

CHAPTER NO. 634

HOUSE BILL NO. 150

INTRODUCED BY FABREGA, HUENNEKENS, WILLIAMS, FAGG,  
SIVERTSEN, VINCENT

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 13, 1979	Introduced and referred to Committee on Taxation.
March 12, 1979	Committee recommend bill do pass as amended. Report adopted.
March 14, 1979	Printed and placed on members' desks.
March 15, 1979	Second reading, do pass.
March 16, 1979	Considered correctly engrossed.
March 17, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

March 19, 1979	Introduced and referred to Committee on Taxation.
March 26, 1979	Committee recommend bill be concurred in as amended. Report adopted.  Statement of Intent adopted.
March 27, 1979	Second reading, pass con- sideration.
March 28, 1979	Second reading, concurred in as amended.
March 30, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 30, 1979

Returned from second house.  
Concurred in as amended  
with Intent statement.

April 2, 1979

Second reading, amendments  
adopted.

April 3, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 150  
 2 INTRODUCED BY Senator Frank Williams  
 3 Director Vincent  
 4 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

5 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE METHOD OF  
 6 TAXING BANKS AND SAVINGS AND LOAN ASSOCIATIONS FOR LOCAL  
 7 GOVERNMENTS; REMOVING THE CORPORATION LICENSE TAX EXEMPTION  
 8 FOR INTEREST FROM STATE AND LOCAL OBLIGATIONS; REPEALING THE  
 9 TAX ON MONEYED CAPITAL AND SHARES OF BANKS; PROVIDING FOR A  
 10 DIFFERENT METHOD OF COLLECTING AND DISTRIBUTING CORPORATION  
 11 LICENSE TAXES PAID BY BANKS AND SAVINGS AND LOAN  
 12 ASSOCIATIONS; AMENDING SECTIONS 7-6-206, 15-1-501, 15-8-104,  
 13 15-8-111, 15-24-701, 15-24-801, 15-31-101, 15-31-114,  
 14 15-31-502, 17-5-408, 20-9-343, AND 32-1-413, MCA; REPEALING  
 15 SECTIONS 15-6-106, 15-24-501 THROUGH 15-24-508, AND  
 16 15-24-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

17  
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Purpose. The legislature  
 20 recognizes that the property tax on moneyed capital and bank  
 21 shares is an important element in the tax bases of many  
 22 local governments. Since, however, the current method of  
 23 valuing bank shares has legal defects, may be causing the  
 24 undercapitalization of Montana's banks, and imposes an  
 25 inequitable tax burden on some financial institutions, the

1 legislature hereby repeals this tax. Banks and savings and  
 2 loan associations will be taxed on a more equitable basis,  
 3 their net income. To make their basis for computing net  
 4 income comparable to other businesses, the legislature  
 5 repeals the corporation license tax deduction for interest  
 6 on public obligations. To replace the property tax revenue  
 7 lost to local governments, all corporation license taxes  
 8 paid by banks and savings and loan associations will be  
 9 collected by counties and distributed to the various local  
 10 governments, based on their current mill levies.

11 Section 2. Section 15-31-101, MCA, is amended to read:

12 "15-31-101. Organizations subject to tax. (1) The term  
 13 "corporation" includes associations, joint-stock companies,  
 14 common-law trusts and business trusts which do business in  
 15 an organized capacity, and all other corporations whether  
 16 created, organized, or existing under and pursuant to the  
 17 laws, agreements, or declarations of trust of any state,  
 18 country, or the United States.

19 (2) The terms "engaged in business" and "doing  
 20 business" both mean actively engaging in any transaction for  
 21 the purpose of financial or pecuniary gain or profit.

22 (3) Every corporation, except as hereinafter provided  
 23 and except as provided in 33-2-705(5), engaged in business  
 24 in the state of Montana shall annually pay to the state  
 25 treasurer as a license fee for the privilege of carrying on

1 business in this state such percentage or percentages of its  
 2 total net income for the preceding taxable year at the rate  
 3 hereinafter set forth. In the case of corporations having  
 4 income from business activity which is taxable both within  
 5 and without this state, the license fee shall be measured by  
 6 the net income derived from or attributable to Montana  
 7 sources as determined under part 3. This tax is due and  
 8 payable on the 15th day of the 5th month following the close  
 9 of the taxable year of the corporation; however, the tax  
 10 becomes a lien as provided in this chapter on the last day  
 11 of the taxable year in which the income was earned and is  
 12 for the privilege of carrying on business in this state for  
 13 the taxable year in which the income was earned.

14 (4) Every bank organized under the laws of the state  
 15 of Montana, or of any other state, and ~~or every national~~  
 16 ~~bank organized under the laws of the United States and every~~  
 17 ~~savings and loan association organized under the laws of~~  
 18 ~~this state or of the United States~~ ~~are~~ is subject to the  
 19 Montana corporation license tax provided for under this  
 20 chapter. For taxable years beginning on and after January 1,  
 21 1972, this subsection is effective in accordance with Public  
 22 Law 91-156, section 2 (12 U.S.C. 548)."

23 Section 3. Section 15-31-114, MCA, is amended to read:  
 24 "15-31-114. Deductions allowed in computing income. In  
 25 computing the net income, the following deductions shall be

1 allowed from the gross income received by such corporation  
 2 within the year from all sources:

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

1 for any amount paid out for any buildings, permanent  
2 improvements, or betterments made to increase the value of  
3 any property or estate, and no deduction shall be made for  
4 any amount of expense of restoring property or making good  
5 the exhaustion thereof for which an allowance is or has been  
6 made.

7 (b) (i) There shall be allowed as a deduction for the  
8 taxable period a net operating loss deduction determined  
9 according to the provisions of this subsection. The net  
10 operating loss deduction is the aggregate of net operating  
11 loss carryovers to such taxable period plus the net  
12 operating loss carrybacks to such taxable period. The term  
13 "net operating loss" means the excess of the deductions  
14 allowed by this section, 15-31-114, over the gross income,  
15 with the modifications specified in (ii) of this subsection.  
16 If for any taxable period beginning after December 31, 1970,  
17 a net operating loss is sustained, such loss shall be a net  
18 operating loss carryback to each of the three taxable  
19 periods preceding the taxable period of such loss and shall  
20 be a net operating loss carryover to each of the five  
21 taxable periods following the taxable period of such loss. A  
22 net operating loss for any taxable period ending after  
23 December 31, 1975, in addition to being a net operating loss  
24 carryback to each of the three preceding taxable periods,  
25 shall be a net operating loss carryover to each of the seven

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

13 (ii) The modifications referred to in (i) of this  
14 subsection shall be as follows:

15 (A) No net operating loss deduction shall be allowed.  
16 (B) The deduction for depletion shall not exceed the  
17 amount which would be allowable if computed under the cost  
18 method.

19 (C) Any net operating loss carried over to any taxable  
20 years beginning after December 31, 1978, must be calculated  
21 under the provisions of this section effective for the  
22 taxable year for which the return claiming the net operating  
23 loss carryover is filed.

24 (iii) A net operating loss deduction shall be allowed  
25 only with regard to losses attributable to the business

1 carried on within the state of Montana.

2 (iv) In the case of a merger of corporations, the  
3 surviving corporation shall not be allowed a net operating  
4 loss deduction for net operating losses sustained by the  
5 merged corporations prior to the date of merger. In the case  
6 of a consolidation of corporations, the new corporate entity  
7 shall not be allowed a deduction for net operating losses  
8 sustained by the consolidated corporations prior to the date  
9 of consolidation.

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

13 (vi) The net operating loss deduction shall not be  
14 allowed with respect to taxable periods which ended on or  
15 before December 31, 1970, but shall be allowed only with  
16 respect to taxable periods beginning on or after January 1,  
17 1971.

18 (3) In the case of mines, other natural deposits, oil  
19 and gas wells, and timber, a reasonable allowance for  
20 depletion and for depreciation of improvements; such  
21 reasonable allowance to be determined according to the  
22 provisions of the Internal Revenue Code in effect for the  
23 taxable year. All elections made under the Internal Revenue  
24 Code with respect to capitalizing or expensing exploration  
25 and development costs and intangible drilling expenses for

1 corporation license tax purposes shall be the same as the  
2 elections made for federal income tax purposes.

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

10 ~~(5) Interest income from obligations of the state or~~  
11 ~~any political subdivision or municipality of the state~~

12 (6)(5) (a) Taxes paid within the year except the  
13 following:

- 14 (i) Taxes imposed by this part.  
15 (ii) Taxes assessed against local benefits of a kind  
16 tending to increase the value of the property assessed.  
17 (iii) Taxes on or according to or measured by net  
18 income or profits imposed by authority of the government of  
19 the United States.

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

22 (b) Taxes deductible under this part shall be  
23 construed to include taxes imposed by any county, school  
24 district, or municipality of this state.

25 (7)(6) That portion of an energy-related investment

1 allowed as a deduction under 15-32-103."

2 Section 4. Section 15-31-502, MCA, is amended to read:

3 "15-31-502. Assessment and payment of tax, penalty,  
4 and interest. All taxpayers shall compute the amount of tax  
5 payable under this chapter and shall remit such amount to  
6 the department of revenue, except as provided in [section  
7 5] on or before the 15th day of the 5th month following the  
8 close of the taxable period. If the tax is not paid on or  
9 before the due date, there shall be assessed a penalty of  
10 10% of the amount of the tax unless it is shown that the  
11 failure was due to reasonable cause and not due to neglect.  
12 If any tax due under this chapter is not paid when due, by  
13 reason of extension granted or otherwise, interest shall be  
14 added thereto at the rate of 9% per annum from the due date  
15 until paid."

16 NEW SECTION. Section 5. Banks and savings and loan  
17 associations — special provisions for filing returns and  
18 payment of taxes. (1) County treasurers shall collect  
19 corporation license taxes paid by banks and savings and loan  
20 associations.

21 (2) Within 10 days after receiving a corporation  
22 license tax return from a bank or savings and loan  
23 association, the department of revenue shall transmit to the  
24 county treasurer of the county in which the business is  
25 located a statement showing its tax liability. To insure the

1 confidentiality of the return, as required under 15-31-507,  
2 the statement sent to the treasurer shall show only the name  
3 and address of the bank or savings and loan association and  
4 its tax liability.

5 (3) Within 5 days after receiving a corporation  
6 license tax statement, a county treasurer shall send to the  
7 business a demand for payment in the amount shown on the  
8 statement.

9 (4) The bank or savings and loan association shall  
10 make payment to the county treasurer within 5 days after  
11 receiving a demand for payment.

12 (5) If the department of revenue determines, under the  
13 provisions of 15-31-503 and 15-31-531, that a bank or  
14 savings and loan association owes more taxes than shown on  
15 the original return or has paid more than the tax, penalty,  
16 or interest due in any year, it shall notify the bank or  
17 savings and loan association and the county treasurer of the  
18 county in which the business is located. Additional payment  
19 is due within 10 days after receipt of the final  
20 determination of taxes due. County treasurers shall issue  
21 warrants for overpayment and interest, as provided in  
22 15-31-531.

23 (6) The department shall continue to exercise all its  
24 duties and powers outlined in this title with respect to  
25 auditing returns and enforcing payment of the corporation

1 license taxes owed by banks and savings and loan  
 2 associations. Any delinquent taxes collected from the sale  
 3 of property of a bank or savings and loan association under  
 4 the provisions of 15-31-525 shall be transmitted to the  
 5 county in which the corporation owing the delinquent taxes  
 6 is located. The only duties of the county treasurers in this  
 7 regard are collecting the taxes, issuing refunds, and  
 8 distributing the taxes to local taxing jurisdictions.

9 NEW SECTION. Section 6. Distribution of corporation  
 10 license taxes collected by county treasurers. (1) All  
 11 corporation license taxes collected by county treasurers  
 12 shall be distributed to the various taxing jurisdictions  
 13 within the county in which the bank or savings and loan  
 14 association is located.

15 (2) The corporation license taxes collected shall be  
 16 allocated to each taxing jurisdiction in the proportion that  
 17 its mill levy for that fiscal year bears to the total mill  
 18 levy of the taxing authorities of the district in which the  
 19 bank or savings and loan association is located.

20 (3) "Taxing jurisdictions" means, for the purposes of  
 21 this section, all taxing authorities within a county  
 22 permitted under state law to levy mills against the taxable  
 23 value of property in the taxing district in which the bank  
 24 or savings and loan association is located.

25 (4) If a return filed by a bank or savings and loan

1 association involves branches or offices in multiple taxing  
 2 jurisdictions the department of revenue shall provide a  
 3 method by rule for equitable distribution.

4 NEW SECTION. Section 7. Moneyed capital and shares of  
 5 banks exempt. (1) Moneyed capital and shares of banks are  
 6 exempt from taxation.

7 (2) "Moneyed capital" means money, bonds, notes, and  
 8 other evidence of indebtedness, including evidence of  
 9 indebtedness secured by a mortgage on real or personal  
 10 property, in the hands of individual citizens and  
 11 corporations coming into competition with the business of  
 12 national banks or employed in conducting a banking or  
 13 investment business.

14 Section 8. Section 7-6-206, MCA, is amended to read:  
 15 "7-6-206. Time deposits. (1) Such public money not  
 16 necessary for immediate use by such county, city, or town  
 17 which is not invested in direct obligations of the United  
 18 States government as authorized in 7-6-202 may be placed in  
 19 time or savings deposits with any bank, ~~building and loan~~  
 20 ~~association~~ or savings and loan association in the county,  
 21 city, or town.

22 (2) When more than one bank, ~~building and loan~~  
 23 ~~association~~ or savings and loan association is available in  
 24 any county for the deposit of such county funds or in any  
 25 city or town for the deposit of such city or town funds,



1 such funds may be distributed ratably among all of such  
 2 banks--~~building-and-loan-associations~~ and savings and loan  
 3 associations qualifying therefor and substantially in  
 4 proportion to the total property taxes paid during the  
 5 preceding year in such county or the county in which such  
 6 city or town is located--~~including taxes on shares of bank~~  
 7 ~~stock~~ and the corporation license taxes paid by each such  
 8 bank--~~building--and--loan--association~~ or savings and loan  
 9 association willing to receive such time or savings deposits  
 10 under the terms of this part.

11 (3) In lieu of a ratable distribution among banks  
 12 ~~building--and--loan--associations~~ and savings and loan  
 13 associations within the county, city, or town, the local  
 14 governing body may solicit bids without advertising from any  
 15 bank--~~building--and--loan--association~~ or savings and loan  
 16 association in a county having at least two such financial  
 17 institutions. Such institutions may request in writing that  
 18 they be listed for solicitation on bids for public money not  
 19 necessary for immediate use by the unit of local government.  
 20 In counties having less than two such institutions, the  
 21 local governing body may solicit bids from and deposit  
 22 public money in such institutions in neighboring counties  
 23 unless the local financial institution agrees to pay the  
 24 same rate of interest bid by the neighboring financial  
 25 institutions. The governing body may solicit bids by notice

1 sent by mail to the investment institutions whose names are  
 2 listed as provided herein. The provisions of this  
 3 subsection shall be considered as meeting the requirements  
 4 of subsection (2)."

5 Section 9. Section 15-1-501, MCA, is amended to read:  
 6 "15-1-501. Disposition of moneys from certain  
 7 designated license and other taxes. (1) The state treasurer  
 8 shall deposit to the credit of the state general fund all  
 9 moneys received by him from the collection of:

10 (a) automobile driver's license fees under subsections  
 11 (1) through (6) of 61-5-111;

12 (b) electric energy producer's license taxes under  
 13 chapter 51;

14 (c) metalliferous mines license taxes under chapter  
 15 37;

16 (d) oil producer's license taxes under chapter 36;

17 (e) liquor license taxes under Title 16;

18 (f) telephone license taxes under chapter 53; and

19 (g) inheritance and estate taxes under Title 72,  
 20 chapter 16.

21 (2) Seventy-five percent of all moneys received from  
 22 the collection of income taxes under chapter 30 and  
 23 corporation license and income taxes under chapter 31,  
 24 except as provided in [section 6], shall be deposited in the  
 25 general fund subject to the prior pledge and appropriation

1 of such income tax and corporation license tax collections  
 2 for the payment of long-range building program bonds. The  
 3 remaining 25% of the proceeds of the corporation license  
 4 tax, ~~excluding that collected under [section 6]~~, corporation  
 5 income tax, and income tax shall be deposited to the credit  
 6 of the earmarked revenue fund for state equalization aid to  
 7 the public schools of Montana.

8 (3) The state treasurer shall also deposit to the  
 9 credit of the state general fund all moneys received by him  
 10 from the collection of license taxes, fees, and all net  
 11 revenues and receipts from all other sources under the  
 12 operation of the Montana Alcoholic Beverage Code."

13 Section 10. Section 15-8-104, MCA, is amended to read:

14 "15-8-104. Department audit of taxable value -- costs  
 15 of audit paid by county -- penalty for underreporting. (1)  
 16 When in the judgment of the director of revenue it is  
 17 necessary, audits may be made for the purpose of determining  
 18 the taxable value of net proceeds of mines and oil and gas  
 19 wells, ~~bank--shores~~ business inventories, and all other  
 20 types of property subject to ad valorem taxation. The costs  
 21 incurred by the department, including per diem and mileage  
 22 expense as well as salaries and benefits, shall be  
 23 reimbursed from the amount collected as a result of the  
 24 audit. In the event the property subject to audit is  
 25 assessed within two or more counties, the department shall

1 allocate the cost among the collections due each of the  
 2 counties. Reimbursement shall be made solely for audit  
 3 expense and not for other services provided to the counties  
 4 by the department and may not exceed the amounts collected.

5 (2) The taxable value of any underreported portion of  
 6 any business inventory found as a result of an audit to have  
 7 been underreported by the owner shall be increased by 25% as  
 8 a penalty for underreporting.

9 (3) The 25% penalty may be waived by the department if  
 10 reasonable cause for failure to report the total value of a  
 11 business inventory is provided to the department.

12 (4) The cost of the audit shall be paid to the state  
 13 treasurer for credit to the general fund."

14 Section 11. Section 15-8-111, MCA, is amended to read:

15 "15-8-111. Assessment -- market value standard --  
 16 exceptions. (1) All taxable property must be assessed at  
 17 100% of its market value except as provided in subsection  
 18 (5) of this section and in 15-7-111 through 15-7-114.

19 (2) Market value is the value at which property would  
 20 change hands between a willing buyer and a willing seller,  
 21 neither being under any compulsion to buy or to sell and  
 22 both having reasonable knowledge of relevant facts.

23 (3) The department of revenue or its agents may not  
 24 adopt a lower or different standard of value from market  
 25 value in making the official assessment and appraisal of the

1 value of property in class one and classes seven through  
2 eighteen. For purposes of taxation, assessed value is the  
3 same as appraised value.

4 (4) The taxable value for all property in class one  
5 and classes seven through eighteen is the percentage of  
6 market value established for each class of property in  
7 15-6-102 and 15-6-108 through 15-6-119.

8 (5) The assessed value of properties in 15-6-103,  
9 ~~15-6-104, 15-6-105,~~ through 15-6-107, and 15-6-120 is as  
10 follows:

11 ~~(a) Property in 15-6-106, under class five, is~~  
12 ~~assessed at 100% of book value by the method established in~~  
13 ~~15-6-106 and the sections cited therein.~~

14 (b)(a) Properties in 15-6-103, under class two, are  
15 assessed at 100% of the annual net proceeds after deducting  
16 the expenses specified and allowed by 15-23-503.

17 (c)(b) Properties in 15-6-104, 15-6-105, and 15-6-120,  
18 under classes three, four, and nineteen are assessed at 100%  
19 of the annual gross proceeds.

20 (d)(c) Properties in 15-6-107, under class six, are  
21 assessed at 100% of the productive capacity of the lands  
22 when valued for agricultural purposes. All lands that meet  
23 the qualifications of 15-7-202 are valued as agricultural  
24 lands for tax purposes.

25 (6) Land and the improvements thereon are separately

1 assessed when any of the following conditions occur:

2 (a) ownership of the improvements is different from  
3 ownership of the land;

4 (b) the taxpayer makes a written request; or

5 (c) the land is outside an incorporated city or town.

6 (7) The taxable value of all property in classes two  
7 through ~~four and class~~ six is the percentage of assessed  
8 value established in 15-6-103, ~~15-6-104, 15-6-105,~~ through  
9 ~~and 15-6-107, and 15-6-120~~ for each class of property."

10 Section 12. Section 15-24-701, MCA, is amended to  
11 read:

12 "15-24-701. Production credit associations --  
13 assessment and payment. (1) Every production credit  
14 association organized under the provisions of section 1131d  
15 of Title 12, United States Codes Annotated, shall be  
16 assessed for and pay taxes upon all real and personal  
17 property owned by such association ~~and also upon the moneyed~~  
18 ~~capital employed in such business, such moneyed capital to~~  
19 ~~be ascertained by deducting from the amount of loans~~  
20 ~~including loans secured by mortgage on real estate or~~  
21 ~~personal property, the amount of such loans discounted and~~  
22 ~~any indebtedness representing money borrowed for use as~~  
23 ~~moneyed capital. Sold moneyed capital shall be taxed at the~~  
24 ~~same rate and take the same classification as shares of~~  
25 ~~stock in a national bank or moneyed capital coming into~~

1 ~~substantial competition therewith.~~

2 (2) The secretary or managing agent of every such  
3 association shall furnish to the assessor of the county in  
4 which the principal office of such association is located,  
5 within 5 days after demand therefor, a statement in such  
6 detail as the department of revenue or its agent may  
7 require, verified by his oath, of the resources and  
8 liabilities of such association as disclosed by its books at  
9 the close of business on December 31 of the preceding year.  
10 If such secretary or managing agent shall fail to make the  
11 statement hereby required, the department or its agent shall  
12 forthwith obtain such information from any other available  
13 source, and for this purpose it shall have access to the  
14 books of such association. The department or its agent shall  
15 thereupon make an assessment of the real estate and personal  
16 property owned by such association ~~and of the moneyed~~  
17 ~~capital employed in the business of such association,~~ which  
18 assessment shall be as fair and equitable as it may be able  
19 to make from the best information available, or said  
20 assessor may for the purpose of said assessment adopt the  
21 figures disclosed by any prior report made by such  
22 association to any state or federal officer pursuant to any  
23 state or federal law. Any person required by this section to  
24 make the statement hereinabove provided who shall fail to  
25 furnish the same shall be guilty of a misdemeanor and shall

1 be punished accordingly."

2 Section 13, Section 15-24-801, MCA, is amended to  
3 read:

4 "15-24-801. ~~Building Savings~~ and loan associations --  
5 taxation. ~~††~~ Every ~~building and loan or~~ savings and loan  
6 association subject to regulation under Title 32, chapter 2,  
7 shall be assessed for and pay taxes upon all real and  
8 personal property owned by the association ~~and also upon the~~  
9 ~~moneyed capital employed in the business. The moneyed~~  
10 ~~capital shall be ascertained by deducting from the amount of~~  
11 ~~bonds, notes, and other evidences of indebtedness of the~~  
12 ~~association, including evidences of indebtedness secured by~~  
13 ~~mortgage on real estate or personal property, the amount~~  
14 ~~standing to the credit of the members of an association upon~~  
15 ~~its books and any indebtedness representing money borrowed~~  
16 ~~for use as moneyed capital. The moneyed capital as so~~  
17 ~~ascertained shall be taxed at the same rate and take the~~  
18 ~~same classification as shares of stock in a national bank or~~  
19 ~~moneyed capital coming into substantial competition~~  
20 ~~therewith.~~ The secretary of an association shall furnish to  
21 the department of revenue or its agent in the county in  
22 which the principal office of the association is located,  
23 within 5 days after demand, a condensed statement verified  
24 by his oath of the resources and liabilities of the  
25 association as disclosed by its books at noon on January 1

1 in each year. If the secretary fails to make the statement  
 2 hereby required, the department or its agent shall  
 3 immediately obtain the information from any other available  
 4 source, and for this purpose it shall have access to the  
 5 books of the association. The department or its agent shall  
 6 thereupon make an assessment of the real estate and personal  
 7 property owned by the association ~~and of the moneyed capital~~  
 8 ~~employed in the business of the association,~~ which  
 9 assessment shall be as fair and equitable as it may be able  
 10 to make from the best information available, or the assessor  
 11 may, for the purpose of the assessment, adopt the figures  
 12 disclosed by any prior report made by the association to any  
 13 state or federal officer under a state or federal law. A  
 14 person required by this section to make the statement  
 15 provided for in this section who fails to furnish it is  
 16 guilty of a misdemeanor.

17 ~~(2) The amount standing upon its books to the credit~~  
 18 ~~of each member of an association shall be considered and~~  
 19 ~~held as the individual credit of each member. Each member~~  
 20 ~~shall list the shares held by him for taxation at their real~~  
 21 ~~value in money in the county of his residence, the same as~~  
 22 ~~other credits are listed, except shares from which loans~~  
 23 ~~have been made or money advanced by the association, and as~~  
 24 ~~to such shares they shall be listed for taxation at the net~~  
 25 ~~cash value of the stock, to be ascertained by deducting the~~

1 ~~loan from the cash value of the shares. Associations~~  
 2 ~~organized under or controlled by Title 32, Chapter 2, are~~  
 3 ~~subject to taxation in no other ways."~~

4 Section 14. Section 17-5-408, MCA, is amended to read:  
 5 "17-5-408. Percentage of income, corporation license,  
 6 and cigarette tax pledged. (1) The state pledges and  
 7 appropriates and directs to be credited as received to the  
 8 sinking fund account 11% of all money, except as provided in  
 9 [section 6 of this act], received from the collection of the  
 10 income tax and the corporation license tax referred to in  
 11 15-1-501 and such additional amount of said taxes, if any,  
 12 as may at any time be needed to comply with the principal  
 13 and interest and reserve requirements stated in 17-5-405(4),  
 14 provided that no more than 11% of such tax collections shall  
 15 be deemed to be pledged for the purpose of 17-5-403(?). The  
 16 pledge and appropriation herein made shall be and remain at  
 17 all times a first and prior charge upon all money received  
 18 from the collection of said taxes.

19 (2) The state pledges and appropriates and directs to  
 20 be credited to the sinking fund account 15% of all money  
 21 received from the collection of the 9-cent excise tax on  
 22 cigarettes which is levied, imposed, and assessed by  
 23 16-11-111(1). The state also pledges and appropriates and  
 24 directs to be credited as received to the sinking fund  
 25 account all money received from the collection of each of

1 the excise taxes on cigarettes which are levied, imposed,  
 2 and assessed by subsection (2) and (3) of 16-11-111, as  
 3 amended, after the payment and redemption in full of the  
 4 outstanding bonds for which said taxes have heretofore been  
 5 pledged and appropriated or after the necessary funds have  
 6 been set aside for such payment and redemption as provided  
 7 in this part. The state also pledges and appropriates and  
 8 directs to be credited as received to the sinking fund  
 9 account all money received from the collection of the taxes  
 10 on other tobacco products which are or may hereafter be  
 11 levied, imposed, and assessed by law for that purpose,  
 12 including the tax levied, imposed, and assessed by  
 13 16-11-202. Nothing herein shall impair or otherwise affect  
 14 the provisions and covenants contained in the resolutions  
 15 authorizing the presently outstanding long-range building  
 16 program bonds. Subject to the provisions of the preceding  
 17 sentence, the pledge and appropriation herein made shall be  
 18 and remain at all times a first and prior charge upon all  
 19 money received from the collection of all taxes referred to  
 20 in this subsection (2)."

21 Section 15. Section 20-9-343, MCA, is amended to read:  
 22 "20-9-343. Definition of and revenue for state  
 23 equalization aid. (1) As used in this title, the term "state  
 24 equalization aid" means those moneys deposited in the  
 25 earmarked revenue fund as required in this section plus any

1 legislative appropriation of moneys from other sources for  
 2 distribution to the public schools for the purpose of  
 3 equalization of the foundation program.

4 (2) The following shall be paid into the earmarked  
 5 revenue fund for state equalization aid to public schools of  
 6 the state:

7 (a) 25% of all moneys received from the collection of  
 8 income taxes under chapter 30 of Title 15;

9 (b) 25% of all moneys, except as provided in [section  
 10 6 of this act], received from the collection of corporation  
 11 license taxes under chapter 31 of Title 15, as provided by  
 12 15-1-501;

13 (c) 10% of the moneys received from the collection of  
 14 the severance tax on coal under chapter 35 of Title 15;

15 (d) 62 1/2% of the moneys received from the treasurer  
 16 of the United States as the state's shares of oil, gas, and  
 17 other mineral royalties under the federal Mineral Lands  
 18 Leasing Act, as amended;

19 (e) interest and income moneys described in 20-9-341  
 20 and 20-9-342;

21 (f) income from the local impact and education trust  
 22 fund account; and

23 (g) in addition to these revenues, the surplus  
 24 revenues collected by the counties for foundation program  
 25 support according to 20-9-331 and 20-9-333 shall be paid

1 into the same earmarked revenue fund."

2 Section 16. Section 32-1-413, MCA, is amended to read:

3 "32-1-413. Borrowing money for capital purposes --  
4 status of capital. Notwithstanding any other provision of  
5 law, any commercial bank, savings bank, trust company, or  
6 investment company, now in existence or which may be  
7 hereafter formed, shall have the power to borrow money for  
8 capital purposes upon such terms and conditions as may be  
9 approved by the department and for this purpose may issue  
10 capital notes or debentures therefor, such notes or  
11 debentures to be subordinate in right of payment to the  
12 payment in full of all deposits of such bank, savings bank,  
13 trust company, or investment company. The amount of money so  
14 borrowed shall be considered as capital for the purpose of  
15 determining the maximum amount of money that may be loaned  
16 by such bank, savings bank, trust company, or investment  
17 company to any person, partnership, or corporation and for  
18 the purpose of determining the maximum amount of money which  
19 such bank may borrow and for all other purposes of bank  
20 capital as may be required by law ~~except that the money so~~  
21 ~~borrowed shall not in any event be considered in~~  
22 ~~ascertaining the value and assessment of shares of any bank~~  
23 ~~for the purpose of taxation."~~

24 Section 17. Repealer. Sections 15-6-106, 15-24-501  
25 through 15-24-508, and 15-24-603, MCA, are repealed.

1 Section 18. Effective date. This act is effective for  
2 taxable years beginning on or after December 31, 1978.

-End-

HB 150

## STATE OF MONTANA

REQUEST NO. 56-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 79, there is hereby submitted a Fiscal Note for House Bill 150 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

An act changing the method of taxing banks and savings and loan associations for local governments; removing the Corporation License Tax exemption for interest from state and local obligations; repealing the tax on moneyed capital and shares of banks; providing for a different method of collecting and distributing Corporation License Taxes paid by banks and savings and loan associations; and providing an effective date.

ASSUMPTIONS

- 1) The present method of valuing bank shares is effective through 1978; however, for purposes of comparison, it is assumed to continue throughout the biennium.
- 2) The historic growth in tax revenues from bank shares will continue throughout the biennium.
- 3) The historic growth in saving and loan association and bank income will continue throughout the biennium.
- 4) All Corporation License Tax collected from saving and loan associations and banks will go to local governments.
- 5) The state levy is 6 mills for the university system.

FISCAL IMPACT

	<u>FY80</u>	<u>FY81</u>
Corporation License Tax Collections		
under current law	\$35.00 M	\$35.00 M
under proposed law	<u>33.15 M</u>	<u>33.00 M</u>
Estimated Decrease	<u>(\$ 1.85 M)</u>	<u>(\$ 2.00 M)</u>
6 Mill University Levy		
under current law	\$ .14 M	\$ .16 M
under proposed law	<u>0</u>	<u>0</u>
Estimated Decrease	<u>(\$ .14 M)</u>	<u>(\$ .16 M)</u>
Total Revenue		
under current law	\$35.14 M	\$35.16 M
under proposed law	<u>33.15 M</u>	<u>33.00 M</u>
Estimated Decrease	<u>(\$ 1.99 M)</u>	<u>(\$ 2.16 M)</u>

(CONTINUED ON PAGE 2)


  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/25/79



## STATE OF MONTANA

REQUEST NO. 56-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 79, there is hereby submitted a Fiscal Note for House Bill 150 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.

Page 2

FUND INFORMATION

	<u>FY 80</u>	<u>FY 81</u>
General Fund		
under current law	\$22.400 M	\$22.400 M
under proposed law	<u>21.216 M</u>	<u>21.120 M</u>
Estimated Decrease	<u>(\$ 1.184 M)</u>	<u>(\$ 1.280 M)</u>
Earmarked Revenue Fund (School Foundation Program)		
under current law	\$ 8.750 M	\$ 8.750 M
under proposed law	<u>8.288 M</u>	<u>8.250 M</u>
Estimated Decrease	<u>(\$ .463 M)</u>	<u>(\$ .500 M)</u>
Sinking Fund		
under current law	\$ 3.850 M	\$ 3.850 M
under proposed law	<u>3.646 M</u>	<u>3.630 M</u>
Estimated Decrease	<u>(\$ .203 M)</u>	<u>(\$ .220 M)</u>
6 Mill University Levy		
under current law	\$ .140 M	\$ .160 M
under proposed law	<u>00</u>	<u>00</u>
Estimated Decrease	<u>(\$ .140 M)</u>	<u>(\$ .160 M)</u>

It is noted that revenues to the Public School Equalization Earmarked Revenue Account are used to support the Public School Foundation Program; therefore, any decrease in revenues to that accounting entity either (1) results in a decrease in the Foundation Program schedules, (2) requires additional support from other contributors to the Foundation Program (oil and gas royalties, corporation license tax, individual income tax, State General Fund appropriation, etc.), or (3) requires a state deficiency levy.

Also, for all practicable purposes, revenue decreases to the Long-Range Building Sinking Account are decreases to the General Fund since collections in excess of debt service requirements are transferred to the General Fund.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: \_\_\_\_\_

STATE OF MONTANA

REQUEST NO. 56-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 1979, there is hereby submitted a Fiscal Note for House Bill 150 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.

Page 3

EFFECT ON LOCAL GOVERNMENTS

Local governments would lose \$100,000 in FY80 and \$400,000 in FY81 if this proposal were to be enacted. Even though the total revenues to local governments are almost the same, the money will not necessarily go to the same taxing jurisdictions as under the bank shares tax. In addition there will be no first half payment for property tax on bank shares in November 1979. The new tax will all be due in May.

LONG-RANGE EFFECTS

The state will lose over \$2 M in Corporation License Tax from saving and loan associations and banks each year this bill is in effect.

TECHNICAL NOTE

Corporations may be granted one to six month extensions, which could delay some payments to local governments into the next fiscal year.

BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: \_\_\_\_\_

STATE OF MONTANA

REQUEST NO. 56-79 Amended

FISCAL NOTE

Form BD-15

In compliance with a written request received March 14, 1979, there is hereby submitted a Fiscal Note for Amended House Bill 150 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 proposed bill changes the method of taxing banks and savings and loan associations for local governments; removes the corporation license tax exemption for interest from state and local obligations; repeals the tax on moneyed capital and shares of banks; provides for a different method of collecting and distributing corporation license taxes paid by banks and savings and loan associations; and provides an effective date.

ASSUMPTIONS

- 1) The present method of valuing bank shares is effective through 1978; however, for purposes of comparison, it is assumed to continue throughout the biennium.
- 2) The historic growth in the revenues from bank shares will continue throughout the biennium.
- 3) The historic growth in saving and loan association and bank income will continue throughout the biennium.
- 4) The corporation license tax collected from saving and loan associations and banks will be split with 80% going to local governments and 20% going to the state.
- 5) The state levy is 6 mills for the university system.

FISCAL IMPACT

	FY 80	FY 81
Corporation License Tax Collections:		
under current law	\$35.000 M	\$35.000 M
under proposed law	34.330 M	34.217 M
Estimated Decrease	(\$ .670 M)	(\$ .783 M)
6 Mill University Levy		
under current law	\$ .14 M	\$ .16 M
under proposed law	0	0
Estimated Decrease	(\$ .14 M)	(\$ .16 M)
Total Revenue		
under current law	\$35.140 M	\$35.160 M
under proposed law	34.330 M	34.217 M
Estimated Decrease	(\$ .810 M)	(\$ .943 M)

(Continued on Page 2)

*Richard L. Tracy for*  
 BUDGET DIRECTOR  
 Office of Budget and Program Planning  
 Date: 2/15/79

STATE OF MONTANA

REQUEST NO. 56-79 Amended

FISCAL NOTE

Form BD 15

In compliance with a written request received March 14, 19 79, there is hereby submitted a Fiscal Note for Amended House Bill 150 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.

Page 2

FUND INFORMATION

	<u>FY 80</u>	<u>FY 81</u>
General Fund		
under current law	\$22.400 M	\$22.400 M
under proposed law	<u>21.971 M</u>	<u>21.899 M</u>
Estimated Decrease	<u>(\$ .429 M)</u>	<u>(\$ .501 M)</u>
Earmarked Revenue Fund (School Foundation Program)		
under current law	\$ 8.750 M	\$ 8.750 M
under proposed law	<u>8.583 M</u>	<u>8.554 M</u>
Estimated Decrease	<u>(\$ .167 M)</u>	<u>(\$ .196 M)</u>
Sinking Fund		
under current law	\$ 3.850 M	\$ 3.850 M
under proposed law	<u>3.776 M</u>	<u>3.764 M</u>
Estimated Decrease	<u>(\$ .074 M)</u>	<u>(\$ .086 M)</u>
6 Mill University Levy		
under current law	\$ .140 M	\$ .160 M
under proposed law	<u>0</u>	<u>0</u>
Estimated Decrease	<u>(\$ .140 M)</u>	<u>(\$ .160 M)</u>

Revenues from the Earmarked Revenue Account are used to support the Public School Foundation Program. Therefore, any decrease in revenues to that program may necessitate additional support from other sources.

EFFECT ON LOCAL GOVERNMENTS

Local governments would lose \$1.280 M in FY80 and \$1.631 M in FY81 if this proposal were to be enacted. There will also be a redistribution of revenues amongst local governments as the monies will not necessarily go to the taxing jurisdictions in the same proportions as the bank shares tax. There will be no first half payment for property tax on bank shares in November 1979. The new tax will all be due in May. Corporations may be granted one to six month extensions, which could delay some payments to local governments into the next fiscal year.

LONG-RANGE EFFECTS

The state will lose over \$1 million in corporation license tax from saving and loan associations and banks each year this proposal is in effect after the 80-81 biennium.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date:

(Continued on page 3)

## FISCAL NOTE

Form BD-15

In compliance with a written request received March 14, 19 79, there is hereby submitted a Fiscal Note for Amended House Bill 150 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.

Page 3

TECHNICAL NOTES

- 1) Section 5 starts on page 9 line 17. This section has the returns first coming to the state which transmits the liability to the counties. The counties send a notice to the banks and saving and loan associations. The payment is then made to the county. Section 6 starting on page 11 line 10 then has the county treasurer remit monies to the state. There are several lags and mailings in these two sections. Administration would be much easier if the return and payment came to the state, which is the current system under corporation license tax. The state would then remit 80% of the payment to the counties.
- 2) Section 6 paragraph (4) lines 5-9 page 12 has monies from branches in more than one county to be distributed by a Department of Revenue rule. This should be changed to branches in more than one location. There are several saving and loan associations with more than one branch in a county. This may cause a shortfall in revenues to these areas.

PREPARED BY DEPARTMENT OF REVENUE

.....  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: .....

Approved by Committee  
on Taxation

1 HOUSE BILL NO. 150

2 INTRODUCED BY FABREGA, HUENNEKENS, WILLIAMS, FAGG,

3 SIVERTSEN, VINCENT

4 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE METHOD OF  
7 TAXING BANKS AND SAVINGS AND LOAN ASSOCIATIONS FOR LOCAL  
8 GOVERNMENTS; REMOVING THE CORPORATION LICENSE TAX EXEMPTION  
9 FOR INTEREST FROM STATE AND LOCAL OBLIGATIONS; REPEALING THE  
10 TAX ON MONEYED CAPITAL AND SHARES OF BANKS; PROVIDING FOR A  
11 DIFFERENT METHOD OF COLLECTING AND DISTRIBUTING CORPORATION  
12 LICENSE TAXES PAID BY BANKS AND SAVINGS AND LOAN  
13 ASSOCIATIONS; AMENDING SECTIONS 7-6-206, 15-1-501, 15-8-104,  
14 15-8-111, 15-24-701, 15-24-801, 15-31-101, 15-31-114,  
15 15-31-502, 17-5-408, 20-9-343, AND 32-1-413, MCA; REPEALING  
16 SECTIONS 15-6-106, 15-24-501 THROUGH 15-24-508, AND  
17 15-24-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 NEW SECTION. Section 1. Purpose. The legislature  
21 recognizes that the property tax on moneyed capital and bank  
22 shares is an important element in the tax bases of many  
23 local governments. Since, however, the current method of  
24 valuing bank shares has legal defects, may be causing the  
25 undercapitalization of Montana's banks, and imposes an

1 inequitable tax burden on some financial institutions, the  
2 legislature hereby repeals this tax. Banks and savings and  
3 loan associations will be taxed on a more equitable basis,  
4 their net income. To make their basis for computing net  
5 income comparable to other businesses, the legislature  
6 repeals the corporation license tax deduction for interest  
7 on public obligations. To replace the property tax revenue  
8 lost to local governments, all corporation license taxes  
9 paid by banks and savings and loan associations will be  
10 collected by counties and distributed to the various local  
11 governments, based on their current mill levies.

12 Section 2. Section 15-31-101, MCA, is amended to read:

13 "15-31-101. Organizations subject to tax. (1) The term  
14 "corporation" includes associations, joint-stock companies,  
15 common-law trusts and business trusts which do business in  
16 an organized capacity, and all other corporations whether  
17 created, organized, or existing under and pursuant to the  
18 laws, agreements, or declarations of trust of any state,  
19 country, or the United States.

20 (2) The terms "engaged in business" and "doing  
21 business" both mean actively engaging in any transaction for  
22 the purpose of financial or pecuniary gain or profit.

23 (3) Every corporation, except as hereinafter provided  
24 and except as provided in 33-2-705(5), engaged in business  
25 in the state of Montana shall annually pay to the state

1 treasurer as a license fee for the privilege of carrying on  
 2 business in this state such percentage or percentages of its  
 3 total net income for the preceding taxable year at the rate  
 4 hereinafter set forth. In the case of corporations having  
 5 income from business activity which is taxable both within  
 6 and without this state, the license fee shall be measured by  
 7 the net income derived from or attributable to Montana  
 8 sources as determined under part 3. This tax is due and  
 9 payable on the 15th day of the 5th month following the close  
 10 of the taxable year of the corporation; however, the tax  
 11 becomes a lien as provided in this chapter on the last day  
 12 of the taxable year in which the income was earned and is  
 13 for the privilege of carrying on business in this state for  
 14 the taxable year in which the income was earned.

15 (4) Every bank organized under the laws of the state  
 16 of Montana, or of any other state, and ~~or every--national~~  
 17 ~~bank-organized-under-the-laws~~ of the United States ~~and every~~  
 18 ~~savings and loan association organized under the laws of~~  
 19 ~~this state or of the United States~~ are ~~is~~ subject to the  
 20 Montana corporation license tax provided for under this  
 21 chapter. For taxable years beginning on and after January 1,  
 22 1972, this subsection is effective in accordance with Public  
 23 Law 91-156, section 2 (12 U.S.C. 548)."

24 Section 3. Section 15-31-114, MCA, is amended to read:  
 25 "15-31-114. Deductions allowed in computing income. In

1 computing the net income, the following deductions shall be  
 2 allowed from the gross income received by such corporation  
 3 within the year from all sources:

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

18 (2) (a) All losses actually sustained and charged off  
 19 within the year and not compensated by insurance or  
 20 otherwise, including a reasonable allowance for the wear and  
 21 tear and obsolescence of property used in the trade or  
 22 business, such allowance to be determined according to the  
 23 provisions of section 167 of the Internal Revenue Code in  
 24 effect with respect to the taxable year. All elections for  
 25 depreciation shall be the same as the elections made for

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

8 (b) (i) There shall be allowed as a deduction for the  
 9 taxable period a net operating loss deduction determined  
 10 according to the provisions of this subsection. The net  
 11 operating loss deduction is the aggregate of net operating  
 12 loss carryovers to such taxable period plus the net  
 13 operating loss carrybacks to such taxable period. The term  
 14 "net operating loss" means the excess of the deductions  
 15 allowed by this section, 15-31-114, over the gross income,  
 16 with the modifications specified in (ii) of this subsection.  
 17 If for any taxable period beginning after December 31, 1970,  
 18 a net operating loss is sustained, such loss shall be a net  
 19 operating loss carryback to each of the three taxable  
 20 periods preceding the taxable period of such loss and shall  
 21 be a net operating loss carryover to each of the five  
 22 taxable periods following the taxable period of such loss. A  
 23 net operating loss for any taxable period ending after  
 24 December 31, 1975, in addition to being a net operating loss  
 25 carryback to each of the three preceding taxable periods,

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

14 (ii) The modifications referred to in (i) of this  
 15 subsection shall be as follows:

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

17 (B) The deduction for depletion shall not exceed the  
 18 amount which would be allowable if computed under the cost  
 19 method.

20 (C) Any net operating loss carried over to any taxable  
 21 years beginning after December 31, 1978, must be calculated  
 22 under the provisions of this section effective for the  
 23 taxable year for which the return claiming the net operating  
 24 loss carryover is filed.

25 (iii) A net operating loss deduction shall be allowed



1 only with regard to losses attributable to the business  
2 carried on within the state of Montana.

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

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

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

19 (3) In the case of mines, other natural deposits, oil  
20 and gas wells, and timber, a reasonable allowance for  
21 depletion and for depreciation of improvements; such  
22 reasonable allowance to be determined according to the  
23 provisions of the Internal Revenue Code in effect for the  
24 taxable year. All elections made under the Internal Revenue  
25 Code with respect to capitalizing or expensing exploration

1 and development costs and intangible drilling expenses for  
2 corporation license tax purposes shall be the same as the  
3 elections made for federal income tax purposes.

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

11 ~~{5}--interest-income-from-obligations-of-the--state--or~~  
12 ~~any-political-subdivision-or-municipality-of-the-state~~

13 ~~{6}{5}~~ (a) Taxes paid within the year except the  
14 following:

15 (i) Taxes imposed by this part.

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

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

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

23 (b) Taxes deductible under this part shall be  
24 construed to include taxes imposed by any county, school  
25 district, or municipality of this state.

1       ~~(7)(6)~~ That portion of an energy-related investment  
2 allowed as a deduction under 15-32-103."

3       Section 4. Section 15-31-502, MCA, is amended to read:  
4       "15-31-502. Assessment and payment of tax, penalty,  
5 and interest. All taxpayers shall compute the amount of tax  
6 payable under this chapter and shall remit such amount to  
7 the department of revenue, except as provided in [section  
8 5], on or before the 15th day of the 5th month following the  
9 close of the taxable period. If the tax is not paid on or  
10 before the due date, there shall be assessed a penalty of  
11 10% of the amount of the tax unless it is shown that the  
12 failure was due to reasonable cause and not due to neglect.  
13 If any tax due under this chapter is not paid when due, by  
14 reason of extension granted or otherwise, interest shall be  
15 added thereto at the rate of 9% per annum from the due date  
16 until paid."

17       NEW SECTION. Section 5. Banks and savings and loan  
18 associations -- special provisions for filing returns and  
19 payment of taxes. (1) County treasurers shall collect  
20 corporation license taxes paid by banks and savings and loan  
21 associations.

22       (2) Within 10 days after receiving a corporation  
23 license tax return from a bank or savings and loan  
24 association, the department of revenue shall transmit to the  
25 county treasurer of the county in which the business is

1 located a statement showing its tax liability. To insure the  
2 confidentiality of the return, as required under 15-31-507,  
3 the statement sent to the treasurer shall show only the name  
4 and address of the bank or savings and loan association and  
5 its tax liability.

6       (3) Within 5 days after receiving a corporation  
7 license tax statement, a county treasurer shall send to the  
8 business a demand for payment in the amount shown on the  
9 statement.

10       (4) The bank or savings and loan association shall  
11 make payment to the county treasurer within 5 days after  
12 receiving a demand for payment.

13       (5) If the department of revenue determines, under the  
14 provisions of 15-31-503 and 15-31-531, that a bank or  
15 savings and loan association owes more taxes than shown on  
16 the original return or has paid more than the tax, penalty,  
17 or interest due in any year, it shall notify the bank or  
18 savings and loan association and the county treasurer of the  
19 county in which the business is located. Additional payment  
20 is due within 10 days after receipt of the final  
21 determination of taxes due. County treasurers shall issue  
22 warrants for overpayment and interest, as provided in  
23 15-31-531.

24       (6) The department shall continue to exercise all its  
25 duties and powers outlined in this title with respect to

1 auditing returns and enforcing payment of the corporation  
 2 license taxes owed by banks and savings and loan  
 3 associations. Any delinquent taxes collected from the sale  
 4 of property of a bank or savings and loan association under  
 5 the provisions of 15-31-525 shall be transmitted to the  
 6 county in which the corporation owing the delinquent taxes  
 7 is located. The only duties of the county treasurers in this  
 8 regard are collecting the taxes, issuing refunds, and  
 9 distributing the taxes to local taxing jurisdictions.

10 NEW SECTION. Section 6. Distribution of corporation  
 11 license taxes collected by county treasurers. (1) All  
 12 corporation license taxes collected by county treasurers  
 13 shall be distributed IN THE FOLLOWING MANNER:

14 (A) 20% MUST BE REMITTED TO THE STATE TREASURER TO BE  
 15 ALLOCATED AS PROVIDED IN 15-1-501(2); AND

16 (B) 80% MUST BE ALLOCATED to the various taxing  
 17 jurisdictions within the county in which the bank or savings  
 18 and loan association is located.

19 (2) The corporation license taxes collected  
 20 DISTRIBUTED UNDER SUBSECTION (1)(B) shall be allocated to  
 21 each taxing jurisdiction in the proportion that its mill  
 22 levy for that fiscal year bears to the total mill levy of  
 23 the taxing authorities of the district in which the bank or  
 24 savings and loan association is located.

25 (3) "Taxing jurisdictions" means, for the purposes of

1 this section, all taxing authorities within a county  
 2 permitted under state law to levy mills against the taxable  
 3 value of property in the taxing district in which the bank  
 4 or savings and loan association is located.

5 (4) If a return filed by a bank or savings and loan  
 6 association involves branches or offices in multiple-taxing  
 7 jurisdictions MORE THAN ONE COUNTY, the department of  
 8 revenue shall provide a method by rule for equitable  
 9 distribution AMONG THOSE COUNTIES.

10 NEW SECTION. Section 7. Moneyed capital and shares of  
 11 banks exempt. (1) Moneyed capital and shares of banks are  
 12 exempt from taxation.

13 (2) "Moneyed capital" means money, bonds, notes, and  
 14 other evidence of indebtedness, including evidence of  
 15 indebtedness secured by a mortgage on real or personal  
 16 property, in the hands of individual citizens and  
 17 corporations coming into competition with the business of  
 18 national banks or employed in conducting a banking or  
 19 investment business.

20 Section 8. Section 7-6-206, MCA, is amended to read:

21 "7-6-206. Time deposits. (1) Such public money not  
 22 necessary for immediate use by such county, city, or town  
 23 which is not invested in direct obligations of the United  
 24 States government as authorized in 7-6-202 may be placed in  
 25 time or savings deposits with any bank--~~but~~--~~and~~--~~loan~~

1 association or savings and loan association in the county,  
2 city, or town.

3 (2) when more than one bank~~---building---and---loan~~  
4 association or savings and loan association is available in  
5 any county for the deposit of such county funds or in any  
6 city or town for the deposit of such city or town funds,  
7 such funds may be distributed ratably among all of such  
8 banks~~---building---and---loan---associations~~ and savings and loan  
9 associations qualifying therefor and substantially in  
10 proportion to the total property taxes paid during the  
11 preceding year in such county or the county in which such  
12 city or town is located~~---including---taxes---on---shares---of---bank~~  
13 ~~stock~~ and the corporation license taxes paid by each such  
14 bank~~---building---and---loan---association~~ or savings and loan  
15 association willing to receive such time or savings deposits  
16 under the terms of this part.

17 (3) In lieu of a ratable distribution among banks~~---~~  
18 ~~building---and---loan---associations~~ and savings and loan  
19 associations within the county, city, or town, the local  
20 governing body may solicit bids without advertising from any  
21 bank~~---building---and---loan---association~~ or savings and loan  
22 association in a county having at least two such financial  
23 institutions. Such institutions may request in writing that  
24 they be listed for solicitation on bids for public money not  
25 necessary for immediate use by the unit of local government.

1 In counties having less than two such institutions, the  
2 local governing body may solicit bids from and deposit  
3 public money in such institutions in neighboring counties  
4 unless the local financial institution agrees to pay the  
5 same rate of interest bid by the neighboring financial  
6 institutions. The governing body may solicit bids by notice  
7 sent by mail to the investment institutions whose names are  
8 listed as provided herein. The provisions of this  
9 subsection shall be considered as meeting the requirements  
10 of subsection (2)."

11 Section 9. Section 15-1-501, MCA, is amended to read:  
12 "15-1-501. Disposition of moneys from certain  
13 designated license and other taxes. (1) The state treasurer  
14 shall deposit to the credit of the state general fund all  
15 moneys received by him from the collection of:

- 16 (a) automobile driver's license fees under subsections
- 17 (1) through (6) of 61-5-111;
- 18 (b) electric energy producer's license taxes under
- 19 chapter 51;
- 20 (c) metalliferous mines license taxes under chapter
- 21 37;
- 22 (d) oil producer's license taxes under chapter 36;
- 23 (e) liquor license taxes under Title 16;
- 24 (f) telephone license taxes under chapter 53; and
- 25 (g) inheritance and estate taxes under Title 72.

1 chapter 16.

2 (2) Seventy-five percent of all moneys received from  
3 the collection of income taxes under chapter 30 and  
4 corporation license and income taxes under chapter 31,  
5 ~~except as provided in [section 6],~~ shall be deposited in the  
6 general fund subject to the prior pledge and appropriation  
7 of such income tax and corporation license tax collections  
8 for the payment of long-range building program bonds. The  
9 remaining 25% of the proceeds of the corporation license  
10 tax, ~~excluding that collected~~ ALLOCATED TO THE COUNTIES  
11 ~~under [section 6],~~ corporation income tax, and income tax  
12 shall be deposited to the credit of the earmarked revenue  
13 fund for state equalization aid to the public schools of  
14 Montana.

15 (3) The state treasurer shall also deposit to the  
16 credit of the state general fund all moneys received by him  
17 from the collection of license taxes, fees, and all net  
18 revenues and receipts from all other sources under the  
19 operation of the Montana Alcoholic Beverage Code."

20 Section 10. Section 15-8-104, MCA, is amended to read:  
21 "15-8-104. Department audit of taxable value -- costs  
22 of audit paid by county -- penalty for underreporting. (1)  
23 When in the judgment of the director of revenue it is  
24 necessary, audits may be made for the purpose of determining  
25 the taxable value of net proceeds of mines and oil and gas

1 wells, bank-shares, business inventories, and all other  
2 types of property subject to ad valorem taxation. The costs  
3 incurred by the department, including per diem and mileage  
4 expense as well as salaries and benefits, shall be  
5 reimbursed from the amount collected as a result of the  
6 audit. In the event the property subject to audit is  
7 assessed within two or more counties, the department shall  
8 allocate the cost among the collections due each of the  
9 counties. Reimbursement shall be made solely for audit  
10 expense and not for other services provided to the counties  
11 by the department and may not exceed the amounts collected.

12 (2) The taxable value of any underreported portion of  
13 any business inventory found as a result of an audit to have  
14 been underreported by the owner shall be increased by 25% as  
15 a penalty for underreporting.

16 (3) The 25% penalty may be waived by the department if  
17 reasonable cause for failure to report the total value of a  
18 business inventory is provided to the department.

19 (4) The cost of the audit shall be paid to the state  
20 treasurer for credit to the general fund."

21 Section 11. Section 15-8-111, MCA, is amended to read:  
22 "15-8-111. Assessment -- market value standard --  
23 exceptions. (1) All taxable property must be assessed at  
24 100% of its market value except as provided in subsection  
25 (5) of this section and in 15-7-111 through 15-7-114.

1 (2) Market value is the value at which property would  
 2 change hands between a willing buyer and a willing seller,  
 3 neither being under any compulsion to buy or to sell and  
 4 both having reasonable knowledge of relevant facts.

5 (3) The department of revenue or its agents may not  
 6 adopt a lower or different standard of value from market  
 7 value in making the official assessment and appraisal of the  
 8 value of property in class one and classes seven through  
 9 eighteen. For purposes of taxation, assessed value is the  
 10 same as appraised value.

11 (4) The taxable value for all property in class one  
 12 and classes seven through eighteen is the percentage of  
 13 market value established for each class of property in  
 14 15-6-102 and 15-6-108 through 15-6-119.

15 (5) The assessed value of properties in 15-6-103,  
 16 15-6-104, 15-6-105, through 15-6-107, and 15-6-120 is as  
 17 follows:

18 ~~(a) Property in 15-6-106 under class five is~~  
 19 ~~assessed at 100% of book value by the method established in~~  
 20 ~~15-6-106 and the sections cited therein.~~

21 (b)(a) Properties in 15-6-103, under class two, are  
 22 assessed at 100% of the annual net proceeds after deducting  
 23 the expenses specified and allowed by 15-23-503.

24 (c)(b) Properties in 15-6-104, 15-6-105, and 15-6-120,  
 25 under classes three, four, and nineteen are assessed at 100%

1 of the annual gross proceeds.

2 ~~(d)(c)~~ Properties in 15-6-107, under class six, are  
 3 assessed at 100% of the productive capacity of the lands  
 4 when valued for agricultural purposes. All lands that meet  
 5 the qualifications of 15-7-202 are valued as agricultural  
 6 lands for tax purposes.

7 (6) Land and the improvements thereon are separately  
 8 assessed when any of the following conditions occur:

9 (a) ownership of the improvements is different from  
 10 ownership of the land;

11 (b) the taxpayer makes a written request; or

12 (c) the land is outside an incorporated city or town.

13 (7) The taxable value of all property in classes two  
 14 through ~~four~~ and class six is the percentage of assessed  
 15 value established in 15-6-103, ~~15-6-104, 15-6-105,~~ through  
 16 ~~and 15-6-107, and 15-6-120~~ for each class of property."

17 Section 12. Section 15-24-701, MCA, is amended to  
 18 read:

19 "15-24-701. Production credit associations --  
 20 assessment and payment. ~~(f)~~ Every production credit  
 21 association organized under the provisions of section 1131d  
 22 of Title 12, United States Codes Annotated, shall be  
 23 assessed for and pay taxes upon all real and personal  
 24 property owned by such association ~~and also upon the moneyed~~  
 25 ~~capital employed in such business, such moneyed capital to~~

1 be ascertained by deducting from the amount of loans  
 2 including loans secured by mortgage on real estate or  
 3 personal property, the amount of such loans discounted and  
 4 any indebtedness representing money borrowed for use as  
 5 moneyed capitals. Said moneyed capital shall be taxed at the  
 6 same rate and take the same classification as shares of  
 7 stock in a national bank or moneyed capital coming into  
 8 substantial competition therewith.

9       (2) The secretary or managing agent of every such  
 10 association shall furnish to the assessor of the county in  
 11 which the principal office of such association is located  
 12 within 5 days after demand therefor a statement in such  
 13 detail as the department of revenue or its agent may  
 14 require, verified by his oath, of the resources and  
 15 liabilities of such association as disclosed by its books at  
 16 the close of business on December 31 of the preceding year.  
 17 If such secretary or managing agent shall fail to make the  
 18 statement hereby required, the department or its agent shall  
 19 forthwith obtain such information from any other available  
 20 sources, and for this purpose it shall have access to the  
 21 books of such association. The department or its agent shall  
 22 thereupon make an assessment of the real estate and personal  
 23 property owned by such association and of the moneyed  
 24 capital employed in the business of such association, which  
 25 assessment shall be as fair and equitable as it may be able

1 to make from the best information available, or said  
 2 assessor may for the purpose of said assessment adopt the  
 3 figures disclosed by any prior report made by such  
 4 association to any state or federal officer pursuant to any  
 5 state or federal law. Any person required by this section to  
 6 make the statement hereinabove provided who shall fail to  
 7 furnish the same shall be guilty of a misdemeanor and shall  
 8 be punished accordingly."

9       Section 13. Section 15-24-801, MCA, is amended to  
 10 read:

11       "15-24-801. Building Savings and loan associations --  
 12 taxation. (1) Every building and loan or savings and loan  
 13 association subject to regulation under Title 32, chapter 2,  
 14 shall be assessed for and pay taxes upon all real and  
 15 personal property owned by the association and also upon the  
 16 moneyed capital employed in the business. The moneyed  
 17 capital shall be ascertained by deducting from the amount of  
 18 bonds, notes, and other evidences of indebtedness of the  
 19 association, including evidences of indebtedness secured by  
 20 mortgage on real estate or personal property, the amount  
 21 standing to the credit of the members of an association upon  
 22 its books and any indebtedness representing money borrowed  
 23 for use as moneyed capitals. The moneyed capital as so  
 24 ascertained shall be taxed at the same rate and take the  
 25 same classification as shares of stock in a national bank or

1 moneyed--capital--coming--into--substantial--competition  
 2 therewith. The secretary of an association shall furnish to  
 3 the department of revenue or its agent in the county in  
 4 which the principal office of the association is located,  
 5 within 5 days after demand, a condensed statement verified  
 6 by his oath of the resources and liabilities of the  
 7 association as disclosed by its books at noon on January 1  
 8 in each year. If the secretary fails to make the statement  
 9 hereby required, the department or its agent shall  
 10 immediately obtain the information from any other available  
 11 source, and for this purpose it shall have access to the  
 12 books of the association. The department or its agent shall  
 13 thereupon make an assessment of the real estate and personal  
 14 property owned by the association--and-of-the-moneyed-capital  
 15 employed--in--the--business--of--the--association, which  
 16 assessment shall be as fair and equitable as it may be able  
 17 to make from the best information available, or the assessor  
 18 may, for the purpose of the assessment, adopt the figures  
 19 disclosed by any prior report made by the association to any  
 20 state or federal officer under a state or federal law. A  
 21 person required by this section to make the statement  
 22 provided for in this section who fails to furnish it is  
 23 guilty of a misdemeanor.  
 24 {2}--The-amount-standing-upon-its-books-to-the-credit  
 25 of--each--member--of--an-association-shall-be-considered-and

1 held-as-the-individual-credit-of-each--member--Each--member  
 2 shall-list-the-shares-held-by-him-for-taxation-at-their-real  
 3 value--in-money--in-the-county-of-his-residence--the-same-as  
 4 other-credits-are-listed--except--shares--from--which--loans  
 5 have--been-made-or-money-advanced-by-the-association--and-as  
 6 to-such-shares-they-shall-be-listed-for-taxation-at-the-net  
 7 cash--value-of-the-stock--to-be-ascertained-by-deducting-the  
 8 loan--from--the--cash--value--of--the--shares--Associations  
 9 organized--under--or--controlled-by-title-32--chapter-2--are  
 10 subject-to-taxation-in-no-other-way"

11 Section 14. Section 17-5-408, MCA, is amended to read:  
 12 "17-5-408. Percentage of income, corporation license,  
 13 and cigarette tax pledged. (1) The state pledges and  
 14 appropriates and directs to be credited as received to the  
 15 sinking fund account 11% of all money, except as provided in  
 16 [section 6 of this act], received from the collection of the  
 17 income tax and the corporation license tax referred to in  
 18 15-1-501 and such additional amount of said taxes, if any,  
 19 as may at any time be needed to comply with the principal  
 20 and interest and reserve requirements stated in 17-5-405(4),  
 21 provided that no more than 11% of such tax collections shall  
 22 be deemed to be pledged for the purpose of 17-5-403(2). The  
 23 pledge and appropriation herein made shall be and remain at  
 24 all times a first and prior charge upon all money received  
 25 from the collection of said taxes.



1 (2) The state pledges and appropriates and directs to  
 2 be credited to the sinking fund account 15% of all money  
 3 received from the collection of the 9-cent excise tax on  
 4 cigarettes which is levied, imposed, and assessed by  
 5 16-11-111(1). The state also pledges and appropriates and  
 6 directs to be credited as received to the sinking fund  
 7 account all money received from the collection of each of  
 8 the excise taxes on cigarettes which are levied, imposed,  
 9 and assessed by subsection (2) and (3) of 16-11-111, as  
 10 amended, after the payment and redemption in full of the  
 11 outstanding bonds for which said taxes have heretofore been  
 12 pledged and appropriated or after the necessary funds have  
 13 been set aside for such payment and redemption as provided  
 14 in this part. The state also pledges and appropriates and  
 15 directs to be credited as received to the sinking fund  
 16 account all money received from the collection of the taxes  
 17 on other tobacco products which are or may hereafter be  
 18 levied, imposed, and assessed by law for that purpose,  
 19 including the tax levied, imposed, and assessed by  
 20 16-11-202. Nothing herein shall impair or otherwise affect  
 21 the provisions and covenants contained in the resolutions  
 22 authorizing the presently outstanding long-range building  
 23 program bonds. Subject to the provisions of the preceding  
 24 sentence, the pledge and appropriation herein made shall be  
 25 and remain at all times a first and prior charge upon all

1 money received from the collection of all taxes referred to  
 2 in this subsection (2)."

3 Section 15. Section 20-9-343, MCA, is amended to read:  
 4 "20-9-343. Definition of and revenue for state  
 5 equalization aid. (1) As used in this title, the term "state  
 6 equalization aid" means those moneys deposited in the  
 7 earmarked revenue fund as required in this section plus any  
 8 legislative appropriation of moneys from other sources for  
 9 distribution to the public schools for the purpose of  
 10 equalization of the foundation program.

11 (2) The following shall be paid into the earmarked  
 12 revenue fund for state equalization aid to public schools of  
 13 the state:

14 (a) 25% of all moneys received from the collection of  
 15 income taxes under chapter 30 of Title 15;

16 (b) 25% of all moneys, except as provided in [section  
 17 6 of this act], received from the collection of corporation  
 18 license taxes under chapter 31 of Title 15, as provided by  
 19 15-1-501;

20 (c) 10% of the moneys received from the collection of  
 21 the severance tax on coal under chapter 35 of Title 15;

22 (d) 62 1/2% of the moneys received from the treasurer  
 23 of the United States as the state's shares of oil, gas, and  
 24 other mineral royalties under the federal Mineral Lands  
 25 Leasing Act, as amended;

1 (e) interest and income moneys described in 20-9-341  
2 and 20-9-342;

3 (f) income from the local impact and education trust  
4 fund account; and

5 (g) in addition to these revenues, the surplus  
6 revenues collected by the counties for foundation program  
7 support according to 20-9-331 and 20-9-333 shall be paid  
8 into the same earmarked revenue fund."

9 Section 16. Section 32-1-413, MCA, is amended to read:

10 "32-1-413. Borrowing money for capital purposes --  
11 status of capital. Notwithstanding any other provision of  
12 law, any commercial bank, savings bank, trust company, or  
13 investment company, now in existence or which may be  
14 hereafter formed, shall have the power to borrow money for  
15 capital purposes upon such terms and conditions as may be  
16 approved by the department and for this purpose may issue  
17 capital notes or debentures therefor, such notes or  
18 debentures to be subordinate in right of payment to the  
19 payment in full of all deposits of such bank, savings bank,  
20 trust company, or investment company. The amount of money so  
21 borrowed shall be considered as capital for the purpose of  
22 determining the maximum amount of money that may be loaned  
23 by such bank, savings bank, trust company, or investment  
24 company to any person, partnership, or corporation and for  
25 the purpose of determining the maximum amount of money which

1 such bank may borrow and for all other purposes of bank  
2 capital as may be required by law; ~~except that the money so~~  
3 ~~borrowed shall not in any event be considered in~~  
4 ~~ascertaining the value and assessment of shares of any bank~~  
5 ~~for the purpose of taxation."~~

6 Section 17. Repealer. Sections 15-6-106, 15-24-501  
7 through 15-24-508, and 15-24-603, MCA, are repealed.

8 Section 18. Effective date. This act is effective for  
9 taxable years beginning on or after December 31, 1978.

-End-

1 STATEMENT OF INTENT RE: HB 150

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In granting the Department of Revenue rule-making authority in section 6(4), the Senate Taxation Committee intends that the distribution be based on a comparison of total assets or total resources attributable to the branch as opposed to total resources of the main office or according to some other equitable means of determining the distribution.

## 1 HOUSE BILL NO. 150

2 INTRODUCED BY FABREGA, HUENNEKENS, WILLIAMS, FAGG,

3 SIVERTSEN, VINCENT

4 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE METHOD OF  
7 TAXING BANKS AND SAVINGS AND LOAN ASSOCIATIONS FOR LOCAL  
8 GOVERNMENTS; REMOVING THE CORPORATION LICENSE TAX EXEMPTION  
9 FOR INTEREST FROM STATE AND LOCAL OBLIGATIONS; REPEALING THE  
10 TAX ON MONEYED CAPITAL AND SHARES OF BANKS; PROVIDING FOR A  
11 DIFFERENT METHOD OF COLLECTING AND DISTRIBUTING CORPORATION  
12 LICENSE TAXES PAID BY BANKS AND SAVINGS AND LOAN  
13 ASSOCIATIONS; AMENDING SECTIONS 7-6-206, 15-1-501, 15-8-104,  
14 15-8-111, 15-24-701, 15-24-801, 15-31-101, 15-31-114,  
15 15-31-502, 17-5-408, 20-9-343, AND 32-1-413, MCA; REPEALING  
16 SECTIONS 15-6-106, 15-24-501 THROUGH 15-24-508, AND  
17 15-24-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 NEW SECTION. Section 1. Purpose. The legislature  
21 recognizes that the property tax on moneyed capital and bank  
22 shares is an important element in the tax bases of many  
23 local governments. Since, however, the current method of  
24 valuing bank shares has legal defects, may be causing the  
25 undercapitalization of Montana's banks, and imposes an

1 inequitable tax burden on some financial institutions, the  
2 legislature hereby repeals this tax. Banks and savings and  
3 loan associations will be taxed on a more equitable basis,  
4 their net income. To make their basis for computing net  
5 income comparable to other businesses, the legislature  
6 repeals the corporation license tax deduction for interest  
7 on public obligations. To replace the property tax revenue  
8 lost to local governments, all corporation license taxes  
9 paid by banks and savings and loan associations will be  
10 collected by counties and distributed to the various local  
11 governments, based on their current mill levies.

12 Section 2. Section 15-31-101, MCA, is amended to read:  
13 "15-31-101. Organizations subject to tax. (1) The term  
14 "corporation" includes associations, joint-stock companies,  
15 common-law trusts and business trusts which do business in  
16 an organized capacity, and all other corporations whether  
17 created, organized, or existing under and pursuant to the  
18 laws, agreements, or declarations of trust of any state,  
19 country, or the United States.

20 (2) The terms "engaged in business" and "doing  
21 business" both mean actively engaging in any transaction for  
22 the purpose of financial or pecuniary gain or profit.

23 (3) Every corporation, except as hereinafter provided  
24 and except as provided in 33-2-705(5), engaged in business  
25 in the state of Montana shall annually pay to the state

1 treasurer as a license fee for the privilege of carrying on  
 2 business in this state such percentage or percentages of its  
 3 total net income for the preceding taxable year at the rate  
 4 hereinafter set forth. In the case of corporations having  
 5 income from business activity which is taxable both within  
 6 and without this state, the license fee shall be measured by  
 7 the net income derived from or attributable to Montana  
 8 sources as determined under part 3. This tax is due and  
 9 payable on the 15th day of the 5th month following the close  
 10 of the taxable year of the corporation; however, the tax  
 11 becomes a lien as provided in this chapter on the last day  
 12 of the taxable year in which the income was earned and is  
 13 for the privilege of carrying on business in this state for  
 14 the taxable year in which the income was earned.

15 (4) Every bank organized under the laws of the state  
 16 of Montana, or of any other state, and ~~of every--national~~  
 17 ~~bank-organized-under-the-laws~~ of the United States ~~and every~~  
 18 ~~savings and loan association organized under the laws of~~  
 19 ~~this state or of the United States~~ are is subject to the  
 20 Montana corporation license tax provided for under this  
 21 chapter. For taxable years beginning on and after January 1,  
 22 1972, this subsection is effective in accordance with Public  
 23 Law 91-156, section 2 (12 U.S.C. 548)."

24 Section 3. Section 15-31-114, MCA, is amended to read:  
 25 "15-31-114. Deductions allowed in computing income. In

1 computing the net income, the following deductions shall be  
 2 allowed from the gross income received by such corporation  
 3 within the year from all sources:

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

18 (2) (a) All losses actually sustained and charged off  
 19 within the year and not compensated by insurance or  
 20 otherwise, including a reasonable allowance for the wear and  
 21 tear and obsolescence of property used in the trade or  
 22 business, such allowance to be determined according to the  
 23 provisions of section 167 of the Internal Revenue Code in  
 24 effect with respect to the taxable year. All elections for  
 25 depreciation shall be the same as the elections made for

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

8 (b) (i) There shall be allowed as a deduction for the  
 9 taxable period a net operating loss deduction determined  
 10 according to the provisions of this subsection. The net  
 11 operating loss deduction is the aggregate of net operating  
 12 loss carryovers to such taxable period plus the net  
 13 operating loss carrybacks to such taxable period. The term  
 14 "net operating loss" means the excess of the deductions  
 15 allowed by this section, 15-31-114, over the gross income,  
 16 with the modifications specified in (ii) of this subsection.  
 17 If for any taxable period beginning after December 31, 1970,  
 18 a net operating loss is sustained, such loss shall be a net  
 19 operating loss carryback to each of the three taxable  
 20 periods preceding the taxable period of such loss and shall  
 21 be a net operating loss carryover to each of the five  
 22 taxable periods following the taxable period of such loss. A  
 23 net operating loss for any taxable period ending after  
 24 December 31, 1975, in addition to being a net operating loss  
 25 carryback to each of the three preceding taxable periods,

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

14 (ii) The modifications referred to in (i) of this  
 15 subsection shall be as follows:

- 16 (A) No net operating loss deduction shall be allowed.
- 17 (B) The deduction for depletion shall not exceed the
- 18 amount which would be allowable if computed under the cost
- 19 method.

20 ~~(C) Any net operating loss carried over to any taxable~~  
 21 ~~years beginning after December 31, 1978, must be calculated~~  
 22 ~~under the provisions of this section effective for the~~  
 23 ~~taxable year for which the return claiming the net operating~~  
 24 ~~loss carryover is filed.~~

25 (iii) A net operating loss deduction shall be allowed

1 only with regard to losses attributable to the business  
 2 carried on within the state of Montana.

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

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

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

19 (3) In the case of mines, other natural deposits, oil  
 20 and gas wells, and timber, a reasonable allowance for  
 21 depletion and for depreciation of improvements; such  
 22 reasonable allowance to be determined according to the  
 23 provisions of the Internal Revenue Code in effect for the  
 24 taxable year. All elections made under the Internal Revenue  
 25 Code with respect to capitalizing or expensing exploration

1 and development costs and intangible drilling expenses for  
 2 corporation license tax purposes shall be the same as the  
 3 elections made for federal income tax purposes.

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

11 ~~(5)--Interest-income-from-obligations-of-the-state--or~~  
 12 ~~any-political-subdivision-or-municipality-of-the-state.~~

13 ~~(6)(5)~~ (a) Taxes paid within the year except the  
 14 following:

- 15 (i) Taxes imposed by this part.
- 16 (ii) Taxes assessed against local benefits of a kind  
 17 tending to increase the value of the property assessed.
- 18 (iii) Taxes on or according to or measured by net  
 19 income or profits imposed by authority of the government of  
 20 the United States.

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

23 (b) Taxes deductible under this part shall be  
 24 construed to include taxes imposed by any county, school  
 25 district, or municipality of this state.

1       ~~(7)~~(6) That portion of an energy-related investment  
2 allowed as a deduction under 15-32-103."

3       Section 4. Section 15-31-502, MCA, is amended to read:

4       "15-31-502. Assessment and payment of tax, penalty,  
5 and interest. All taxpayers shall compute the amount of tax  
6 payable under this chapter and shall remit such amount to  
7 the department of revenue, except as provided in [section  
8 2], on or before the 15th day of the 5th month following the  
9 close of the taxable period. If the tax is not paid on or  
10 before the due date, there shall be assessed a penalty of  
11 10% of the amount of the tax unless it is shown that the  
12 failure was due to reasonable cause and not due to neglect.  
13 If any tax due under this chapter is not paid when due, by  
14 reason of extension granted or otherwise, interest shall be  
15 added thereto at the rate of 9% per annum from the due date  
16 until paid."

17       **NEW SECTION.** Section 5. Banks and savings and loan  
18 associations -- special provisions for filing returns and  
19 payment of taxes. (1) County treasurers shall collect  
20 corporation license taxes paid by banks and savings and loan  
21 associations.

22       (2) Within 10 days after receiving a corporation  
23 license tax return from a bank or savings and loan  
24 association, the department of revenue shall transmit to the  
25 county treasurer of the county in which the business is

1 located a statement showing its tax liability. To insure the  
2 confidentiality of the return, as required under 15-31-507,  
3 the statement sent to the treasurer shall show only the name  
4 and address of the bank or savings and loan association and  
5 its tax liability.

6       (3) Within 5 days after receiving a corporation  
7 license tax statement, a county treasurer shall send to the  
8 business a demand for payment in the amount shown on the  
9 statement.

10       (4) The bank or savings and loan association shall  
11 make payment to the county treasurer within 5 days after  
12 receiving a demand for payment.

13       (5) If the department of revenue determines, under the  
14 provisions of 15-31-503 and 15-31-531, that a bank or  
15 savings and loan association owes more taxes than shown on  
16 the original return or has paid more than the tax, penalty,  
17 or interest due in any year, it shall notify the bank or  
18 savings and loan association and the county treasurer of the  
19 county in which the business is located. Additional payment  
20 is due within 10 days after receipt of the final  
21 determination of taxes due. County treasurers shall issue  
22 warrants for overpayment and interest, as provided in  
23 15-31-531.

24       (6) The department shall continue to exercise all its  
25 duties and powers outlined in this title with respect to



1 auditing returns and enforcing payment of the corporation  
 2 license taxes owed by banks and savings and loan  
 3 associations. Any delinquent taxes collected from the sale  
 4 of property of a bank or savings and loan association under  
 5 the provisions of 15-31-525 shall be transmitted to the  
 6 county in which the corporation owing the delinquent taxes  
 7 is located. The only duties of the county treasurers in this  
 8 regard are collecting the taxes, issuing refunds, and  
 9 distributing the taxes to local taxing jurisdictions.

10 NEW SECTION. Section 6. Distribution of corporation  
 11 license taxes collected by county treasurers. (1) All  
 12 corporation license taxes collected by county treasurers  
 13 shall be distributed IN THE FOLLOWING MANNER:

14 (A) 20% MUST BE REMITTED TO THE STATE TREASURER TO BE  
 15 ALLOCATED AS PROVIDED IN 15-1-501(2); AND

16 (B) 80% MUST BE ALLOCATED to the various taxing  
 17 jurisdictions within the county in which the bank or savings  
 18 and loan association is located.

19 (2) The corporation license taxes collected  
 20 DISTRIBUTED UNDER SUBSECTION (1)(B) shall be allocated to  
 21 each taxing jurisdiction in the proportion that its mill  
 22 levy for that fiscal year bears to the total mill levy of  
 23 the taxing authorities of the district in which the bank or  
 24 savings and loan association is located.

25 (3) "Taxing jurisdictions" means, for the purposes of

1 this section, all taxing authorities within a county  
 2 permitted under state law to levy mills against the taxable  
 3 value of property in the taxing district in which the bank  
 4 or savings and loan association is located.

5 (4) If a return filed by a bank or savings and loan  
 6 association involves branches or offices in ~~multiple~~-taxing  
 7 jurisdictions MORE THAN ONE COUNTY, the department of  
 8 revenue shall provide a method by rule for equitable  
 9 distribution AMONG THOSE COUNTIES.

10 NEW SECTION. Section 7. Moneyed capital and shares of  
 11 banks exempt. (1) Moneyed capital and shares of banks are  
 12 exempt from taxation.

13 (2) "Moneyed capital" means money, bonds, notes, and  
 14 other evidence of indebtedness, including evidence of  
 15 indebtedness secured by a mortgage on real or personal  
 16 property, in the hands of individual citizens and  
 17 corporations coming into competition with the business of  
 18 national banks or employed in conducting a banking or  
 19 investment business.

20 Section 8. Section 7-6-206, MCA, is amended to read:

21 "7-6-206. Time deposits. (1) Such public money not  
 22 necessary for immediate use by such county, city, or town  
 23 which is not invested in direct obligations of the United  
 24 States government as authorized in 7-6-202 may be placed in  
 25 time or savings deposits with any bank--~~building~~--and--~~loan~~

1 association or savings and loan association in the county,  
2 city, or town.

3 (2) When more than one bank ~~building and loan~~  
4 association or savings and loan association is available in  
5 any county for the deposit of such county funds or in any  
6 city or town for the deposit of such city or town funds,  
7 such funds may be distributed ratably among all of such  
8 banks ~~building and loan associations~~ and savings and loan  
9 associations qualifying therefor and substantially in  
10 proportion to the total property taxes paid during the  
11 preceding year in such county or the county in which such  
12 city or town is located ~~including taxes on shares of bank~~  
13 ~~stock and the corporation license taxes paid~~ by each such  
14 bank ~~building and loan association~~ or savings and loan  
15 association willing to receive such time or savings deposits  
16 under the terms of this part.

17 (3) In lieu of a ratable distribution among banks ~~building and loan~~  
18 associations within the county, city, or town, the local  
19 governing body may solicit bids without advertising from any  
20 bank ~~building and loan association~~ or savings and loan  
21 association in a county having at least two such financial  
22 institutions. Such institutions may request in writing that  
23 they be listed for solicitation on bids for public money not  
24 necessary for immediate use by the unit of local government.  
25

1 In counties having less than two such institutions, the  
2 local governing body may solicit bids from and deposit  
3 public money in such institutions in neighboring counties  
4 unless the local financial institution agrees to pay the  
5 same rate of interest bid by the neighboring financial  
6 institutions. The governing body may solicit bids by notice  
7 sent by mail to the investment institutions whose names are  
8 listed as provided herein. The provisions of this  
9 subsection shall be considered as meeting the requirements  
10 of subsection (2)."

11 Section 9. Section 15-1-501, MCA, is amended to read:

12 "15-1-501. Disposition of moneys from certain  
13 designated license and other taxes. (1) The state treasurer  
14 shall deposit to the credit of the state general fund all  
15 moneys received by him from the collection of:

- 16 (a) automobile driver's license fees under subsections  
17 (1) through (6) of 61-5-111;
- 18 (b) electric energy producer's license taxes under  
19 chapter 51;
- 20 (c) metalliferous mines license taxes under chapter  
21 37;
- 22 (d) oil producer's license taxes under chapter 36;
- 23 (e) liquor license taxes under Title 16;
- 24 (f) telephone license taxes under chapter 53; and  
25 (g) inheritance and estate taxes under Title 72.

1 chapter 16.

2 (2) Seventy-five percent of all moneys received from  
 3 the collection of income taxes under chapter 30 and  
 4 corporation license and income taxes under chapter 31,  
 5 ~~except as provided in [section 6],~~ shall be deposited in the  
 6 general fund subject to the prior pledge and appropriation  
 7 of such income tax and corporation license tax collections  
 8 for the payment of long-range building program bonds. The  
 9 remaining 25% of the proceeds of the corporation license  
 10 tax, ~~excluding that set aside~~ ALLOCATED TO THE COUNTIES  
 11 under [section 6], corporation income tax, and income tax  
 12 shall be deposited to the credit of the earmarked revenue  
 13 fund for state equalization aid to the public schools of  
 14 Montana.

15 (3) The state treasurer shall also deposit to the  
 16 credit of the state general fund all moneys received by him  
 17 from the collection of license taxes, fees, and all net  
 18 revenues and receipts from all other sources under the  
 19 operation of the Montana Alcoholic Beverage Code."

20 Section 10. Section 15-8-104, MCA, is amended to read:

21 "15-8-104. Department audit of taxable value -- costs  
 22 of audit paid by county -- penalty for underreporting. (1)  
 23 When in the judgment of the director of revenue it is  
 24 necessary, audits may be made for the purpose of determining  
 25 the taxable value of net proceeds of mines and oil and gas

1 wells, bank-shares, business inventories, and all other  
 2 types of property subject to ad valorem taxation. The costs  
 3 incurred by the department, including per diem and mileage  
 4 expense as well as salaries and benefits, shall be  
 5 reimbursed from the amount collected as a result of the  
 6 audit. In the event the property subject to audit is  
 7 assessed within two or more counties, the department shall  
 8 allocate the cost among the collections due each of the  
 9 counties. Reimbursement shall be made solely for audit  
 10 expense and not for other services provided to the counties  
 11 by the department and may not exceed the amounts collected.

12 (2) The taxable value of any underreported portion of  
 13 any business inventory found as a result of an audit to have  
 14 been underreported by the owner shall be increased by 25% as  
 15 a penalty for underreporting.

16 (3) The 25% penalty may be waived by the department if  
 17 reasonable cause for failure to report the total value of a  
 18 business inventory is provided to the department.

19 (4) The cost of the audit shall be paid to the state  
 20 treasurer for credit to the general fund."

21 Section 11. Section 15-8-111, MCA, is amended to read:

22 "15-8-111. Assessment -- market value standard --  
 23 exceptions. (1) All taxable property must be assessed at  
 24 100% of its market value except as provided in subsection  
 25 (5) of this section and in 15-7-111 through 15-7-114.

1 (2) Market value is the value at which property would  
 2 change hands between a willing buyer and a willing seller,  
 3 neither being under any compulsion to buy or to sell and  
 4 both having reasonable knowledge of relevant facts.

5 (3) The department of revenue or its agents may not  
 6 adopt a lower or different standard of value from market  
 7 value in making the official assessment and appraisal of the  
 8 value of property in class one and classes seven through  
 9 eighteen. For purposes of taxation, assessed value is the  
 10 same as appraised value.

11 (4) The taxable value for all property in class one  
 12 and classes seven through eighteen is the percentage of  
 13 market value established for each class of property in  
 14 15-6-102 and 15-6-108 through 15-6-119.

15 (5) The assessed value of properties in 15-6-103,  
 16 ~~15-6-104, 15-6-105,~~ through 15-6-107, and 15-6-120 is as  
 17 follows:

18 ~~{a} Property in 15-6-106, under class five, is~~  
 19 ~~assessed at 100% of book value by the method established in~~  
 20 ~~15-6-106 and the sections cited therein.~~

21 {b}{a} Properties in 15-6-103, under class two, are  
 22 assessed at 100% of the annual net proceeds after deducting  
 23 the expenses specified and allowed by 15-23-503.

24 {c}{b} Properties in 15-6-104, 15-6-105, and 15-6-120,  
 25 under classes three, four, and nineteen are assessed at 100%

1 of the annual gross proceeds.

2 {d}{c} Properties in 15-6-107, under class six, are  
 3 assessed at 100% of the productive capacity of the lands  
 4 when valued for agricultural purposes. All lands that meet  
 5 the qualifications of 15-7-202 are valued as agricultural  
 6 lands for tax purposes.

7 (6) Land and the improvements thereon are separately  
 8 assessed when any of the following conditions occur:

9 (a) ownership of the improvements is different from  
 10 ownership of the land;

11 (b) the taxpayer makes a written request; or

12 (c) the land is outside an incorporated city or town.

13 (7) The taxable value of all property in classes two  
 14 through ~~four and class~~ six is the percentage of assessed  
 15 value established in ~~15-6-103, 15-6-104, 15-6-105,~~ through  
 16 ~~and 15-6-107, and 15-6-120~~ for each class of property."

17 Section 12. Section 15-24-701, MCA, is amended to  
 18 read:

19 "15-24-701. Production credit associations --  
 20 assessment and payment. {f} Every production credit  
 21 association organized under the provisions of section 1131d  
 22 of Title 12, United States Codes Annotated, shall be  
 23 assessed for and pay taxes upon all real and personal  
 24 property owned by such association ~~and also upon the moneyed~~  
 25 ~~capital employed in such business, such moneyed capital to~~

1 be ascertained by deducting from the amount of loans  
 2 including loans secured by mortgage on real estate or  
 3 personal property the amount of such loans discounted and  
 4 any indebtedness representing money borrowed for use as  
 5 moneyed capital. Said moneyed capital shall be taxed at the  
 6 same rate and take the same classification as shares of  
 7 stock in a national bank or moneyed capital coming into  
 8 substantial competition therewith.

9 (2) The secretary or managing agent of every such  
 10 association shall furnish to the assessor of the county in  
 11 which the principal office of such association is located  
 12 within 5 days after demand therefor a statement in such  
 13 detail as the department of revenue or its agent may  
 14 require verified by his oath of the resources and  
 15 liabilities of such association as disclosed by its books at  
 16 the close of business on December 31 of the preceding year  
 17 if such secretary or managing agent shall fail to make the  
 18 statement hereby required, the department or its agent shall  
 19 forthwith obtain such information from any other available  
 20 sources and for this purpose it shall have access to the  
 21 books of such associations. The department or its agent shall  
 22 thereupon make an assessment of the real estate and personal  
 23 property owned by such association and of the moneyed  
 24 capital employed in the business of such association which  
 25 assessment shall be as fair and equitable as it may be able

1 to make from the best information available or said  
 2 assessor may for the purpose of said assessment adopt the  
 3 figures disclosed by any prior report made by such  
 4 association to any state or federal officer pursuant to any  
 5 state or federal law. Any person required by this section to  
 6 make the statement hereinabove provided who shall fail to  
 7 furnish the same shall be guilty of a misdemeanor and shall  
 8 be punished accordingly."

9 Section 13. Section 15-24-801, MCA, is amended to  
 10 read:

11 "15-24-801. Building Savings and loan associations --  
 12 taxation. (1) Every building and loan or savings and loan  
 13 association subject to regulation under Title 32, chapter 2,  
 14 shall be assessed for and pay taxes upon all real and  
 15 personal property owned by the association and also upon the  
 16 moneyed capital employed in the business. The moneyed  
 17 capital shall be ascertained by deducting from the amount of  
 18 bonds, notes, and other evidences of indebtedness of the  
 19 association including evidences of indebtedness secured by  
 20 mortgage on real estate or personal property the amount  
 21 standing to the credit of the members of an association upon  
 22 its books and any indebtedness representing money borrowed  
 23 for use as moneyed capital. The moneyed capital as so  
 24 ascertained shall be taxed at the same rate and take the  
 25 same classification as shares of stock in a national bank or

1 moneyed--capital--coming--into--substantial--competition  
 2 therewith. The secretary of an association shall furnish to  
 3 the department of revenue or its agent in the county in  
 4 which the principal office of the association is located,  
 5 within 5 days after demand, a condensed statement verified  
 6 by his oath of the resources and liabilities of the  
 7 association as disclosed by its books at noon on January 1  
 8 in each year. If the secretary fails to make the statement  
 9 hereby required, the department or its agent shall  
 10 immediately obtain the information from any other available  
 11 source, and for this purpose it shall have access to the  
 12 books of the association. The department or its agent shall  
 13 thereupon make an assessment of the real estate and personal  
 14 property owned by the association--and-of-the-moneyed-capital  
 15 employed--in--the--business--of--the--association, which  
 16 assessment shall be as fair and equitable as it may be able  
 17 to make from the best information available, or the assessor  
 18 may, for the purpose of the assessment, adopt the figures  
 19 disclosed by any prior report made by the association to any  
 20 state or federal officer under a state or federal law. A  
 21 person required by this section to make the statement  
 22 provided for in this section who fails to furnish it is  
 23 guilty of a misdemeanor.

24 ~~{2}-The-amount-standing-upon-its-books-to-the-credit~~  
 25 ~~of--each--member--of--an-association-shall-be-considered-and~~

1 held-as-the-individual-credit-of-each--member--Each--member  
 2 shall-list-the-shares-held-by-him-for-taxation-at-their-real  
 3 value--in-money--in-the-county-of-his-residence--the-same-as  
 4 other-credits-are-listed--except--shares--from--which--loans  
 5 have--been-made-or-money-advanced-by-the-association--and-as  
 6 to-such-shares-they-shall-be-listed-for-taxation-at-the-net  
 7 cash--value-of-the-stock--to-be-ascertained-by-deducting-the  
 8 loan--from--the--cash--value--of--the--shares--Associations  
 9 organized--under--or--controlled-by--title-32--chapter-2--are  
 10 subject-to-taxation-in-no-other-way"

11 Section 14. Section 17-5-408, MCA, is amended to read:  
 12 "17-5-408. Percentage of income, corporation license,  
 13 and cigarette tax pledged. (1) The state pledges and  
 14 appropriates and directs to be credited as received to the  
 15 sinking fund account 11% of all money, except as provided in  
 16 [section 6 of this act], received from the collection of the  
 17 income tax and the corporation license tax referred to in  
 18 15-1-501 and such additional amount of said taxes, if any,  
 19 as may at any time be needed to comply with the principal  
 20 and interest and reserve requirements stated in 17-5-405(4),  
 21 provided that no more than 11% of such tax collections shall  
 22 be deemed to be pledged for the purpose of 17-5-403(2). The  
 23 pledge and appropriation herein made shall be and remain at  
 24 all times a first and prior charge upon all money received  
 25 from the collection of said taxes.

1           (2) The state pledges and appropriates and directs to  
 2 be credited to the sinking fund account 15% of all money  
 3 received from the collection of the 9-cent excise tax on  
 4 cigarettes which is levied, imposed, and assessed by  
 5 16-11-111(1). The state also pledges and appropriates and  
 6 directs to be credited as received to the sinking fund  
 7 account all money received from the collection of each of  
 8 the excise taxes on cigarettes which are levied, imposed,  
 9 and assessed by subsection (2) and (3) of 16-11-111, as  
 10 amended, after the payment and redemption in full of the  
 11 outstanding bonds for which said taxes have heretofore been  
 12 pledged and appropriated or after the necessary funds have  
 13 been set aside for such payment and redemption as provided  
 14 in this part. The state also pledges and appropriates and  
 15 directs to be credited as received to the sinking fund  
 16 account all money received from the collection of the taxes  
 17 on other tobacco products which are or may hereafter be  
 18 levied, imposed, and assessed by law for that purpose,  
 19 including the tax levied, imposed, and assessed by  
 20 16-11-202. Nothing herein shall impair or otherwise affect  
 21 the provisions and covenants contained in the resolutions  
 22 authorizing the presently outstanding long-range building  
 23 program bonds. Subject to the provisions of the preceding  
 24 sentence, the pledge and appropriation herein made shall be  
 25 and remain at all times a first and prior charge upon all

1 money received from the collection of all taxes referred to  
 2 in this subsection (2)."

3           Section 15. Section 20-9-343, MCA, is amended to read:  
 4           "20-9-343. Definition of and revenue for state  
 5 equalization aid. (1) As used in this title, the term "state  
 6 equalization aid" means those moneys deposited in the  
 7 earmarked revenue fund as required in this section plus any  
 8 legislative appropriation of moneys from other sources for  
 9 distribution to the public schools for the purpose of  
 10 equalization of the foundation program.

11           (2) The following shall be paid into the earmarked  
 12 revenue fund for state equalization aid to public schools of  
 13 the state:

14           (a) 25% of all moneys received from the collection of  
 15 income taxes under chapter 30 of Title 15;

16           (b) 25% of all moneys, except as provided in [section  
 17 6 of this act], received from the collection of corporation  
 18 license taxes under chapter 31 of Title 15, as provided by  
 19 15-1-501;

20           (c) 10% of the moneys received from the collection of  
 21 the severance tax on coal under chapter 35 of Title 15;

22           (d) 62 1/2% of the moneys received from the treasurer  
 23 of the United States as the state's shares of oil, gas, and  
 24 other mineral royalties under the federal Mineral Lands  
 25 Leasing Act, as amended;

1 (e) interest and income moneys described in 20-9-341  
2 and 20-9-342;

3 (f) income from the local impact and education trust  
4 fund account; and

5 (j) in addition to these revenues, the surplus  
6 revenues collected by the counties for foundation program  
7 support according to 20-9-331 and 20-9-333 shall be paid  
8 into the same earmarked revenue fund."

9 Section 16. Section 32-1-413, MCA, is amended to read:

10 "32-1-413. Borrowing money for capital purposes --  
11 status of capital. Notwithstanding any other provision of  
12 law, any commercial bank, savings bank, trust company, or  
13 investment company, now in existence or which may be  
14 hereafter formed, shall have the power to borrow money for  
15 capital purposes upon such terms and conditions as may be  
16 approved by the department and for this purpose may issue  
17 capital notes or debentures therefor, such notes or  
18 debentures to be subordinate in right of payment to the  
19 payment in full of all deposits of such bank, savings bank,  
20 trust company, or investment company. The amount of money so  
21 borrowed shall be considered as capital for the purpose of  
22 determining the maximum amount of money that may be loaned  
23 by such bank, savings bank, trust company, or investment  
24 company to any person, partnership, or corporation and for  
25 the purpose of determining the maximum amount of money which

1 such bank may borrow and for all other purposes of bank  
2 capital as may be required by law--except-that-the-money-so  
3 borrowed--shall--not--in--any--event--be--considered--in  
4 ascertaining--the-value-and-assessment-of-shares-of-any-bank  
5 for-the-purpose-of-taxation."

6 Section 17. Repealer. Sections 15-6-106, 15-24-501  
7 through 15-24-508, and 15-24-603, MCA, are repealed.

8 Section 18. Effective date. This act is effective for  
9 taxable years beginning on or after December 31, 1978.

-End-



1                    STATEMENT OF INTENT RE: HB 150

2  
3

4            In granting the Department of Revenue rule-making  
5 authority in section 6(4), the Senate Taxation Committee  
6 intends that the distribution be based on a comparison of  
7 total assets or total resources attributable to the branch  
8 as opposed to total resources of the main office or  
9 according to some other equitable means of determining the  
10 distribution.

HB 150

1 HOUSE BILL NO. 150  
 2 INTRODUCED BY FABREGA, HUENNEKENS, WILLIAMS, FAGG,  
 3 SIVERTSEN, VINCENT  
 4 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE  
 5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE METHOD OF  
 7 TAXING BANKS AND SAVINGS AND LOAN ASSOCIATIONS FOR LOCAL  
 8 GOVERNMENTS; REMOVING THE CORPORATION LICENSE TAX EXEMPTION  
 9 FOR INTEREST FROM STATE AND LOCAL OBLIGATIONS; REPEALING THE  
 10 TAX ON MONEYED CAPITAL AND SHARES OF BANKS; PROVIDING FOR A  
 11 DIFFERENT METHOD OF ~~COLLECTING~~ AND DISTRIBUTING CORPORATION  
 12 LICENSE TAXES PAID BY BANKS AND SAVINGS AND LOAN  
 13 ASSOCIATIONS; AMENDING SECTIONS 7-6-206, 15-1-501, 15-8-104,  
 14 15-8-111, 15-24-701, 15-24-801, 15-31-101, 15-31-114,  
 15 15-31-502, 17-5-408, 20-9-343, AND 32-1-413, MCA; REPEALING  
 16 SECTIONS 15-6-106, 15-24-501 THROUGH 15-24-508, AND  
 17 15-24-603, MCA; AND PROVIDING AN EFFECTIVE DATE."  
 18  
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 20 NEW SECTION. Section 1. Purpose. The legislature  
 21 recognizes that the property tax on moneyed capital and bank  
 22 shares is an important element in the tax bases of many  
 23 local governments. Since, however, the current method of  
 24 valuing bank shares has legal defects, may be causing the  
 25 undercapitalization of Montana's banks, and imposes an

1 inequitable tax burden on some financial institutions, the  
 2 legislature hereby repeals this tax. Banks and savings and  
 3 loan associations will be taxed on a more equitable basis,  
 4 their net income. To make their basis for computing net  
 5 income comparable to other businesses, the legislature  
 6 repeals the corporation license tax deduction for interest  
 7 on public obligations. To replace the property tax revenue  
 8 lost to local governments, ~~off~~ A PORTION OF THE corporation  
 9 license taxes paid by banks and savings and loan  
 10 associations will be ~~collected~~ RECEIVED by counties and  
 11 distributed to the various local governments, based on their  
 12 current mill levies.

13 Section 2. Section 15-31-101, MCA, is amended to read:  
 14 "15-31-101. Organizations subject to tax. (1) The term  
 15 "corporation" includes associations, joint-stock companies,  
 16 common-law trusts and business trusts which do business in  
 17 an organized capacity, and all other corporations whether  
 18 created, organized, or existing under and pursuant to the  
 19 laws, agreements, or declarations of trust of any state,  
 20 country, or the United States.

21 (2) The terms "engaged in business" and "doing  
 22 business" both mean actively engaging in any transaction for  
 23 the purpose of financial or pecuniary gain or profit.

24 (3) Every corporation, except as hereinafter provided  
 25 and except as provided in 33-2-705(5), engaged in business

1 in the state of Montana shall annually pay to the state  
 2 treasurer as a license fee for the privilege of carrying on  
 3 business in this state such percentage or percentages of its  
 4 total net income for the preceding taxable year at the rate  
 5 hereinafter set forth. In the case of corporations having  
 6 income from business activity which is taxable both within  
 7 and without this state, the license fee shall be measured by  
 8 the net income derived from or attributable to Montana  
 9 sources as determined under part 3. This tax is due and  
 10 payable on the 15th day of the 5th month following the close  
 11 of the taxable year of the corporation; however, the tax  
 12 becomes a lien as provided in this chapter on the last day  
 13 of the taxable year in which the income was earned and is  
 14 for the privilege of carrying on business in this state for  
 15 the taxable year in which the income was earned.

16 (4) Every bank organized under the laws of the state  
 17 of Montana, or of any other state, and ~~or every~~  
 18 ~~bank-organized-under-the-laws~~ of the United States ~~and every~~  
 19 ~~savings and loan association organized under the laws of~~  
 20 ~~this state or of the United States~~ are is subject to the  
 21 Montana corporation license tax provided for under this  
 22 chapter. For taxable years beginning on and after January 1,  
 23 1972, this subsection is effective in accordance with Public  
 24 Law 91-156, section 2 (12 U.S.C. 548)."

25 Section 3. Section 15-31-114, MCA, is amended to read:

1 \*15-31-114. Deductions allowed in computing income. In  
 2 computing the net income, the following deductions shall be  
 3 allowed from the gross income received by such corporation  
 4 within the year from all sources:

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

19 (2) (a) All losses actually sustained and charged off  
 20 within the year and not compensated by insurance or  
 21 otherwise, including a reasonable allowance for the wear and  
 22 tear and obsolescence of property used in the trade or  
 23 business, such allowance to be determined according to the  
 24 provisions of section 167 of the Internal Revenue Code in  
 25 effect with respect to the taxable year. All elections for

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

9 (b) (i) There shall be allowed as a deduction for the  
 10 taxable period a net operating loss deduction determined  
 11 according to the provisions of this subsection. The net  
 12 operating loss deduction is the aggregate of net operating  
 13 loss carryovers to such taxable period plus the net  
 14 operating loss carrybacks to such taxable period. The term  
 15 "net operating loss" means the excess of the deductions  
 16 allowed by this section, 15-31-114, over the gross income,  
 17 with the modifications specified in (ii) of this subsection.  
 18 If for any taxable period beginning after December 31, 1970,  
 19 a net operating loss is sustained, such loss shall be a net  
 20 operating loss carryback to each of the three taxable  
 21 periods preceding the taxable period of such loss and shall  
 22 be a net operating loss carryover to each of the five  
 23 taxable periods following the taxable period of such loss. A  
 24 net operating loss for any taxable period ending after  
 25 December 31, 1975, in addition to being a net operating loss

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

15 (ii) The modifications referred to in (i) of this  
 16 subsection shall be as follows:

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

18 (B) The deduction for depletion shall not exceed the  
 19 amount which would be allowable if computed under the cost  
 20 method.

21 ~~(C) Any net operating loss carried over to any taxable~~  
 22 ~~years beginning after December 31, 1975, must be calculated~~  
 23 ~~under the provisions of this section effective for the~~  
 24 ~~taxable year for which the return claiming the net operating~~  
 25 ~~loss carryover is filed.~~

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

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

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

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

20 (3) In the case of mines, other natural deposits, oil  
21 and gas wells, and timber, a reasonable allowance for  
22 depletion and for depreciation of improvements; such  
23 reasonable allowance to be determined according to the  
24 provisions of the Internal Revenue Code in effect for the  
25 taxable year. All elections made under the Internal Revenue

1 Code with respect to capitalizing or expensing exploration  
2 and development costs and intangible drilling expenses for  
3 corporation license tax purposes shall be the same as the  
4 elections made for federal income tax purposes.

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

12 ~~(5) Interest income from obligations of the state or~~  
13 ~~any political subdivision or municipality of the state.~~

14 ~~(6)~~ (5) (a) Taxes paid within the year except the  
15 following:

- 16 (i) Taxes imposed by this part.  
17 (ii) Taxes assessed against local benefits of a kind  
18 tending to increase the value of the property assessed.  
19 (iii) Taxes on or according to or measured by net  
20 income or profits imposed by authority of the government of  
21 the United States.

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

24 (b) Taxes deductible under this part shall be  
25 construed to include taxes imposed by any county, school

1 district, or municipality of this state.

2 ~~{7}(6)~~ That portion of an energy-related investment  
3 allowed as a deduction under 15-32-103."

4 Section 4. Section 15-31-502, MCA, is amended to read:

5 "15-31-502. Assessment and payment of tax, penalty,  
6 and interest. All taxpayers shall compute the amount of tax  
7 payable under this chapter and shall remit such amount to  
8 the department of revenue, ~~except as provided in section~~  
9 ~~511~~ on or before the 15th day of the 5th month following the  
10 close of the taxable period. If the tax is not paid on or  
11 before the due date, there shall be assessed a penalty of  
12 10% of the amount of the tax unless it is shown that the  
13 failure was due to reasonable cause and not due to neglect.  
14 If any tax due under this chapter is not paid when due, by  
15 reason of extension granted or otherwise, interest shall be  
16 added thereto at the rate of 9% per annum from the due date  
17 until paid."

18 NEW SECTION. Section 5. ~~Banks and savings and loan~~  
19 ~~associations special provisions for filing returns and~~  
20 ~~payment of taxes.~~ DEPARTMENT OF REVENUE -- SPECIAL DUTIES  
21 FOR TRANSMITTING CORPORATION LICENSE TAX REVENUES COLLECTED  
22 FROM BANKS OR SAVINGS AND LOAN ASSOCIATIONS TO COUNTIES. ~~{1}~~  
23 ~~County treasurers shall collect corporation license taxes~~  
24 ~~paid by banks and savings and loan associations.~~

25 ~~{2} Within 10 days after receiving a corporation~~

1 ~~license tax return from a bank or savings and loan~~  
2 ~~association; the department of revenue shall transmit to the~~  
3 ~~county treasurer of the county in which the business is~~  
4 ~~located a statement showing its tax liability. To insure the~~  
5 ~~confidentiality of the return, as required under 15-31-507,~~  
6 ~~the statement sent to the treasurer shall show only the name~~  
7 ~~and address of the bank or savings and loan association and~~  
8 ~~its tax liability.~~

9 ~~{3} Within 5 days after receiving a corporation~~  
10 ~~license tax statement, a county treasurer shall send to the~~  
11 ~~business a demand for payment in the amount shown on the~~  
12 ~~statement.~~

13 ~~{4} The bank or savings and loan association shall~~  
14 ~~make payment to the county treasurer within 5 days after~~  
15 ~~receiving a demand for payment.~~ {1} WITHIN 30 DAYS AFTER  
16 RECEIVING CORPORATION LICENSE TAX RETURNS AND PAYMENTS FROM  
17 BANKS OR SAVINGS AND LOAN ASSOCIATIONS, THE DEPARTMENT OF  
18 REVENUE SHALL TRANSMIT TO THE COUNTY TREASURER OF THE COUNTY  
19 IN WHICH THE BUSINESS IS LOCATED THE REVENUES CALCULATED  
20 UNDER [SECTION 6(1)(B)].

21 ~~{5}(2)~~ If the department of revenue determines, under  
22 the provisions of 15-31-503 and 15-31-531, that a bank or  
23 savings and loan association owes more taxes than shown on  
24 the original return or has paid more than the tax, penalty,  
25 or interest due in any year, it shall notify the bank or

1 savings and loan association ~~and the county treasurer of the~~  
2 ~~county in which the business is located.~~ Additional payment  
3 is due within 10 days after receipt of the final  
4 determination of taxes due. County treasurers shall issue  
5 warrants for THEIR PORTION OF THE overpayment RECEIVED and  
6 interest, as provided in 15-31-531.

7 ~~(6)(3)~~ The department shall continue to exercise all  
8 its duties and powers outlined in this title with respect to  
9 auditing returns and enforcing payment of the corporation  
10 license taxes owed by banks and savings and loan  
11 associations. Any delinquent taxes collected from the sale  
12 of property of a bank or savings and loan association under  
13 the provisions of 15-31-525 shall be transmitted to the  
14 county in which the corporation owing the delinquent taxes  
15 is located. The only duties of the county treasurers in this  
16 regard are ~~collecting the taxes~~ issuing refunds and  
17 distributing the taxes to local taxing jurisdictions.

18 NEW SECTION. Section 6. Distribution of corporation  
19 license taxes collected by county treasurers FROM BANKS OR  
20 SAVINGS AND LOAN ASSOCIATIONS. (1) All corporation license  
21 taxes collected by county treasurers FROM BANKS AND SAVINGS  
22 AND LOAN ASSOCIATIONS shall be distributed IN THE FOLLOWING  
23 MANNER:

24 (A) 20% MUST BE REMITTED TO THE STATE TREASURER TO BE  
25 ALLOCATED AS PROVIDED IN 15-1-501(2); AND

1 (B) 80% MUST BE ALLOCATED to the various taxing  
2 jurisdictions within the county in which the bank or savings  
3 and loan association is located.

4 (2) The corporation license taxes collected  
5 DISTRIBUTED UNDER SUBSECTION 111(B) shall be allocated to  
6 each taxing jurisdiction in the proportion that its mill  
7 levy for that fiscal year bears to the total mill levy of  
8 the taxing authorities of the district in which the bank or  
9 savings and loan association is located.

10 (3) "Taxing jurisdictions" means, for the purposes of  
11 this section, all taxing authorities within a county  
12 permitted under state law to levy mills against the taxable  
13 value of property in the taxing district in which the bank  
14 or savings and loan association is located.

15 (4) If a return filed by a bank or savings and loan  
16 association involves branches or offices in ~~multiple~~ taxing  
17 jurisdictions MORE THAN ONE COUNTY TAXING JURISDICTION, the  
18 department of revenue shall provide a method by rule for  
19 equitable distribution AMONG THOSE COUNTIES TAXING  
20 JURISDICTIONS.

21 NEW SECTION. Section 7. Moneyed capital and shares of  
22 banks exempt. (1) Moneyed capital and shares of banks are  
23 exempt from taxation.

24 (2) "Moneyed capital" means money, bonds, notes, and  
25 other evidence of indebtedness, including evidence of

1 indebtedness secured by a mortgage on real or personal  
2 property, in the hands of individual citizens and  
3 corporations coming into competition with the business of  
4 national banks or employed in conducting a banking or  
5 investment business.

6 Section 8. Section 7-6-206, MCA, is amended to read:

7 "7-6-206. Time deposits. (1) Such public money not  
8 necessary for immediate use by such county, city, or town  
9 which is not invested in direct obligations of the United  
10 States government as authorized in 7-6-202 may be placed in  
11 time or savings deposits with any bank~~--building--end--town~~  
12 ~~association~~ or savings and loan association in the county,  
13 city, or town.

14 (2) When more than one bank~~--building--end--town~~  
15 ~~association~~ or savings and loan association is available in  
16 any county for the deposit of such county funds or in any  
17 city or town for the deposit of such city or town funds,  
18 such funds may be distributed ratably among all of such  
19 banks~~--building--end--town-associations~~ and savings and loan  
20 associations qualifying therefor and substantially in  
21 proportion to the total property taxes paid during the  
22 preceding year in such county or the county in which such  
23 city or town is located~~--including--taxes--on--shares--of--bank~~  
24 ~~stock~~ and the corporation license taxes paid by each such  
25 bank~~--building--end--town-association~~ or savings and loan

1 association willing to receive such time or savings deposits  
2 under the terms of this part.

3 (3) In lieu of a ratable distribution among banks~~v~~  
4 ~~building--end--town--associations~~ and savings and loan  
5 associations within the county, city, or town, the local  
6 governing body may solicit bids without advertising from any  
7 bank~~--building--end--town-association~~ or savings and loan  
8 association in a county having at least two such financial  
9 institutions. Such institutions may request in writing that  
10 they be listed for solicitation on bids for public money not  
11 necessary for immediate use by the unit of local government.  
12 In counties having less than two such institutions, the  
13 local governing body may solicit bids from and deposit  
14 public money in such institutions in neighboring counties  
15 unless the local financial institution agrees to pay the  
16 same rate of interest bid by the neighboring financial  
17 institutions. The governing body may solicit bids by notice  
18 sent by mail to the investment institutions whose names are  
19 listed as provided herein. The provisions of this  
20 subsection shall be considered as meeting the requirements  
21 of subsection (2)."

22 Section 9. Section 15-1-501, MCA, is amended to read:

23 "15-1-501. Disposition of moneys from certain  
24 designated license and other taxes. (1) The state treasurer  
25 shall deposit to the credit of the state general fund all



1 moneys received by him from the collection of:

2 (a) automobile driver's license fees under subsections

3 (1) through (6) of 61-5-111;

4 (b) electric energy producer's license taxes under

5 chapter 51;

6 (c) metalliferous mines license taxes under chapter

7 37;

8 (d) oil producer's license taxes under chapter 36;

9 (e) liquor license taxes under Title 16;

10 (f) telephone license taxes under chapter 53; and

11 (g) inheritance and estate taxes under Title 72,

12 chapter 16.

13 (2) Seventy-five percent of all moneys received from

14 the collection of income taxes under chapter 30 and

15 corporation license and income taxes under chapter 31,

16 ~~except as provided in [section 6]~~ shall be deposited in the

17 general fund subject to the prior pledge and appropriation

18 of such income tax and corporation license tax collections

19 for the payment of long-range building program bonds. The

20 remaining 25% of the proceeds of the corporation license

21 tax, ~~excluding that collected~~ ALLOCATED TO THE COUNTIES

22 ~~under [section 6]~~ corporation income tax, and income tax

23 shall be deposited to the credit of the earmarked revenue

24 fund for state equalization aid to the public schools of

25 Montana.

1 (3) The state treasurer shall also deposit to the

2 credit of the state general fund all moneys received by him

3 from the collection of license taxes, fees, and all net

4 revenues and receipts from all other sources under the

5 operation of the Montana Alcoholic Beverage Code."

6 Section 10. Section 15-8-104, MCA, is amended to read:

7 "15-8-104. Department audit of taxable value -- costs

8 of audit paid by county -- penalty for underreporting. (1)

9 When in the judgment of the director of revenue it is

10 necessary, audits may be made for the purpose of determining

11 the taxable value of net proceeds of mines and oil and gas

12 wells, bank-shares, business inventories, and all other

13 types of property subject to ad valorem taxation. The costs

14 incurred by the department, including per diem and mileage

15 expense as well as salaries and benefits, shall be

16 reimbursed from the amount collected as a result of the

17 audit. In the event the property subject to audit is

18 assessed within two or more counties, the department shall

19 allocate the cost among the collections due each of the

20 counties. Reimbursement shall be made solely for audit

21 expense and not for other services provided to the counties

22 by the department and may not exceed the amounts collected.

23 (2) The taxable value of any underreported portion of

24 any business inventory found as a result of an audit to have

25 been underreported by the owner shall be increased by 25% as

1 a penalty for underreporting.

2 (3) The 25% penalty may be waived by the department if  
3 reasonable cause for failure to report the total value of a  
4 business inventory is provided to the department.

5 (4) The cost of the audit shall be paid to the state  
6 treasurer for credit to the general fund."

7 Section 11. Section 15-8-111, MCA, is amended to read:

8 "15-8-111. Assessment -- market value standard --  
9 exceptions. (1) All taxable property must be assessed at  
10 100% of its market value except as provided in subsection  
11 (5) of this section and in 15-7-111 through 15-7-114.

12 (2) Market value is the value at which property would  
13 change hands between a willing buyer and a willing seller,  
14 neither being under any compulsion to buy or to sell and  
15 both having reasonable knowledge of relevant facts.

16 (3) The department of revenue or its agents may not  
17 adopt a lower or different standard of value from market  
18 value in making the official assessment and appraisal of the  
19 value of property in class one and classes seven through  
20 eighteen. For purposes of taxation, assessed value is the  
21 same as appraised value.

22 (4) The taxable value for all property in class one  
23 and classes seven through eighteen is the percentage of  
24 market value established for each class of property in  
25 15-6-102 and 15-6-108 through 15-6-119.

1 (5) The assessed value of properties in 15-6-103,  
2 ~~15-6-104, 15-6-105,~~ through 15-6-107, and 15-6-120 is as  
3 follows:

4 ~~(a) Property in 15-6-106, under class five, is~~  
5 ~~assessed at 100% of book value by the method established in~~  
6 ~~15-6-106 and the sections cited therein~~

7 (b)(a) Properties in 15-6-103, under class two, are  
8 assessed at 100% of the annual net proceeds after deducting  
9 the expenses specified and allowed by 15-23-503.

10 ~~(b)(b)~~ Properties in 15-6-104, 15-6-105, and 15-6-120,  
11 under classes three, four, and nineteen are assessed at 100%  
12 of the annual gross proceeds.

13 ~~(b)(c)~~ Properties in 15-6-107, under class six, are  
14 assessed at 100% of the productive capacity of the lands  
15 when valued for agricultural purposes. All lands that meet  
16 the qualifications of 15-7-202 are valued as agricultural  
17 lands for tax purposes.

18 (6) Land and the improvements thereon are separately  
19 assessed when any of the following conditions occur:

20 (a) ownership of the improvements is different from  
21 ownership of the land;

22 (b) the taxpayer makes a written request; or

23 (c) the land is outside an incorporated city or town.

24 (7) The taxable value of all property in classes two  
25 through four and class six is the percentage of assessed

1 value established in 15-6-103, 15-6-104, 15-6-105, through  
2 and 15-6-107, and 15-6-120 for each class of property."

3 Section 12. Section 15-24-701, MCA, is amended to  
4 read:

5 "15-24-701. Production credit associations --  
6 assessment and payment. (1) Every production credit  
7 association organized under the provisions of section 1131d  
8 of Title 12, United States Codes Annotated, shall be  
9 assessed for and pay taxes upon all real and personal  
10 property owned by such association and also upon the moneyed  
11 capital employed in such business, such moneyed capital to  
12 be ascertained by deducting from the amount of loans  
13 including loans secured by mortgage on real estate or  
14 personal property, the amount of such loans discounted and  
15 any indebtedness representing money borrowed for use as  
16 moneyed capital. Said moneyed capital shall be taxed at the  
17 same rate and take the same classification as shares of  
18 stock in a national bank or moneyed capital coming into  
19 substantial competition therewith.

20 (2) The secretary or managing agent of every such  
21 association shall furnish to the assessor of the county in  
22 which the principal office of such association is located  
23 within 5 days after demand therefor, a statement in such  
24 detail as the department of revenue or its agent may  
25 require, verified by his oath of the resources and

1 liabilities of such association as disclosed by its books at  
2 the close of business on December 31 of the preceding year  
3 if such secretary or managing agent shall fail to make the  
4 statement hereby required, the department or its agent shall  
5 forthwith obtain such information from any other available  
6 sources and for this purpose it shall have access to the  
7 books of such associations. The department or its agent shall  
8 thereupon make an assessment of the real estate and personal  
9 property owned by such association and of the moneyed  
10 capital employed in the business of such association, which  
11 assessment shall be as fair and equitable as it may be able  
12 to make from the best information available, and said  
13 assessor may for the purpose of said assessment adopt the  
14 figures disclosed by any prior report made by such  
15 association to any state or federal officer pursuant to any  
16 state or federal law. Any person required by this section to  
17 make the statement hereinabove provided who shall fail to  
18 furnish the same shall be guilty of a misdemeanor and shall  
19 be punished accordingly."

20 Section 13. Section 15-24-801, MCA, is amended to  
21 read:

22 "15-24-801. Building Savings and loan associations --  
23 taxation. (1) Every building and loan or savings and loan  
24 association subject to regulation under Title 32, chapter 2,  
25 shall be assessed for and pay taxes upon all real and

1 personal property owned by the association-and-also-upon-the  
 2 moneyed--capital--employed--in--the--business. The moneyed  
 3 capital-shall-be-ascertained-by-deducting-from-the-amount-of  
 4 bonds,-notes,-and-other-evidences--of--indebtedness--of--the  
 5 association,-including-evidences-of-indebtedness-secured-by  
 6 mortgage-on-real-estate-or--person's--property--the--amount  
 7 standing-to-the-credit-of-the-members-of-an-association-upon  
 8 its--books--and-any-indebtedness-representing-money-borrowed  
 9 for-use-as--moneyed--capital,-The--moneyed--capital--as--so  
 10 ascertained--shall--be--taxed--at-the-same-rate-and-take-the  
 11 same-classification-as-shares-of-stock-in-a-national-bank-or  
 12 moneyed--capital--coming--into--substantial--competition  
 13 therewith. The secretary of an association shall furnish to  
 14 the department of revenue or its agent in the county in  
 15 which the principal office of the association is located,  
 16 within 5 days after demand, a condensed statement verified  
 17 by his oath of the resources and liabilities of the  
 18 association as disclosed by its books at noon on January 1  
 19 in each year. If the secretary fails to make the statement  
 20 hereby required, the department or its agent shall  
 21 immediately obtain the information from any other available  
 22 source, and for this purpose it shall have access to the  
 23 books of the association. The department or its agent shall  
 24 thereupon make an assessment of the real estate and personal  
 25 property owned by the association-and-of-the-moneyed-capital

1 employed--in--the--business--of--the--association, which  
 2 assessment shall be as fair and equitable as it may be able  
 3 to make from the best information available, or the assessor  
 4 may, for the purpose of the assessment, adopt the figures  
 5 disclosed by any prior report made by the association to any  
 6 state or federal officer under a state or federal law. A  
 7 person required by this section to make the statement  
 8 provided for in this section who fails to furnish it is  
 9 guilty of a misdemeanor.

10 {2}--The amount standing upon its books to the credit  
 11 of each member of an association shall be considered and  
 12 held as the individual credit of each member. Each member  
 13 shall list the shares held by him for taxation at their real  
 14 value in money in the county of his residence, the same as  
 15 other credits are listed, except shares from which loans  
 16 have been made or money advanced by the association, and as  
 17 to such shares they shall be listed for taxation at the net  
 18 cash value of the stock, to be ascertained by deducting the  
 19 loan from the cash value of the shares. Associations  
 20 organized under or controlled by Title 32, Chapter 2, are  
 21 subject to taxation in no other way."

22 Section 14. Section 17-5-408, MCA, is amended to read:  
 23 "17-5-408. Percentage of income, corporation license,  
 24 and cigarette tax pledged. (1) The state pledges and  
 25 appropriates and directs to be credited as received to the

1 sinking fund account 11% of all money, ~~except as provided in~~  
 2 ~~[section 6 of this act]~~, received from the collection of the  
 3 income tax and the corporation license tax referred to in  
 4 15-1-501 and such additional amount of said taxes, if any,  
 5 as may at any time be needed to comply with the principal  
 6 and interest and reserve requirements stated in 17-5-405(4),  
 7 provided that no more than 11% of such tax collections shall  
 8 be deemed to be pledged for the purpose of 17-5-403(2). The  
 9 pledge and appropriation herein made shall be and remain at  
 10 all times a first and prior charge upon all money received  
 11 from the collection of said taxes.

12 (2) The state pledges and appropriates and directs to  
 13 be credited to the sinking fund account 15% of all money  
 14 received from the collection of the 9-cent excise tax on  
 15 cigarettes which is levied, imposed, and assessed by  
 16 16-11-111(1). The state also pledges and appropriates and  
 17 directs to be credited as received to the sinking fund  
 18 account all money received from the collection of each of  
 19 the excise taxes on cigarettes which are levied, imposed,  
 20 and assessed by subsection (2) and (3) of 16-11-111, as  
 21 amended, after the payment and redemption in full of the  
 22 outstanding bonds for which said taxes have heretofore been  
 23 pledged and appropriated or after the necessary funds have  
 24 been set aside for such payment and redemption as provided  
 25 in this part. The state also pledges and appropriates and

1 directs to be credited as received to the sinking fund  
 2 account all money received from the collection of the taxes  
 3 on other tobacco products which are or may hereafter be  
 4 levied, imposed, and assessed by law for that purpose,  
 5 including the tax levied, imposed, and assessed by  
 6 16-11-202. Nothing herein shall impair or otherwise affect  
 7 the provisions and covenants contained in the resolutions  
 8 authorizing the presently outstanding long-range building  
 9 program bonds. Subject to the provisions of the preceding  
 10 sentence, the pledge and appropriation herein made shall be  
 11 and remain at all times a first and prior charge upon all  
 12 money received from the collection of all taxes referred to  
 13 in this subsection (2)."

14 Section 15. Section 20-9-343, MCA, is amended to read:  
 15 "20-9-343. Definition of and revenue for state  
 16 equalization aid. (1) As used in this title, the term "state  
 17 equalization aid" means those moneys deposited in the  
 18 earmarked revenue fund as required in this section plus any  
 19 legislative appropriation of moneys from other sources for  
 20 distribution to the public schools for the purpose of  
 21 equalization of the foundation program.

22 (2) The following shall be paid into the earmarked  
 23 revenue fund for state equalization aid to public schools of  
 24 the state:

25 (a) 25% of all moneys received from the collection of

1 income taxes under chapter 30 of Title 15;

2 (b) 25% of all moneys, ~~except as provided in [section~~  
 3 ~~6 of this act]~~, received from the collection of corporation  
 4 license taxes under chapter 31 of Title 15, as provided by  
 5 15-1-501;

6 (c) 10% of the moneys received from the collection of  
 7 the severance tax on coal under chapter 35 of Title 15;

8 (d) 62 1/2% of the moneys received from the treasurer  
 9 of the United States as the state's shares of oil, gas, and  
 10 other mineral royalties under the federal Mineral Lands  
 11 Leasing Act, as amended;

12 (e) interest and income moneys described in 20-9-341  
 13 and 20-9-342;

14 (f) income from the local impact and education trust  
 15 fund account; and

16 (g) in addition to these revenues, the surplus  
 17 revenues collected by the counties for foundation program  
 18 support according to 20-9-331 and 20-9-333 shall be paid  
 19 into the same earmarked revenue fund."

20 Section 16. Section 32-1-413, MCA, is amended to read:

21 "32-1-413. Borrowing money for capital purposes --  
 22 status of capital. Notwithstanding any other provision of  
 23 law, any commercial bank, savings bank, trust company, or  
 24 investment company, now in existence or which may be  
 25 hereafter formed, shall have the power to borrow money for

1 capital purposes upon such terms and conditions as may be  
 2 approved by the department and for this purpose may issue  
 3 capital notes or debentures therefor, such notes or  
 4 debentures to be subordinate in right of payment to the  
 5 payment in full of all deposits of such bank, savings bank,  
 6 trust company, or investment company. The amount of money so  
 7 borrowed shall be considered as capital for the purpose of  
 8 determining the maximum amount of money that may be loaned  
 9 by such bank, savings bank, trust company, or investment  
 10 company to any person, partnership, or corporation and for  
 11 the purpose of determining the maximum amount of money which  
 12 such bank may borrow and for all other purposes of bank  
 13 capital as may be required by law ~~except that the money so~~  
 14 ~~borrowed shall not in any event be considered in~~  
 15 ~~ascertaining the value and assessment of shares of any bank~~  
 16 ~~for the purpose of taxation."~~

17 Section 17. Repealer. Sections 15-6-106, 15-24-501  
 18 through 15-24-508, and 15-24-603, MCA, are repealed.

19 Section 18. Effective date. This act is effective for  
 20 taxable years beginning on or after December 31, 1978.

-End-

March 26, 1979

SENATE STANDING COMMITTEE REPORT  
(Taxation)

That House Bill No. 150, third reading bill, be amended as follows:

1. Title, line 11.  
Strike: "COLLECTING AND"
2. Page 2, line 8.  
Following: "governments,"  
Strike: "all"  
Insert: "a portion of the"
3. Page 2.  
Following: line 9  
Strike: "collected"  
Insert: "received"
4. Page 9, lines 7 and 8.  
Strike: ", except as provided in [section 5],"
5. Page 9, line 17.  
Following: "Section 5."  
Strike: remainder of line 17 through line 12 on page 10  
Insert: "Department of Revenue - special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer in which the business is located the revenues calculated under [section 6 (b)]."
6. Page 10, lines 18 and 19.  
Strike: "and the county treasurer of the county in which the business is located"
7. Page 10, line 22.  
Following: "for"  
Insert: "their portion of the"  
Following: "overpayment"  
Insert: "received"
8. Page 11, line 8.  
Strike: "collecting the taxes,"  
Following: "refunds"  
Strike: ",,"
9. Page 11, line 11.  
Following: "collected"  
Strike: "by county treasurers"  
Insert: "from banks or savings and loan associations"
10. Page 11, line 12.  
Following: "taxes"  
Strike: remainder of line 12 in its entirety  
Insert: "collected from banks and savings and loan associations"

March 28, 1979

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 150, third reading bill, be amended as follows:

1. Amendment #5 is to read as follows:

5. Page 9, line 17.

Following: "Section 5."

Strike: remainder of line 17 through line 12 on page 10

Insert: "Department of revenue--special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer of the county in which the business is located the revenues calculated under [section 6(1) (b)]."

Renumber: subsequent subsections

2. Amendment #10 is to read as follows:

10. Page 11, line 12.

Following: "collected"

Strike: "by county treasurers"

Insert: "from banks and savings and loan associations"

3. Page 12, line 7.

Following: "ONE"

Strike: "COUNTY"

Insert: "taxing jurisdiction"

4. Page 12, line 9.

Following: "THOSE"

Strike: "COUNTY"

Insert: "taxing jurisdiction"