

1 *Senate* BILL NO. 220
 2 INTRODUCED BY *Fasbender*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 84-1502, R.C.M. 1947, TO ELIMINATE THE DEDUCTION ALLOWED
 6 CORPORATIONS FOR INCOME TAXES AND FOR INTEREST INCOME
 7 DERIVED FROM OBLIGATIONS OF THE STATE OF MONTANA OR ANY
 8 POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF; AND PROVIDING
 9 AN EFFECTIVE DATE."

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

12 Section 1. Section 84-1502, R.C.M. 1947, is amended to
 13 read as follows:

14 "84-1502. Deductions allowed in computing income. In
 15 computing the net income the following deductions shall be
 16 allowed from the gross income received by such corporation
 17 within the year from all sources:

18 1. All the ordinary and necessary expenses paid or
 19 incurred during the taxable year in the maintenance and
 20 operation of its business and properties, including
 21 reasonable allowance for salaries for personal services
 22 actually rendered, subject to the limitation hereinafter
 23 contained, rentals or other payments required to be made as
 24 a condition to the continued use or possession of property
 25 to which the corporation has not taken or is not taking

1 title, or in which it has no equity. No deduction shall be
 2 allowed for salaries paid upon which the recipient thereof
 3 has not paid Montana state income tax; provided, however,
 4 that where domestic corporations are taxed on income derived
 5 from without the state, salaries of officers paid in
 6 connection with securing such income shall be deductible.

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

22 (B) (a) There shall be allowed as a deduction for the
 23 taxable period a net operating loss deduction determined
 24 according to the provisions of this subsection. The net
 25 operating loss deduction is the aggregate of net operating

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1 loss carryovers to such taxable period plus the net
 2 operating loss carrybacks to such taxable period. The term
 3 "net operating loss" means the excess of the deductions
 4 allowed by this section, 84-1502, over the gross income,
 5 with the modifications specified in paragraph (b) of this
 6 subsection. If for any taxable period beginning after
 7 December 31, 1970, a net operating loss is sustained, such
 8 loss shall be a net operating loss carryback to each of the
 9 three (3) taxable periods preceding the taxable period of
 10 such loss and shall be a net operating loss carryover to
 11 each of the five (5) taxable periods following the taxable
 12 period of such loss. The portion of such loss which shall be
 13 carried to each of the other taxable years shall be the
 14 excess, if any, of the amount of such loss over the sum of
 15 the net income for each of the prior taxable periods to
 16 which such loss was carried. For purposes of the preceding
 17 sentence, the net income for such prior taxable period shall
 18 be computed with the modifications specified in paragraph
 19 (b) (ii) of this subsection and by determining the amount of
 20 the net operating loss deduction without regard to the net
 21 operating loss for the loss period or any taxable period
 22 thereafter, and the net income so computed shall not be
 23 considered to be less than zero.

24 (b) The modifications referred to in paragraph (a) of
 25 this subsection shall be as follows:

1 (i) No net operating loss deduction shall be allowed.
 2 (ii) The deduction for depletion shall not exceed the
 3 amount which would be allowable if computed under the cost
 4 method.

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

8 (d) In the case of a merger of corporations, the
 9 surviving corporation shall not be allowed a net operating
 10 loss deduction for net operating losses sustained by the
 11 merged corporations prior to the date of merger.

12 In the case of a consolidation of corporations, the new
 13 corporate entity shall not be allowed a deduction for net
 14 operating losses sustained by the consolidated corporations
 15 prior to the date of consolidation.

16 (e) Notwithstanding the provisions of section 84-1508.1
 17 (c), R. C. M., 1947, interest shall not be paid with respect
 18 to a refund of tax resulting from a net operating loss
 19 carryback or carryover.

20 (f) The net operating loss deduction shall not be
 21 allowed with respect to taxable periods which ended on or
 22 before December 31, 1970, but shall be allowed only with
 23 respect to taxable periods beginning on or after January 1,
 24 1971.

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
 3 reasonable allowance to 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 be the same as the
 9 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 be
 13 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
 16 property or business would be taxable under this act.

17 ~~5.--Interest-income-from-obligations--of--the--state--of~~
 18 ~~Montana;--or--any--political--subdivision--or--municipality--of--the~~
 19 ~~state--of--Montana;~~

20 6. 5. Taxes paid within the year except the following:
 21 (a) Taxes imposed by this act.

22 (b) Taxes assessed against local benefits of a kind
 23 tending to increase the value of the property assessed.

24 (c) Taxes on or according to or measured by net income
 25 or profits imposed by authority of the government of the

1 United States.

2 (d) Taxes imposed by any other state or country upon or
 3 measured by net income or profits.

4 Taxes deductible under this act shall be construed to
 5 include taxes imposed by any county, school district or
 6 municipality of this state; other than those taxes
 7 specifically excluded in this act."

8 Section 2. Effective date. This act which is
 9 effective on passage and approval is effective for taxable
 10 years ending on and after December 31, 1974.

-End-

STATE OF MONTANA

REQUEST NO. 93-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 27, , 19 75 , there is hereby submitted a Fiscal Note for Senate Bill 220 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 220 eliminates the deduction allowed corporations for interest income derived from obligations of the state of Montana or any political subdivision or municipality and provides an effective date on passage and approval for taxable years beginning on or after December 31, 1974.

ASSUMPTIONS:

1. Estimates for corporations affected for Senate Bill 220 were taken from actual recomputation of 1973 corporate tax returns. 1973 figures are assumed to be reliable estimates for FY 1976 and FY 1977, given the uncertain state of the economy.

FISCAL IMPACT:

	FY 76	FY 77
Corporate income tax collections estimated under current law	\$18,765,625	\$20,000,000
Corporate income tax collections estimated under proposed law	<u>20,875,625</u>	<u>22,110,000</u>
Estimated increase	<u>\$ 2,110,000</u>	<u>\$ 2,110,000</u>

CONCLUSION:

Enactment of Senate Bill 220 would result in an estimated increase in corporate income tax collections of \$4,220,000 during the biennium. The increase would be distributed as follows: 64% general fund, 25% public school equalization ERA, and 11% long-range building program.

TECHNICAL NOTE:

The title of the bill leads the reader to believe that the amendment eliminates the income tax deduction allowed corporations. There appears to be no such amendment in this bill. Neither Montana corporation license taxes nor federal corporation income taxes are deductible under current law.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: January 31, 1975

Approved by Committee
on Taxation

SENATE BILL NO. 220

INTRODUCED BY FASBENDER

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING ~~SECTION~~
SECTIONS 84-1502 AND 84-4905, R.C.M. 1947, TO ELIMINATE THE
DEDUCTION ALLOWED CORPORATIONS AND INDIVIDUALS FOR INCOME
TAXES AND FOR INTEREST INCOME DERIVED FROM OBLIGATIONS OF
THE UNITED STATES OR OF THE STATE OF MONTANA OR ANY
POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF; DISTRIBUTING
A PORTION OF THE CORPORATION LICENSE TAX YIELD THUS
INCREASED TO LOCAL GOVERNMENTS; AMENDING SECTION 84-1901,
R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 84-1502, R.C.M. 1947, is amended to
read as follows:

"84-1502. Deductions allowed in computing income. In
computing the net income the following deductions shall be
allowed from the gross income received by such 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, rentals or other payments required to be made as
a condition to the continued use or possession of property
to which the corporation has not taken or is not taking
title, or in which it has no equity. No deduction shall be
allowed for salaries paid upon which the recipient thereof
has not paid Montana state income tax; provided, however,
that where domestic corporations are taxed on income derived
from without the state, salaries of officers paid in
connection with securing such income shall be deductible.

2. (A) All losses actually sustained and charged off
within the year and not compensated by insurance or
otherwise, including a reasonable allowance for the wear and
tear and obsolescence of property used in the trade or
business, such allowance to be determined according to the
provisions of section 167 of the internal revenue code in
effect with respect to the taxable year. All elections for
depreciation shall be the same as the elections made for
federal income tax purposes. No deduction shall be allowed
for any amount paid out for any buildings, permanent
improvements or betterments made to increase the value of
any property or estate and no deduction shall be made for
any amount of expense of restoring property or making good
the exhaustion thereof for which an allowance is or has been
made.

(3) (a) There shall be allowed as a deduction for the

1 taxable period a net operating loss deduction determined
 2 according to the provisions of this subsection. The net
 3 operating loss deduction is the aggregate of net operating
 4 loss carryovers to such taxable period plus the net
 5 operating loss carrybacks to such taxable period. The term
 6 "net operating loss" means the excess of the deductions
 7 allowed by this section, 84-1502, over the gross income,
 8 with the modifications specified in paragraph (b) of this
 9 subsection. If for any taxable period beginning after
 10 December 31, 1970, a net operating loss is sustained, such
 11 loss shall be a net operating loss carryback to each of the
 12 three (3) taxable periods preceding the taxable period of
 13 such loss and shall be a net operating loss carryover to
 14 each of the five (5) taxable periods following the taxable
 15 period of such loss. The portion of such loss which shall be
 16 carried to each of the other taxable years shall be the
 17 excess, if any, of the amount of such loss over the sum of
 18 the net income for each of the prior taxable periods to
 19 which such loss was carried. For purposes of the preceding
 20 sentence, the net income for such prior taxable period shall
 21 be computed with the modifications specified in paragraph
 22 (b) (ii) of this subsection and by determining the amount of
 23 the net operating loss deduction without regard to the net
 24 operating loss for the loss period or any taxable period
 25 thereafter, and the net income so computed shall not be

1 considered to be less than zero.

2 (b) The modifications referred to in paragraph (a) of
 3 this subsection shall be as follows:

4 (i) No net operating loss deduction shall be allowed.

5 (ii) The deduction for depletion shall not exceed the
 6 amount which would be allowable if computed under the cost
 7 method.

8 (c) A net operating loss deduction shall be allowed
 9 only with regard to losses attributable to the business
 10 carried on within the state of Montana.

11 (d) In the case of a merger of corporations, the
 12 surviving corporation shall not be allowed a net operating
 13 loss deduction for net operating losses sustained by the
 14 merged corporations prior to the date of merger.

15 In the case of a consolidation of corporations, the new
 16 corporate entity shall not be allowed a deduction for net
 17 operating losses sustained by the consolidated corporations
 18 prior to the date of consolidation.

19 (e) Notwithstanding the provisions of section 84-1506.1
 20 (c), R. C. M., 1947, interest shall not be paid with respect
 21 to a refund of tax resulting from a net operating loss
 22 carryback or carryover.

23 (f) The net operating loss deduction shall not be
 24 allowed with respect to taxable periods which ended on or
 25 before December 31, 1970, but shall be allowed only with

1 respect to taxable periods beginning on or after January 1,
2 1971.

3 3. In the case of mines, other natural deposits, oil
4 and gas wells, and timber, a reasonable allowance for
5 depletion and for depreciation of improvements, such
6 reasonable allowance to be determined according to the
7 provisions of the internal revenue code in effect for the
8 taxable year. All elections made under the internal revenue
9 code with respect to capitalizing or expensing exploration
10 and development costs and intangible drilling expenses for
11 corporation license tax purposes shall be the same as the
12 elections made for federal income tax purposes.

13 4. The amount of interest paid within the year on its
14 indebtedness incurred in the operation of the business from
15 which its income is derived; but no interest shall be
16 allowed as a deduction if paid on an indebtedness created
17 for the purchase, maintenance or improvement of property or
18 for the conduct of business unless the income from such
19 property or business would be taxable under this act.

20 ~~5. Interest income from obligations of the state of~~
21 ~~Montana or any political subdivision or municipality of the~~
22 ~~state of Montana.~~

23 6. Taxes paid within the year except the following:

24 (a) Taxes imposed by this act.

25 (b) Taxes assessed against local benefits of a kind

1 tending to increase the value of the property assessed.

2 (c) Taxes on or according to or measured by net income
3 or profits imposed by authority of the government of the
4 United States.

5 (d) Taxes imposed by any other state or country upon
6 or measured by net income or profits.

7 Taxes deductible under this act shall be construed to
8 include taxes imposed by any county, school district or
9 municipality of this state other than those taxes
10 specifically excluded in this act.

11 SECTION 2. SECTION 84-4905, R.C.M. 1947, IS AMENDED TO
12 READ AS FOLLOWS:

13 "84-4905. Adjusted gross income. (1) Adjusted gross
14 income shall be the taxpayer's federal income tax adjusted
15 gross income as defined in section 62 of the Internal
16 Revenue Code of 1954 or as that section may be labeled or
17 amended, and in addition shall include the following:

18 (a) Interest received on obligations of another state
19 or territory, or county, municipality, district, or other
20 political subdivision thereof:

21 (b) Refunds received of federal income tax, to the
22 extent the deduction of such tax resulted in a reduction of
23 Montana income tax liability.

24 (2) Adjusted gross income does not include the
25 following which are exempt from taxation under this act:

1 ~~(a) Interest income from obligations of the United~~
 2 ~~States government, the state of Montana, county,~~
 3 ~~municipality, district, or other political subdivision~~
 4 ~~thereof.~~

5 ~~(b) (a)~~ All benefits received under the Federal
 6 Employees Retirement Act not in excess of three thousand six
 7 hundred dollars (\$3,600).

8 ~~(c) (b)~~ All benefits paid under the Montana Teachers
 9 Retirement Act which are specified as exempt from taxation
 10 by section 75-2713.

11 ~~(d) (c)~~ All benefits paid under the Montana Public
 12 Employees Act which are specified as exempt from taxation by
 13 section 68-1303.

14 ~~(e) (d)~~ All benefits paid under the Montana Highway
 15 Patrol Retirement Act which are specified as exempt from
 16 taxation by section 31-221.

17 ~~(f) (e)~~ Montana income tax refunds or credits thereof.

18 (3) In the case of a shareholder of a corporation with
 19 respect to which the election provided for under subchapter
 20 S. of the Internal Revenue Code of 1954, as amended, is in
 21 effect, but with respect to which the election provided for
 22 under section 84-1501.2, as amended, is not in effect,
 23 adjusted gross income does not include any part of the
 24 corporation's undistributed taxable income, net operating
 25 loss, capital gains or other gains, profits or losses

1 required to be included in the shareholder's federal income
 2 tax adjusted gross income by reason of the said election
 3 under subchapter S. However, the shareholder's adjusted
 4 gross income shall include actual distribution from the
 5 corporation to the extent they would be treated as taxable
 6 dividends if the subchapter S. election were not in effect."

7 SECTION 3. SECTION 84-1901, R.C.M. 1947, IS AMENDED TO
 8 READ AS FOLLOWS:

9 "84-1901. Disposition of moneys from certain
 10 designated license and other taxes. The state treasurer
 11 shall deposit to the credit of the state general fund all
 12 moneys received by him from the collection of automobile
 13 drivers' license fees under section 1741.11, electric energy
 14 producers' license taxes under sections 84-1601 to 84-1609,
 15 inclusive, metalliferous mines license taxes under sections
 16 84-2001 to 84-2015, inclusive, telegraph license taxes under
 17 sections 84-2501 to 84-2508, inclusive, oil producers'
 18 license taxes under sections 84-2201 to 84-2211, inclusive,
 19 natural gas distributors' license taxes under sections
 20 84-2101 to 84-2110, inclusive, liquor license taxes under
 21 chapter 4 of Title 4, telephone license taxes under sections
 22 84-2601 to 84-2608, inclusive, inheritance and estate taxes
 23 under sections 91-4401 to 91-4459, inclusive, and seventy
 24 per centum (70%) of all moneys received from the collection
 25 of income taxes under sections 84-4901 to 84-4935,

1 inclusive, and sixty percent (60%) of all moneys received
 2 from the collection of corporation license taxes under
 3 sections 84-1501 to 84-1519, inclusive, subject to the prior
 4 pledge and appropriation of such income tax and corporation
 5 license tax collections for the payment of long-range
 6 building program bonds. Ten percent (10%) of the proceeds
 7 of the corporation license tax shall be deposited in the
 8 earmarked revenue fund to the credit of the local government
 9 account. The remaining twenty-five per centum (25%) of the
 10 proceeds of the corporation license tax and income tax shall
 11 be deposited to the credit of the earmarked revenue fund for
 12 state equalization aid to the public schools of Montana; and
 13 the state treasurer shall also deposit to the credit of the
 14 state general fund all moneys received by him from the
 15 collection of license taxes, fees and from all other sources
 16 under the operation of the Montana Beer Act, and being
 17 sections 4-301 to 4-356, inclusive, and all net revenues and
 18 receipts received by him from and under the operation of the
 19 State Liquor Control Act, being sections 4-101 to 4-237,
 20 inclusive."

21 SECTION 4. THERE IS A NEW R.C.M. SECTION THAT READS AS
 22 FOLLOWS:

23 Local government account established. There is a local
 24 government account within the earmarked revenue fund.

25 SECTION 5. THERE IS A NEW R.C.M. SECTION THAT READS AS

1 FOLLOWS:

2 Distribution of local government account. The
 3 department of revenue shall, before July 1 each year, divide
 4 the funds appropriated for the next fiscal year from the
 5 local government account among the counties of the state
 6 according to their shares of the total state population as
 7 indicated by the last census. The department shall
 8 distribute each county's share (a) to the treasurers of the
 9 incorporated municipalities within the county according to
 10 their shares of the total county population and (b) to the
 11 treasurer of the county a portion equal to that portion of
 12 the county population not residing in any incorporated
 13 municipality.

14 SECTION 6. THERE IS A NEW R.C.M. SECTION THAT READS AS
 15 FOLLOWS:

16 Prospective application of act. The amendments to
 17 section 84-1502 and 84-4905 made by this act apply to
 18 interest income from obligations marketed or transferred
 19 after March 31, 1975. A corporation or individual who has
 20 acquired an obligation of the United States government, the
 21 state of Montana, or a political subdivision of the state of
 22 Montana may exempt the income from such obligation from
 23 taxable income under sections 84-1502 or 84-4905 until said
 24 obligation or any interest therein is transferred and then
 25 the portion transferred shall no longer be exempt.

1 SECTION 7. SEVERABILITY CLAUSE. IT IS THE INTENT OF
2 THE LEGISLATURE THAT IF A PART OF THIS ACT IS INVALID, ALL
3 VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN
4 IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE
5 OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID
6 APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
7 APPLICATIONS.

8 Section 6. Effective date. This act which is
9 effective on passage and approval is effective for taxable
10 years ending on and after December 31, 1974.

-End-

SENATE BILL NO. 220

INTRODUCED BY FASBENDER

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION SECTIONS 84-1502 AND 84-4905, R.C.M. 1947, TO ELIMINATE THE DEDUCTION ALLOWED CORPORATIONS AND INDIVIDUALS FOR INCOME TAXES AND FOR INTEREST INCOME DERIVED FROM OBLIGATIONS OF THE UNITED STATES OR OF THE STATE OF MONTANA OR ANY POLITICAL SUBDIVISION OR MUNICIPALITY THEREOF; DISTRIBUTING A PORTION OF THE CORPORATION LICENSE TAX YIELD THUS INCREASED TO LOCAL GOVERNMENTS; AMENDING SECTION 84-1901, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 84-1502, R.C.M. 1947, is amended to read as follows:

"84-1502. Deductions allowed in computing income. In computing the net income the following deductions shall be allowed from the gross income received by such 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, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

2. (A) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the internal revenue code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements or betterments made to increase the value of any property or estate and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(B) (a) There shall be allowed as a deduction for the

1 taxable period a net operating loss deduction determined
 2 according to the provisions of this subsection. The net
 3 operating loss deduction is the aggregate of net operating
 4 loss carryovers to such taxable period plus the net
 5 operating loss carrybacks to such taxable period. The term
 6 "net operating loss" means the excess of the deductions
 7 allowed by this section, 84-1502, over the gross income,
 8 with the modifications specified in paragraph (b) of this
 9 subsection. If for any taxable period beginning after
 10 December 31, 1970, a net operating loss is sustained, such
 11 loss shall be a net operating loss carryback to each of the
 12 three (3) taxable periods preceding the taxable period of
 13 such loss and shall be a net operating loss carryover to
 14 each of the five (5) taxable periods following the taxable
 15 period of such loss. The portion of such loss which shall be
 16 carried to each of the other taxable years shall be the
 17 excess, if any, of the amount of such loss over the sum of
 18 the net income for each of the prior taxable periods to
 19 which such loss was carried. For purposes of the preceding
 20 sentence, the net income for such prior taxable period shall
 21 be computed with the modifications specified in paragraph
 22 (b) (ii) of this subsection and by determining the amount of
 23 the net operating loss deduction without regard to the net
 24 operating loss for the loss period or any taxable period
 25 thereafter, and the net income so computed shall not be

1 considered to be less than zero.

2 (b) The modifications referred to in paragraph (a) of
 3 this subsection shall be as follows:

4 (i) No net operating loss deduction shall be allowed.

5 (ii) The deduction for depletion shall not exceed the
 6 amount which would be allowable if computed under the cost
 7 method.

8 (c) A net operating loss deduction shall be allowed
 9 only with regard to losses attributable to the business
 10 carried on within the state of Montana.

11 (d) In the case of a merger of corporations, the
 12 surviving corporation shall not be allowed a net operating
 13 loss deduction for net operating losses sustained by the
 14 merged corporations prior to the date of merger.

15 In the case of a consolidation of corporations, the new
 16 corporate entity shall not be allowed a deduction for net
 17 operating losses sustained by the consolidated corporations
 18 prior to the date of consolidation.

19 (e) Notwithstanding the provisions of section
 20 84-1508.1 (c), R. C. M., 1947, interest shall not be paid
 21 with respect to a refund of tax resulting from a net
 22 operating loss carryback or carryover.

23 (f) The net operating loss deduction shall not be
 24 allowed with respect to taxable periods which ended on or
 25 before December 31, 1970, but shall be allowed only with

1 respect to taxable periods beginning on or after January 1,
2 1971.

3 3. In the case of mines, other natural deposits, oil
4 and gas wells, and timber, a reasonable allowance for
5 depletion and for depreciation of improvements, such
6 reasonable allowance to be determined according to the
7 provisions of the internal revenue code in effect for the
8 taxable year. All elections made under the internal revenue
9 code with respect to capitalizing or expensing exploration
10 and development costs and intangible drilling expenses for
11 corporation license tax purposes shall be the same as the
12 elections made for federal income tax purposes.

13 4. The amount of interest paid within the year on its
14 indebtedness incurred in the operation of the business from
15 which its income is derived; but no interest shall be
16 allowed as a deduction if paid on an indebtedness created
17 for the purchase, maintenance or improvement of property or
18 for the conduct of business unless the income from such
19 property or business would be taxable under this act.

20 ~~5. Interest income from obligations of the state of~~
21 ~~Montana or any political subdivision or municipality of the~~
22 ~~state of Montana.~~

23 6.5. Taxes paid within the year except the following:

- 24 (a) Taxes imposed by this act.
- 25 (b) Taxes assessed against local benefits of a kind

1 tending to increase the value of the property assessed.

2 (c) Taxes on or according to or measured by net income
3 or profits imposed by authority of the government of the
4 United States.

5 (d) Taxes imposed by any other state or country upon
6 or measured by net income or profits.

7 Taxes deductible under this act shall be construed to
8 include taxes imposed by any county, school district or
9 municipality of this state, other than those taxes
10 specifically excluded in this act.

11 SECTION 2. SECTION 84-4905, R.C.M. 1947, IS AMENDED TO
12 READ AS FOLLOWS:

13 "84-4905. Adjusted gross income. (1) Adjusted gross
14 income shall be the taxpayer's federal income tax adjusted
15 gross income as defined in section 62 of the Internal
16 Revenue Code of 1954 or as that section may be labeled or
17 amended, and in addition shall include the following:

18 (a) Interest received on obligations of another state
19 or territory, or county, municipality, district, or other
20 political subdivision thereof:

21 (b) Refunds received of federal income tax, to the
22 extent the deduction of such tax resulted in a reduction of
23 Montana income tax liability.

24 (2) Adjusted gross income does not include the
25 following which are exempt from taxation under this act:

1 ~~{a}~~--Interest income from obligations of the United
2 States--government,--the--state--of--Montana,--county,
3 municipality,--district,--or--other--political--subdivision
4 thereof:

5 ~~{b}~~--(a) All benefits received under the Federal
6 Employees Retirement Act not in excess of three thousand six
7 hundred dollars (\$3,600).

8 ~~{c}~~--(b) All benefits paid under the Montana Teachers
9 Retirement Act which are specified as exempt from taxation
10 by section 75-2713.

11 ~~{d}~~--(c) All benefits paid under the Montana Public
12 Employees Act which are specified as exempt from taxation by
13 section 68-1303.

14 ~~{e}~~--(d) All benefits paid under the Montana Highway
15 Patrol Retirement Act which are specified as exempt from
16 taxation by section 31-221.

17 ~~{f}~~--(e) Montana income tax refunds or credits
18 thereof.

19 (3) In the case of a shareholder of a corporation with
20 respect to which the election provided for under subchapter
21 S. of the Internal Revenue Code of 1954, as amended, is in
22 effect, but with respect to which the election provided for
23 under section 84-1501.2, as amended, is not in effect,
24 adjusted gross income does not include any part of the
25 corporation's undistributed taxable income, net operating

1 loss, capital gains or other gains, profits or losses
2 required to be included in the shareholder's federal income
3 tax adjusted gross income by reason of the said election
4 under subchapter S. However, the shareholder's adjusted
5 gross income shall include actual distribution from the
6 corporation to the extent they would be treated as taxable
7 dividends if the subchapter S. election were not in effect."

8 SECTION 3. SECTION 84-1901, R.C.M. 1947, IS AMENDED TO
9 READ AS FOLLOWS:

10 "84-1901. Disposition of moneys from certain
11 designated license and other taxes. The state treasurer
12 shall deposit to the credit of the state general fund all
13 moneys received by him from the collection of automobile
14 drivers' license fees under section 1741.11, electric energy
15 producers' license taxes under sections 84-1601 to 84-1609,
16 inclusive, metalliferous mines license taxes under sections
17 84-2001 to 84-2015, inclusive, telegraph license taxes under
18 sections 84-2501 to 84-2508, inclusive, oil producers'
19 license taxes under sections 84-2201 to 84-2211, inclusive,
20 natural gas distributors' license taxes under sections
21 84-2101 to 84-2110, inclusive, liquor license taxes under
22 chapter 4 of Title 4, telephone license taxes under sections
23 84-2601 to 84-2608, inclusive, inheritance and estate taxes
24 under sections 91-4401 to 91-4459, inclusive, and seventy
25 per centum (70%) of all moneys received from the collection

1 of income taxes under sections 84-4901 to 84-4935,
 2 inclusive, and ~~sixty-percent--(60%)~~ SIXTY-FIVE PERCENT
 3 (65%) of all moneys received from the collection of
 4 corporation license taxes under sections 84-1501 to 84-1519,
 5 inclusive, subject to the prior pledge and appropriation of
 6 such income tax and corporation license tax collections for
 7 the payment of long-range building program bonds. Ten
 8 percent (10%) of the proceeds of the corporation license tax
 9 shall be deposited in the earmarked revenue fund to the
 10 credit of the local government account. The remaining
 11 twenty-five per centum (25%) of the proceeds of the
 12 corporation license tax and income tax shall be deposited to
 13 the credit of the earmarked revenue fund for state
 14 equalization aid to the public schools of Montana; and the
 15 state treasurer shall also deposit to the credit of the
 16 state general fund all moneys received by him from the
 17 collection of license taxes, fees and from all other sources
 18 under the operation of the Montana Beer Act, and being
 19 sections 4-301 to 4-356, inclusive, and all net revenues and
 20 receipts received by him from and under the operation of the
 21 State Liquor Control Act, being sections 4-101 to 4-237,
 22 inclusive."

23 SECTION 4. THERE IS A NEW R.C.M. SECTION THAT READS AS
 24 FOLLOWS:

25 Local government account established. There is a local

1 government account within the earmarked revenue fund.

2 SECTION 5. THERE IS A NEW R.C.M. SECTION THAT READS AS
 3 FOLLOWS:

4 Distribution of local government account. The
 5 department of revenue shall, before July 1 each year, divide
 6 the funds appropriated for the next fiscal year from the
 7 local government account among the counties of the state
 8 according to their shares of the total state population as
 9 indicated by the last census. The department shall
 10 distribute each county's share (a) to the treasurers of the
 11 incorporated municipalities within the county according to
 12 their shares of the total county population and (b) to the
 13 treasurer of the county a portion equal to that portion of
 14 the county population not residing in any incorporated
 15 municipality.

16 SECTION 6. THERE IS A NEW R.C.M. SECTION THAT READS AS
 17 FOLLOWS:

18 Prospective application of act. The amendments to
 19 section 84-1502 and 84-4905 made by this act apply to
 20 interest income from obligations marketed or transferred
 21 after March 31, 1975. A corporation or individual who has
 22 acquired an obligation of the United States government, the
 23 state of Montana, or a political subdivision of the state of
 24 Montana may exempt the income from such obligation from
 25 taxable income under sections 84-1502 or 84-4905 until said

1 obligation or any interest therein is transferred and then
2 the portion transferred shall no longer be exempt.

3 SECTION 7. SEVERABILITY CLAUSE. IT IS THE INTENT OF
4 THE LEGISLATURE THAT IF A PART OF THIS ACT IS INVALID, ALL
5 VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN
6 IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE
7 OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID
8 APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
9 APPLICATIONS.

10 Section 8. Effective date. This act which is
11 effective on passage and approval is effective for taxable
12 years ending on and after December 31, 1974.

-End-

HOUSE OF REPRESENTATIVES

March 28, 1975

HOUSE COMMITTEE ON TAXATION AMENDMENT TO SENATE BILL 220.

Amend in the third reading copy as follows:

1. Amend in the title, page 1, line 5.
Strike: "SECTIONS"
Insert: "SECTION"
2. Amend in the title, page 1, line 5.
Following: "84-1502"
Strike: "AND 84-4905"
3. Amend in the title, page 1, line 6.
Following: "CORPORATIONS"
Strike: "AND INDIVIDUALS"
4. Amend page 6, section 2, line 11.
Strike: Section 2 in its entirety, and renumber subsequent sections.
5. Amend page 10, new section 4, line 7.
Following: "counties"
Insert: ", cities, towns and school districts"
6. Amend page 10, new section 4, lines 8 through 15.
Following: "the"
Strike: All material remaining in new section 4.
Insert: "general obligation bonded indebtedness of all counties, cities, towns and school districts in the state."
7. Amend page 10, new section 5, line 19.
Following: "84-1502"
Strike: "and 84-4905"
8. Amend page 10, new section 5, line 21.
Following: "corporation"
Strike: "or individual"
9. Amend page 10, new section 5, line 25.
Following: "84-1502"
Strike: "or 84-4905"

AS SO AMENDED
BE NOT CONCURRED IN

Objection raised to adverse committee report