

HOUSE BILL 37

Introduced by Cohen, et al.

6/20	Introduced
6/20	Referred to Taxation
6/23	Hearing
	Died in Committee

1 House BILL NO. 37
2 INTRODUCED BY Chas Ream

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, 19-3-105, 19-4-706,
12 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-9-1005,
13 19-10-504, 19-11-612, 19-12-407, 19-13-1003, 19-21-212,
14 53-6-111, 67-11-303, 90-4-503, AND 90-8-104, MCA; REPEALING
15 SECTIONS 15-30-103, 15-30-105, 15-30-108, 15-30-110 THROUGH
16 15-30-115, 15-30-117, 15-30-121 THROUGH 15-30-123,
17 15-30-125, 15-30-126, 15-30-131, 15-30-132, 15-30-135
18 THROUGH 15-30-137, 15-30-142, 15-30-143, 15-30-156,
19 15-30-157, 15-32-109, AND 15-32-201 THROUGH 15-32-203, MCA;
20 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
21 APPLICABILITY DATE."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
24 **Section 1.** Section 7-14-1133, MCA, is amended to read:
25 "7-14-1133. Bonds and obligations. (1) Except for

1 providing financial support to a private development
2 organization, including a corporation organized under Title
3 32, chapter 4, whose purpose is to advance the economic
4 development of its jurisdiction and of the state and its
5 citizens, an authority may borrow money for any of its
6 corporate purposes and issue bonds therefor, including
7 refunding bonds, in such form and upon such terms as it
8 determines, payable out of any revenues of the authority,
9 including revenues derived from:

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

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



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1 the revenues from the pledged source in such year at least
2 equal to the amount of principal and interest due in that
3 year.

4 (3) The bonds may be sold at public or private sale
5 and may bear interest as provided in 17-5-102. Except as
6 otherwise provided in this part, any bonds issued pursuant
7 to this part by an authority may be payable as to principal
8 and interest solely from revenues of the authority and shall
9 state on their face the applicable limitations or
10 restrictions regarding the source from which such principal
11 and interest are payable.

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

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

1 maintenance of the facilities.

2 (6) Nothing in this section or 7-14-1134 may be
3 construed to limit the use of port authority revenues,
4 including federal and state money as described in 7-14-1136,
5 to make grants and loans or to otherwise provide financial
6 and other support to private development organizations,
7 including corporations organized under the provisions of the
8 development corporation act in Title 32, chapter 4. Under no
9 circumstances may the credit of the state, county, or
10 municipal governments or their agencies or authorities be
11 pledged to provide financial support to such development
12 organizations."

13 **Section 2.** Section 7-34-2416, MCA, is amended to read:
14 "7-34-2416. **Tax-exempt status of bonds.** Bonds issued
15 by a county pursuant to the provisions of 7-34-2411 through
16 7-34-2418 are declared to be issued for an essential public
17 and governmental purpose by a political subdivision, within
18 the meaning of ~~15-30-111(2)(a)~~ [section 7(2)(e)]."

19 **Section 3.** Section 13-37-218, MCA, is amended to read:
20 "13-37-218. **Limitations on receipts from political**
21 **committees.** (1) A candidate for the state senate may receive
22 no more than \$1,000 in total combined monetary contributions
23 from all political committees contributing to his campaign,
24 and a candidate for the state house of representatives may
25 receive no more than \$600 in total combined monetary

1 contributions from all political committees contributing to
 2 his campaign. The ~~foregoing~~ limitations ~~shall~~ contained in
 3 this section must be multiplied by the inflation factor ~~as~~
 4 ~~defined in 15-30-101(f)~~ in subsection (2) for the year in
 5 which general elections are held. ~~after 1984; the~~ The
 6 resulting figure ~~shall~~ must be rounded off to the nearest
 7 \$50 increment. The commissioner of political practices shall
 8 publish the revised limitations as a rule. In-kind
 9 contributions may not be included in ~~computing these~~ the
 10 limitation ~~totals~~. The limitation provided in this section
 11 does not apply to contributions made by a political party
 12 eligible for a primary election under 13-10-601.

13 (2) For purposes of this section, "inflation factor"
 14 means a number determined by dividing the consumer price
 15 index for June of the election year by the consumer price
 16 index for June 1980."

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

18 **"13-37-303. Donation by taxpayer.** (1) An individual
 19 whose withheld income tax or payment of estimated tax
 20 exceeds by more than \$1 his income tax liability for the
 21 taxable year may donate \$1 to be paid to the fund. In the
 22 case of a joint return, ~~as provided in 15-30-142,~~ of a
 23 husband and wife having an income tax overpayment as defined
 24 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
 25 paid to the fund.

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

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

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

10 **"15-6-201. Exempt categories.** (1) The following
 11 categories of property are exempt from taxation:

12 (a) the property of:

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

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

24 (iii) municipal corporations; and

25 (iv) public libraries;

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

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

14 (d) property that meets the following conditions:

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

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

22 (iii) is not maintained and operated for private or
23 corporate profit;

24 (e) institutions of purely public charity;

25 (f) evidence of debt secured by mortgages of record

1 upon real or personal property in the state of Montana;

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

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

9 (i) a truck canopy cover or topper weighing less than
10 300 pounds and having no accommodations attached. This
11 property is also exempt from taxation under 61-3-504(2) and
12 61-3-537.

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

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

16 (l) all watercraft;

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

22 (n) the right of entry that is a property right
23 reserved in land or received by mesne conveyance (exclusive
24 of leasehold interests), devise, or succession to enter land
25 whose surface title is held by another to explore, prospect,

1 or dig for oil, gas, coal, or minerals;

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

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

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

19 (r) provided the tools are owned by the taxpayer, the
20 first \$15,000 or less of market value of tools that are
21 customarily hand-held and that are used to:

22 (i) construct, repair, and maintain improvements to
23 real property; or

24 (ii) repair and maintain machinery, equipment,
25 appliances, or other personal property;

1 (s) harness, saddlery, and other tack equipment; and

2 (t) a title plant owned by a title insurer or a title
3 agent, as those terms are defined in 33-25-105.

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

8 (b) The terms "public art galleries" and "public
9 observatories" include only those art galleries and
10 observatories, whether of public or private ownership, that
11 are open to the public without charge at all reasonable
12 hours and are used for the purpose of education only.

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

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

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

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

23 "15-30-101. Definitions. For the purpose of this
24 chapter, unless otherwise required by the context, the
25 following definitions apply:

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

3 {a}--the-tax-brackets--established--in--15-30-1037--but
4 unadjusted-by-subsection-(2)-of-15-30-1037--in-effect-on-June
5 30-of-the-taxable-year;

6 {b}--the---exemptions---contained---in--15-30-1127--but
7 unadjusted-by-subsections--(7)--and--(8)--of--15-30-1127--in
8 effect-on-June-30-of-the-taxable-year;

9 {c}--the---maximum---standard---deduction--provided--in
10 15-30-1227--but-unadjusted-by-subsection-(2)-of-15-30-1227--in
11 effect-on-June-30-of-the-taxable-year;

12 {2}--"Consumer-price-index"--means--the--consumer--price
13 index7--United-States-city-average7--for-all-items7--using-the
14 1967-base-of--100--as--published--by--the--bureau--of--labor
15 statistics-of-the-U.S.-department-of-labor;

16 {3}{1} "Department" means the department of revenue.

17 {4}--"Dividend"--means--any--distribution--made--by--a
18 corporation---out---of---its--earnings--or--profits--to--its
19 shareholders--or--members7--whether--in--cash--or--in--other
20 property--or--in--stock-of-the-corporation7--other-than-stock
21 dividends-as-herein-defined7--"Stock-dividends"--means--new
22 stock---issued7--for--surplus--or--profits--capitalized7--to
23 shareholders-in-proportion-to-their-previous-holdings7

24 {5}{2} "Fiduciary" means a guardian, trustee,
25 executor, administrator, receiver, conservator, or any

1 person, whether individual or corporate, acting in any
2 fiduciary capacity for any person, trust, or estate.

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

6 {7}--"Gross-income"--means-the-taxpayer's-gross--income
7 for--federal-income-tax-purposes-as-defined-in-section-61-of
8 the-Internal-Revenue-Code-of-1954-or-as-that-section-may--be
9 labeled--or--amended7--excluding--unemployment--compensation
10 included-in-federal-gross-income--under--the--provisions--of
11 section--85-of-the-Internal-Revenue-Code-of-1954-as-amended7

12 {8}--"Inflation-factor"--means-a-number--determined--for
13 each--taxable--year-by-dividing-the-consumer-price-index-for
14 June-of-the-taxable-year-by-the--consumer--price--index--for
15 June7-19807

16 {4} "Individual" means a natural person, whether
17 married or unmarried, adult or minor, subject to payment of
18 an income tax under the Internal Revenue Code.

19 {9}{5} "Information agents" includes all individuals,
20 corporations, associations, and partnerships, in whatever
21 capacity acting, including lessees or mortgagors of real or
22 personal property, fiduciaries, brokers, real estate
23 brokers, employers, and all officers and employees of the
24 state or of any municipal corporation or political
25 subdivision of the state, having the control, receipt,

1 custody, disposal, or payment of interest, rent, salaries,
2 wages, premiums, annuities, compensations, remunerations,
3 emoluments, or other fixed or determinable annual or
4 periodical gains, profits, and income with respect to which
5 any person or fiduciary is taxable under this chapter.

6 ~~{10}-"Knowingly"-is-as-defined-in-45-2-101-~~

7 ~~{11}-"Net-income"-means-the-adjusted-gross-income-of--a
8 taxpayer-less-the-deductions-allowed-by-this-chapter-~~

9 ~~{12}-"Paid"-for--the--purposes--of--the--deductions--and
10 credits--under--this--chapter-,--means--paid--or--accrued--or--paid--or
11 incurred-,--and--the--terms--"paid--or--incurred"-and--"paid--or
12 accrued"-shall--be--construed--according--to--the--method--of
13 accounting--upon--the--basis--of--which--the--taxable--income--is
14 computed--under--this--chapter-~~

15 ~~{13}-"Purpose"-is-as-defined-in-45-2-101-~~

16 ~~{14}-"Received"-for--the--purpose--of--computation--of
17 taxable--income--under--this--chapter-,--means--received--or--accrued
18 and--the--term--"received--or--accrued"-shall--be--construed
19 according--to--the--method--of--accounting--upon--the--basis--of
20 which--the--taxable--income--is--computed--under--this--chapter-~~

21 (6) "Internal Revenue Code" means the Internal Revenue
22 Code of 1954, redesignated as the "Internal Revenue Code of
23 1986" by section 2 of Public Law 99-514, as that code may be
24 amended from time to time by the United States congress. It
25 is the specific intent of the legislature that all

1 amendments by the United States congress must be
2 incorporated into the context of any section of Title 15
3 referring to the Internal Revenue Code.

4 {7) "Person" means an individual, a trust or estate,
5 or a partnership.

6 ~~{15}{8) "Resident" applies only to natural persons and~~
7 includes, for the purpose of determining liability to the
8 tax imposed by this chapter with reference to the income of
9 any taxable year, any person domiciled in the state of
10 Montana and any other person who maintains a permanent place
11 of abode within the state even though temporarily absent
12 from the state and has not established a residence
13 elsewhere.

14 ~~{16}-"Taxable--income"--means--the--adjusted--gross--income
15 of--a--taxpayer--less--the--deductions--and--exemptions--provided
16 for--in--this--chapter-~~

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

19 ~~{18}{10) "Taxpayer" includes any person or fiduciary,~~
20 resident or nonresident, subject to a tax imposed by this
21 chapter and does not include corporations."

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

25 (a) the federal adjusted taxable income derived from

1 sources within and outside Montana of each resident and
 2 fiduciary required to make a return and pay federal income
 3 taxes under the Internal Revenue Code; and

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

8 (2) "Federal adjusted taxable income" means the
 9 taxpayer's taxable income, as determined for federal income
 10 taxes under the provisions of the Internal Revenue Code,
 11 with the following additional deductions to the extent the
 12 income is included in federal adjusted taxable income:

13 (a) all benefits not in excess of \$8,000 received:

14 (i) under the Federal Employees' Retirement Act;

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

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

19 (iv) Title 19;

20 (b) income earned by an enrolled member of a federally
 21 recognized Indian tribe during the time he both lives and
 22 works on a reservation;

23 (c) Montana income tax refunds or credits;

24 (d) interest income from obligations of the United
 25 States government to the extent the income is exempt from

1 state income tax under federal law; and

2 (e) interest received on obligations of any state,
 3 territory, county, municipality, district, or other
 4 political subdivision.

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

18 (4) Nonresidents taking any of the deductions listed
 19 in subsection (2) may claim only that percentage of itemized
 20 deductions and the personal exemption deduction allowed from
 21 federal adjusted gross income that the percentage of
 22 adjusted gross income earned from sources within Montana
 23 bears to the taxpayer's federal adjusted gross income.

24 (5) If a taxpayer's federal adjusted taxable income is
 25 adjusted for state income tax purposes to include any of the

1 additional deductions or modifications of subsections (2)
2 through (4), the taxpayer's federal income tax liability
3 must be recomputed on this adjusted figure to allow the
4 state income tax rate to be applied against it.

5 (6) A person receiving benefits described in
6 subsection (2)(a) may not exclude benefits described in
7 subsections (2)(a)(i) through (2)(a)(iv) from adjusted gross
8 income unless the benefits received under subsections
9 (2)(a)(i) through (2)(a)(iv) are less than \$8,000, in which
10 case the person may combine benefits to exclude up to a
11 total of \$8,000 from adjusted gross income.

12 NEW SECTION. Section 8. Rate of tax. The rate of
13 state income tax is 32% of a taxpayer's federal income tax
14 liability, adjusted as provided in [section 7(5)].

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

1 case of a business, trade, profession, or occupation carried
2 on partly within and partly outside this state by a
3 nonresident, the income from sources within this state must
4 be determined by apportionment and allocation under rules
5 adopted by the department.

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

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

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

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

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

21 NEW SECTION. Section 11. Payment of state income tax
22 -- refunds -- interest. (1) A taxpayer required to file a
23 state income tax return shall compute the amount of state
24 income tax due and shall, at the time the return is filed,
25 pay to the department any balance of tax in excess of \$1

1 remaining unpaid after crediting the amount withheld as
2 provided under 15-30-202 or any payment of estimated tax as
3 provided under 15-30-242.

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

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

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

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

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

1 and installation of certain qualified property defined by
2 section 38 of the Internal Revenue Code ~~of-1954~~, as amended,
3 if the property meets all of the following qualifications:

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

5 (b) it was used for the production of Montana adjusted
6 gross income.

7 (2) The amount of the credit allowed for the taxable
8 year is 5% of the amount of credit determined under section
9 46(a)(2) of the Internal Revenue Code ~~of-1954~~, as amended,
10 or as section 46(a)(2) may be renumbered or amended.

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

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

1 unless the property is used by a partnership or small
2 business corporation of which they are partners or
3 shareholders.

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

8 **Section 13.** Section 15-30-241, MCA, is amended to
9 read:

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

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

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

24 (b) the amount which that he estimates will be
25 withheld from wages paid by his employer if ~~said the~~

1 individual is an employee;

2 (c) the excess of the amount estimated under
3 subsection (2)(a) over the amount estimated under subsection
4 (2)(b); which the excess for purposes of this section ~~shall~~
5 be is considered the estimated tax for the taxable year; and

6 (d) ~~such~~ other information as may be prescribed in
7 rules promulgated by the department.

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

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

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

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

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

1 rules prescribed by the department:

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

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

13 (6) The department shall promulgate rules governing
14 reasonable extensions of time for filing declarations and
15 paying the estimated tax except in the case of taxpayers who
16 are abroad, ~~and--no-such~~ but an extension shall may not be
17 for more than 6 months.

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

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

1 **Section 14.** Section 15-30-303, MCA, is amended to
2 read:

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

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

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

4 (3) Nothing ~~herein shall~~ in this section may be
5 construed to prohibit:

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

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

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

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

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

1 be dismissed from office and ~~be incapable of holding~~ may not
2 hold any public office in this state for a period of 1 year
3 thereafter.

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

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

23 ~~(a) to the department of justice all information~~
24 ~~necessary to identify those persons qualifying for the~~
25 ~~additional exemption for blindness pursuant to 15-30-112(4);~~

~~for--the--purpose--of--enabling--the--department--of--justice--to
administer--the--provisions--of--61-5-105;~~

~~(b)(a)~~ 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;

~~(c)(b)~~ to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses; and

~~(d)(c)~~ to the board of regents information required under 20-26-1111."

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 a deficiency penalty ~~shall~~ may not be less than \$2. Interest ~~will~~ must 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~~ must 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~~ must 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 A deduction ~~shall~~ may not be allowed for salaries paid upon which the recipient thereof has not paid Montana state

1 income tax; provided, however, that where domestic
2 corporations are taxed on income derived from ~~without~~
3 outside the state, salaries of officers paid in connection
4 with securing ~~such the~~ income ~~shall-be~~ are deductible.

5 (2) (a) All losses actually sustained and charged off
6 within the year and not compensated by insurance or
7 otherwise, including a reasonable allowance for the wear and
8 tear and obsolescence of property used in the trade or
9 business, ~~such--allowance~~ to be determined according to the
10 provisions of section 167 of the Internal Revenue Code in
11 effect with respect to the taxable year. All elections for
12 depreciation ~~shall~~ must be the same as the elections made
13 for federal income tax purposes. ~~No A deduction shall may~~
14 not be allowed for any amount paid out for any buildings,
15 permanent improvements, or betterments made to increase the
16 value of any property or estate, and ~~no a~~ deduction ~~shall~~
17 may not be made for any amount of expense of restoring
18 property or making good the exhaustion thereof for which an
19 allowance is or has been made. ~~No A~~ depreciation or
20 amortization deduction ~~shall may not~~ be allowed on a title
21 plant as defined in 33-25-105(15).

22 (b) There ~~shall~~ must be allowed as a deduction for the
23 taxable period a net operating loss deduction determined
24 according to the provisions of 15-31-119.

25 (3) In the case of mines, other natural deposits, oil

1 and gas wells, and timber, a reasonable allowance for
2 depletion and for depreciation of improvements, ~~such~~ The
3 reasonable allowance ~~to must~~ be determined according to the
4 provisions of the Internal Revenue Code in effect for the
5 taxable year. All elections made under the Internal Revenue
6 Code with respect to capitalizing or expensing exploration
7 and development costs and intangible drilling expenses for
8 corporation license tax purposes ~~shall~~ must be the same as
9 the elections made for federal income tax purposes.

10 (4) The amount of interest paid within the year on its
11 indebtedness incurred in the operation of the business from
12 which its income is derived; but ~~no~~ interest ~~shall~~ may not
13 be allowed as a deduction if paid on an indebtedness created
14 for the purchase, maintenance, or improvement of property or
15 for the conduct of business unless the income from ~~such the~~
16 property or business would be taxable under this part.

17 (5) (a) Taxes paid within the year, except the
18 following:

19 (i) Taxes imposed by this part.

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

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

25 (iv) Taxes imposed by any other state or country upon

1 or measured by net income or profits.

2 (b) Taxes deductible under this part ~~shall~~ must be
3 construed to include taxes imposed by any county, school
4 district, or municipality of this state.

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

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

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

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

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

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

1 (c) the taxpayer receives a written statement from the
2 donee in which the donee agrees to accept the property and
3 representing that the use and disposition of the property
4 will be in accordance with the provisions of ~~(b)~~ of this
5 subsection ~~(8)~~ (7)(b)."

6 **Section 17.** Section 15-31-202, MCA, is amended to
7 read:

8 "15-31-202. Election by small business corporation.
9 (1) A small business corporation may elect not to be subject
10 to the taxes imposed by this chapter.

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

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

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

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

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

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

11 **Section 18.** Section 15-32-102, MCA, is amended to
12 read:

13 "15-32-102. Definitions. As used in this part, the
14 following definitions apply:

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

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

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

1 (4) "Passive solar system" means a direct thermal
2 energy system that uses the structure of a building and its
3 operable components to provide heating or cooling during the
4 appropriate times of the year by using the climate resources
5 available at the site. It includes only those portions and
6 components of a building that are expressly designed and
7 required for the collection, storage, and distribution of
8 solar energy and that are not standard components of a
9 conventional building.

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

18 {6}(5) "Recognized nonfossil forms of energy
19 generation" means:

20 (a) a system for the utilization of solar energy
21 including passive solar systems, wind, solid wastes, or the
22 decomposition of organic wastes for capturing energy or
23 converting energy sources into usable sources;

24 (b) a system for the production of electric power from
25 solid wood wastes;

1 (c) a low-emission wood or biomass combustion device;
2 or

3 (d) a small system for the utilization of water power
4 by means of an impoundment not over 20 acres in surface
5 area."

6 **Section 19.** Section 15-32-104, MCA, is amended to
7 read:

8 "15-32-104. Limitations on deduction and-credit. Tax
9 treatment under 15-32-103 and-15-32-109 is limited to:

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

16 **Section 20.** Section 15-32-106, MCA, is amended to
17 read:

18 "15-32-106. Procedure for obtaining benefit of
19 deduction or-credit. The-department-of-revenue-shall-provide
20 forms--on--which-a-taxpayer-may-apply-for-a-tax-credit-under
21 15-32-109: The department of revenue shall approve a
22 deduction or--credit under 15-32-103 or--15-32-109 which
23 demonstrably promotes energy conservation or utilizes a
24 recognized nonfossil form of energy generation. The
25 department of revenue may refer a deduction or--credit

1 involving energy generation to the department of natural
2 resources and conservation for its advice, and the
3 department of natural resources and conservation shall
4 respond within 60 days. The department of revenue may refer
5 a deduction or-credit involving energy conservation to the
6 department of administration for its advice, and the
7 department of administration shall respond within 60 days.
8 The department of revenue may deny a deduction or--credit
9 which it finds to be impractical or ineffective."

10 **Section 21.** Section 15-32-303, MCA, is amended to
11 read:

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

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

23 "15-32-402. Commercial investment credit --
24 wind-generated electricity. (1) An--individual, A
25 corporation, partnership, or small business corporation as

1 defined in 15-31-201 that makes an investment of \$5,000 or
 2 more in certain depreciable property qualifying under
 3 section 38 of the Internal Revenue Code ~~of 1954~~, as amended,
 4 for a commercial system located in Montana which generates
 5 electricity by means of wind power is entitled to a tax
 6 credit against taxes imposed by ~~15-30-103 or~~ 15-31-121 in an
 7 amount equal to 35% of the eligible costs, to be taken as a
 8 credit only against taxes due as a consequence of taxable or
 9 net income produced by one of the following:

10 (a) manufacturing plants located in Montana that
 11 produce wind energy generating equipment;

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

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

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

- 24 (a) generating equipment;
- 25 (b) safety devices and storage components;

1 (c) transmission lines necessary to connect with
 2 existing transmission facilities; and

3 (d) transmission lines necessary to connect directly
 4 to the purchaser of the electricity when no other
 5 transmission facilities are available.

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

9 **Section 23.** Section 15-32-405, MCA, is amended to
 10 read:

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

19 **Section 24.** Section 15-33-106, MCA, is amended to
 20 read:

21 **"15-33-106. Capital gains -- dividends exempted.** Any
 22 capital gains or dividend income realized by ~~an individual~~
 23 ~~or a corporation~~ from an investment in an SBIC organized in
 24 accordance with this part is exempt from taxation under the
 25 provisions of Title 15, ~~chapters 30 and~~ chapter 31."

1 **Section 25.** Section 19-3-105, MCA, is amended to read:

2 "19-3-105. **Exemption from taxes and legal process.** The
3 right of a person to a retirement allowance or any other
4 benefit under this chapter and the moneys money in the fund
5 created under this chapter ~~is~~ are not:

6 (1) subject to execution, garnishment, attachment, or
7 any other process;

8 (2) subject to state, county, or municipal taxes
9 except:

10 (a) for the amount received in excess of \$8,000; or

11 (b) for a refund paid under 19-3-703 of a member's
12 contributions picked up by an employer after June 30, 1985,
13 as provided in 19-3-701; or

14 (3) assignable except as in this chapter specifically
15 provided."

16 **Section 26.** Section 19-4-706, MCA, is amended to read:

17 "19-4-706. **Exemption from taxation and legal process.**

18 The pensions, annuities, or any other benefits accrued or
19 accruing to any person under the provisions of the
20 retirement system and the accumulated contributions and cash
21 and securities in the various funds of the retirement system
22 are:

23 (1) exempted from any state, county, or municipal tax
24 of the state of Montana except for:

25 (a) the amount received in excess of \$8,000; or

1 (b) a withdrawal paid under 19-4-603 of a member's
2 contributions picked up by an employer after June 30, 1985,
3 as provided in 19-4-602;

4 (2) not subject to execution, garnishment, attachment
5 by trustee process or otherwise, in law or equity, or any
6 other process; and

7 (3) unassignable except as specifically provided in
8 this chapter."

9 **Section 27.** Section 19-5-704, MCA, is amended to read:

10 "19-5-704. **Exemption from taxes and legal process.** (1)
11 ~~Any--money~~ Money received or to be paid as a member's
12 annuity, state annuity, or return of deductions or the right
13 of any of these ~~shall--be~~ is exempt from--~~any--state--or~~
14 ~~municipal--tax--and~~ from levy, sale, garnishment, attachment,
15 or any other process ~~whatsoever~~ and ~~shall--be~~ is unassignable
16 except as specifically provided in 19-5-705.

17 (2) The first \$8,000 received under this chapter is
18 exempt from state, county, and municipal taxation."

19 **Section 28.** Section 19-6-705, MCA, is amended to read:

20 "19-6-705. **Exemption from taxes and legal process.** Any
21 money received or to be paid as a member's annuity, state
22 annuity, or return of deductions or the right of any of
23 these is:

24 (1) exempt from any state, county, or municipal tax
25 except for:

- 1 (a) the amount received in excess of \$8,000; or
- 2 (b) a refund paid under 19-6-403 of a member's
- 3 contributions picked up by an employer after June 30, 1985,
- 4 as provided in 19-6-402;
- 5 (2) exempt from levy, sale, garnishment, attachment,
- 6 or any other process; and
- 7 (3) unassignable except as specifically provided in
- 8 19-6-706."

9 **Section 29.** Section 19-7-705, MCA, is amended to read:

10 "19-7-705. Exemption from taxes and legal process. Any
11 money received or to be paid as a member's annuity, state
12 annuity, or return of deductions or the right of any of
13 these is:

14 (1) exempt from any state, county, or municipal tax
15 except for:

16 (a) the amount received in excess of \$8,000; or

17 (b) a refund paid under 19-7-304(1) of a member's
18 contributions picked up by an employer after June 30, 1985,
19 as provided in 19-7-403;

20 (2) exempt from levy, sale, garnishment, attachment,
21 or any other process; and

22 (3) unassignable except as specifically provided in
23 19-7-706."

24 **Section 30.** Section 19-8-805, MCA, is amended to read:

25 "19-8-805. Exemption from taxes and legal process. Any

1 money received or to be paid as a member's annuity, state
2 annuity, or return of deductions or the right of any of
3 these is:

4 (1) exempt from any state, county, or municipal tax
5 except for:

6 (a) the amount received in excess of \$8,000; or

7 (b) a refund paid under 19-8-503 of the member's
8 contributions picked up by an employer after June 30, 1985,
9 as provided in 19-8-502;

10 (2) exempt from levy, sale, garnishment, attachment,
11 or any other process; and

12 (3) unassignable except as specifically provided in
13 19-8-806."

14 **Section 31.** Section 19-9-1005, MCA, is amended to
15 read:

16 "19-9-1005. Exemption from taxes. Any money paid in
17 accordance with the provisions of this chapter is exempt
18 from any state, county, or municipal tax except for:

19 (1) the amount received in excess of \$8,000; or

20 (2) a refund paid under 19-9-304 of a member's
21 contributions picked up by an employer after June 30, 1985,
22 as provided in 19-9-601."

23 **Section 32.** Section 19-10-504, MCA, is amended to
24 read:

25 "19-10-504. Protection of benefits from legal process

1 and taxation. (1) The benefits provided for in this part are
 2 not subject to execution, garnishment, attachment, or the
 3 operation of bankruptcy, insolvency, or other process of law
 4 and are unassignable except as specifically provided in
 5 19-10-505.

6 (2) The first \$8,000 of benefits received under this
 7 part are exempt from state, county, and municipal taxation."

8 **Section 33.** Section 19-11-612, MCA, is amended to
 9 read:

10 "19-11-612. Protection of benefits from legal process
 11 -- nonassignability -- exemption from taxation. (1) Any
 12 payments made or to be made under this chapter are not
 13 subject to judgments, garnishment, execution, or other legal
 14 process. A person entitled to a pension may not assign the
 15 right, and the association and trustees may not recognize
 16 any assignment or pay over any sum so assigned.

17 (2) The first \$8,000 of benefits received under this
 18 chapter are exempt from state, county, and municipal
 19 taxation."

20 **Section 34.** Section 19-12-407, MCA, is amended to
 21 read:

22 "19-12-407. Payment of pension benefits -- exemption
 23 from taxation. (1) All payments under the volunteer
 24 firefighters' pension plan must be approved by the board and
 25 paid by warrants drawn upon the pension trust fund, payable

1 to the order of the individual qualified volunteer
 2 firefighter or the beneficiary as provided in 19-12-405(1).

3 (2) The first \$8,000 of benefits received under this
 4 chapter are exempt from state, county, and municipal
 5 taxation."

6 **Section 35.** Section 19-13-1003, MCA, is amended to
 7 read:

8 "19-13-1003. Exemption from taxes. Any money paid in
 9 accordance with the provisions of this chapter is exempt
 10 from any state, county, or municipal tax except for:

11 (1) the amount received in excess of \$8,000; or

12 (2) refunds paid under 19-13-602 of the member's
 13 contributions picked up by an employer after June 30, 1987,
 14 as provided in 19-13-601."

15 **Section 36.** Section 19-21-212, MCA, is amended to
 16 read:

17 "19-21-212. Exemption from taxation, legal process,
 18 and assessments. All contracts, benefits, and contributions
 19 under the optional retirement program and the earnings
 20 thereon are:

21 (1) except for the amount received in excess of
 22 \$8,000, exempt from any state, county, or municipal tax;

23 (2) not subject to execution, garnishment, attachment,
 24 or other process;

25 (3) not covered or assessable by an insurance guaranty

1 association; and

2 (4) unassignable except as specifically provided in
3 the contracts."

4 **Section 37.** Section 53-6-111, MCA, is amended to read:

5 "53-6-111. Department charged with general
6 administration of medical assistance -- adoption of rules to
7 punish fraud. (1) The department of social and
8 rehabilitation services is hereby authorized and empowered
9 to administer and supervise a vendor payment program of
10 medical assistance under the powers, duties, and functions
11 provided in chapter 2 of this title, as amended, and as
12 contemplated by the provisions of Title XIX of the federal
13 Social Security Act.

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

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

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

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

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

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

6 (e) permanent termination of participation in the
7 medical assistance program.

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

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

16 **Section 38.** Section 67-11-303, MCA, is amended to
17 read:

18 "67-11-303. Bonds and obligations. (1) An authority
19 may borrow money for any of its corporate purposes and issue
20 its bonds therefor, including refunding bonds, in such form
21 and upon such terms as it may determine, payable out of any
22 revenues of the authority, including revenues derived from:

23 (a) an airport or air navigation facility or
24 facilities;

25 (b) taxes levied pursuant to 67-11-301 or other law

1 for airport purposes;

2 (c) grants or contributions from the federal
3 government; or

4 (d) other sources.

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

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

1 and interest are payable.

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

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

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

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

1 obligation bonds in Title 7, chapter 7, part 42, for an
 2 election called by cities and towns, and as provided for
 3 county general obligation bonds in Title 7, chapter 7, part
 4 22, for an election called by counties. If a majority of the
 5 electors voting thereon vote against approval of the
 6 resolution, the municipality has no authority to make the
 7 covenant or to levy a tax for the payment of deficiencies
 8 pursuant to this section, but such municipality or authority
 9 may nevertheless issue bonds under this chapter payable
 10 solely from the sources referred to in subsection (1)
 11 above."

12 **Section 39.** Section 90-4-503, MCA, is amended to read:
 13 "90-4-503. Residential conservation service
 14 established. ~~††~~ There is a residential conservation service
 15 established in Montana under the National Energy
 16 Conservation Policy Act of 1978, which shall be administered
 17 by the department according to the provisions of P.L. 95-619
 18 and this part.

19 ~~†2) This part is supplemental to the provisions of~~
 20 ~~15-32-107 administered by the public service commission."~~

21 **Section 40.** Section 90-8-104, MCA, is amended to read:
 22 "90-8-104. Definitions. As used in this chapter,
 23 unless the context requires otherwise, the following
 24 definitions apply:

25 (1) "Board" means the board of investments provided

1 for in 2-15-1808.

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

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

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

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

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

14 (5) "Qualified investment" means:

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

17 (i) the business is engaged in one or more of the
18 following activities:

19 (A) manufacturing;

20 (B) agricultural, fishery, or forestry production and
21 processing;

22 (C) mineral production and processing, except for
23 conventional oil and gas exploration;

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

1 ~~(E)~~(D) transportation;

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

5 ~~(G)~~(F) wholesale or retail distribution activities for
6 which products produced in Montana comprise 50% or more of
7 the gross sales receipts;

8 ~~(H)~~(G) any activity conducted in the state for which
9 50% or more of the gross receipts are derived from the sale
10 of products or services outside Montana; and

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

12 (ii) the business is a small business as defined in
13 rules adopted by the board; or

14 (b) a debt or equity financing of a business outside
15 Montana if such investment is likely to produce a qualified
16 investment in Montana, as long as such investment does not
17 exceed 25% of the capital base of the capital company.

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

23 NEW SECTION. Section 41. Repealer. Sections
24 15-30-103, 15-30-105, 15-30-108, 15-30-110 through
25 15-30-115, 15-30-117, 15-30-121 through 15-30-123,

1 15-30-125, 15-30-126, 15-30-131, 15-30-132, 15-30-135
2 through 15-30-137, 15-30-142, 15-30-143, 15-30-156,
3 15-30-157, 15-32-109, and 15-32-201 through 15-32-203, MCA,
4 are repealed.

5 NEW SECTION. **Section 42.** Codification instruction --
6 instruction to code commissioner. (1) [Sections 7 through
7 11] are intended to be codified as an integral part of Title
8 15, chapter 30, part 1, and the provisions of Title 15,
9 chapter 30, part 1, apply to [sections 7 through 11].

10 (2) The code commissioner is instructed to make
11 changes throughout the Montana Code Annotated to reflect the
12 change in definition of "Internal Revenue Code" in
13 15-30-101.

14 NEW SECTION. **Section 43.** Saving clause. [This act]
15 does not affect rights and duties that matured, penalties
16 that were incurred, or proceedings that were begun before
17 [the effective date of this act].

18 NEW SECTION. **Section 44.** Effective date --
19 retroactive applicability. [This act] is effective on
20 passage and approval and applies retroactively, within the
21 meaning of 1-2-109, to taxable years beginning after
22 December 31, 1988.

-End-