

CHAPTER NO. 664

HOUSE BILL NO. 646

INTRODUCED BY FABREGA, NORDTVEDT

IN THE HOUSE

February 8, 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.
April 17, 1979	Committee recommend bill be concurred in as amended. Report adopted.
April 18, 1979	Second reading, concurred in. On motion rules suspended. Bill placed on Calendar for third reading this day. Third reading, concurred in as amended.

IN THE HOUSE

April 19, 1979	Returned from second house. Concurred in as amended.
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April 19, 1979

Second reading, amendments
adopted.

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 646
2 INTRODUCED BY Felipe Hernandez

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN
5 ALTERNATIVE METHOD OF COMPUTING PREMIUM TAX DUE BASED ON
6 INVESTMENT OF ASSETS IN MONTANA; AMENDING SECTIONS
7 15-31-101, 33-2-311, AND 33-2-705, MCA; AND PROVIDING AN
8 EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 33-2-705, MCA, is amended to read:

12 "33-2-705. Report on premiums and other consideration
13 -- tax. (1) Each authorized insurer and each formerly
14 authorized insurer with respect to premiums so received
15 while an authorized insurer in this state shall file with
16 the commissioner, on or before March 1 each year, a report
17 (except as to wet marine and transportation insurance taxed
18 under subsection (3) below) in form as prescribed by the
19 commissioner showing total direct premium income, including
20 policy, membership, and other fees, premiums paid by
21 application of dividends, refunds, savings, savings coupons,
22 and similar returns or credits to payment of premiums for
23 new or additional or extended or renewed insurance, charges
24 for payment of premium in installments, and all other
25 consideration for insurance from all kinds and classes of

1 insurance whether designated as a premium or otherwise,
2 received by it during the preceding calendar year on account
3 of policies covering property, subjects, or risks located,
4 resident, or to be performed in Montana, with proper
5 proportionate allocation of premium as to such property,
6 subjects, or risks in Montana insured under policies or
7 contracts covering property, subjects, or risks located or
8 resident in more than one state, after deducting from such
9 total direct premium income applicable cancellations,
10 returned premiums, the unabsorbed portion of any deposit
11 premium, the amount of reduction in or refund of premiums
12 allowed to industrial life policyholders for payment of
13 premiums direct to an office of the insurer, all policy
14 dividends, refunds, savings, savings coupons, and other
15 similar returns paid or credited to policyholders with
16 respect to such policies. As to title insurance, "premium"
17 includes only the risk portion of the charge for such
18 insurance. No deduction shall be made of the cash surrender
19 values of policies. Considerations received on annuity
20 contracts shall not be included in total direct premium
21 income and shall not be subject to tax.

22 (2) Coincident with the filing of the tax report
23 referred to in subsection (1) above, each such insurer shall
24 pay to the commissioner a tax upon such net premiums--the
25 this tax to may be computed in either of the following ways:

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INTRODUCED BILL

(a) (i) An insurer may choose to compute its tax on the percentage of its admitted assets invested in Montana securities according to the following schedule:

(A) 2 3/4% of net premiums if the insurer has 0% of its admitted assets invested in Montana securities;

(B) 2 1/4% of net premiums if the insurer has at least 25% of its admitted assets invested in Montana securities;

(C) 1 3/4% of net premiums if the insurer has at least 50% of its admitted assets invested in Montana securities;

(D) 1 1/4% of net premiums if the insurer has at least 75% of its admitted assets invested in Montana securities;

and

(E) 3/4% of net premiums if the insurer has 100% of its admitted assets invested in Montana securities.

(ii) "Admitted assets" are those assets allowed in 33-2-501.

(iii) An insurer choosing this method of computation must itemize its Montana securities in its annual report.

(b) (i) An insurer may choose to compute its tax at the rate of 2 3/4% of such the net premiums.

(ii) Where ~~any insurer has~~ An insurer choosing this method and having not less than 50% of its paid-in capital stock invested in Montana securities, the insurer shall be is allowed to deduct whatever tax it may have already paid to the state of Montana and its political subdivisions,

during the same calendar year as to which premium tax is being paid, from the amount otherwise due under this section.

(3) For the purpose of this provision subsection (2):

(a) "paid-in capital stock" as to a mutual or reciprocal insurer shall be deemed to be an amount equal to 10% of the insurer's assets; and

(b) "Montana securities" shall be deemed to include only general obligations of the state of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, and real estate located in Montana owned by the insurer, and securities issued by Montana corporations, all if otherwise lawful investments of the insurer under this code.

(3)(4) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in 33-1-209, written in this state during the calendar year next preceding and shall at the same time pay to the commissioner a tax of 3/4 of 1% of such gross underwriting profit.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for

1 reinsurance) on such wet marine and transportation insurance
 2 contracts the net losses paid (i.e., gross losses paid less
 3 salvage and recoveries on reinsurance ceded) during such
 4 calendar year under such contracts. In the case of insurers
 5 issuing participating contracts, such gross underwriting
 6 profit shall not include for computation of the tax
 7 prescribed by this subsection (3) the amounts refunded,
 8 credited, or paid as participation dividends or savings by
 9 such insurers to the holders of such contracts.

10 ~~(4)(5)~~ That portion of the tax paid hereunder by an
 11 insurer on account of premiums received for fire insurance
 12 shall be separately specified in the report as required by
 13 the commissioner, for apportionment as provided by law.
 14 Where insurance against fire is included with insurance of
 15 property against other perils at an undivided premium, the
 16 insurer shall make such reasonable allocation from such
 17 entire premium to the fire portion of the coverage as shall
 18 be stated in such report and as may be approved or accepted
 19 by the commissioner.

20 ~~(5)(6)~~ With respect to authorized insurers the premium
 21 tax provided by this section shall be payment in full and in
 22 lieu of all other demands for any and all state, county,
 23 city, district, municipal, and school taxes, licenses, fees,
 24 and excises of whatever kind or character, excepting only
 25 those prescribed by this code, taxes on real and tangible

1 personal property located in this state, and taxes payable
 2 under 50-3-109.

3 ~~(6)(7)~~ The commissioner may suspend or revoke the
 4 certificate of authority of any insurer which fails to pay
 5 its taxes as required under this section."

6 Section 2. Section 33-2-311, MCA, is amended to read:

7 "33-2-311. Tax on surplus lines. There is imposed upon
 8 premiums collected for surplus line insurance transacted in
 9 this state a tax at the same rate and computed in the same
 10 manner as provided in subsection (2)(b)(i) of 33-2-705 as to
 11 premiums of authorized insurers, except that amounts
 12 collected from the insured specifically for applicable state
 13 and federal taxes, and in excess of the premium otherwise
 14 required, shall not be deemed to be part of the premium for
 15 the purposes of such computation. Upon filing of the annual
 16 statement referred to in 33-2-310(2), the surplus line agent
 17 shall pay to the commissioner the amount of tax owing as to
 18 surplus line insurance business transacted by him during the
 19 preceding calendar year. If a surplus line policy covers
 20 risk or exposures only partially in this state, the tax
 21 payable shall be computed upon the proportion of the premium
 22 which is properly allocable to the risks or exposures
 23 located in this state."

24 Section 3. Section 15-31-101, MCA, is amended to read:

25 "15-31-101. Organizations subject to tax. (1) The term

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1 "corporation" includes associations, joint-stock companies,
2 common-law trusts and business trusts which do business in
3 an organized capacity, and all other corporations whether
4 created, organized, or existing under and pursuant to the
5 laws, agreements, or declarations of trust of any state,
6 country, or the United States.

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

10 (3) Every corporation, except as hereinafter provided
11 and except as provided in 33-2-705~~(5)~~(6), engaged in
12 business in the state of Montana shall annually pay to the
13 state treasurer as a license fee for the privilege of
14 carrying on business in this state such percentage or
15 percentages of its total net income for the preceding
16 taxable year at the rate hereinafter set forth. In the case
17 of corporations having income from business activity which
18 is taxable both within and without this state, the license
19 fee shall be measured by the net income derived from or
20 attributable to Montana sources as determined under part 3.
21 This tax is due and payable on the 15th day of the 5th month
22 following the close of the taxable year of the corporation;
23 however, the tax becomes a lien as provided in this chapter
24 on the last day of the taxable year in which the income was
25 earned and is for the privilege of carrying on business in

1 this state for the taxable year in which the income was
2 earned.

3 (4) Every bank organized under the laws of the state
4 of Montana or of any other state and every national bank
5 organized under the laws of the United States are subject to
6 the Montana corporation license tax provided for under this
7 chapter. For taxable years beginning on and after January 1,
8 1972, this subsection is effective in accordance with Public
9 Law 91-156, section 2 (12 U.S.C. 548)."

10 Section 4. Effective date and applicability. This act
11 is effective on passage and approval and applies to taxable
12 years beginning after December 31, 1978.

-End-

STATE OF MONTANA

Request No. 312-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 13, 1979, there is hereby submitted a Fiscal Note for House Bill 646 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

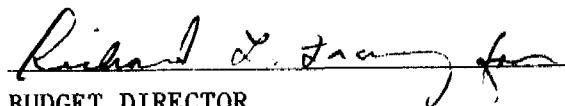
House Bill 646 is an act providing an alternate method of computing premium taxes due based on investment of assets in Montana; amending section 15-31-101 and 33-2-311 to make them compatible with the changes in 33-2-705.

ASSUMPTIONS:

1. Effective date of any expense increase - January 1, 1980.
2. Revenue from taxes will first be affected by 1979 premiums written.
3. New exemptions will be available to all insurance companies authorized in Montana (Approximately 1,000), not just the domestic companies.
4. If a large number of companies do use the exemption, an additional FTE to verify the authenticity and ownership of the assets may be necessary.

FISCAL IMPACT:

The impact on revenues cannot be determined. There could be a significant revenue loss or no loss at all.


BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2/15/79

Approved by Committee
on Taxation

HOUSE BILL NO. 646

INTRODUCED BY FABREGA, NORDTVEDT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING DOMESTIC
INSURERS AN ALTERNATIVE METHOD OF COMPUTING PREMIUM TAX DUE
BASED ON INVESTMENT OF ASSETS IN MONTANA; AMENDING SECTIONS
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Section 1. Section 33-2-705, MCA, is amended to read:

"33-2-705. Report on premiums and other consideration
-- tax. (1) Each authorized insurer and each formerly
authorized insurer with respect to premiums so received
while an authorized insurer in this state shall file with
the commissioner, on or before March 1 each year, a report
(except as to wet marine and transportation insurance taxed
under subsection (3) below) in form as prescribed by the
commissioner showing total direct premium income, including
policy, membership, and other fees, premiums paid by
application of dividends, refunds, savings, savings coupons,
and similar returns or credits to payment of premiums for
new or additional or extended or renewed insurance, charges
for payment of premium in installments, and all other
consideration for insurance from all kinds and classes of

insurance whether designated as a premium or otherwise,
received by it during the preceding calendar year on account
of policies covering property, subjects, or risks located,
resident, or to be performed in Montana, with proper
proportionate allocation of premium as to such property,
subjects, or risks in Montana insured under policies or
contracts covering property, subjects, or risks located or
resident in more than one state, after deducting from such
total direct premium income applicable cancellations,
returned premiums, the unabsorbed portion of any deposit
premium, the amount of reduction in or refund of premiums
allowed to industrial life policyholders, for payment of
premiums direct to an office of the insurer, all policy
dividends, refunds, savings, savings coupons, and other
similar returns paid or credited to policyholders with
respect to such policies. As to title insurance, "premium"
includes only the risk portion of the charge for such
insurance. No deduction shall be made of the cash surrender
values of policies. Considerations received on annuity
contracts shall not be included in total direct premium
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(2) Coincident with the filing of the tax report
referred to in subsection (1) above, each such insurer shall
pay to the commissioner a tax upon such net premiums--the
this tax to may be computed in either of the following ways:

1 ~~(a) (i) An A DOMESTIC insurer may choose to compute~~
 2 ~~its tax on the percentage of its admitted assets invested in~~
 3 ~~Montana securities according to the following schedule:~~
 4 ~~(A) 2 3/4% of net premiums if the insurer has 0% of~~
 5 ~~its admitted assets invested in Montana securities;~~
 6 ~~(B) 2 1/4% of net premiums if the insurer has at least~~
 7 ~~25% of its admitted assets invested in Montana securities;~~
 8 ~~(C) 1 3/4% of net premiums if the insurer has at least~~
 9 ~~50% of its admitted assets invested in Montana securities;~~
 10 ~~(D) 1 1/4% of net premiums if the insurer has at least~~
 11 ~~75% of its admitted assets invested in Montana securities;~~
 12 ~~and~~
 13 ~~(E) 3/4% of net premiums if the insurer has 100% of~~
 14 ~~its admitted assets invested in Montana securities.~~
 15 ~~(ii) "Admitted assets" are those assets allowed in~~
 16 ~~33-2-501.~~
 17 ~~(iii) An insurer choosing this method of computation~~
 18 ~~must itemize its Montana securities in its annual report ON~~
 19 ~~A DETAILED SCHEDULE ATTACHED TO ITS ANNUAL TAX REPORT.~~
 20 ~~(b) (i) An insurer may choose to IF THE METHOD~~
 21 ~~PROVIDED FOR IN SUBSECTION (A) IS NOT USED, THE INSURER~~
 22 ~~SHALL compute its tax at the rate of 2 3/4% of such the net~~
 23 ~~premiums.~~
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1 stock invested in Montana securities; ~~the insurer shall be~~
 2 ~~is~~ allowed to deduct whatever tax it may have already paid
 3 to the state of Montana and its political subdivisions,
 4 during the same calendar year as to which premium tax is
 5 being paid, from the amount otherwise due under this
 6 section.
 7 (j) For the purpose of this provision subsection (2):
 8 (a) "paid-in capital stock" as to a mutual or
 9 reciprocal insurer shall be deemed to be an amount equal to
 10 10% of the insurer's assets; and
 11 (b) "Montana securities" shall be deemed to include
 12 only general obligations of the state of Montana or of its
 13 political subdivisions, mortgage loans secured by a first
 14 lien upon real estate located in Montana, LOANS SECURED BY
 15 COLLATERAL ISSUED AT ARM'S LENGTH BY MONTANA CORPORATIONS,
 16 and real estate located in Montana owned by the insurer, and
 17 securities, BONDS, PREFERRED STOCK, AND COMMON STOCK issued
 18 by Montana corporations; all if otherwise lawful investments
 19 of the insurer under this code.
 20 (3)(4) (a) On or before March 1 of each year each
 21 insurer shall file with the commissioner, on forms as
 22 prescribed and furnished or accepted by him, a report of its
 23 gross underwriting profit on net marine and transportation
 24 insurance, as defined in 33-1-209, written in this state
 25 during the calendar year next preceding and shall at the

1 same time pay to the commissioner a tax of $3/4$ of 1% of
2 such gross underwriting profit.

3 (b) Such gross underwriting profit shall be
4 ascertained by deducting from the net premiums (i.e., gross
5 premiums less all return premiums and premiums for
6 reinsurance) on such wet marine and transportation insurance
7 contracts the net losses paid (i.e., gross losses paid less
8 salvage and recoveries on reinsurance ceded) during such
9 calendar year under such contracts. In the case of insurers
10 issuing participating contracts, such gross underwriting
11 profit shall not include for computation of the tax
12 prescribed by this subsection (3) the amounts refunded,
13 credited, or paid as participation dividends or savings by
14 such insurers to the holders of such contracts.

15 ~~(4)(5)~~ That portion of the tax paid hereunder by an
16 insurer on account of premiums received for fire insurance
17 shall be separately specified in the report as required by
18 the commissioner, for apportionment as provided by law.
19 Where insurance against fire is included with insurance of
20 property against other perils at an undivided premium, the
21 insurer shall make such reasonable allocation from such
22 entire premium to the fire portion of the coverage as shall
23 be stated in such report and as may be approved or accepted
24 by the commissioner.

25 ~~(5)(6)~~ With respect to authorized insurers the premium

1 tax provided by this section shall be payment in full and in
2 lieu of all other demands for any and all state, county,
3 city, district, municipal, and school taxes, licenses, fees,
4 and excises of whatever kind or character, excepting only
5 those prescribed by this code, taxes on real and tangible
6 personal property located in this state, and taxes payable
7 under 50-3-109.

8 ~~(6)(7)~~ The commissioner may suspend or revoke the
9 certificate of authority of any insurer which fails to pay
10 its taxes as required under this section."

11 Section 2. Section 33-2-311, "CA, is amended to read:

12 "33-2-311. Tax on surplus lines. There is imposed upon
13 premiums collected for surplus line insurance transacted in
14 this state a tax at the same rate and computed in the same
15 manner as provided in subsection (2)(b)(i) of 33-2-705 as to
16 premiums of authorized insurers, except that amounts
17 collected from the insured specifically for applicable state
18 and federal taxes, and in excess of the premium otherwise
19 required, shall not be deemed to be part of the premium for
20 the purposes of such computation. Upon filing of the annual
21 statement referred to in 33-2-310(2), the surplus line agent
22 shall pay to the commissioner the amount of tax owing as to
23 surplus line insurance business transacted by him during the
24 preceding calendar year. If a surplus line policy covers
25 risk or exposures only partially in this state, the tax

1 payable shall be computed upon the proportion of the premium
2 which is properly allocable to the risks or exposures
3 located in this state."

4 Section 3. Section 15-31-101, MCA, is amended to read:

5 "15-31-101. Organizations subject to tax. (1) The term
6 "corporation" includes associations, joint-stock companies,
7 common-law trusts and business trusts which do business in
8 an organized capacity, and all other corporations whether
9 created, organized, or existing under and pursuant to the
10 laws, agreements, or declarations of trust of any state,
11 country, or the United States. .

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

15 (3) Every corporation, except as hereinafter provided
16 and except as provided in 33-2-705~~(5)~~⁽⁶⁾, engaged in
17 business in the state of Montana shall annually pay to the
18 state treasurer as a license fee for the privilege of
19 carrying on business in this state such percentage or
20 percentages of its total net income for the preceding
21 taxable year at the rate hereinafter set forth. In the case
22 of corporations having income from business activity which
23 is taxable both within and without this state, the license
24 fee shall be measured by the net income derived from or
25 attributable to Montana sources as determined under part 3.

1 This tax is due and payable on the 15th day of the 5th month
2 following the close of the taxable year of the corporation;
3 however, the tax becomes a lien as provided in this chapter
4 on the last day of the taxable year in which the income was
5 earned and is for the privilege of carrying on business in
6 this state for the taxable year in which the income was
7 earned.

8 (4) Every bank organized under the laws of the state
9 of Montana or of any other state and every national bank
10 organized under the laws of the United States are subject to
11 the Montana corporation license tax provided for under this
12 chapter. For taxable years beginning on and after January 1,
13 1972, this subsection is effective in accordance with Public
14 Law 91-156, section 2 (12 U.S.C. 548)."

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insurance whether designated as a premium or otherwise, received by it during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana, with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state, after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance, "premium" includes only the risk portion of the charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

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(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts refunded, credited, or paid as participation dividends or savings by such insurers to the holders of such contracts.

~~(4)(5)~~ That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law, where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

~~(5)(6)~~ With respect to authorized insurers the premium

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~~(6)(7)~~ The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section."

Section 2. Section 33-2-311, MCA, is amended to read:

"33-2-311. Tax on surplus lines. There is imposed upon premiums collected for surplus line insurance transacted in this state a tax at the same rate and computed in the same manner as provided in subsection (2)(b)(i) of 33-2-705 as to premiums of authorized insurers, except that amounts collected from the insured specifically for applicable state and federal taxes, and in excess of the premium otherwise required, shall not be deemed to be part of the premium for the purposes of such computation. Upon filing of the annual statement referred to in 33-2-310(2), the surplus line agent shall pay to the commissioner the amount of tax owing as to surplus line insurance business transacted by him during the preceding calendar year. If a surplus line policy covers risk or exposures only partially in this state, the tax

1 payable shall be computed upon the proportion of the premium
2 which is properly allocable to the risks or exposures
3 located in this state."

4 Section 3. Section 15-31-101, MCA, is amended to read:

5 "15-31-101. Organizations subject to tax. (1) The term
6 "corporation" includes associations, joint-stock companies,
7 common-law trusts and business trusts which do business in
8 an organized capacity, and all other corporations whether
9 created, organized, or existing under and pursuant to the
10 laws, agreements, or declarations of trust of any state,
11 country, or the United States.

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

15 (3) Every corporation, except as hereinafter provided
16 and except as provided in 33-2-705~~(5)~~⁽⁶⁾, engaged in
17 business in the state of Montana shall annually pay to the
18 state treasurer as a license fee for the privilege of
19 carrying on business in this state such percentage or
20 percentages of its total net income for the preceding
21 taxable year at the rate hereinafter set forth. In the case
22 of corporations having income from business activity which
23 is taxable both within and without this state, the license
24 fee shall be measured by the net income derived from or
25 attributable to Montana sources as determined under part 3.

1 This tax is due and payable on the 15th day of the 5th month
2 following the close of the taxable year of the corporation;
3 however, the tax becomes a lien as provided in this chapter
4 on the last day of the taxable year in which the income was
5 earned and is for the privilege of carrying on business in
6 this state for the taxable year in which the income was
7 earned.

8 (4) Every bank organized under the laws of the state
9 of Montana or of any other state and every national bank
10 organized under the laws of the United States are subject to
11 the Montana corporation license tax provided for under this
12 chapter. For taxable years beginning on and after January 1,
13 1972, this subsection is effective in accordance with Public
14 Law 91-156, section 2 (12 U.S.C. 548)."

15 Section 4. Effective date and applicability. This act
16 is effective on passage and approval and applies to taxable
17 years beginning after December 31, 1978.

-End-

HOUSE BILL NO. 646

INTRODUCED BY FABREGA, NORDTVEDT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING DOMESTIC
INSURERS AN ALTERNATIVE METHOD OF COMPUTING PREMIUM TAX DUE
BASED ON INVESTMENT OF ASSETS IN MONTANA; AMENDING SECTIONS
15-31-101, 33-1-201 33-2-311, AND 33-2-705, MCA; AND
PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 33-2-705, MCA, is amended to read:

"33-2-705. Report on premiums and other consideration
-- tax. (1) Each authorized insurer and each formerly
authorized insurer with respect to premiums so received
while an authorized insurer in this state shall file with
the commissioner, on or before March 1 each year, a report
(except as to wet marine and transportation insurance taxed
under subsection (3) below) in form as prescribed by the
commissioner showing total direct premium income, including
policy, membership, and other fees; premiums paid by
application of dividends, refunds, savings, savings coupons,
and similar returns or credits to payment of premiums for
new or additional or extended or renewed insurance; charges
for payment of premium in installments, and all other
consideration for insurance from all kinds and classes of

insurance whether designated as a premium or otherwise,
received by it during the preceding calendar year on account
of policies covering property, subjects, or risks located,
resident, or to be performed in Montana, with proper
proportionate allocation of premium as to such property,
subjects, or risks in Montana insured under policies or
contracts covering property, subjects, or risks located or
resident in more than one state, after deducting from such
total direct premium income applicable cancellations,
returned premiums, the unabsorbed portion of any deposit
premium, the amount of reduction in or refund of premiums
allowed to industrial life policyholders for payment of
premiums direct to an office of the insurer, all policy
dividends, refunds, savings, savings coupons, and other
similar returns paid or credited to policyholders with
respect to such policies. As to title insurance, "premium"
includes only the risk portion of the charge for such
insurance. No deduction shall be made of the cash surrender
values of policies. Considerations received on annuity
contracts shall not be included in total direct premium
income and shall not be subject to tax.

(2) Coincident with the filing of the tax report
referred to in subsection (1) above, each such insurer shall
pay to the commissioner a tax upon such net premiums--the
this tax to may be computed in either of the following ways:

(a) (i) ~~an A DOMESTIC insurer may choose to compute its tax BASED on the percentage of its admitted assets invested in Montana securities according to the following schedules:~~

(A) ~~2 3/4% of net premiums if the insurer has 0% of its admitted assets invested in Montana securities;~~

(B) ~~2 1/4% of net premiums if the insurer has at least 25% of its admitted assets invested in Montana securities;~~

(C) ~~1 3/4% of net premiums if the insurer has at least 50% of its admitted assets invested in Montana securities;~~

(D) ~~1 1/4% of net premiums if the insurer has at least 75% of its admitted assets invested in Montana securities;~~

and

(E) ~~3/4% of net premiums if the insurer has 100% of its admitted assets invested in Montana securities.~~

(ii) ~~"Admitted assets" are those assets allowed in 33-2-501.~~

(iii) ~~An insurer choosing this method of computation must itemize its Montana securities in its annual report ON A DETAILED SCHEDULE ATTACHED TO ITS ANNUAL TAX REPORT.~~

(b) (i) ~~An insurer may choose to~~ IF THE METHOD PROVIDED FOR IN SUBSECTION (A) IS NOT USED, THE INSURER SHALL compute its tax at the rate of 2 3/4% of such the net premiums.

(ii) ~~Where any insurer has~~ An insurer choosing this

method and having not less than 50% of its paid-in capital stock invested in Montana securities, ~~the insurer shall be~~ is allowed to deduct whatever tax it may have already paid to the state of Montana and its political subdivisions, during the same calendar year as to which premium tax is being paid, from the amount otherwise due under this section.

(3) For the purpose of this provision subsection (2):

(a) "paid-in capital stock" as to a mutual or reciprocal insurer shall be deemed to be an amount equal to 10% of the insurer's assets; and

(b) "Montana securities" shall be deemed to include only general obligations of the state of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, ~~bonds--secured--by collateral--issued--at--any--length--by--Montana--corporations--and--real estate located in Montana owned by the insurer, and securities--bonds--preferred--stock--and--common--stock issued--by--Montana--corporations~~ all if otherwise lawful investments of the insurer under this code.

(3)(4) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in 33-1-209, written in this state

during the calendar year next preceding and shall at the same time pay to the commissioner a tax of $\frac{3}{4}$ of 1% of such gross underwriting profit.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts refunded, credited, or paid as participation dividends or savings by such insurers to the holders of such contracts.

~~(4)(5)~~ That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

~~(5)(6)~~ With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.

~~(6)(7)~~ The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section."

Section 2. Section 33-2-311, MCA, is amended to read:

"33-2-311. Tax on surplus lines. There is imposed upon premiums collected for surplus line insurance transacted in this state a tax at the same rate and computed in the same manner as provided in subsection (2)(b)(ii) of 33-2-705 as to premiums of authorized insurers, except that amounts collected from the insured specifically for applicable state and federal taxes, and in excess of the premium otherwise required, shall not be deemed to be part of the premium for the purposes of such computation. Upon filing of the annual statement referred to in 33-2-310(2), the surplus line agent shall pay to the commissioner the amount of tax owing as to surplus line insurance business transacted by him during the preceding calendar year. If a surplus line policy covers

1 risk or exposures only partially in this state, the tax
2 payable shall be computed upon the proportion of the premium
3 which is properly allocable to the risks or exposures
4 located in this state."

5 Section 3. Section 15-31-101, MCA, is amended to read:

6 "15-31-101. Organizations subject to tax. (1) The term
7 "corporation" includes associations, joint-stock companies,
8 common-law trusts and business trusts which do business in
9 an organized capacity, and all other corporations whether
10 created, organized, or existing under and pursuant to the
11 laws, agreements, or declarations of trust of any state,
12 country, or the United States.

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

16 (3) Every corporation, except as hereinafter provided
17 and except as provided in 33-2-705(5)(6), engaged in
18 business in the state of Montana shall annually pay to the
19 state treasurer as a license fee for the privilege of
20 carrying on business in this state such percentage or
21 percentages of its total net income for the preceding
22 taxable year at the rate hereinafter set forth. In the case
23 of corporations having income from business activity which
24 is taxable both within and without this state, the license
25 fee shall be measured by the net income derived from or

1 attributable to Montana sources as determined under part 3.
2 This tax is due and payable on the 15th day of the 5th month
3 following the close of the taxable year of the corporation;
4 however, the tax becomes a lien as provided in this chapter
5 on the last day of the taxable year in which the income was
6 earned and is for the privilege of carrying on business in
7 this state for the taxable year in which the income was
8 earned.

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

16 Section 4. Effective date and applicability. This act
17 is effective on passage and approval and applies to taxable
18 years beginning after December 31, 1978.

19 ~~SECTION 5. SECTION 33-1-201, MCA, IS AMENDED TO READ:~~

20 "33-1-201. Definitions -- insurance in general. (1) An
21 "alien insurer" is one formed under the laws of any country
22 other than the United States of America, its states,
23 districts, territories, and commonwealths.

24 (2) An "authorized insurer" is one duly authorized by
25 subsisting certificate of authority issued by the

1 commissioner to transact insurance in this state.

2 (3) A "domestic insurer" is one formed incorporated
3 under the laws of this state.

4 (4) A "foreign insurer" is one formed under the laws
5 of any jurisdiction other than this state. Except where
6 distinguished by context, foreign insurer includes also an
7 alien insurer.

8 (5) "Insurance" is a contract whereby one undertakes
9 to indemnify another or pay or provide a specified or
10 determinable amount or benefit upon determinable
11 contingencies.

12 (6) "Insurer" includes every person engaged as
13 indemnitor, surety, or contractor in the business of
14 entering into contracts of insurance.

15 (7) "State", when used as to jurisdiction, means a
16 state, the District of Columbia, a territory, commonwealth,
17 or possession of the United States of America.

18 (8) "Transact", with respect to insurance, includes
19 any of the following:

- 20 (a) solicitation and inducement;
- 21 (b) preliminary negotiations;
- 22 (c) effectuation of a contract of insurance;
- 23 (d) transaction of matters subsequent to effectuation
24 of the contract of insurance and arising out of it.

25 (9) An "unauthorized insurer" is one not authorized by

1 subsisting certificate of authority issued by the
2 commissioner to transact insurance in this state."

-End-

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 646, third reading bill, be amended as follows:

1. Title, line 7.
Following: "15-31-101,"
Insert: "33-1-201,"
2. Page 3, line 2.
Following: "tax"
Insert: "based"
3. Page 4, line 14.
Following: "Montana,"
Strike: "LOANS SECURED BY COLLATERAL ISSUED AT ARM'S LENGTH BY
MONTANA CORPORATIONS,"
Insert: "and"
4. Page 4, lines 16, 17.
Following: "insurer,"
Strike: "and securities, BONDS, PREFERRED STOCK, AND COMMON STOCK issued
by Montana corporations,"
5. Page 8, line 18.
Following: line 17
Insert: "Section 4. Section 33-1-201, MCA, is amended to read:

" 33-1-201. Definitions -- insurance in general. (1) An "alien insurer is one formed under the laws of any country other than the United States of America, its states, districts, territories, and commonwealths

(2) An "authorized insurer" is one duly authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state.

(3) A "domestic insurer" is one formed incorporated under the laws of this state.

(4) A "foreign insurer" is one formed under the laws of any jurisdiction other than this state. Except where distinguished by context, foreign insurer includes also an alien insurer.

(5) "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

(6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

(7) "State", when used as to jurisdiction, means a state, the District of Columbia, a territory, commonwealth, or possession of the United States of America.

(8) "Transact", with respect to insurance, includes any of the following:

- (a) solicitation and inducement;
- (b) preliminary negotiations;
- (c) effectuation of a contract of insurance;
- (d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

(9) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state. " "