

SENATE BILL 30

Introduced by Walker, et al.

7/11	Introduced
7/11	Referred to Taxation
7/11	Fiscal Note Requested
	Died in Committee

1 *Sen. Whalen* BILL NO. 30
 2 INTRODUCED BY *Dallen Whalen*
 3 *Eek Ladger, Jaughn Richard, [unclear]*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING MONTANA'S
 5 INDIVIDUAL INCOME TAX WITH A TAX BASED ON A PERCENTAGE OF
 6 FEDERAL TAXABLE INCOME; AMENDING SECTIONS 7-14-1133,
 7 7-34-2416, 13-37-218, 13-37-303, 15-6-201, 15-30-101,
 8 15-30-162, 15-30-241, 15-30-303, 15-30-323, 15-31-114,
 9 15-31-202, 15-32-102, 15-32-104, 15-32-106, 15-32-303,
 10 15-32-402, 15-32-405, 15-33-106, 19-3-105, 19-4-706,
 11 19-5-704, 19-6-705, 19-7-705, 19-21-212, 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, 15-32-201 THROUGH 15-32-203, 19-9-1005, AND
 18 19-13-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
 19 AND A RETROACTIVE 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) Except for
 24 providing financial support to a private development
 25 organization, including a corporation organized under Title

1 32, chapter 4, whose purpose is to advance the economic
 2 development of its jurisdiction and of the state and its
 3 citizens, an authority may borrow money for any of its
 4 corporate purposes and issue bonds therefor, including
 5 refunding bonds, in such form and upon such terms as it
 6 determines, payable out of any revenues of the authority,
 7 including revenues derived from:
 8 (a) any port or transportation and storage facility;
 9 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
 10 (c) grants or contributions from the federal
 11 government; or
 12 (d) other sources.
 13 (2) The bonds may be issued by resolution of the
 14 authority, without an election and without any limitation of
 15 amount, except that no bonds may be issued at any time if
 16 the total amount of principal and interest to become due in
 17 any year on such bonds and on any then outstanding bonds for
 18 which revenues from the same source are pledged exceeds the
 19 amount of such revenues to be received in that year, as
 20 estimated in the resolution authorizing the issuance of the
 21 bonds. The authority shall take all action necessary and
 22 possible to impose, maintain, and collect rates, charges,
 23 rentals, and taxes, if any are pledged, sufficient to make
 24 the revenues from the pledged source in such year at least
 25 equal to the amount of principal and interest due in that



1 year.

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

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

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

25 (6) Nothing in this section or 7-14-1134 may be

1 construed to limit the use of port authority revenues,
2 including federal and state money as described in 7-14-1136,
3 to make grants and loans or to otherwise provide financial
4 and other support to private development organizations,
5 including corporations organized under the provisions of the
6 development corporation act in Title 32, chapter 4. Under no
7 circumstances may the credit of the state, county, or
8 municipal governments or their agencies or authorities be
9 pledged to provide financial support to such development
10 organizations."

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

12 **"7-34-2416. Tax-exempt status of bonds.** Bonds issued
13 by a county pursuant to the provisions of 7-34-2411 through
14 7-34-2418 are declared to be issued for an essential public
15 and governmental purpose by a political subdivision, within
16 the meaning of ~~15-30-111(2)(a)~~ [section 7(2)(c)]."

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

18 **"13-37-218. Limitations on receipts from political**
19 **committees. (1)** A candidate for the state senate may receive
20 no more than \$1,000 in total combined monetary contributions
21 from all political committees contributing to his campaign,
22 and a candidate for the state house of representatives may
23 receive no more than \$600 in total combined monetary
24 contributions from all political committees contributing to
25 his campaign. The foregoing limitations shall contained in

1 this section must be multiplied by the inflation factor as
 2 defined in 15-30-101(8) in subsection (2) for the year in
 3 which general elections are held. after 1987, the The
 4 resulting figure shall must be rounded off to the nearest
 5 \$50 increment. The commissioner of political practices shall
 6 publish the revised limitations as a rule. In-kind
 7 contributions may not be included in computing--these the
 8 limitation totals. The limitation provided in this section
 9 does not apply to contributions made by a political party
 10 eligible for a primary election under 13-10-601.

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

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

16 "13-37-303. **Donation by taxpayer.** (1) An individual
 17 whose withheld income tax or payment of estimated tax
 18 exceeds by more than \$1 his income tax liability for the
 19 taxable year may donate \$1 to be paid to the fund. In the
 20 case of a joint return, ~~as provided in 15-30-142,~~ of a
 21 husband and wife having an income tax overpayment as defined
 22 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
 23 paid to the fund.

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

1 fund.

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

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

8 "15-6-201. **Exempt categories.** (1) The following
 9 categories of property are exempt from taxation:

10 (a) the property of:

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

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

22 (iii) municipal corporations; and

23 (iv) public libraries;

24 (b) buildings, with land they occupy and furnishings
 25 therein, owned by a church and used for actual religious

1 worship or for residences of the clergy, together with
2 adjacent land reasonably necessary for convenient use of the
3 buildings;

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

12 (d) property that meets the following conditions:

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

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

20 (iii) is not maintained and operated for private or
21 corporate profit;

22 (e) institutions of purely public charity;

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

25 (g) public art galleries and public observatories not

1 used or held for private or corporate profit;

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

7 (i) a truck canopy cover or topper weighing less than
8 300 pounds and having no accommodations attached. This
9 property is also exempt from taxation under 61-3-504(2) and
10 61-3-537.

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

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

14 (l) all watercraft;

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

20 (n) the right of entry that is a property right
21 reserved in land or received by mesne conveyance (exclusive
22 of leasehold interests), devise, or succession to enter land
23 whose surface title is held by another to explore, prospect,
24 or dig for oil, gas, coal, or minerals;

25 (o) property owned and used by a corporation or

1 association organized and operated exclusively for the care
2 of the developmentally disabled, mentally ill, or
3 vocationally handicapped as defined in 18-5-101, which is
4 not operated for gain or profit;

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

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

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

20 (i) construct, repair, and maintain improvements to
21 real property; or

22 (ii) repair and maintain machinery, equipment,
23 appliances, or other personal property;

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

25 (t) a title plant owned by a title insurer or a title

1 agent, as those terms are defined in 33-25-105.

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

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

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

16 ~~(a) \$207,000 in the case of a single-family residential~~
17 ~~dwelling;~~

18 ~~(b) \$1007,000 in the case of a multifamily residential~~
19 ~~dwelling or a nonresidential structure."~~

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

21 "15-30-101. Definitions. For the purpose of this
22 chapter, unless otherwise required by the context, the
23 following definitions apply:

24 ~~(1) "Base-year structure" means the following elements~~
25 ~~of the income tax structure:~~

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

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

7 (c)--the---maximum---standard---deduction--provided--in
8 15-30-1227-but-unadjusted-by-subsection-(2)-of-15-30-1227-in
9 effect-on-June-30-of-the-taxable-year;

10 (2)--"Consumer-price-index"--means--the--consumer--price
11 index7--United-States-city-average7--for-all-items7--using-the
12 1967-base-of--100--as--published--by--the--bureau--of--labor
13 statistics-of-the-B.S7--department-of-labor;

14 (3)(1) "Department" means the department of revenue.

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

22 (5)(2) "Fiduciary" means a guardian, trustee,
23 executor, administrator, receiver, conservator, or any
24 person, whether individual or corporate, acting in any
25 fiduciary capacity for any person, trust, or estate.

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

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

10 (8)--"inflation-factor"--means-a-number--determined--for
11 each--taxable--year-by-dividing-the-consumer-price-index-for
12 June-of-the-taxable-year-by-the--consumer--price--index--for
13 June7-1980;

14 (4) "Individual" means a natural person, whether
15 married or unmarried, adult or minor, subject to payment of
16 an income tax under the Internal Revenue Code.

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

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

4 {10}-"Knowingly"-is-as-defined-in-45-2-101-

5 {11}-"Net-income"-means-the-adjusted-gross-income-of--a
6 taxpayer-less-the-deductions-allowed-by-this-chapter-

7 {12}-"Paid",--for--the--purposes--of--the--deductions--and
8 credits-under-this-chapter,--means-paid-or-accrued-or-paid-or
9 incurred,--and--the--terms--"paid--or--incurred"--and--"paid--or
10 accrued"--shall--be--construed--according--to--the--method--of
11 accounting-upon-the-basis-of-which--the--taxable--income--is
12 computed-under-this-chapter-

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

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

19 (6) "Internal Revenue Code" means the Internal Revenue
20 Code of 1954, redesignated as the "Internal Revenue Code of
21 1986" by section 2 of Public Law 99-514, as that code may be
22 amended from time to time by the United States congress. It
23 is the specific intent of the legislature that all
24 amendments by the United States congress must be
25 incorporated into the context of any section of Title 15

1 referring to the Internal Revenue Code.

2 (7) "Person" means an individual, a trust or estate,
3 or a partnership.

4 {15}(8) "Resident" applies only to natural persons and
5 includes, for the purpose of determining liability to the
6 tax imposed by this chapter with reference to the income of
7 any taxable year, any person domiciled in the state of
8 Montana and any other person who maintains a permanent place
9 of abode within the state even though temporarily absent
10 from the state and has not established a residence
11 elsewhere.

12 {16}-"Taxable--income"--means-the-adjusted-gross-income
13 of-a-taxpayer-less-the-deductions--and--exemptions--provided
14 for-in-this-chapter-

15 {17}(9) "Taxable year" means the taxpayer's taxable
16 year for federal income tax purposes.

17 {18}(10) "Taxpayer" includes any person or fiduciary,
18 resident or nonresident, subject to a tax imposed by this
19 chapter and does not include corporations."

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

23 (a) the federal taxable income derived from sources
24 within and outside Montana of each resident and fiduciary
25 required to make a return and pay federal income taxes under

1 the Internal Revenue Code; and

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

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

11 (a) income earned by an enrolled member of a federally
12 recognized Indian tribe during the time he both lives and
13 works on a reservation;

14 (b) interest income from obligations of the United
15 States government to the extent the income is exempt from
16 state income tax under federal law; and

17 (c) interest received on obligations of any state,
18 territory, county, municipality, district, or other
19 political subdivision.

20 (3) A shareholder of a corporation for which the
21 election provided for under subchapter S. of the Internal
22 Revenue Code is in effect but for which the election
23 provided under 15-31-202 is not in effect may deduct from
24 his federal taxable income any part of the corporation's
25 undistributed taxable income, net operating loss, capital or

1 other gains, profits, or losses required to be included in
2 the shareholder's federal taxable income by reason of the
3 election under subchapter S. However, to the shareholder's
4 federal taxable income must be added distributions received
5 from the corporation to the extent the distributions would
6 be treated as taxable dividends if the subchapter S.
7 election were not in effect.

8 (4) Nonresidents taking any of the deductions listed
9 in subsection (2) may claim only that percentage of itemized
10 deductions and the personal exemption deduction allowed from
11 federal taxable income that the percentage of adjusted gross
12 income earned from sources within Montana bears to the
13 taxpayer's federal taxable income.

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

20 NEW SECTION. **Section 8. Rate of tax.** The rate of
21 state income tax is 6% of a taxpayer's federal taxable
22 income, adjusted as provided in [section 7(5)].

23 NEW SECTION. **Section 9. Nonresidents -- determination**
24 **of in-state income.** A nonresident's income from sources
25 within Montana includes income derived from all property

1 owned in this state and from every business, trade,
 2 profession, or occupation carried on in this state. It does
 3 not include income from annuities, interest on bank
 4 deposits, interest on notes, bonds, or other
 5 interest-bearing obligations, or dividends on stock of
 6 corporations, except to the extent to which this income is a
 7 part of the income derived from a business, trade,
 8 profession, or occupation carried on in this state. In the
 9 case of a business, trade, profession, or occupation carried
 10 on partly within and partly outside this state by a
 11 nonresident, the income from sources within this state must
 12 be determined by apportionment and allocation under rules
 13 adopted by the department.

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

17 (a) the amount of taxable income as reported on the
 18 taxpayer's federal income tax return or as recomputed as
 19 required in [section 7];

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

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

25 (2) If a taxpayer is unable to make his own return, an

1 authorized agent, guardian, or other person charged with the
 2 care of the person or property of the taxpayer shall file
 3 the return.

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

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

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

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

22 Section 12. Section 15-30-162, MCA, is amended to
 23 read:

24 "15-30-162. Investment credit. (1) There is allowed as
 25 a credit against the tax imposed by ~~15-30-103~~ [section 7] a

1 percentage of the credit allowed with respect to certain
 2 depreciable property under section 38 of the Internal
 3 Revenue Code ~~of-1954~~, as amended, or as section 38 may be
 4 renumbered or amended. However, rehabilitation costs as set
 5 forth under section 46(a)(2)(F) of the Internal Revenue Code
 6 ~~of-1954~~, or as section 46(a)(2)(F) may be renumbered or
 7 amended, are not to be included in the computation of the
 8 investment credit. The credit is allowed for the purchase
 9 and installation of certain qualified property defined by
 10 section 38 of the Internal Revenue Code ~~of-1954~~, as amended,
 11 if the property meets all of the following qualifications:

12 (a) it was placed in service in Montana; and
 13 (b) it was used for the production of Montana adjusted
 14 gross income.

15 (2) The amount of the credit allowed for the taxable
 16 year is 5% of the amount of credit determined under section
 17 46(a)(2) of the Internal Revenue Code ~~of-1954~~, as amended,
 18 or as section 46(a)(2) may be renumbered or amended.

19 (3) Notwithstanding the provisions of subsection (2),
 20 the investment credit allowed for the taxable year may not
 21 exceed the taxpayer's tax liability for the taxable year or
 22 \$500, whichever is less.

23 (4) If property for which an investment credit is
 24 claimed is used both inside and outside this state, only a
 25 portion of the credit is allowed. The credit must be

1 apportioned according to a fraction the numerator of which
 2 is the number of days during the taxable year the property
 3 was located in Montana and the denominator of which is the
 4 number of days during the taxable year the taxpayer owned
 5 the property. The investment credit may be applied only to
 6 the tax liability of the taxpayer who purchases and places
 7 in service the property for which an investment credit is
 8 claimed. The credit may not be allocated between spouses
 9 unless the property is used by a partnership or small
 10 business corporation of which they are partners or
 11 shareholders.

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

16 **Section 13.** Section 15-30-241, MCA, is amended to
 17 read:

18 "**15-30-241. Declaration of estimated tax.** (1) Every
 19 Each individual ~~except-farmers7-ranchers7-or-stockmen~~ shall,
 20 at the time prescribed in subsection (3) ~~of-this-section~~,
 21 make a declaration of his estimated tax for the taxable year
 22 if ~~his-net-income-from-sources-other-than--wages7--salaries7-~~
 23 ~~bonuses7--or--other-emoiments-can-reasonably-be-expected-to~~
 24 ~~equal-or-exceed-his-net-income-from-wages7-salaries7-bonuses~~
 25 ~~or-other-emoiments7-which-are-subject-to-withholding~~ he is

1 required to file a declaration of his estimated tax under
2 the provisions of the Internal Revenue Code.

3 (2) In the declaration required under subsection (1)
4 ~~of this section~~, the individual shall state:

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

7 (b) the amount ~~which that~~ he estimates will be
8 withheld from wages paid by his employer if ~~said the~~
9 individual is an employee;

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

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

16 (3) The declaration required under subsection (1) ~~of~~
17 ~~this section~~ ~~shall~~ must be filed with the department on or
18 before April 15 of the taxable year, except that if the
19 requirements of subsection (1) ~~of this section~~ are first
20 met:

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

24 (b) after October 1 of the taxable year, the
25 declaration ~~shall~~ must be filed on or before February 15 of

1 the succeeding taxable year.

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

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

10 (a) if the declaration is not required to be filed
11 during the taxable year but is required to be filed on or
12 before ~~such that~~ February 15, ~~such the~~ return ~~shall~~ must for
13 the purposes of this section be considered as ~~such the~~
14 declaration; and

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

21 (6) The department shall promulgate rules governing
22 reasonable extensions of time for filing declarations and
23 paying the estimated tax except in the case of taxpayers who
24 are abroad, ~~and no such but an~~ extension ~~shall~~ may not be
25 for more than 6 months.

1 (7) If the taxpayer is unable to make his own
2 declaration, the declaration ~~shall~~ must be made by a duly
3 authorized agent or by the guardian or other person charged
4 with the care of the person or property of such the
5 taxpayer.

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

9 **Section 14.** Section 15-30-303, MCA, is amended to
10 read:

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

23 (2) The officers charged with the custody of such
24 reports and returns ~~shall~~ may not be required to produce any
25 of them or evidence of anything contained in them in any

1 action or proceeding in any court, except:

2 (a) in any action or proceeding to which the
3 department is a party under the provisions of this chapter
4 or any other taxing act; or

5 (b) on behalf of any party to any action or
6 proceedings under the provisions of this chapter or such any
7 other act when the reports or facts shown thereby by the
8 reports are directly involved in such the action or
9 proceedings₇.

10 ~~(3) in-either-of-which-events-the~~ In either situation
11 referred to in subsection (2)(a) or (2)(b), the court may
12 require the production of and may admit in evidence only so
13 much of ~~said the~~ reports or of the facts shown thereby by
14 the reports as are pertinent to the action or proceedings
15 and-no-more.

16 ~~(3)(4) Nothing herein--shall~~ in this section may be
17 construed to prohibit:

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

21 (b) the publication of statistics so classified as to
22 prevent the identification of particular reports or returns
23 and the items thereof of the reports and returns; or

24 (c) the inspection by the attorney general or other
25 legal representative of the state of the report or return of

1 any taxpayer who shall bring action to set aside or review
2 the tax based thereon on the report or return or against
3 whom an action or proceeding has been instituted in
4 accordance with the provisions of 15-30-311 and 15-30-322.

5 ~~(4)~~(5) Reports and returns shall must be preserved for
6 3 years and thereafter until the department orders them to
7 be destroyed.

8 ~~(5)~~(6) Any offense against subsections (1) through ~~(4)~~
9 ~~(5)~~ of this section shall be punished by a fine not
10 exceeding \$1,000 or by imprisonment in the county jail not
11 exceeding 1 year, or both, at the discretion of the court,
12 and if the offender be is an officer or employee of the
13 state, he shall be dismissed from office and be-incapable-of
14 holding may not hold any public office in this state for a
15 period of 1 year thereafter.

16 ~~(6)~~(7) Notwithstanding the provisions of this section,
17 the department may permit the commissioner of internal
18 revenue of the United States or the proper officer of any
19 state imposing a tax upon the incomes of individuals or the
20 authorized representative of either such officer to inspect
21 the return of income of any individual or may furnish to
22 such the officer or his authorized representative an
23 abstract of the return of income of any individual or supply
24 him with information concerning any item of income contained
25 in any return or disclosed by the report of any

1 investigation of the income or return of income of any
2 individual, but such permission shall may be granted or such
3 information furnished to such the officer or his
4 representative only if the statutes of the United States or
5 of such the other state, ~~as the case may be~~, grant
6 substantially similar privileges to the proper officer of
7 this state charged with the administration of this chapter.

8 ~~(7)~~(8) Further, notwithstanding any of the provisions
9 of this section, the department shall furnish:

10 ~~(a) to the department of justice all information~~
11 ~~necessary to identify those persons qualifying for the~~
12 ~~additional exemption for blindness pursuant to 15-30-112(4),~~
13 ~~for the purpose of enabling the department of justice to~~
14 ~~administer the provisions of 61-5-105;~~

15 ~~(b)(a)~~ to the department of social and rehabilitation
16 services information acquired under 15-30-301, pertaining to
17 an applicant for public assistance, reasonably necessary for
18 the prevention and detection of public assistance fraud and
19 abuse, provided notice to the applicant has been given;

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

25 ~~(d)(c)~~ to the board of regents information required

1 under 20-26-1111."

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

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

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

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

23 *15-31-114. **Deductions allowed in computing income.** In
24 computing the net income, the following deductions ~~shall~~
25 must be allowed from the gross income received by ~~such~~ the

1 corporation within the year from all sources:

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

17 (2) (a) All losses actually sustained and charged off
18 within the year and not compensated by insurance or
19 otherwise, including a reasonable allowance for the wear and
20 tear and obsolescence of property used in the trade or
21 business, ~~such--allowance~~ to be determined according to the
22 provisions of section 167 of the Internal Revenue Code in
23 effect with respect to the taxable year. All elections for
24 depreciation ~~shall~~ must be the same as the elections made
25 for federal income tax purposes. ~~No~~ A deduction ~~shall~~ may

1 not be allowed for any amount paid out for any buildings,
 2 permanent improvements, or betterments made to increase the
 3 value of any property or estate, and no a deduction shall
 4 may not be made for any amount of expense of restoring
 5 property or making good the exhaustion thereof for which an
 6 allowance is or has been made. No A depreciation or
 7 amortization deduction shall may not be allowed on a title
 8 plant as defined in 33-25-105(15).

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

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

22 (4) The amount of interest paid within the year on its
 23 indebtedness incurred in the operation of the business from
 24 which its income is derived; but no interest shall may not
 25 be allowed as a deduction if paid on an indebtedness created

1 for the purchase, maintenance, or improvement of property or
 2 for the conduct of business unless the income from such the
 3 property or business would be taxable under this part.

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

6 (i) Taxes imposed by this part.

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

9 (iii) Taxes on or according to or measured by net
 10 income or profits imposed by authority of the government of
 11 the United States.

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

14 (b) Taxes deductible under this part shall must be
 15 construed to include taxes imposed by any county, school
 16 district, or municipality of this state.

17 ~~{6}--That--portion--of--an--energy-related--investment~~
 18 ~~allowed-as-a-deduction-under-15-32-103-~~

19 ~~{7}{6}~~ (a) Except as provided in subsection ~~{b}~~
 20 ~~{6}{b}~~, charitable contributions and gifts that qualify for
 21 deduction under section 170 of the Internal Revenue Code, as
 22 amended.

23 (b) The public service commission shall may not allow
 24 in the rate base of a regulated corporation the inclusion of
 25 contributions made under this subsection.

1 ~~†8†~~(7) In lieu of the deduction allowed under
 2 subsection ~~†7†~~ (6), the taxpayer may deduct the fair market
 3 value, not to exceed 30% of the taxpayer's net income, of a
 4 computer or other sophisticated technological equipment or
 5 apparatus intended for use with the computer donated to an
 6 elementary, secondary, or accredited postsecondary school
 7 located in Montana if:

8 (a) the contribution is made no later than 5 years
 9 after the manufacture of the donated property is
 10 substantially completed;

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

13 (c) the taxpayer receives a written statement from the
 14 donee in which the donee agrees to accept the property and
 15 representing that the use and disposition of the property
 16 will be in accordance with the provisions of ~~†b†~~--of--this
 17 subsection ~~†8†~~ (7)(b)."

18 **Section 17.** Section 15-31-202, MCA, is amended to
 19 read:

20 "15-31-202. Election by small business corporation.

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

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

25 (a) with respect to the taxable years of the

1 corporation for which ~~such~~ the election is in effect, ~~such~~
 2 the corporation is not subject to the taxes imposed by this
 3 chapter and, with respect to ~~such~~ the taxable years and all
 4 succeeding taxable years, the provisions of this part apply
 5 to ~~such~~ the corporation; and

6 (b) with respect to the taxable years of a shareholder
 7 of ~~such~~ corporation in which or with which the taxable years
 8 of the corporation for which ~~such~~ the election is in effect
 9 end, the provisions of this part apply to ~~such~~ the
 10 shareholder, and with respect to ~~such~~ the taxable years and
 11 all succeeding taxable years, the provisions of this part
 12 apply to ~~such~~ the shareholder.

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

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

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

22 **Section 18.** Section 15-32-102, MCA, is amended to
 23 read:

24 "15-32-102. Definitions. As used in this part, the
 25 following definitions apply:

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

5 (2) "Capital investment" means any material or
6 equipment purchased and installed in a building or land with
7 or without improvements.

8 (3) "Energy conservation purpose" means one or more of
9 the following results of an investment: reducing the waste
10 or dissipation of energy or reducing the amount of energy
11 required to accomplish a given quantity of work.

12 (4) "Passive solar system" means a direct thermal
13 energy system that uses the structure of a building and its
14 operable components to provide heating or cooling during the
15 appropriate times of the year by using the climate resources
16 available at the site. It includes only those portions and
17 components of a building that are expressly designed and
18 required for the collection, storage, and distribution of
19 solar energy and that are not standard components of a
20 conventional building.

21 ~~(5) --"Low--emission--wood-or-biomass-combustion-device"~~
22 ~~means-a-stove-or-furnace-or-a-catalytic-converter-added-to-a~~
23 ~~stove-or-furnace-which-burns-wood-or-other-nonfossil-biomass~~
24 ~~and-which-has-an-emission-rate-of-less-than-6-grams-per-hour~~
25 ~~when-tested-in-conformance--with--the--standard--method--for~~

1 ~~measuring-the-emissions-and-efficiencies-of-residential-wood~~
2 ~~stoves---as---adopted---by---the---department---of---health---and~~
3 ~~environmental-sciences-pursuant-to-15-32-203,~~

4 ~~(6)~~ (5) "Recognized nonfossil forms of energy
5 generation" means:

6 (a) a system for the utilization of solar energy
7 including passive solar systems, wind, solid wastes, or the
8 decomposition of organic wastes for capturing energy or
9 converting energy sources into usable sources;

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

12 (c) a low-emission wood or biomass combustion device;
13 or

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

17 **Section 19.** Section 15-32-104, MCA, is amended to
18 read:

19 "15-32-104. Limitations on deduction and--credit. Tax
20 treatment under 15-32-103 and-15-32-109 is limited to:

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

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

25 (3) a ceiling of \$100,000 in tax savings per year to

1 any one person or firm."

2 **Section 20.** Section 15-32-106, MCA, is amended to
3 read:

4 "15-32-106. Procedure for obtaining benefit of
5 deduction or credit. The department of revenue shall provide
6 forms on which a taxpayer may apply for a tax credit under
7 15-32-109. The department of revenue shall approve a
8 deduction or credit under 15-32-103 or 15-32-109 which
9 demonstrably promotes energy conservation or utilizes a
10 recognized nonfossil form of energy generation. The
11 department of revenue may refer a deduction or credit
12 involving energy generation to the department of natural
13 resources and conservation for its advice, and the
14 department of natural resources and conservation shall
15 respond within 60 days. The department of revenue may refer
16 a deduction or credit involving energy conservation to the
17 department of administration for its advice, and the
18 department of administration shall respond within 60 days.
19 The department of revenue may deny a deduction or credit
20 which it finds to be impractical or ineffective."

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

23 "15-32-303. Deduction for purchase of Montana produced
24 organic fertilizer. In addition to all other deductions from
25 adjusted gross individual income allowed in computing

1 taxable income under Title 15, chapter 307, or from gross
2 corporate income allowed in computing net income under Title
3 15, chapter 31, part 1, a taxpayer corporation may deduct
4 his its expenditures for organic fertilizer produced in
5 Montana and used in Montana if the expenditure was not
6 otherwise deducted in computing taxable income."

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

9 "15-32-402. Commercial investment credit --
10 wind-generated electricity. (1) An individual, A
11 corporation, partnership, or small business corporation as
12 defined in 15-31-201 that makes an investment of \$5,000 or
13 more in certain depreciable property qualifying under
14 section 38 of the Internal Revenue Code of 1954, as amended,
15 for a commercial system located in Montana which generates
16 electricity by means of wind power is entitled to a tax
17 credit against taxes imposed by 15-30-103 or 15-31-121 in an
18 amount equal to 35% of the eligible costs, to be taken as a
19 credit only against taxes due as a consequence of taxable or
20 net income produced by one of the following:

21 (a) manufacturing plants located in Montana that
22 produce wind energy generating equipment;

23 (b) a new business facility or the expanded portion of
24 an existing business facility for which the wind energy
25 generating equipment supplies, on a direct contract sales

1 basis, the basic energy needed; or

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

4 (2) For purposes of determining the amount of the tax
5 credit that may be claimed under subsection (1), eligible
6 costs include only those expenditures that qualify under
7 section 38 of the Internal Revenue Code of 1954, as amended,
8 and that are associated with the purchase, installation, or
9 upgrading of:

10 (a) generating equipment;

11 (b) safety devices and storage components;

12 (c) transmission lines necessary to connect with
13 existing transmission facilities; and

14 (d) transmission lines necessary to connect directly
15 to the purchaser of the electricity when no other
16 transmission facilities are available.

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

20 **Section 23.** Section 15-32-405, MCA, is amended to
21 read:

22 "15-32-405. Exclusion from other tax incentives. If a
23 credit is claimed for an investment pursuant to this part,
24 no other state energy or investment tax credit, including
25 but not limited to the tax credits allowed by 15-30-162 and

1 15-31-123 through 15-31-125, may be claimed for the
2 investment. ~~Property--tax-reduction-allowed-by-15-6-201(3)~~
3 ~~may-not-be-applied-to-a-facility-for-which-a-credit-is~~
4 ~~claimed-pursuant-to-this-part."~~

5 **Section 24.** Section 15-33-106, MCA, is amended to
6 read:

7 "15-33-106. Capital gains -- dividends exempted. Any
8 capital gains or dividend income realized by an individual
9 or a corporation from an investment in an SBIC organized in
10 accordance with this part is exempt from taxation under the
11 provisions of Title 15, ~~chapters-30-and~~ chapter 31."

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

13 "19-3-105. Exemption from taxes and legal process. The
14 right of a person to a retirement allowance or any other
15 benefit under this chapter and the moneys money in the fund
16 created under this chapter ~~is~~ are not:

17 (1) subject to execution, garnishment, attachment, or
18 any other process;

19 ~~(2)--subject--to--state,--county,--or--municipal--taxes~~
20 ~~except-for-a--refund--paid--under--19-3-703--of--a--member's~~
21 ~~contributions--picked-up-by-an-employer-after-June-30,--1985,~~
22 ~~as-provided-in-19-3-701;~~ or

23 ~~(3)(2)~~ assignable except as in this chapter
24 specifically provided."

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

1 "19-4-706. Exemption from taxation and legal process.
2 The pensions, annuities, or any other benefits accrued or
3 accruing to any person under the provisions of the
4 retirement system and the accumulated contributions and cash
5 and securities in the various funds of the retirement system
6 are:

7 ~~{1}--exempted from any state, county, or municipal tax~~
8 ~~of the state of Montana except for a withdrawal paid under~~
9 ~~19-4-603 of a member's contributions picked up by an~~
10 ~~employer after June 30, 1985, as provided in 19-4-602;~~

11 ~~{2}(1)~~ not subject to execution, garnishment,
12 attachment by trustee process or otherwise, in law or
13 equity, or any other process; and

14 ~~{3}(2)~~ unassignable except as specifically provided in
15 this chapter."

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

17 "19-5-704. Exemption from taxes and legal process. Any
18 money Money received or to be paid as a member's annuity,
19 state annuity, or return of deductions or the right of any
20 of these shall be is exempt from any state or municipal tax
21 and from levy, sale, garnishment, attachment, or any other
22 process whatsoever and shall be is unassignable except as
23 specifically provided in 19-5-705."

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

25 "19-6-705. 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 a refund paid under 19-6-403 of a member's~~
6 ~~contributions picked up by an employer after June 30, 1985,~~
7 ~~as provided in 19-6-402;~~

8 ~~{2}(1)~~ exempt from levy, sale, garnishment,
9 attachment, or any other process; and

10 ~~{3}(2)~~ unassignable except as specifically provided in
11 19-6-706."

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

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

17 ~~{1}--exempt from any state, county, or municipal tax~~
18 ~~except for a refund paid under 19-7-304(1) of a member's~~
19 ~~contributions picked up by an employer after June 30, 1985,~~
20 ~~as provided in 19-7-403;~~

21 ~~{2}(1)~~ exempt from levy, sale, garnishment,
22 attachment, or any other process; and

23 ~~{3}(2)~~ unassignable except as specifically provided in
24 19-7-706."

25 **Section 30.** Section 19-21-212, MCA, is amended to

1 read:

2 "19-21-212. Exemption from taxation, legal process,
3 and assessments. All contracts, benefits, and contributions
4 under the optional retirement program and the earnings
5 thereon are:

6 ~~†1) exempt from any state, county, or municipal tax;~~
7 †2) (1) not subject to execution, garnishment,
8 attachment, or other process;

9 †3) (2) not covered or assessable by an insurance
10 guaranty association; and

11 †4) (3) unassignable except as specifically provided in
12 the contracts."

13 **Section 31.** Section 53-6-111, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

25 **Section 32.** Section 67-11-303, MCA, is amended to

1 read:

2 "67-11-303. Bonds and obligations. (1) An authority
3 may borrow money for any of its corporate purposes and issue
4 its bonds therefor, including refunding bonds, in such form
5 and upon such terms as it may determine, payable out of any
6 revenues of the authority, including revenues derived from:
7 (a) an airport or air navigation facility or
8 facilities;
9 (b) taxes levied pursuant to 67-11-301 or other law
10 for airport purposes;
11 (c) grants or contributions from the federal
12 government; or
13 (d) other sources.
14 (2) The bonds may be issued by resolution of the
15 authority, without an election and without any limitation of
16 amount, except that no such bonds may be issued at any time
17 if the total amount of principal and interest to become due
18 in any year on such bonds and on any then outstanding bonds
19 for which revenues from the same source or sources are
20 pledged exceeds the amount of such revenues to be received
21 in that year as estimated in the resolution authorizing the
22 issuance of the bonds. The authority shall take all action
23 necessary and possible to impose, maintain, and collect
24 rates, charges, rentals, and taxes, if any are pledged,
25 sufficient to make the revenues from the pledged source in

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

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

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

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

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

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

21 **Section 33.** Section 90-4-503, MCA, is amended to read:
 22 "90-4-503. Residential conservation service
 23 established. ~~(1)~~ There is a residential conservation service
 24 established in Montana under the National Energy
 25 Conservation Policy Act of 1978, which shall be administered

1 by the department according to the provisions of P.L. 95-619
2 and this part.

3 ~~(2)--This part is supplemental to the provisions of~~
4 ~~15-32-107 administered by the public service commission."~~

5 **Section 34.** Section 90-8-104, MCA, is amended to read:
6 "90-8-104. Definitions. As used in this chapter,
7 unless the context requires otherwise, the following
8 definitions apply:

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

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

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

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

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

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

23 (5) "Qualified investment" means:

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

1 (i) the business is engaged in one or more of the
2 following activities:

3 (A) manufacturing;

4 (B) agricultural, fishery, or forestry production and
5 processing;

6 (C) mineral production and processing, except for
7 conventional oil and gas exploration;

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

10 ~~(E)~~(D) transportation;

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

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

17 ~~(H)~~(G) any activity conducted in the state for which
18 50% or more of the gross receipts are derived from the sale
19 of products or services outside Montana; and

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

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

23 (b) a debt or equity financing of a business outside
24 Montana if such investment is likely to produce a qualified
25 investment in Montana, as long as such investment does not

1 exceed 25% of the capital base of the capital company.

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

7 NEW SECTION. Section 35. Repealer. Sections
8 15-30-103, 15-30-105, 15-30-108, 15-30-110 through
9 15-30-117, 15-30-121 through 15-30-123, 15-30-125,
10 15-30-126, 15-30-131, 15-30-132, 15-30-135 through
11 15-30-137, 15-30-142, 15-30-143, 15-30-156, 15-30-157,
12 15-32-109, 15-32-201 through 15-32-203, 19-9-1005, and
13 19-13-1003, MCA, are repealed.

14 NEW SECTION. Section 36. Codification instruction --
15 code commissioner instruction. (1) [Sections 7 through 11]
16 are intended to be codified as an integral part of Title 15,
17 chapter 30, part 1, and the provisions of Title 15, chapter
18 30, part 1, apply to [sections 7 through 11].

19 (2) The code commissioner is instructed to make
20 changes throughout the Montana Code Annotated to reflect the
21 change in the definition of "Internal Revenue Code" in
22 15-30-101.

23 NEW SECTION. Section 37. Saving clause. [This act]
24 does not affect rights and duties that matured, penalties
25 that were incurred, or proceedings that were begun before

1 [the effective date of this act].

2 NEW SECTION. Section 38. Retroactive applicability.
3 [This act] applies retroactively, within the meaning of
4 1-2-109, to taxable years beginning after December 31, 1988.

5 NEW SECTION. Section 39. Effective date. [This act]
6 is effective on passage and approval.

-End-