, AS LONG AS SUCH INVESTMENT DOES NOT  
12 EXCEED 25% OF THE CAPITAL BASE OF THE CAPITAL COMPANY.

13 (6) "Qualified Montana capital company" means a  
14 certified Montana capital company that has been designated a  
15 qualified capital company under the provisions of 90-8-202  
16 so that investors in the company may receive the tax credits  
17 authorized in 90-8-202."

18 Section 2. Section 90-8-201, MCA, is amended to read:

19 "90-8-201. Certification of Montana capital companies.

20 (1) Every 6 months, commencing January 1, 1984, or 3 months  
21 after rules are adopted to implement this chapter, whichever  
22 occurs first, the board shall certify Montana capital  
23 companies. A company seeking to be certified as a Montana  
24 capital company must make written application to the board  
25 on forms provided by the board. The application must contain

1 the information required by 90-8-204 and such other  
2 information as the board requires. The application and  
3 certificate must specify the level of capitalization that  
4 the company expects to qualify for the tax credits provided  
5 for in 90-8-202.

6 (2) The application must show that the applicant's  
7 purpose is to ~~encourage--and--assist--in--the--creation;~~  
8 ~~development--and--expansion--of--Montana--based--businesses--and~~  
9 ~~to--provide--maximum--opportunities--for--the--employment--of~~  
10 ~~Montanans--by--making--venture--capital--available--to--sound--small~~  
11 ~~Montana--firms~~ increase the general economic welfare of the  
12 state of Montana by:

13 (a) making investment capital available to businesses  
14 in Montana; and

15 (b) allowing for investment of up to 25% of its funds  
16 CAPITAL BASE in businesses outside Montana if such  
17 investment-is-likely-to THERE IS A SUBSTANTIAL LIKELIHOOD  
18 THAT SUCH INVESTMENT WILL produce an A QUALIFIED investment  
19 in Montana.

20 (3) Certifiable applicants include but are not limited  
21 to local and community development corporations, small  
22 business administration 503 corporations, and small business  
23 investment companies.

24 (4) Certification is a prerequisite to and must be  
25 completed before seeking designation as a qualified capital

1 company."

2 Section 3. Section 90-8-202, MCA, is amended to read:

3 "90-8-202. Designation of qualified Montana capital  
4 companies -- tax credit. (1) The board shall designate as  
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6 companies that have been privately capitalized at a minimum  
7 level of \$200,000. A certified company seeking designation  
8 as a qualified Montana capital company must make written  
9 application to the board on forms provided by the board.  
10 The application must contain the information required by  
11 90-8-204 and such other information as the board requires.

12 (2) (a) The total amount of tax credits authorized for  
13 a single qualified company may not exceed ~~\$375,000~~  
14 \$1,500,000. In the event the capitalization of the company  
15 is later increased, the company may apply for authorization  
16 of additional tax credits within the foregoing limitation.

17 (b) The total credits authorized for all companies may  
18 not exceed a total of \$1 million prior to June 30, 1985. The  
19 total credits authorized for all companies between July 1,  
20 1985, and June 30, 1987, may not exceed \$1 million plus any  
21 portion of the \$1 million available for authorization before  
22 June 30, 1985, that is allocated to qualified companies. The  
23 total credits authorized for all companies between July 1,  
24 1987, and June 30, 1989, may not exceed \$3 million plus any  
25 portion of the credits available for authorization before

1 June 30, 1987, that is allocated to qualified companies. THE  
2 TOTAL CREDITS AUTHORIZED FOR ALL COMPANIES BETWEEN JULY 1,  
3 1989, AND JUNE 30, 1991, MAY NOT EXCEED \$3 MILLION PLUS ANY  
4 PORTION OF THE CREDITS AVAILABLE FOR AUTHORIZATION BEFORE  
5 JUNE 30, 1989, THAT IS ALLOCATED TO QUALIFIED COMPANIES.

6 (3) The credits shall be allocated to qualified  
7 companies in the order that completed applications for  
8 designation as qualified capital companies are received by  
9 the board, and the board shall certify to each such company  
10 its appropriate allocation.

11 ~~†3†~~(4) Investors in a qualified Montana capital  
12 company are entitled to the tax credits provided for in  
13 subsection ~~†4†~~ (5). Funds invested in a certified company  
14 prior to designation as a qualified Montana capital company  
15 may, at the discretion of the investor, be placed in an  
16 escrow account in a Montana financial institution pending  
17 designation of the company as a qualified Montana capital  
18 company.

19 ~~†4†~~(5) Subject to the provisions of subsection (2), an  
20 individual, small business corporation, partnership, or  
21 corporate taxpayer who makes a capital investment in a  
22 qualified Montana capital company is entitled to a tax  
23 credit equal to ~~25%~~ 50% of the investment, up to a maximum  
24 credit of ~~\$25,000~~ \$150,000 per taxpayer. The credit may be  
25 taken against the tax liability imposed on the investor

1 pursuant to Title 15, chapter 30 or 31. The credit for  
 2 investments by a small business corporation electing to be  
 3 taxed under 15-31-202 or a partnership may be claimed by the  
 4 small business corporation shareholders or the partners.

5 ~~f5~~(6) The tax credit allowed under subsection ~~f4~~ (5)  
 6 is to be credited against the taxpayer's income tax  
 7 liability for the taxable year in which the investment in a  
 8 qualified Montana capital company is made. If the amount of  
 9 the tax credit exceeds the taxpayer's tax liability for the  
 10 taxable year, the amount of the credit which exceeds the tax  
 11 liability may be carried back or carried forward in  
 12 accordance with the provisions of section 46(b) of the  
 13 Internal Revenue Code ~~of-1954~~, as amended.

14 ~~f6~~(7) The tax credit provided for in this section is  
 15 available only to those taxpayers who invest in a qualified  
 16 Montana capital company within 5 2 4 years of ~~April-18,-1983~~  
 17 July 1, 1987."

18 SECTION 4. SECTION 90-8-301, MCA, IS AMENDED TO READ:

19 "90-8-301. Qualified investments -- penalty. (1) A  
 20 qualified Montana capital company receiving investments for  
 21 which a taxpayer has applied and received a tax credit must  
 22 use its capital base to make qualified investments according  
 23 to the following schedule:

24 (a) at least 30% of its capital base raised through  
 25 investments for which tax credits were taken within 3 years

1 of the date on which the certified company was designated as  
 2 a qualified certified QUALIFIED capital company by the  
 3 board, and at least 30% of its capital base caused by  
 4 increases in retained earnings within 3 years of the end of  
 5 the fiscal year during which the retained earnings were  
 6 earned;

7 (b) at least 50% of its capital base raised through  
 8 investments for which tax credits were taken within 4 years  
 9 of the date on which the certified company was designated as  
 10 a qualified certified QUALIFIED capital company by the  
 11 board, and at least 50% of its capital base caused by  
 12 increases in retained earnings within 4 years of the end of  
 13 the fiscal year during which the retained earnings were  
 14 earned; and

15 (c) at least 70% of its capital base raised through  
 16 investments for which tax credits were taken within 5 years  
 17 of the date on which the certified company was designated as  
 18 a qualified certified QUALIFIED capital company by the  
 19 board, and at least 70% of its capital base caused by  
 20 increases in retained earnings within 5 years of the end of  
 21 the fiscal year during which the retained earnings were  
 22 earned.

23 (2) Following each annual examination, the  
 24 commissioner of financial institutions shall notify the  
 25 department of revenue of any companies that are not in

1 compliance with this section.

2 (3) A qualified Montana capital company that fails to  
3 make qualified investments pursuant to subsection (1) shall  
4 pay to the department of revenue a penalty equal to all of  
5 the tax credits allowed to the taxpayers investing in that  
6 company during that time period, with interest at 1% a month  
7 from the date the tax credits were certified as allocated to  
8 the qualified Montana capital company. The department of  
9 revenue may abate the penalty if the capital company  
10 establishes reasonable cause for the failure to make  
11 qualified investments pursuant to subsection (1) and that  
12 the failure was not due to neglect on the part of the  
13 company. The department of revenue shall deposit any amount  
14 received under this subsection to the credit of the state  
15 general fund."

16 NEW SECTION. Section 5. Extension of authority. Any  
17 existing authority of the Montana economic development board  
18 to make rules on the subject of the provisions of this act  
19 is extended to the provisions of this act.

20 NEW SECTION. Section 6. Saving clause. This act does  
21 not affect rights and duties that matured, penalties that  
22 were incurred, or proceedings that were begun before the  
23 effective date of this act.

24 NEW SECTION. Section 7. Effective date. This act is  
25 effective July 1, 1987.

-End-

HOUSE

STANDING COMMITTEE REPORT

APRIL 9 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report SENATE BILL NO. 22

- do pass
- be concurred in
- as amended
- do not pass
- be not concurred in
- statement of intent attached

Be amended as follows:

*Ramirez*  
 Representative Jack Ramirez, Chairman

1. Page 4, line 15  
 Following: "its"  
 Strike: "funds"  
 Insert: "capital base"
2. Page 4, lines 16 and 17  
 Following: "if" on line 16  
 Strike: remainder of line 16 through "to" on line 17  
 Insert: "there is a substantial likelihood that such investment will"
3. Page 7, line 25  
 Strike: "certified"  
 Insert: "qualified"
4. Page 8, line 7  
 Strike: "certified"  
 Insert: "qualified"
5. Page 8, line 14  
 Strike: "certified"  
 Insert: "qualified"

Carried by Rep. Harp