

SENATE BILL 459

Introduced by Walker

2/28	Introduced
2/28	Referred to Taxation
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3/10	Hearing
	Died in Committee

1 *Senate* BILL NO. *459*  
2 INTRODUCED BY *Dalton*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE EXISTING  
5 STATE INDIVIDUAL INCOME TAX AND IMPOSING A STATE INCOME TAX  
6 BASED ON A PERCENTAGE OF THE FEDERAL INCOME TAX PAYABLE ON  
7 MONTANA TAXABLE INCOME; AMENDING SECTIONS 7-14-1133,  
8 7-34-2416, 13-37-218, 13-37-303, 15-6-201, 15-30-101,  
9 15-30-162, 15-30-241, 15-30-303, 15-30-323, 15-31-114,  
10 15-31-202, 15-32-102, 15-32-104, 15-32-106, 15-32-303,  
11 15-32-402, 15-32-405, 15-33-106, 53-2-101, 53-6-111,  
12 67-11-303, 90-4-503, AND 90-8-104, MCA; REPEALING SECTIONS  
13 15-30-103, 15-30-105, 15-30-108, 15-30-110 THROUGH  
14 15-30-117, 15-30-121 THROUGH 15-30-123, 15-30-125,  
15 15-30-126, 15-30-131, 15-30-132, 15-30-135 THROUGH  
16 15-30-137, 15-30-142, 15-30-143, 15-30-156, 15-30-157,  
17 15-32-109, AND 15-32-201 THROUGH 15-32-203, MCA; AND  
18 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE  
19 APPLICABILITY DATE."

20  
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 Section 1. Section 7-14-1133, MCA, is amended to read:

23 "7-14-1133. Bonds and obligations. (1) An authority  
24 may borrow money for any of its corporate purposes and issue  
25 bonds therefor, including refunding bonds, in such form and

1 upon such terms as it determines, payable out of any  
2 revenues of the authority, including revenues derived from:

- 3 (a) any port or transportation and storage facility;  
4 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;  
5 (c) grants or contributions from the federal  
6 government; or  
7 (d) other sources.

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

22 (3) The bonds may be sold at public or private sale  
23 and may bear interest as provided in 17-5-102. Except as  
24 otherwise provided in this part, any bonds issued pursuant  
25 to this part by an authority may be payable as to principal

1 and interest solely from revenues of the authority and shall  
2 state on their face the applicable limitations or  
3 restrictions regarding the source from which such principal  
4 and interest are payable.

5 (4) Bonds issued by an authority, county, or  
6 municipality pursuant to the provisions of this part are  
7 declared to be issued for an essential public and  
8 governmental purpose by a political subdivision, within the  
9 meaning of ~~15-30-111(2)(a)~~ [section 7(2)(k)].

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

20 **Section 2.** Section 7-34-2416, MCA, is amended to read:

21 "7-34-2416. **Tax-exempt status of bonds.** Bonds issued  
22 by a county pursuant to the provisions of 7-34-2411 through  
23 7-34-2418 are declared to be issued for an essential public  
24 and governmental purpose by a political subdivision, within  
25 the meaning of ~~15-30-111(2)(a)~~ [section 7(2)(k)]."

1 **Section 3.** Section 13-37-218, MCA, is amended to read:

2 "13-37-218. **Limitations on receipts from political**  
3 **committees.** A candidate for the state senate may receive no  
4 more than \$1,000 in total combined monetary contributions  
5 from all political committees contributing to his campaign,  
6 and a candidate for the state house of representatives may  
7 receive no more than \$600 in total combined monetary  
8 contributions from all political committees contributing to  
9 his campaign. ~~The foregoing limitations shall be multiplied~~  
10 ~~by the inflation factor as defined in 15-30-101(8) for the~~  
11 ~~year in which general elections are held after 1984; the~~  
12 ~~resulting figure shall be rounded off to the nearest \$50~~  
13 ~~increment. The commissioner of political practices shall~~  
14 ~~publish the revised limitations as a rule.~~ In-kind  
15 contributions may not be included in computing these the  
16 limitation totals. The limitation provided in this section  
17 does not apply to contributions made by a political party  
18 eligible for a primary election under 13-10-601."

19 **Section 4.** Section 13-37-303, MCA, is amended to read:

20 "13-37-303. **Donation by taxpayer.** (1) An individual  
21 whose withheld income tax or payment of estimated tax  
22 exceeds by more than \$1 his income tax liability for the  
23 taxable year may donate \$1 to be paid to the fund. In the  
24 case of a joint return, ~~as provided in 15-30-142,~~ of a  
25 husband and wife having an income tax overpayment as defined

1 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be  
2 paid to the fund.

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

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

11 **Section 5.** Section 15-6-201, MCA, is amended to read:

12 "15-6-201. **Exempt categories.** (1) The following  
13 categories of property are exempt from taxation:

14 (a) the property of:

15 (i) the United States, the state, counties, cities,  
16 towns, school districts, except, if congress passes  
17 legislation that allows the state to tax property owned by  
18 an agency created by congress to transmit or distribute  
19 electrical energy, the property constructed, owned, or  
20 operated by a public agency created by the congress to  
21 transmit or distribute electric energy produced at privately  
22 owned generating facilities (not including rural electric  
23 cooperatives);

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

1 (iii) municipal corporations; and

2 (iv) public libraries;

3 (b) buildings, with land they occupy and furnishings  
4 therein, owned by a church and used for actual religious  
5 worship or for residences of the clergy, together with  
6 adjacent land reasonably necessary for convenient use of  
7 such buildings;

8 (c) property used exclusively for agricultural and  
9 horticultural societies, for educational purposes, and for  
10 nonprofit health care facilities, as defined in 50-5-101,  
11 licensed by the department of health and environmental  
12 sciences and organized under Title 35, chapter 2 or 3. A  
13 health care facility that is not licensed by the department  
14 of health and environmental sciences and organized under  
15 Title 35, chapter 2 or 3, is not exempt.

16 (d) property that meets the following conditions:

17 (i) is owned and held by any association or  
18 corporation organized under Title 35, chapter 2, 3, 20, or  
19 21;

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

24 (iii) is not maintained and operated for private or  
25 corporate profit;

(e) institutions of purely public charity;

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

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

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from taxation under 61-3-504(2) and 61-3-537.

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

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

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

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive

of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

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

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100; and

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public

1 observatories" include only those art galleries and  
2 observatories, whether of public or private ownership, that  
3 are open to the public without charge at all reasonable  
4 hours and are used for the purpose of education only.

5 {3}--The following portions of the appraised value of a  
6 capital investment made after January 1, 1979, in a  
7 recognized nonfossil form of energy generation, as defined  
8 in 15-32-102, are exempt from taxation for a period of 10  
9 years following installation of the property:

10 {a}--\$20,000 in the case of a single-family residential  
11 dwelling;

12 {b}--\$100,000 in the case of a multifamily residential  
13 dwelling or a nonresidential structure."

14 **Section 6.** Section 15-30-101, MCA, is amended to read:

15 "15-30-101. Definitions. For the purpose of this  
16 chapter, unless otherwise required by the context, the  
17 following definitions apply:

18 {1}--"Base-year structure" means the following elements  
19 of the income tax structure:

20 {a}--the tax brackets established in 15-30-103, but  
21 unadjusted by subsection {2} of 15-30-103, in effect on June  
22 30 of the taxable year;

23 {b}--the exemptions contained in 15-30-112, but  
24 unadjusted by subsections {7} and {8} of 15-30-112, in  
25 effect on June 30 of the taxable year;

1 {c}--the maximum standard deduction provided in  
2 15-30-122, but unadjusted by subsection {2} of 15-30-122, in  
3 effect on June 30 of the taxable year;

4 {2}--"Consumer price index" means the consumer price  
5 index, United States city average, for all items, using the  
6 1967 base of 100 as published by the bureau of labor  
7 statistics of the U.S. department of labor;

8 {3}{1} "Department" means the department of revenue.

9 {4}--"Dividend" means any distribution made by a  
10 corporation out of its earnings or profits to its  
11 shareholders or members, whether in cash or in other  
12 property or in stock of the corporation, other than stock  
13 dividends as herein defined. "Stock dividends" means new  
14 stock issued for surplus or profits capitalized to  
15 shareholders in proportion to their previous holdings;

16 {5}{2} "Fiduciary" means a guardian, trustee,  
17 executor, administrator, receiver, conservator, or any  
18 person, whether individual or corporate, acting in any  
19 fiduciary capacity for any person, trust, or estate.

20 {6}{3} "Foreign country" or "foreign government" means  
21 any jurisdiction other than the one embraced within the  
22 United States, its territories and possessions.

23 {7}--"Gross income" means the taxpayer's gross income  
24 for federal income tax purposes as defined in section 61 of  
25 the Internal Revenue Code of 1954 or as that section may be

1 ~~labeled--or--amended,--excluding--unemployment--compensation~~  
2 ~~included-in-federal-gross-income--under--the--provisions--of~~  
3 ~~section--85-of-the-Internal-Revenue-Code-of-1954-as-amended,~~

4 ~~{8}--"inflation-factor"--means-a-number--determined--for~~  
5 ~~each--taxable--year-by-dividing-the-consumer-price-index-for~~  
6 ~~June-of-the-taxable-year-by-the--consumer--price--index--for~~  
7 ~~June,1986.~~

8 {4} "Individual" means a natural person, whether  
9 married or unmarried, adult or minor, subject to payment of  
10 an income tax under the Internal Revenue Code.

11 {9}{5} "Information agents" includes all individuals,  
12 corporations, associations, and partnerships, in whatever  
13 capacity acting, including lessees or mortgagors of real or  
14 personal property, fiduciaries, employers, and all officers  
15 and employees of the state or of any municipal corporation  
16 or political subdivision of the state, having the control,  
17 receipt, custody, disposal, or payment of interest, rent,  
18 salaries, wages, premiums, annuities, compensations,  
19 remunerations, emoluments, or other fixed or determinable  
20 annual or periodical gains, profits, and income with respect  
21 to which any person or fiduciary is taxable under this  
22 chapter.

23 ~~{10}--"Knowingly"--is-as-defined-in-45-2-101-~~

24 ~~{11}--"Net--income"--means-the-adjusted-gross-income-of-a~~  
25 ~~taxpayer-less-the-deductions-allowed-by-this-chapter.~~

1 ~~{12}--"Paid",-for-the-purposes--of--the--deductions--and~~  
2 ~~credits-under-this-chapter,-means-paid-or-accrued-or-paid-or~~  
3 ~~incurred,-and--the--terms--"paid--or-incurred"--and--"paid--or~~  
4 ~~accrued"--shall-be--construed--according--to--the--method--of~~  
5 ~~accounting--upon--the--basis--of-which-the-taxable-income-is~~  
6 ~~computed-under-this-chapter.~~

7 ~~{13}--"Purposely"--is-as-defined-in-45-2-101-~~

8 ~~{14}--"Received",-for--the--purpose--of--computation--of~~  
9 ~~taxable-income-under-this-chapter,-means-received-or-accrued~~  
10 ~~and--the--term--"received--or--accrued"--shall--be--construed~~  
11 ~~according-to-the-method-of--accounting--upon--the--basis--of~~  
12 ~~which-the-taxable-income-is-computed-under-this-chapter.~~

13 {6} "Internal Revenue Code" means the Internal Revenue  
14 Code of 1954, redesignated as the "Internal Revenue Code of  
15 1986" by section 2 of Public Law 99-514, as that code may be  
16 amended from time to time by the United States congress. It  
17 is the specific intent of the legislature that all  
18 amendments by the United States congress must be  
19 incorporated into the context of any section of Title 15  
20 referring to the Internal Revenue Code.

21 {7} "Person" means an individual, a trust or estate,  
22 or a partnership.

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~~

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

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

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

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

**NEW SECTION. Section 7. State income tax as percentage of federal.** (1) A state income tax is imposed and must be paid and collected for each taxable year upon:

(a) the federal adjusted taxable income derived from sources within and outside Montana of each resident and fiduciary required to make a return and pay federal income taxes under the Internal Revenue Code; and

(b) the federal adjusted taxable income derived from sources within Montana of each nonresident and fiduciary required to make a return and pay federal income taxes under the Internal Revenue Code.

(2) "Federal adjusted taxable income" means the

taxpayer's taxable income, as determined for federal income taxes under the provisions of the Internal Revenue Code, with the following additional deductions:

(a) all benefits not in excess of \$3,600 received:

(i) under the Federal Employees' Retirement Act;

(ii) under the public employee retirement laws of a state other than Montana; or

(iii) as an annuity, pension, or endowment under any private or corporate retirement plan or system;

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

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

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

(e) all benefits paid under an optional retirement program that are specified as exempt from taxation by 19-21-212;

(f) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters or to their surviving spouses and orphans or benefits that are specified as exempt from taxation by 19-13-1003;

(g) all benefits paid under the municipal police



1 officers' retirement system that are specified as exempt  
2 from taxation by 19-9-1005;

3 (h) income earned by an enrolled member of a federally  
4 recognized Indian tribe during the time he both lives and  
5 works on a reservation;

6 (i) Montana income tax refunds or credits;

7 (j) interest income from obligations of the United  
8 States government to the extent the income is exempt from  
9 state income tax under federal law; and

10 (k) interest received on obligations of any state,  
11 territory, county, municipality, district, or other  
12 political subdivision.

13 (3) A shareholder of a corporation for which the  
14 election provided for under subchapter S. of the Internal  
15 Revenue Code is in effect but for which the election  
16 provided under 15-31-202 is not in effect may deduct from  
17 his federal taxable income any part of the corporation's  
18 undistributed taxable income, net operating loss, capital or  
19 other gains, profits, or losses required to be included in  
20 the shareholder's federal taxable income by reason of the  
21 election under subchapter S. However, to the shareholder's  
22 federal taxable income must be added distributions received  
23 from the corporation to the extent the distributions would  
24 be treated as taxable dividends if the subchapter S.  
25 election were not in effect.

1 (4) Nonresidents taking any of the deductions listed  
2 in subsection (2) may claim only that percentage of itemized  
3 deductions and the personal exemption deduction allowed from  
4 federal adjusted gross income that the percentage of  
5 adjusted gross income earned from sources within Montana  
6 bears to the taxpayer's federal adjusted gross income.

7 (5) If a taxpayer's federal adjusted taxable income is  
8 adjusted for state income tax purposes to include any of the  
9 additional deductions or modifications of subsections (2)  
10 through (4), the taxpayer's federal income tax liability  
11 must be recomputed on this adjusted figure to allow the  
12 state income tax rate to be applied against it.

13 NEW SECTION. **Section 8. Rate of tax -- variations.**  
14 (1) The rate of state income tax is 31.6% of a taxpayer's  
15 federal income tax liability, adjusted as provided in  
16 [section 7(5)].

17 (2) (a) The department may adopt a rule modifying the  
18 rate of tax:

19 (i) if changes in the Internal Revenue Code are made  
20 or if other changed circumstances occur that substantially  
21 reduce the revenue produced by the state income tax to a  
22 level below that established by the legislature for the  
23 biennium;

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

25 (iii) after consultation with the president of the

1 senate, the speaker of the house of representatives, and the  
2 chairmen of the following legislative committees:

- 3 (A) senate taxation;
- 4 (B) senate finance and claims;
- 5 (C) house taxation;
- 6 (D) house appropriations; and
- 7 (E) legislative finance.
- 8 (b) The department may, if necessary:
- 9 (i) make the modified percentage retroactive to the
- 10 previous January 1; and
- 11 (ii) publish new withholding tables and estimated tax
- 12 return requirements.

13 **NEW SECTION. Section 9. Nonresidents -- determination**  
14 **of in-state income.** A nonresident's income from sources  
15 within Montana includes income derived from all property  
16 owned in this state and from every business, trade,  
17 profession, or occupation carried on in this state. It does  
18 not include income from annuities, interest on bank  
19 deposits, interest on notes, bonds, or other  
20 interest-bearing obligations, or dividends on stock of  
21 corporations, except to the extent to which this income is a  
22 part of the income derived from a business, trade,  
23 profession, or occupation carried on in this state. In the  
24 case of a business, trade, profession, or occupation carried  
25 on partly within and partly outside this state by a

1 nonresident, the income from sources within this state must  
2 be determined by apportionment and allocation under rules  
3 adopted by the department.

4 **NEW SECTION. Section 10. Tax return -- contents. (1)**  
5 Each individual or fiduciary mentioned in [section 7(1)]  
6 shall file a return with the department showing:

7 (a) the amount of tax due and payable as reported on  
8 the taxpayer's federal income tax return or as recomputed as  
9 required in [section 7];

10 (b) the amount of tax due under [section 8], less  
11 credits, if any, claimed against the tax;

12 (c) any other information necessary for administration  
13 of the state income tax, as may be prescribed by the  
14 department.

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

19 **NEW SECTION. Section 11. Payment of state income tax**  
20 **-- refunds -- interest. (1)** A taxpayer required to file a  
21 state income tax return shall compute the amount of state  
22 income tax due and shall, at the time the return is filed,  
23 pay to the department any balance of tax in excess of \$1  
24 remaining unpaid after crediting the amount withheld as  
25 provided under 15-30-202 or any payment of estimated tax as

1 provided under 15-30-242.

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

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

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

12 **Section 12.** Section 15-30-162, MCA, is amended to  
13 read:

14 "15-30-162. Investment credit. (1) There is allowed as  
15 a credit against the tax imposed by 15-30-103 [section 7] a  
16 percentage of the credit allowed with respect to certain  
17 depreciable property under section 38 of the Internal  
18 Revenue Code of--1954, as amended, or as section 38 may be  
19 renumbered or amended. However, rehabilitation costs as set  
20 forth under section 46(a)(2)(F) of the Internal Revenue Code  
21 of--1954, or as section 46(a)(2)(F) may be renumbered or  
22 amended, are not to be included in the computation of the  
23 investment credit. The credit is allowed for the purchase  
24 and installation of certain qualified property defined by  
25 section 38 of the Internal Revenue Code of--1954, as amended,

1 if the property meets all of the following qualifications:

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

3 (b) it was used for the production of Montana adjusted  
4 gross income.

5 (2) The amount of the credit allowed for the taxable  
6 year is 5% of the amount of credit determined under section  
7 46(a)(2) of the Internal Revenue Code of--1954, as amended,  
8 or as section 46(a)(2) may be renumbered or amended.

9 (3) Notwithstanding the provisions of subsection (2),  
10 the investment credit allowed for the taxable year may not  
11 exceed the taxpayer's tax liability for the taxable year or  
12 \$500, whichever is less.

13 (4) If property for which an investment credit is  
14 claimed is used both inside and outside this state, only a  
15 portion of the credit is allowed. The credit must be  
16 apportioned according to a fraction the numerator of which  
17 is the number of days during the taxable year the property  
18 was located in Montana and the denominator of which is the  
19 number of days during the taxable year the taxpayer owned  
20 the property. The investment credit may be applied only to  
21 the tax liability of the taxpayer who purchases and places  
22 in service the property for which an investment credit is  
23 claimed. The credit may not be allocated between spouses  
24 unless the property is used by a partnership or small  
25 business corporation of which they are partners or

1 shareholders.

2 (5) The investment credit allowed by this section is  
3 subject to recapture as provided for in section 47 of the  
4 Internal Revenue Code ~~of-1954~~, as amended, or as section 47  
5 may be renumbered or amended."

6 **Section 13.** Section 15-30-241, MCA, is amended to  
7 read:

8 "15-30-241. Declaration of estimated tax. (1) Every  
9 Each individual except farmers, ranchers, or stockmen shall,  
10 at the time prescribed in subsection (3) ~~of--this--section~~,  
11 make a declaration of his estimated tax for the taxable year  
12 if ~~his--net-income-from-sources-other-than-wages, salaries,~~  
13 ~~bonuses, or other emoluments can reasonably be--expected--to~~  
14 ~~equal or exceed his net income from wages, salaries, bonuses~~  
15 ~~or--other-emoluments, which are subject to withholding~~ he is  
16 required to file a declaration of his estimated tax under  
17 the provisions of the Internal Revenue Code.

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

20 (a) the amount which he estimates as the amount of tax  
21 under ~~15-30-103~~ [section 8] for the taxable year;

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

25 (c) the excess of the amount estimated under

1 subsection (2)(a) over the amount estimated under subsection  
2 (2)(b), which excess for purposes of this section shall be  
3 considered the estimated tax for the taxable year;

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

6 (3) The declaration required under subsection (1) of  
7 ~~this section~~ shall be filed with the department on or before  
8 April 15 of the taxable year, except that if the  
9 requirements of subsection (1) ~~of this section~~ are first  
10 met:

11 (a) after April 1 and before October 1 of the taxable  
12 year, the declaration shall be filed on or before October 15  
13 of the taxable year;

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

17 (4) An individual may make amendments of a declaration  
18 filed during the taxable year under subsection (3) ~~of this~~  
19 ~~section~~ under rules prescribed by the department.

20 (5) If, on or before February 15 of the succeeding  
21 taxable year, the taxpayer files a return for the taxable  
22 year for which the declaration is required and pays in full  
23 the amount computed on his return as payable, then under  
24 rules prescribed by the department:

25 (a) if the declaration is not required to be filed

1 during the taxable year but is required to be filed on or  
2 before ~~such~~ February 15, ~~such~~ the return shall for the  
3 purposes of this section be considered as ~~such~~ the  
4 declaration; and

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

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

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

21 (8) Any individual who fails to file a declaration of  
22 estimated tax as required by this section is not subject to  
23 the penalties set forth in 15-30-321."

24 **Section 14.** Section 15-30-303, MCA, is amended to  
25 read:

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

13 (2) The officers charged with the custody of such  
14 reports and returns shall not be required to produce any of  
15 them or evidence of anything contained in them in any action  
16 or proceeding in any court, except in any action or  
17 proceeding to which the department is a party under the  
18 provisions of this chapter or any other taxing act or on  
19 behalf of any party to any action or proceedings under the  
20 provisions of this chapter or such other act when the  
21 reports or facts shown thereby are directly involved in ~~such~~  
22 the action or proceedings, in either of which events the  
23 court may require the production of and may admit in  
24 evidence so much of ~~said~~ the reports or of the facts shown  
25 thereby as are pertinent to the action or proceedings and no

1 more.

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

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

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

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

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

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

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

18 (7) Further, notwithstanding any of the provisions of  
19 this section, the department shall furnish:

20 ~~(a) to the department of justice all information~~  
21 ~~necessary to identify those persons qualifying for the~~  
22 ~~additional exemption for blindness pursuant to 15-30-112(4),~~  
23 ~~for the purpose of enabling the department of justice to~~  
24 ~~administer the provisions of 61-5-105; and~~

25 (b) to the department of social and rehabilitation

services information acquired under 15-30-301, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given."

**Section 15.** Section 15-30-323, MCA, is amended to read:

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

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

**Section 16.** Section 15-31-114, MCA, is amended to read:

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

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

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, ~~such--allowance~~ to be determined according to the provisions of section 167 of the Internal Revenue Code in

1 effect with respect to the taxable year. All elections for  
 2 depreciation shall be the same as the elections made for  
 3 federal income tax purposes. No deduction shall be allowed  
 4 for any amount paid out for any buildings, permanent  
 5 improvements, or betterments made to increase the value of  
 6 any property or estate, and no deduction shall be made for  
 7 any amount of expense of restoring property or making good  
 8 the exhaustion thereof for which an allowance is or has been  
 9 made.

10 (b) (i) There shall be allowed as a deduction for the  
 11 taxable period a net operating loss deduction determined  
 12 according to the provisions of this subsection. The net  
 13 operating loss deduction is the aggregate of net operating  
 14 loss carryovers to such the taxable period plus the net  
 15 operating loss carrybacks to such the taxable period. The  
 16 term "net operating loss" means the excess of the deductions  
 17 allowed by this section ~~7-15-31-114~~, over the gross income,  
 18 with the modifications specified in subsection (2)(b)(ii) of  
 19 ~~this--subsection~~. If for any taxable period beginning after  
 20 December 31, 1970, a net operating loss is sustained, such  
 21 the loss shall be a net operating loss carryback to each of  
 22 the three taxable periods preceding the taxable period of  
 23 such the loss and shall be a net operating loss carryover to  
 24 each of the five taxable periods following the taxable  
 25 period of such the loss. A net operating loss for any

1 taxable period ending after December 31, 1975, in addition  
 2 to being a net operating loss carryback to each of the three  
 3 preceding taxable periods, shall be a net operating loss  
 4 carryover to each of the seven taxable periods following the  
 5 taxable period of such the loss. The portion of such the  
 6 loss which shall be carried to each of the other taxable  
 7 years shall be the excess, if any, of the amount of such the  
 8 loss over the sum of the net income for each of the prior  
 9 taxable periods to which such the loss was carried. For  
 10 purposes of the preceding sentence, the net income for such  
 11 the prior taxable period shall be computed with the  
 12 modifications specified in subsection (2)(b)(ii)(B) of this  
 13 subsection and by determining the amount of the net  
 14 operating loss deduction without regard to the net operating  
 15 loss for the loss period or any taxable period thereafter,  
 16 and the net income so computed shall not be considered to be  
 17 less than zero.

18 (ii) The modifications referred to in subsection  
 19 (2)(b)(i) of this subsection shall be as follows:

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

21 (B) The deduction for depletion shall not exceed the  
 22 amount which would be allowable if computed under the cost  
 23 method.

24 (C) Any net operating loss carried over to any taxable  
 25 years beginning after December 31, 1978, must be calculated



1 under the provisions of this section effective for the  
2 taxable year for which the return claiming the net operating  
3 loss carryover is filed.

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

7 (iv) In the case of a merger of corporations, the  
8 surviving corporation shall not be allowed a net operating  
9 loss deduction for net operating losses sustained by the  
10 merged corporations prior to the date of merger. In the case  
11 of a consolidation of corporations, the new corporate entity  
12 shall not be allowed a deduction for net operating losses  
13 sustained by the consolidated corporations prior to the date  
14 of consolidation.

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

18 (vi) The net operating loss deduction shall not be  
19 allowed with respect to taxable periods which ended on or  
20 before December 31, 1970, but shall be allowed only with  
21 respect to taxable periods beginning on or after January 1,  
22 1971.

23 (3) In the case of mines, other natural deposits, oil  
24 and gas wells, and timber, a reasonable allowance for  
25 depletion and for depreciation of improvements; such

1 reasonable allowance to be determined according to the  
2 provisions of the Internal Revenue Code in effect for the  
3 taxable year. All elections made under the Internal Revenue  
4 Code with respect to capitalizing or expensing exploration  
5 and development costs and intangible drilling expenses for  
6 corporation license tax purposes shall be the same as the  
7 elections made for federal income tax purposes.

8 (4) The amount of interest paid within the year on its  
9 indebtedness incurred in the operation of the business from  
10 which its income is derived; but no interest shall be  
11 allowed as a deduction if paid on an indebtedness created  
12 for the purchase, maintenance, or improvement of property or  
13 for the conduct of business unless the income from such the  
14 property or business would be taxable under this part.

15 (5) (a) Taxes paid within the year, except the  
16 following:

17 (i) Taxes imposed by this part.

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

20 (iii) Taxes on or according to or measured by net  
21 income or profits imposed by authority of the government of  
22 the United States.

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

25 (b) Taxes deductible under this part shall be

1 construed to include taxes imposed by any county, school  
2 district, or municipality of this state.

3 ~~{6}--That---portion--of--an--energy-related--investment~~  
4 ~~allowed-as-a-deduction-under-15-32-103-~~

5 ~~{7}(6)~~ (a) Except as provided in subsection (b),  
6 charitable contributions and gifts that qualify for  
7 deduction under section 170 of the Internal Revenue Code, as  
8 amended.

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

12 ~~{8}(7)~~ In lieu of the deduction allowed under  
13 subsection ~~{7}(6)~~, the taxpayer may deduct the fair market  
14 value, not to exceed 30% of the taxpayer's net income, of a  
15 computer or other sophisticated technological equipment or  
16 apparatus intended for use with the computer donated to an  
17 elementary, secondary, or accredited postsecondary school  
18 located in Montana if:

19 (a) the contribution is made no later than 5 years  
20 after the manufacture of the donated property is  
21 substantially completed;

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

24 (c) the taxpayer receives a written statement from the  
25 donee in which the donee agrees to accept the property and

1 representing that the use and disposition of the property  
2 will be in accordance with the provisions of ~~{b}-of-this~~  
3 subsection ~~{8}(7)(b)~~."

4 **Section 17.** Section 15-31-202, MCA, is amended to  
5 read:

6 "15-31-202. Election by small business corporation.

7 (1) A small business corporation may elect not to be subject  
8 to the taxes imposed by this chapter.

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

11 (a) with respect to the taxable years of the  
12 corporation for which ~~such the~~ election is in effect, ~~such~~  
13 ~~the~~ corporation is not subject to the taxes imposed by this  
14 chapter and, with respect to ~~such the~~ taxable years and all  
15 succeeding taxable years, the provisions of this part apply  
16 to ~~such the~~ corporation; and

17 (b) with respect to the taxable years of a shareholder  
18 of such corporation in which or with which the taxable years  
19 of the corporation for which ~~such the~~ election is in effect  
20 end, the provisions of this part apply to ~~such the~~  
21 shareholder, and with respect to ~~such the~~ taxable years and  
22 all succeeding taxable years, the provisions of this part  
23 apply to ~~such the~~ shareholder.

24 (3) An election under subsection (1) must be made in  
25 accordance with rules prescribed by the department of

1 revenue.

2 (4) This election is not effective unless the  
3 corporate net income or loss of such the electing  
4 corporation is included in the stockholders' federal  
5 adjusted gross taxable income as defined in ~~15-30-111~~  
6 [section 7].

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

9 **Section 18.** Section 15-32-102, MCA, is amended to  
10 read:

11 "15-32-102. Definitions. As used in this part, the  
12 following definitions apply:

13 (1) "Building" means a single or multiple dwelling,  
14 including a mobile home, or a building used for commercial,  
15 industrial, or agricultural purposes, which is enclosed with  
16 walls and a roof.

17 (2) "Capital investment" means any material or  
18 equipment purchased and installed in a building or land with  
19 or without improvements.

20 (3) "Energy conservation purpose" means one or more of  
21 the following results of an investment: reducing the waste  
22 or dissipation of energy or reducing the amount of energy  
23 required to accomplish a given quantity of work.

24 (4) "Passive solar system" means a direct thermal  
25 energy system that uses the structure of a building and its

1 operable components to provide heating or cooling during the  
2 appropriate times of the year by using the climate resources  
3 available at the site. It includes only those portions and  
4 components of a building that are expressly designed and  
5 required for the collection, storage, and distribution of  
6 solar energy and that are not standard components of a  
7 conventional building.

8 ~~{5}--"Low-emission-wood-or-biomass--combustion--device"~~  
9 ~~means-a-stove-or-furnace-or-a-catalytic-converter-added-to-a~~  
10 ~~stove-or-furnace-which-burns-wood-or-other-nonfossil-biomass~~  
11 ~~and-which-has-an-emission-rate-of-less-than-6-grams-per-hour~~  
12 ~~when--tested--in--conformance--with--the-standard-method-for~~  
13 ~~measuring-the-emissions-and-efficiencies-of-residential-wood~~  
14 ~~stoves--as--adopted--by--the--department---of---health---and~~  
15 ~~environmental-sciences-pursuant-to-15-32-203;~~

16 ~~{6}{5}~~ "Recognized nonfossil forms of energy  
17 generation" means a system for the utilization of solar  
18 energy including passive solar systems, wind, solid wastes,  
19 or the decomposition of organic wastes for capturing energy  
20 or converting energy sources into usable sources, for the  
21 production of electric power from solid wood wastes, a low  
22 emission wood or biomass combustion device, and also means a  
23 small system for the utilization of water power by means of  
24 an impoundment not over 20 acres in surface area."

25 **Section 19.** Section 15-32-104, MCA, is amended to

1 read:

2 "15-32-104. Limitations on deduction and credit. Tax  
3 treatment under 15-32-103 and ~~15-32-109~~ is limited to:

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

10 **Section 20.** Section 15-32-106, MCA, is amended to  
11 read:

12 "15-32-106. Procedure for obtaining benefit of  
13 deduction or credit. The department of revenue shall provide  
14 forms on which a taxpayer may apply for tax treatment under  
15 15-32-103 ~~or 15-32-109~~. Application shall be made to the  
16 department of revenue. The department of revenue shall  
17 approve an application which demonstrably promotes energy  
18 conservation or utilizes a recognized nonfossil form of  
19 energy generation. The department of revenue may refer an  
20 application involving energy generation to the department of  
21 natural resources and conservation for its advice, and the  
22 department of natural resources and conservation shall  
23 respond within 60 days. The department of revenue may refer  
24 an application involving energy conservation to the  
25 department of administration for its advice, and the

1 department of administration shall respond within 60 days.  
2 The department of revenue may deny an application which it  
3 finds to be impractical or ineffective."

4 **Section 21.** Section 15-32-303, MCA, is amended to  
5 read:

6 "15-32-303. Deduction for purchase of Montana produced  
7 organic fertilizer. In addition to all other deductions from  
8 ~~adjusted---gross---individual---income---allowed---in---computing~~  
9 ~~taxable-income-under-Title-15,chapter--30,--or--from~~ gross  
10 corporate income allowed in computing net income under Title  
11 15, chapter 31, part 1, a taxpayer corporation may deduct  
12 ~~his~~ its expenditures for organic fertilizer produced in  
13 Montana and used in Montana if the expenditure was not  
14 otherwise deducted in computing taxable income."

15 **Section 22.** Section 15-32-402, MCA, is amended to  
16 read:

17 "15-32-402. Commercial investment credit --  
18 wind-generated electricity. (1) ~~An---~~ individual, A  
19 corporation, partnership, or small business corporation as  
20 defined in 15-31-201 that makes an investment of \$5,000 or  
21 more in certain depreciable property qualifying under  
22 section 38 of the Internal Revenue Code ~~of-1954~~, as amended,  
23 for a commercial system located in Montana which generates  
24 electricity by means of wind power is entitled to a tax  
25 credit against taxes imposed by ~~15-30-103-or~~ 15-31-121 in an

1 amount equal to 35% of the eligible costs, to be taken as a  
2 credit only against taxes due as a consequence of taxable or  
3 net income produced by one of the following:

4 (a) manufacturing plants located in Montana that  
5 produce wind energy generating equipment;

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

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

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

18 (a) generating equipment;

19 (b) safety devices and storage components;

20 (c) transmission lines necessary to connect with  
21 existing transmission facilities; and

22 (d) transmission lines necessary to connect directly  
23 to the purchaser of the electricity when no other  
24 transmission facilities are available.

25 (3) Eligible costs under subsection (2) must be

1 reduced by the amount of any grants provided by the state or  
2 federal government for the system."

3 **Section 23.** Section 15-32-405, MCA, is amended to  
4 read:

5 "15-32-405. Exclusion from other tax incentives. If a  
6 credit is claimed for an investment pursuant to this part,  
7 no other state energy or investment tax credit, including  
8 but not limited to the tax credits allowed by 15-30-162 and  
9 15-31-123 through 15-31-125, may be claimed for the  
10 investment. ~~Property--tax-reduction-allowed-by-15-6-201(3)~~  
11 ~~may-not-be-applied-to-a--facility--for--which--a--credit--is~~  
12 ~~claimed-pursuant-to-this-part."~~

13 **Section 24.** Section 15-33-106, MCA, is amended to  
14 read:

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

20 **Section 25.** Section 53-2-101, MCA, is amended to read:

21 "53-2-101. Definitions. Unless the context requires  
22 otherwise, in this chapter the following definitions apply:

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

(2) "Protective services" means services to children and adults to be provided by the department of family services as permitted by Titles 41 and 53.

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

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

(5) "Net monthly income" means one-twelfth of the difference between the net-income federal adjusted taxable income for the taxable year as the that term net--income is defined in ~~15-30-101~~ [section 7] and the state income tax paid as determined by the state income tax return filed during the current year.

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

**Section 26.** Section 53-6-111, MCA, is amended to read:

"53-6-111. Department charged with general administration of medical assistance -- adoption of rules to

punish fraud. (1) The department of social and rehabilitation services is hereby authorized and empowered to administer and supervise a vendor payment program of medical assistance under the powers, duties, and functions provided in chapter 2 of this title, as amended, and as contemplated by the provisions of Title XIX of the federal Social Security Act.

(2) The department shall adopt rules establishing a system of penalties and sanctions applicable to providers of medical assistance services and supplies who engage in fraudulent, abusive, or improper activities. The department shall define by rule those activities which are fraudulent, abusive, or improper.

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

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

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

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

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

(e) permanent termination of participation in the

1 medical assistance program.

2 (4) The department is entitled to recover from a  
3 provider all amounts paid as a result of fraudulent,  
4 abusive, or improper activities, together with interest at  
5 the rate set by ~~15-30-142~~ [section 11] for tax deficiencies  
6 from the date of such payment.

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

10 **Section 27.** Section 67-11-303, MCA, is amended to  
11 read:

12 **"67-11-303. Bonds and obligations.** (1) An authority  
13 may borrow money for any of its corporate purposes and issue  
14 its bonds therefor, including refunding bonds, in such form  
15 and upon such terms as it may determine, payable out of any  
16 revenues of the authority, including revenues derived from:

17 (a) an airport or air navigation facility or  
18 facilities;

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

21 (c) grants or contributions from the federal  
22 government; or

23 (d) other sources.

24 (2) The bonds may be issued by resolution of the  
25 authority, without an election and without any limitation of

1 amount, except that no such bonds may be issued at any time  
2 if the total amount of principal and interest to become due  
3 in any year on such bonds and on any then outstanding bonds  
4 for which revenues from the same source or sources are  
5 pledged exceeds the amount of such revenues to be received  
6 in that year as estimated in the resolution authorizing the  
7 issuance of the bonds. The authority shall take all action  
8 necessary and possible to impose, maintain, and collect  
9 rates, charges, rentals, and taxes, if any are pledged,  
10 sufficient to make the revenues from the pledged source in  
11 such year at least equal to the amount of such principal and  
12 interest due in that year.

13 (3) The bonds may be sold at public or private sale  
14 and may bear interest as provided in 17-5-102. Except as  
15 otherwise provided herein, any bonds issued pursuant to this  
16 chapter by an authority may be payable as to principal and  
17 interest solely from revenues of the authority and shall  
18 state on their face the applicable limitations or  
19 restrictions regarding the source from which such principal  
20 and interest are payable.

21 (4) Bonds issued by an authority or municipality  
22 pursuant to the provisions of this chapter are declared to  
23 be issued for an essential public and governmental purpose  
24 by a political subdivision, within the meaning of  
25 ~~15-30-111(2)(a)~~ [section 7(2)(k)].

1 (5) For the security of any such bonds, the authority  
2 or municipality may by resolution make and enter into any  
3 covenant, agreement, or indenture and may exercise any  
4 additional powers authorized to be exercised by a  
5 municipality under Title 7, chapter 7, parts 44 and 45. The  
6 sums required from time to time to pay principal and  
7 interest and to create and maintain a reserve for the bonds  
8 may be paid from any revenues referred to in this chapter,  
9 prior to the payment of current costs of operation and  
10 maintenance of the facilities.

11 (6) Subject to the conditions stated in this  
12 subsection (6), the governing body of any municipality  
13 having a population in excess of 10,000, with respect to  
14 bonds issued pursuant to this chapter by the municipality or  
15 by an authority in which the municipality is included, may  
16 by resolution covenant that in the event that at any time  
17 all revenues, including taxes, appropriated and collected  
18 for such bonds are insufficient to pay principal or interest  
19 then due, it will levy a general tax upon all of the taxable  
20 property in the municipality for the payment of such  
21 deficiency; and may further covenant that at any time a  
22 deficiency is likely to occur within 1 year for the payment  
23 of principal and interest due on such bonds, it will levy a  
24 general tax upon all the taxable property in the  
25 municipality for the payment of such deficiency, and such

1 taxes are not subject to any limitation of rate or amount  
2 applicable to other municipal taxes but are limited to a  
3 rate estimated to be sufficient to produce the amount of the  
4 deficiency. In the event more than one municipality having a  
5 population in excess of 10,000 is included in an authority  
6 issuing bonds pursuant to this chapter, the municipalities  
7 may apportion the obligation to levy taxes for the payment  
8 of, or in anticipation of, a deficiency in the revenues  
9 appropriated for such bonds in such manner as the  
10 municipalities may determine. The resolution shall state the  
11 principal amount and purpose of the bonds and the substance  
12 of the covenant respecting deficiencies. No such resolution  
13 becomes effective until the question of its approval has  
14 been submitted to the qualified electors of the municipality  
15 at a special election called for that purpose by the  
16 governing body of the municipality and a majority of the  
17 electors voting on the question have voted in favor thereof.  
18 The notice and conduct of the election is governed, to the  
19 extent applicable, as provided for municipal general  
20 obligation bonds in Title 7, chapter 7, part 42, for an  
21 election called by cities and towns, and as provided for  
22 county general obligation bonds in Title 7, chapter 7, part  
23 22, for an election called by counties. If a majority of the  
24 electors voting thereon vote against approval of the  
25 resolution, the municipality has no authority to make the



1 covenant or to levy a tax for the payment of deficiencies  
2 pursuant to this section, but such municipality or authority  
3 may nevertheless issue bonds under this chapter payable  
4 solely from the sources referred to in subsection (1)  
5 above."

6 **Section 28.** Section 90-4-503, MCA, is amended to read:

7 "90-4-503. Residential conservation service  
8 established. ~~(1)~~ There is a residential conservation service  
9 established in Montana under the National Energy  
10 Conservation Policy Act of 1978, which shall be administered  
11 by the department according to the provisions of P.L. 95-619  
12 and this part.

13 ~~(2)--This-part-is-supplemental--to--the--provisions--of~~  
14 ~~15-32-107-administered-by-the-public-service-commission--"~~

15 **Section 29.** Section 90-8-104, MCA, is amended to read:

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

19 (1) "Board" means the board of investments provided  
20 for in 2-15-1808.

21 (2) "Capital base" means equity capital raised by a  
22 certified Montana capital company for which tax credits were  
23 claimed under this chapter and additions to net worth caused  
24 by increases in retained earnings.

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

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

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

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

9 (5) "Qualified investment" means:

10 (a) a debt or equity financing of a Montana business  
11 that meets both of the following criteria:

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

14 (A) manufacturing;

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

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

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

21 ~~(E)(D)~~ transportation;

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

25 ~~(G)(F)~~ wholesale or retail distribution activities for

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

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

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

7 (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 NEW SECTION. Section 30. Repealer. Sections  
19 15-30-103, 15-30-105, 15-30-108, 15-30-110 through  
20 15-30-117, 15-30-121 through 15-30-123, 15-30-125,  
21 15-30-126, 15-30-131, 15-30-132, 15-30-135 through  
22 15-30-137, 15-30-142, 15-30-143, 15-30-156, 15-30-157,  
23 15-32-109, and 15-32-201 through 15-32-203, MCA, are  
24 repealed.

25 NEW SECTION. Section 31. Extension of authority. Any

1 existing authority to make rules on the subject of the  
2 provisions of [this act] is extended to the provisions of  
3 [this act].

4 NEW SECTION. Section 32. Codification instruction --  
5 instruction to code commissioner. (1) [Sections 7 through  
6 11] are intended to be codified as an integral part of Title  
7 15, chapter 30, part 1, and the provisions of Title 15,  
8 chapter 30, part 1, apply to [sections 7 through 11].

9 (2) The code commissioner is instructed to make  
10 changes throughout the Montana Code Annotated to reflect the  
11 change in definition of "Internal Revenue Code" in  
12 15-30-101.

13 NEW SECTION. Section 33. Saving clause. [This act]  
14 does not affect rights and duties that matured, penalties  
15 that were incurred, or proceedings that were begun before  
16 [the effective date of this act].

17 NEW SECTION. Section 34. Effective date --  
18 retroactive applicability. [This act] is effective on  
19 passage and approval and applies retroactively, within the  
20 meaning of 1-2-109, to taxable years beginning after  
21 December 31, 1988.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB459, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act repealing the existing state individual income tax and imposing a state income tax based on a percentage of the federal tax payable on Montana taxable income; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Individual income tax collections are projected to be \$239,124,000 in FY90, and \$254,428,000 in FY91 (REAC).
2. Under the proposal, the state tax rate is 31.6 percent (applied to adjusted federal tax liability).

FISCAL IMPACT:Revenue Impact:


	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Individual Income Tax	\$239,124,000	\$233,937,000	(\$5,187,000)	\$254,428,000	\$249,961,000	(\$4,467,000)
<u>Fund Information:</u>						
General Fund	\$139,170,168	\$136,151,334	(\$3,018,834)	\$148,077,096	\$145,477,302	(\$2,599,794)
Foundation Program	76,041,432	74,391,966	(1,649,466)	80,908,104	79,487,598	(1,420,506)
Sinking Fund	23,912,400	23,393,700	(518,700)	25,442,800	24,996,100	(446,700)
Total	\$239,124,000	\$233,937,000	(\$5,187,000)	\$254,428,000	\$249,961,000	(\$4,467,000)

Expenditure Impact:Department of Revenue (General Fund)

Personal services administrative expense would be reduced approximately \$24,000 annually under this proposal.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The proposed rate of 31.6 percent is revenue-neutral assuming all retirement income is taxed per federal law. The revenue-neutral rate in each year of the biennium under the proposal as drafted is estimated to be 32.3 percent.

  
 RAY SHACKLEFORD, BUDGET DIRECTOR  
 OFFICE OF BUDGET AND PROGRAM PLANNING  
 DATE 3/7/89

  
 MIKE WALKER, PRIMARY SPONSOR  
 DATE 3/7/89

Fiscal Note for SB459, as introduced

**SB 459**