

1 *State* BILL NO. *348*
 2 INTRODUCED BY *Murray*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 84-1502, R.C.M. 1947, TO ALLOW A CORPORATION A DEDUCTION IN
 6 COMPUTING THE CORPORATION LICENSE TAX FOR THE CORPORATION'S
 7 INVESTMENTS AND OPERATING LOSSES IN SOLAR ENERGY RESEARCH
 8 AND DEVELOPMENT OR OTHER RECOGNIZED NONFOSSIL SOURCES OF
 9 ENERGY."

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 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

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
 17 84-1508.1(c), R. C. M., 1947, interest shall not be paid
 18 with respect to a refund of tax resulting from a net
 19 operating loss 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. 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
 3 or 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.

7 7. Investments during the taxable year:

8 (a) in solar energy research and development and all
 9 costs incurred during the taxable year in the construction,
 10 operation, and maintenance of a residence, dwelling,
 11 structure, building, or other facility used for the purpose
 12 of solar energy research and development; or

13 (b) for the purpose of constructing another recognized
 14 nonfossil source of energy generation, as defined in
 15 84-7402."

-End-

STATE OF MONTANA

REQUEST NO. 325-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 2, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 348 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

This bill is an act to allow a corporation a deduction in computing the corporation license tax for the corporation's investments and operating losses in solar energy research and development or other recognized nonfossil sources of energy.

ASSUMPTIONS

No data exists on anticipated investments in buildings for solar research or construction of nonfossil energy generation facilities. Therefore, the fiscal impact of this bill is impossible to estimate.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Drury for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-3-77