

SENATE BILL NO. 322

INTRODUCED BY HALLIGAN, NORMAN, RAGER, BERG,
VAN VALKENBURG, DUSSAULT, KEMMIS, AZZARA

IN THE SENATE

January 29, 1981	Introduced and referred to Committee on Taxation.
	Fiscal note requested.
February 3, 1981	Fiscal note returned.
March 14, 1981	Committee recommend bill do pass as amended. Report adopted.
March 16, 1981	Bill printed and placed on members' desks.
March 17, 1981	Second reading, do pass.
March 18, 1981	Correctly engrossed.
March 19, 1981	Third reading, passed. Ayes, 46; Noses, 2. Transmitted to House.

IN THE HOUSE

March 20, 1981	Introduced and referred to Committee on Taxation.
April 11, 1981	Committee recommend bill be concurred in as amended. Report adopted.
April 16, 1981	Second reading, concurred in.
	On motion rules suspended and bill placed on third reading this day.
	Third reading, concurred in as amended. Ayes, 64; Noes, 32.

IN THE SENATE

April 17, 1981

Returned from House with
amendments.

April 20, 1981

Second reading, amendments
concurred in.

On motion rules suspended.
Bill placed on calendar for
third reading this day.

Third reading, amendments
concurred in. Ayes, 47;
Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 322
2 INTRODUCED BY *Holligan Norman Hager Berg*
3 *VanValkenburg* *Marshall Dennis Agnew*
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO STIMULATE THE
5 PRODUCTION AND USE OF ORGANIC FERTILIZER AND SOIL AMENDMENTS
6 IN MONTANA BY PROVIDING TAX INCENTIVES AND REQUIRING USE OF
7 SUCH FERTILIZER AND SOIL AMENDMENTS IN CERTAIN INSTANCE;
8 AMENDING SECTIONS 15-6-135, 15-30-121, AND 15-31-114, MCA."
9

10 WHEREAS, Montana's predominantly agricultural economy
11 is dependent on fertile soil; and

12 WHEREAS, saline seep has damaged 500,000 acres of our
13 state and is continuing to claim more than 20,000 acres a
14 year; and

15 WHEREAS, strip mining for coal is decreasing, at least
16 temporarily, the acres of grazing land in the state; and

17 WHEREAS, erosion, overgrazing, and intensive cropping
18 are depleting our soils faster than inorganic fertilizers
19 can renew them; and

20 WHEREAS, organic matter properly aged and applied to
21 the soil can dramatically increase the fertility of soil;
22 and

23 WHEREAS, solid waste disposal by industry and
24 municipalities is presently an expensive and potential
25 environmentally hazardous undertaking; and

1 WHEREAS, the economic and environmental burden of
2 disposing of such solid wastes may be partially offset
3 through the use of such wastes by an active organic
4 fertilizer processing industry in Montana; and

5 WHEREAS, tax incentives are needed to initially assist
6 and stimulate the production and use of organic fertilizer
7 and soil amendments produced from industrial and municipal
8 wastes.

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

10 NEW SECTION. Section 1. Purpose. The purpose of
11 [sections 1 through 5] is to promote the use of organic
12 matter produced by Montana industries and municipalities to
13 revitalize Montana lands and to assist in making organic
14 fertilizer economically competitive with inorganic
15 fertilizer.

16 NEW SECTION. Section 2. Definitions. As used in
17 [sections 1 through 5], the following definitions apply:
18 (1) "Raw organic matter" means unprocessed plant or
19 animal waste products.

20 (2) "Organic fertilizer" means raw organic matter that
21 has been processed and aged for use in increasing soil
22 condition and fertility, and includes both fertilizer and
23 soil amendments as those terms are defined in 80-10-101.

24 NEW SECTION. Section 3. Deduction for purchase of

1 Montana produced organic fertilizer. In addition to all
 2 other deductions from adjusted gross individual income
 3 allowed in computing taxable income under Title 15, chapter
 4 30, or from gross corporate income allowed in computing net
 5 income under Title 15, chapter 31, part 1, a taxpayer may
 6 deduct a portion of his expenditure for organic fertilizer
 7 produced in Montana and used in Montana, in accordance with
 8 the following schedule:

9 (1) 100% of the first \$1,000 expended;

10 (2) 60% of the amount over \$1,000 and equal to or less
 11 than \$2,000 expended;

12 (3) 40% of the amount over \$2,000 and equal to or less
 13 than \$3,000 expended;

14 (4) 20% of the amount over \$3,000 and equal to or less
 15 than \$4,000 expended;

16 (5) 10% of the amount over \$4,000 expended.

17 NEW SECTION. Section 4. Procedure for obtaining
 18 benefit of deduction. The department of revenue shall
 19 prescribe the method by which a taxpayer may apply for tax
 20 treatment under [section 3].

21 NEW SECTION. Section 5. Use of organic fertilizer
 22 required -- when. Any department or agency of state
 23 government shall, in any reclamation, refurbishing,
 24 conditioning, or other treatment of land under its
 25 jurisdiction, use or require the use of organic fertilizer

1 as defined in [section 2] to the extent that use of such
 2 fertilizer is shown to be economically competitive with
 3 inorganic fertilizer.

4 Section 6. Section 15-6-135, MCA, is amended to read:
 5 "15-6-135. Class five property -- description --
 6 taxable percentage. (1) Class five property includes:

7 (a) all property used and owned by cooperative rural
 8 electrical and cooperative rural telephone associations
 9 organized under the laws of Montana, except property owned
 10 by cooperative organizations described in subsection (1)(c)
 11 of 15-6-137;

12 (b) air and water pollution control equipment as
 13 defined in this section;

14 (c) truck campers, motor homes, and camping and travel
 15 trailers, including fifth-wheel trailers, owned by and
 16 actually used primarily by a person 60 years of age or older
 17 who:

18 (i) is retired from full employment; and

19 (ii) whose total income from all sources is not more
 20 than \$7,000 for a single person or \$8,000 for a married
 21 couple;

22 (d) new industrial property as defined in this
 23 section;

24 (e) any personal or real property used primarily in
 25 the production of gasohol during construction and for the

1 first 3 years of its operation;

2 (f) any real property used primarily in a facility

3 operated for the production of organic fertilizer during

4 construction and for the first 3 years of operation of such

5 a facility.

6 (2) (a) "Air and water pollution equipment" means

7 facilities, machinery, or equipment used to reduce or

8 control water or atmospheric pollution or contamination by

9 removing, reducing, altering, disposing, or storing

10 pollutants, contaminants, wastes, or heat. The department of

11 health and environmental sciences shall determine if such

12 utilization is being made.

13 (b) The department's determination [as to air

14 pollution equipment] may be appealed to the board of health

15 and environmental sciences and may not be appealed to either

16 a county tax appeal board or the state tax appeal board.

17 However, the appraised value of the equipment as determined

18 by the department of revenue may be appealed to the county

19 tax appeal board and the state tax appeal board.

20 (3) "New industrial property" means any new industrial

21 plant, including land, buildings, machinery, and fixtures,

22 used by new industries during the first 3 years of their

23 operation. The property may not have been assessed within

24 the state of Montana prior to July 1, 1961.

25 (4) (a) "New industry" means any person, corporation,

1 firm, partnership, association, or other group that

2 establishes a new plant in Montana for the operation of a

3 new industrial endeavor, as distinguished from a mere

4 expansion, reorganization, or merger of an existing

5 industry.

6 (b) New industry includes only those industries that:

7 (i) manufacture, mill, mine, produce, process, or

8 fabricate materials;

9 (ii) do similar work, employing capital and labor, in

10 which materials unserviceable in their natural state are

11 extracted, processed, or made fit for use or are

12 substantially altered or treated so as to create commercial

13 products or materials; or

14 (iii) engage in the mechanical or chemical

15 transformation of materials or substances into new products

16 in the manner defined as manufacturing in the 1972 Standard

17 Industrial Classification Manual prepared by the United

18 States office of management and budget.

19 (5) New industrial property does not include:

20 (a) property used by retail or wholesale merchants,

21 commercial services of any type, agriculture, trades, or

22 professions;

23 (b) a plant that will create adverse impact on

24 existing state, county, or municipal services; or

25 (c) property used or employed in any industrial plant

1 that has been in operation in this state for 3 years or
 2 longer.

3 (6) Class five property is taxed at 3% of its market
 4 value."

5 Section 7. Section 15-30-121, MCA, is amended to read:
 6 "15-30-121. Deductions allowed in computing net
 7 income. In computing net income, there are allowed as
 8 deductions:

9 (1) the items referred to in sections 161 and 211 of
 10 the Internal Revenue Code of 1954, or as sections 161 and
 11 211 shall be labeled or amended, subject to the following
 12 exceptions which are not deductible:

13 (a) items provided for in 15-30-123;

14 (b) state income tax paid;

15 (2) federal income tax paid within the taxable year;

16 (3) child and dependent care expenses determined in
 17 accordance with the provisions of section 214 of the
 18 Internal Revenue Code of 1954 that were in effect for the
 19 taxable year that began January 1, 1974. However, the
 20 limitation set forth in section 214(e)(4) of the Internal
 21 Revenue Code of 1954 as that section was in effect for the
 22 taxable year that began January 1, 1974, applies only to
 23 payments made to a child of the taxpayer who is under 19
 24 years of age at the close of the taxable year and to
 25 payments made to an individual with respect to whom a

1 deduction is allowable under 15-30-112(5) to the taxpayer or
 2 the taxpayer's spouse.

3 (4) that portion of an energy-related investment
 4 allowed as a deduction under 15-32-103;

5 (5) in the case of an individual, political
 6 contributions determined in accordance with the provisions
 7 of section 218(a) and (b) of the Internal Revenue Code that
 8 were in effect for the taxable year ended December 31,
 9 1978;"

10 (6) that portion of expenses for organic fertilizer
 11 allowed as a deduction under [section 3]."

12 Section 8. Section 15-31-114, MCA, is amended to read:

13 "15-31-114. Deductions allowed in computing income. In
 14 computing the net income, the following deductions shall be
 15 allowed from the gross income received by such corporation
 16 within the year from all sources:

17 (1) All the ordinary and necessary expenses paid or
 18 incurred during the taxable year in the maintenance and
 19 operation of its business and properties, including
 20 reasonable allowance for salaries for personal services
 21 actually rendered, subject to the limitation hereinafter
 22 contained, rentals or other payments required to be made as
 23 a condition to the continued use or possession of property
 24 to which the corporation has not taken or is not taking
 25 title or in which it has no equity. No deduction shall be

1 allowed for salaries paid upon which the recipient thereof
 2 has not paid Montana state income tax; provided, however,
 3 that where domestic corporations are taxed on income derived
 4 from without the state, salaries of officers paid in
 5 connection with securing such income shall be deductible.

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

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

1 operating loss carrybacks to such taxable period. The term
 2 "net operating loss" means the excess of the deductions
 3 allowed by this section, 15-31-114, over the gross income,
 4 with the modifications specified in (ii) of this subsection.
 5 If for any taxable period beginning after December 31, 1970,
 6 a net operating loss is sustained, such loss shall be a net
 7 operating loss carryback to each of the three taxable
 8 periods preceding the taxable period of such loss and shall
 9 be a net operating loss carryover to each of the five
 10 taxable periods following the taxable period of such loss. A
 11 net operating loss for any taxable period ending after
 12 December 31, 1975, in addition to being a net operating loss
 13 carryback to each of the three preceding taxable periods,
 14 shall be a net operating loss carryover to each of the seven
 15 taxable periods following the taxable period of such loss.
 16 The portion of such loss which shall be carried to each of
 17 the other taxable years shall be the excess, if any, of the
 18 amount of such loss over the sum of the net income for each
 19 of the prior taxable periods to which such loss was carried.
 20 For purposes of the preceding sentence, the net income for
 21 such prior taxable period shall be computed with the
 22 modifications specified in (ii)(B) of this subsection and by
 23 determining the amount of the net operating loss deduction
 24 without regard to the net operating loss for the loss period
 25 or any taxable period thereafter, and the net income so

1 computed shall not be considered to be less than zero.

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

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

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

8 (C) Any net operating loss carried over to any taxable
9 years beginning after December 31, 1978, must be calculated
10 under the provisions of this section effective for the
11 taxable year for which the return claiming the net operating
12 loss carryover is filed.

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

16 (iv) In the case of a merger of corporations, the
17 surviving corporation shall not be allowed a net operating
18 loss deduction for net operating losses sustained by the
19 merged corporations prior to the date of merger. In the case
20 of a consolidation of corporations, the new corporate entity
21 shall not be allowed a deduction for net operating losses
22 sustained by the consolidated corporations prior to the date
23 of consolidation.

24 (v) Notwithstanding the provisions of 15-31-531,
25 interest shall not be paid with respect to a refund of tax

1 resulting from a net operating loss carryback or carryover.

2 (vi) The net operating loss deduction shall not be
3 allowed with respect to taxable periods which ended on or
4 before December 31, 1970, but shall be allowed only with
5 respect to taxable periods beginning on or after January 1,
6 1971.

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

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

24 (5) (a) Taxes paid within the year except the
25 following:

1 (i) Taxes imposed by this part.
2 (ii) Taxes assessed against local benefits of a kind
3 tending to increase the value of the property assessed.
4 (iii) Taxes on or according to or measured by net
5 income or profits imposed by authority of the government of
6 the United States.
7 (iv) Taxes imposed by any other state or country upon
8 or measured by net income or profits.
9 (b) Taxes deductible under this part shall be
10 construed to include taxes imposed by any county, school
11 district, or municipality of this state.
12 (6) That portion of an energy-related investment
13 allowed as a deduction under 15-32-103.
14 III. That portion of expenses for organic fertilizer
15 allowed as a deduction under [section 3]."

-End-

STATE OF MONTANA

257-81

REQUEST NO.

FISCAL NOTE

Form BD-15

In compliance with a written request received February 2, 1981, there is hereby submitted a Fiscal Note for SENATE BILL 322 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 to stimulate the production and use of organic fertilizers and soil amendments in Montana by providing tax incentives and requiring use of such fertilizer and soil amendments in certain instances.

FISCAL IMPACT

The Department of Revenue is unable to estimate the fiscal impact of this proposal. It is not believed that the impact of the preferential property tax treatment would be substantial, but the revenue effect of the proposed income tax deduction could be significant.

PREPARED BY THE DEPARTMENT OF REVENUE

David M. Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-3-81

Approved by Committee
on Taxation

1 SENATE BILL NO. 322
2 INTRODUCED BY HALLIGAN, NORMAN, HAGER, BERG,
3 VAN VALKENBURG, DUSSAULT, KEMMIS, AZZARA
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO STIMULATE THE
6 PRODUCTION AND USE OF ORGANIC FERTILIZER AND SOIL AMENDMENTS
7 IN MONTANA BY-PROVIDING-TAX-INCENTIVES-AND-REQUIRING-USE-OF
8 SUCH-FERTILIZER-AND-SOIL-AMENDMENTS-IN-CERTAIN-INSTANCES BY
9 PROVIDING TAX INCENTIVES; AMENDING SECTIONS 15-6-135V
10 15-30-121V AND 15-31-114, MCA."

12 WHEREAS, Montana's predominantly agricultural economy
13 is dependent on fertile soil; and

14 WHEREAS, saline seep has damaged 500,000 acres of our
15 state and is continuing to claim more than 20,000 acres a
16 year; and

17 WHEREAS, strip mining for coal is decreasing, at least
18 temporarily, the acres of grazing land in the state; and

19 WHEREAS, erosion, overgrazing, and intensive cropping
20 are depleting our soils faster than inorganic fertilizers
21 can renew them; and

22 WHEREAS, organic matter properly aged and applied to
23 the soil can dramatically increase the fertility of soil;
24 and

25 WHEREAS, solid waste disposal by industry and

1 municipalities is presently an expensive and potential
2 environmentally hazardous undertaking; and
3
4 WHEREAS, the economic and environmental burden of
5 disposing of such solid wastes may be partially offset
6 through the use of such wastes by an active organic
7 fertilizer processing industry in Montana; and
8
9 WHEREAS, tax incentives are needed to initially assist
10 and stimulate the production and use of organic fertilizer
11 and soil amendments produced from industrial and municipal
12 wastes.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 NEW SECTION: Section 1. Purpose. The purpose of
14 [sections 1 through 5] is to promote the use of organic
15 matter produced by Montana industries and municipalities to
16 revitalize Montana lands and to assist in making organic
17 fertilizer economically competitive with inorganic
18 fertilizer.

19 NEW SECTION. Section 2. Definitions. As used in
20 [sections 1 through 5], the following definitions apply:
21 (1) "Raw organic matter" means unprocessed plant or
22 animal waste products.

23. (2) "Organic fertilizer" means raw organic matter that
24. has been processed and aged for use in increasing soil
25. condition and fertility, and includes both--fertilizer--and

1 soil amendments as those terms are THAT TERM IS defined in
 2 80-10-101.

3 NEW SECTION Section 3. Deduction for purchase of
 4 Montana produced organic fertilizer. In addition to all
 5 other deductions from adjusted gross individual income
 6 allowed in computing taxable income under Title 15, chapter
 7 30, or from gross corporate income allowed in computing net
 8 income under Title 15, chapter 31, part 1, a taxpayer may
 9 deduct a portion of his expenditure EXPENDITURES for organic
 10 fertilizer produced in Montana and used in Montana--in
 11 accordance with the following schedules:

12 (1) 100% of the first \$1,000 expended;

13 (2) 60% of the amount over \$1,000 and equal to or less
 14 than \$2,000 expended;

15 (3) 40% of the amount over \$2,000 and equal to or less
 16 than \$3,000 expended;

17 (4) 20% of the amount over \$3,000 and equal to or less
 18 than \$4,000 expended;

19 (5) 10% of the amount over \$4,000 expended.

20 NEW SECTION Section 4. Procedure for obtaining
 21 benefit of deduction. The department of revenue shall
 22 prescribe the method by which a taxpayer may apply for tax
 23 treatment under [section 3].

24 NEW SECTION Section 5. Use of organic fertilizer
 25 required. When Any department or agency of state

1 government--shall--in--any--reclamation--refurbishing,
 2 conditioning,--or--other--treatment--of--land--under--its
 3 jurisdiction--use--or--require--the--use--of--organic--fertilizer
 4 as--defined--in--[section--2]--to--the--extent--that--use--of--such
 5 fertilizer--is--shown--to--be--economically--competitive--with
 6 inorganic--fertilizers.

7 Section 6--Section 15-6-135,--MEA--is--amended--to--read:
 8 15-6-135,--Class--five--property----description----
 9 taxable--percentage--for--Class--five--property--includes:
 10 (a) property--used--and--owned--by--cooperative--rural
 11 electrical--and--cooperative--rural--telephone--associations
 12 organized--under--the--laws--of--Montana,--except--property--owned
 13 by--cooperative--organizations--described--in--subsection--(1)fe
 14 of 15-6-137;

15 (b) air--and--water--pollution--control--equipment--as
 16 defined--in--this--section;

17 (c) truck--camper--motor--home--and--camping--and--travel
 18 trailers,--including--fifth--wheel--trailers,--owned--by--and
 19 actually--used--primarily--by--a--person--60--years--of--age--or--older
 20 who:

21 (i) is--retired--from--full--employment--and
 22 (ii) whose--total--income--from--all--sources--is--not--more
 23 than \$7,000--for--a--single--person--or--\$8,000--for--a--married
 24 couple;

25 (d) new--industrial--property--as--defined--in--this

1 section

2 (e) any person or real property used primarily in
 3 the production of gasohol during construction and for the
 4 first 3 years of its operation;

5 (f) any real property used primarily in a facility
 6 operated for the production of organic fertilizer during
 7 construction and for the first 3 years of operation of such
 8 a facility;

9 (g) "Air and water pollution equipment" means
 10 facilities, machinery, or equipment used to reduce or
 11 control water or atmospheric pollution or contamination by
 12 removing, reducing, altering, disposing, or storing
 13 pollutants, contaminants, wastes, or heat. The department of
 14 health and environmental sciences shall determine if such
 15 utilization is being made.

16 (h) The department's determination as to air
 17 pollution equipment may be appealed to the board of health
 18 and environmental sciences and may not be appealed to either
 19 a county tax appeal board or the state tax appeal board.
 20 However, the appraised value of the equipment as determined
 21 by the department of revenue may be appealed to the county
 22 tax appeal board and the state tax appeal board.

23 (i) "New industrial property" means any new industrial
 24 plant including land, buildings, machinery, and fixtures,
 25 used by new industries during the first 3 years of their

1 operation. The property may not have been assessed within
 2 the state of Montana prior to July 1, 1962.
 3 (4) "New industry" means any person, corporation,
 4 firm, partnership, association, or other group that
 5 establishes a new plant in Montana for the operation of a
 6 new industrial endeavor as distinguished from a mere
 7 expansion, reorganization, or merger of an existing
 8 industry.

9 (b) "New industry" includes only those industries that
 10 fit manufacturer, mill, mine, producer, processor, or
 11 fabricate materials.
 12 (i) do similar work employing capital and labor in
 13 which materials unserviceable in their natural state are
 14 extracted, processed, or made fit for use or are
 15 substantially altered or treated so as to create commercial
 16 products or materials; or

17 (ii) engage in the mechanical or chemical
 18 transformation of materials or substances into new products
 19 in the manner defined as manufacturing in the 1972 Standard
 20 Industrial Classification Manual prepared by the United
 21 States Office of Management and Budget.

22 (5) "New industrial property" does not include
 23 (a) property used by retail or wholesale merchants,
 24 commercial services of any type, agriculture, trade, or
 25 profession.

1 fbt--a---plant--that--will--create--adverse--impact--on
 2 existing-state--county--or--municipal--service--or
 3 tcf--property--used--or--employed--in--any--industry--plant
 4 that--has--been--in--operation--in--this--state--for--3--years--or
 5 longer.

6 {6}--class-five--property--is--taxed--at--3%--of--its--market
 7 value*.

8 Section 4. Section 15-30-121, MCA, is amended to read:
 9 "15-30-121. Deductions allowed in computing net
 10 income. In computing net income, there are allowed as
 11 deductions:

12 (1) the items referred to in sections 161 and 211 of
 13 the Internal Revenue Code of 1954, or as sections 161 and
 14 211 shall be labeled or amended, subject to the following
 15 exceptions which are not deductible:

16 (a) items provided for in 15-30-123;

17 (b) state income tax paid;

18 (2) federal income tax paid within the taxable year;

19 (3) child and dependent care expenses determined in
 20 accordance with the provisions of section 214 of the
 21 Internal Revenue Code of 1954 that were in effect for the
 22 taxable year that began January 1, 1974. However, the
 23 limitation set forth in section 214(e)(4) of the Internal
 24 Revenue Code of 1954 as that section was in effect for the
 25 taxable year that began January 1, 1974, applies only to

1 payments made to a child of the taxpayer who is under 19
 2 years of age at the close of the taxable year and to
 3 payments made to an individual with respect to whom a
 4 deduction is allowable under 15-30-112(5) to the taxpayer or
 5 the taxpayer's spouse.

6 (4) that portion of an energy-related investment
 7 allowed as a deduction under 15-32-103;

8 (5) in the case of an individual, political
 9 contributions determined in accordance with the provisions
 10 of section 218(a) and (b) of the Internal Revenue Code that
 11 were in effect for the taxable year ended December 31,
 12 1978*;

13 {6} that portion of expenses for organic fertilizer
 14 allowed as a deduction under [section 3]."

15 Section 5. Section 15-31-114, MCA, is amended to read:
 16 "15-31-114. Deductions allowed in computing income. In
 17 computing the net income, the following deductions shall be
 18 allowed from the gross income received by such corporation
 19 within the year from all sources:

20 (1) All the ordinary and necessary expenses paid or
 21 incurred during the taxable year in the maintenance and
 22 operation of its business and properties, including
 23 reasonable allowance for salaries for personal services
 24 actually rendered, subject to the limitation hereinafter
 25 contained, rentals or other payments required to be made as

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

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

24 (b) (i) There shall be allowed as a deduction for the
 25 taxable period a net operating loss deduction determined

1 according to the provisions of this subsection. The net
 2 operating loss deduction is the aggregate of net operating
 3 loss carryovers to such taxable period plus the net
 4 operating loss carrybacks to such taxable period. The term
 5 "net operating loss" means the excess of the deductions
 6 allowed by this section, 15-31-114, over the gross income,
 7 with the modifications specified in (ii) of this subsection.
 8 If for any taxable period beginning after December 31, 1970,
 9 a net operating loss is sustained, such loss shall be a net
 10 operating loss carryback to each of the three taxable
 11 periods preceding the taxable period of such loss and shall
 12 be a net operating loss carryover to each of the five
 13 taxable periods following the taxable period of such loss. A
 14 net operating loss for any taxable period ending after
 15 December 31, 1975, in addition to being a net operating loss
 16 carryback to each of the three preceding taxable periods,
 17 shall be a net operating loss carryover to each of the seven
 18 taxable periods following the taxable period of such loss.
 19 The portion of such loss which shall be carried to each of
 20 the other taxable years shall be the excess, if any, of the
 21 amount of such loss over the sum of the net income for each
 22 of the prior taxable periods to which such loss was carried.
 23 For purposes of the preceding sentence, the net income for
 24 such prior taxable period shall be computed with the
 25 modifications specified in (ii)(B) of this subsection and by

1 determining the amount of the net operating loss deduction
 2 without regard to the net operating loss for the loss period
 3 or any taxable period thereafter, and the net income so
 4 computed shall not be considered to be less than zero.

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

7 (A) No net operating loss deduction shall be allowed.
 8 (B) The deduction for depletion shall not exceed the
 9 amount which would be allowable if computed under the cost
 10 method.

11 (C) Any net operating loss carried over to any taxable
 12 years beginning after December 31, 1978, must be calculated
 13 under the provisions of this section effective for the
 14 taxable year for which the return claiming the net operating
 15 loss carryover is filed.

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

19 (iv) In the case of a merger of corporations, the
 20 surviving corporation shall not be allowed a net operating
 21 loss deduction for net operating losses sustained by the
 22 merged corporations prior to the date of merger. In the case
 23 of a consolidation of corporations, the new corporate entity
 24 shall not be allowed a deduction for net operating losses
 25 sustained by the consolidated corporations prior to the date

1 of consolidation.

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

5 (vi) The net operating loss deduction shall not be
 6 allowed with respect to taxable periods which ended on or
 7 before December 31, 1970, but shall be allowed only with
 8 respect to taxable periods beginning on or after January 1,
 9 1971.

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

20 (4) The amount of interest paid within the year on its
 21 indebtedness incurred in the operation of the business from
 22 which its income is derived; but no interest shall be
 23 allowed as a deduction if paid on an indebtedness created
 24 for the purchase, maintenance, or improvement of property or
 25 for the conduct of business unless the income from such

1 property or business would be taxable under this part.

2 (5) (a) Taxes paid within the year except the
3 following:

4 (i) Taxes imposed by this part.

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

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

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

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

15 (6) That portion of an energy-related investment
16 allowed as a deduction under 15-32-103.

17 (7) That portion of expenses for organic fertilizer
18 allowed as a deduction under [section 3]s"

-End-

SENATE BILL NO. 322

INTRODUCED BY HALLIGAN, NORMAN, HAGER, BERG,
VAN VALKENBURG, DUSSAULT, KEMMIS, AZZARA

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO STIMULATE THE
6 PRODUCTION AND USE OF ORGANIC FERTILIZER AND SOIL AMENDMENTS
7 IN MONTANA BY PROVIDING TAX INCENTIVES AND REQUIRING USE OF
8 SUCH FERTILIZER AND SOIL AMENDMENTS IN CERTAIN INSTANCES BY
9 PROVIDING TAX INCENTIVES; AMENDING SECTIONS 15-6-135v
10 15-30-121 AND 15-31-114, MCA."

12 WHEREAS, Montana's predominantly agricultural economy
13 is dependent on fertile soil; and

14 WHEREAS, saline seep has damaged 500,000 acres of our
15 state and is continuing to claim more than 20,000 acres a
16 year; and

17 WHEREAS, strip mining for coal is decreasing, at least
18 temporarily, the acres of grazing land in the state; and

19 WHEREAS, erosion, overgrazing, and intensive cropping
20 are depleting our soils faster than inorganic fertilizers
21 can renew them; and

22 WHEREAS, organic matter properly aged and applied to
23 the soil can dramatically increase the fertility of soil;
24 and

25 WHEREAS, solid waste disposal by industry and

1 municipalities is presently an expensive and potential
2 environmentally hazardous undertaking; and

3 WHEREAS, the economic and environmental burden of
4 disposing of such solid wastes may be partially offset
5 through the use of such wastes by an active organic
6 fertilizer processing industry in Montana; and

7 WHEREAS, tax incentives are needed to initially assist
8 and stimulate the production and use of organic fertilizer
9 and soil amendments produced from industrial and municipal
10 wastes.

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

13 NEW SECTION. Section 1. Purpose. The purpose of
14 [sections 1 through 5] is to promote the use of organic
15 matter produced by Montana industries and municipalities to
16 revitalize Montana lands and to assist in making organic
17 fertilizer economically competitive with inorganic
18 fertilizer.

19 NEW SECTION. Section 2. Definitions. As used in
20 [sections 1 through 5], the following definitions apply:

(1) "Raw organic matter" means unprocessed plant or animal waste products.

23 (2) "Organic fertilizer" means raw organic matter that
24 has been processed and aged for use in increasing soil
25 condition and fertility, and includes both--fertilizer--and

1 soil amendments as those terms are THAT TERM IS defined in
 2 80-10-101.

3 **NEW SECTION** Section 3. Deduction for purchase of
 4 Montana produced organic fertilizer. In addition to all
 5 other deductions from adjusted gross individual income
 6 allowed in computing taxable income under Title 15, chapter
 7 30, or from gross corporate income allowed in computing net
 8 income under Title 15, chapter 31, part 1, a taxpayer may
 9 deduct a portion of his expenditure **EXPENDITURES** for organic
 10 fertilizer produced in Montana and used in Montana in
 11 accordance with the following schedules

12 (1) 20% of the first \$1,000 expended
 13 (2) 60% of the amount over \$1,000 and equal to or less
 14 than \$2,000 expended
 15 (3) 40% of the amount over \$2,000 and equal to or less
 16 than \$3,000 expended
 17 (4) 20% of the amount over \$3,000 and equal to or less
 18 than \$4,000 expended
 19 (5) 10% of the amount over \$4,000 expended.

20 **NEW SECTION** Section 4. Procedure for obtaining
 21 benefit of deduction. The department of revenue shall
 22 prescribe the method by which a taxpayer may apply for tax
 23 treatment under [section 3].

24 **NEW SECTION** Section 5. Use of organic fertilizer
 25 required. Any department or agency of state

1 government--shall--in--any--reclamation--reforestation,
 2 conditioning--or--other--treatment--of--land--under--its
 3 jurisdiction--use--or--require--the--use--of--organic--fertilizer
 4 as--defined--in--[section 2]--to--the--extent--that--use--of--such
 5 fertilizer--is--shown--to--be--economically--competitive--with
 6 inorganic--fertilizers.

7 Section 6. Section 15-6-135, MCA, is amended to read:

8 (1) 60% of property--described--in--this--section
 9 taxable--percentage--fit--Class--five--property--includes
 10 (a) all--property--used--and--owned--by--cooperative--rural
 11 electrical--and--cooperative--rural--telephone--associations
 12 organized--under--the--laws--of--Montana--except--property--owned
 13 by--cooperative--organizations--described--in--subsection--(1)(c)
 14 of 15-6-137;

15 (b) air--and--water--pollution--control--equipment--as
 16 defined--in--this--section;

17 (c) truck--campers--motor--homes--and--camping--and--travel
 18 trailers--including--fifth--wheel--trailers--owned--by--and
 19 actually--used--primarily--by--a--person--68--years--of--age--or--older
 20 who:

21 (i) is--retired--from--full--employment--and
 22 (ii) whose--total--income--from--all--sources--is--not--more
 23 than \$7,000--for--a--single--person--or--\$8,000--for--a--married
 24 couple;

25 (d) new--industrial--property--as--defined--in--this

1 section

2 ~~for--any-personal-or-real-property--used--primarily--in~~
 3 ~~the--production--of--gasohol--during--construction--and--for--the~~
 4 ~~first-3--years--of--its--operation;}~~

5 ~~if--any-real-property--used--primarily--in--a--facility~~
 6 ~~operated--for--the--production--of--organic-fertilizer--during~~
 7 ~~construction--and--for--the--first-3--years--of--operation--of--such~~
 8 ~~a--facility;~~

9 ~~(2)-(a)--"Air--and--water--pollution--equipment"--means~~
 10 ~~facilities--machinery--or--equipment--used--to--reduce--or~~
 11 ~~control--water--or--atmospheric-pollution--or--contamination--by~~
 12 ~~removing--reducing--altering--disposing--or--storing~~
 13 ~~pollutants--contaminants--wastes--or--heat--the--department--of~~
 14 ~~health--and--environmental--sciences--shall--determine--if--such~~
 15 ~~utilization--is--being--made;~~

16 ~~(b)--The--department's--determination--[as--to--air~~
 17 ~~pollution--equipment]--may--be--appealed--to--the--board--of--health~~
 18 ~~and--environmental--sciences--and--may--not--be--appealed--to--either~~
 19 ~~a--county--tax--appeal--board--or--the--state--tax--appeal--board.~~
 20 However--the--appraised--value--of--the--equipment--as--determined

21 by--the--department--of--revenue--may--be--appealed--to--the--county

22 tax--appeal--board--and--the--state--tax--appeal--board.

23 ~~(3)--"New--industrial--property"--means--any--new--industrial~~
 24 ~~plant--including--lands--buildings--machinery--and--fixtures,~~
 25 ~~used--by--new--industries--during--the--first--3--years--of--their~~

1 ~~operations--the--property--may--not--have--been--assessed--within~~
 2 ~~the--state--of--Montana--prior--to--July--1962;~~
 3 ~~(4)--(a)--"New--industry"--means--any--person--corporation,~~
 4 ~~firm--partnership--association--or--other--group--that~~
 5 ~~establishes--a--new--plant--in--Montana--for--the--operation--of--a~~
 6 ~~new--industrial--endeavor--as--distinguished--from--a--mere~~
 7 ~~expansion--reorganization--or--merger--of--an--existing~~
 8 ~~industry;~~

9 ~~(b)--New--industry--includes--only--these--industries--that:~~
 10 ~~(i)--manufacturer--mining--producer--processor--or~~
 11 ~~fabricate--materials;~~
 12 ~~(ii)--do--similar--work--employing--capital--and--labor--in~~
 13 ~~which--materials--unserviceable--in--their--natural--state--are~~
 14 ~~extracted--processed--or--made--fit--for--use--or--are~~
 15 ~~substantially--altered--or--treated--so--as--to--create--commercial~~
 16 ~~products--or--materials--or~~

17 ~~(iii)--engage--in--the--mechanical--or--chemical~~
 18 ~~transformation--of--materials--or--substances--into--new--products~~
 19 ~~in--the--manner--defined--as--manufacturing--in--the--1972--Standard~~
 20 ~~Industrial--Classification--Manual--prepared--by--the--United~~
 21 ~~States--Office--of--Management--and--Budget;~~

22 ~~(5)--New--industrial--property--does--not--include:~~
 23 ~~(a)--property--used--by--retail--or--wholesale--merchants,~~
 24 ~~commercial--services--of--any--type--agriculture--trades--or~~
 25 ~~professionals~~

1 fbt---plant---that---will---create---adverse---impact---on
 2 existing-state-county---or---municipal---service---or
 3 fct---property---used---or---employed---in---any---industrial---plant
 4 that---has---been---in---operation---in---this---state---for---3---years---or
 5 longer.

6 {6}---class-five---property---is---taxed---at---3%---of---its---market
 7 value*"

8 Section 4. Section 15-30-121, MCA, is amended to read:
 9 "15-30-121. Deductions allowed in computing net
 10 income. In computing net income, there are allowed as
 11 deductions:

12 (1) the items referred to in sections 161 and 211 of
 13 the Internal Revenue Code of 1954, or as sections 161 and
 14 211 shall be labeled or amended, subject to the following
 15 exceptions which are not deductible:

16 (a) items provided for in 15-30-123;

17 (b) state income tax paid;

18 (2) federal income tax paid within the taxable year;
 19 (3) child and dependent care expenses determined in
 20 accordance with the provisions of section 214 of the
 21 Internal Revenue Code of 1954 that were in effect for the
 22 taxable year that began January 1, 1974. However, the
 23 limitation set forth in section 214(e)(4) of the Internal
 24 Revenue Code of 1954 as that section was in effect for the
 25 taxable year that began January 1, 1974, applies only to

1 payments made to a child of the taxpayer who is under 19
 2 years of age at the close of the taxable year and to
 3 payments made to an individual with respect to whom a
 4 deduction is allowable under 15-30-112(5) to the taxpayer or
 5 the taxpayer's spouse.

6 (4) that portion of an energy-related investment
 7 allowed as a deduction under 15-32-103;

8 (5) in the case of an individual, political
 9 contributions determined in accordance with the provisions
 10 of section 218(a) and (b) of the Internal Revenue Code that
 11 were in effect for the taxable year ended December 31,
 12 1978*;

13 (6) that portion of expenses for organic fertilizer
 14 allowed as a deduction under [section 3]."

15 Section 5. Section 15-31-114, MCA, is amended to read:

16 "15-31-114. Deductions allowed in computing income. In
 17 computing the net income, the following deductions shall be
 18 allowed from the gross income received by such corporation
 19 within the year from all sources:

20 (1) All the ordinary and necessary expenses paid or
 21 incurred during the taxable year in the maintenance and
 22 operation of its business and properties, including
 23 reasonable allowance for salaries for personal services
 24 actually rendered, subject to the limitation hereinafter
 25 contained, rentals or other payments required to be made as

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

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

24 (b) (i) There shall be allowed as a deduction for the
 25 taxable period a net operating loss deduction determined

1 according to the provisions of this subsection. The net
 2 operating loss deduction is the aggregate of net operating
 3 loss carryovers to such taxable period plus the net
 4 operating loss carrybacks to such taxable period. The term
 5 "net operating loss" means the excess of the deductions
 6 allowed by this section, 15-31-114, over the gross incomes
 7 with the modifications specified in (ii) of this subsection.
 8 If for any taxable period beginning after December 31, 1970,
 9 a net operating loss is sustained, such loss shall be a net
 10 operating loss carryback to each of the three taxable
 11 periods preceding the taxable period of such loss and shall
 12 be a net operating loss carryover to each of the five
 13 taxable periods following the taxable period of such loss. A
 14 net operating loss for any taxable period ending after
 15 December 31, 1975, in addition to being a net operating loss
 16 carryback to each of the three preceding taxable periods,
 17 shall be a net operating loss carryover to each of the seven
 18 taxable periods following the taxable period of such loss.
 19 The portion of such loss which shall be carried to each of
 20 the other taxable years shall be the excess, if any, of the
 21 amount of such loss over the sum of the net income for each
 22 of the prior taxable periods to which such loss was carried.
 23 For purposes of the preceding sentence, the net income for
 24 such prior taxable period shall be computed with the
 25 modifications specified in (ii)(B) of this subsection and by

1 determining the amount of the net operating loss deduction
 2 without regard to the net operating loss for the loss period
 3 or any taxable period thereafter, and the net income so
 4 computed shall not be considered to be less than zero.

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

7 (A) No net operating loss deduction shall be allowed.
 8 (B) The deduction for depletion shall not exceed the
 9 amount which would be allowable if computed under the cost
 10 method.

11 (C) Any net operating loss carried over to any taxable
 12 years beginning after December 31, 1978, must be calculated
 13 under the provisions of this section effective for the
 14 taxable year for which the return claiming the net operating
 15 loss carryover is filed.

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

19 (iv) In the case of a merger of corporations, the
 20 surviving corporation shall not be allowed a net operating
 21 loss deduction for net operating losses sustained by the
 22 merged corporations prior to the date of merger. In the case
 23 of a consolidation of corporations, the new corporate entity
 24 shall not be allowed a deduction for net operating losses
 25 sustained by the consolidated corporations prior to the date

1 of consolidation.

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

5 (vi) The net operating loss deduction shall not be
 6 allowed with respect to taxable periods which ended on or
 7 before December 31, 1970, but shall be allowed only with
 8 respect to taxable periods beginning on or after January 1,
 9 1971.

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

20 (4) The amount of interest paid within the year on its
 21 indebtedness incurred in the operation of the business from
 22 which its income is derived; but no interest shall be
 23 allowed as a deduction if paid on an indebtedness created
 24 for the purchase, maintenance, or improvement of property or
 25 for the conduct of business unless the income from such

1 property or business would be taxable under this part.

2 (5) (a) Taxes paid within the year except the
3 following:

4 (i) Taxes imposed by this part.

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

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

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

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

15 (6) That portion of an energy-related investment
16 allowed as a deduction under 15-32-103.

17 (7) That portion of expenses for organic fertilizer
18 allowed as a deduction under [section 3]."

-End-

1 SENATE BILL NO. 322
2 INTRODUCED BY HALLIGAN, NORMAN, HAGER, BERG,
3 VAN VALKENBURG, DUSSAULT, KEMMIS, AZZARA
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO STIMULATE THE
6 PRODUCTION AND USE OF ORGANIC FERTILIZER AND SOIL AMENDMENTS
7 IN MONTANA BY PROVIDING TAX INCENTIVES AND REQUIRING USE OF
8 SUCH FERTILIZER AND SOIL AMENDMENTS IN CERTAIN INSTANCES BY
9 PROVIDING TAX INCENTIVES; AMENDING SECTIONS 15-6-335,
10 15-30-121V AND 15-31-114, MCA."

12 WHEREAS, Montana's predominantly agricultural economy
13 is dependent on fertile soil; and

14 WHEREAS, saline seep has damaged 500,000 acres of our
15 state and is continuing to claim more than 20,000 acres a
16 year; and

17 WHEREAS, strip mining for coal is decreasing, at least
18 temporarily, the acres of grazing land in the state; and

19 WHEREAS, erosion, overgrazing, and intensive cropping
20 are depleting our soils faster than inorganic fertilizers
21 can renew them; and

22 WHEREAS, organic matter properly aged and applied to
23 the soil can dramatically increase the fertility of soil;
24 and

25 WHEREAS, solid waste disposal by industry and

1 municipalities is presently an expensive and potential
2 environmentally hazardous undertaking; and
3
4 WHEREAS, the economic and environmental burden of
5 disposing of such solid wastes may be partially offset
6 through the use of such wastes by an active organic
7 fertilizer processing industry in Montana; and
8
9 WHEREAS, tax incentives are needed to initially assist
10 and stimulate the production and use of organic fertilizer
11 and soil amendments produced from industrial and municipal
12 wastes.

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

13 NEW SECTION. Section 1. Purpose. The purpose of

14 [sections 1 through 5] is to promote the use of organic

15 matter produced by Montana industries and municipalities to

16 revitalize Montana lands and to assist in making organic

17 fertilizer economically competitive with inorganic

18 fertilizer.

19 NEW SECTION. Section 2. Definitions. As used in
20 [sections 1 through 5], the following definitions apply:
21 (1) "Raw organic matter" means unprocessed plant or

23 (2) "Organic fertilizer" means raw organic matter that
24 has been processed and aged for use in increasing soil
25 condition and fertility, and includes both--fertilizer--and

1 soil amendments as those terms are THAT TERM IS defined in
 2 80-10-101.

3 NEW SECTION. Section 3. Deduction for purchase of
 4 Montana produced organic fertilizer. In addition to all
 5 other deductions from adjusted gross individual income
 6 allowed in computing taxable income under Title 15, chapter
 7 30, or from gross corporate income allowed in computing net
 8 income under Title 15, chapter 31, part 1, a taxpayer may
 9 deduct a portion of his expenditure EXPENDITURES for organic
 10 fertilizer produced in Montana and used in Montana IF THE
EXPENDITURE WAS NOT OTHERWISE DEDUCTED IN COMPUTING TAXABLE
INCOME. in accordance with the following schedules

11 (1) 100% of the first \$1,000 expended;

12 (2) 60% of the amount over \$1,000 and equal to or less
 13 than \$2,000 expended;

14 (3) 40% of the amount over \$2,000 and equal to or less
 15 than \$3,000 expended;

16 (4) 20% of the amount over \$3,000 and equal to or less
 17 than \$4,000 expended;

18 (5) 10% of the amount over \$4,000 expended.

19 NEW SECTION. Section 4. Procedure for obtaining
 20 benefit of deduction. The department of revenue shall
 21 prescribe the method by which a taxpayer may apply for tax
 22 treatment under Section 3.

23 NEW SECTION. Section 5. Use of organic fertilizer

1 required when Any department or agency of state
 2 government shall in any reclamation, refurbishing,
 3 conditioning or other treatment of lands under its
 4 jurisdiction use or require the use of organic fertilizer
 5 as defined in Section 2 to the extent that use of such
 6 fertilizer is shown to be economically competitive with
 7 inorganic fertilizers.

8 Section 6. Section 15-6-135 is amended to read
 9 "15-6-135. Class five property description
 10 taxable percentage. (1) Class five property includes
 11 (a) all property used and owned by cooperative rural
 12 electric and cooperative rural telephone associations
 13 organized under the laws of Montana except property owned
 14 by cooperative organizations described in subsection (1) of
 15 15-6-137.

16 (b) air and water pollution control equipment as
 17 defined in this section.

18 (c) truck campers, motor homes and camping and travel
 19 trailers including fifth-wheel trailers owned by and
 20 actually used primarily by a person 60 years of age or older
 21 who

22 (i) is retired from full employment and
 23 (ii) whose total income from all sources is not more
 24 than \$7,000 for a single person or \$8,000 for a married
 25 couple.

1 (d) -- new -- industrial -- property -- as -- defined -- in -- this
 2 section:
 3 (e) -- any -- personnel -- or -- real -- property -- used -- primarily -- in
 4 the -- production -- of -- gasohol -- during -- construction -- and -- for -- the
 5 first -- 3 -- years -- of -- its -- operation -- ;
 6 (f) -- any -- real -- property -- used -- primarily -- in -- a -- facility
 7 operated -- for -- the -- production -- of -- organic -- fertilizer -- during
 8 construction -- and -- for -- the -- first -- 3 -- years -- of -- operation -- of -- such
 9 a -- facility -- ;
 10 (g) -- "Air -- and -- water -- pollution -- equipment" -- means
 11 facilities -- machinery -- or -- equipment -- used -- to -- reduce -- or
 12 control -- water -- or -- atmospheric -- pollution -- or -- contamination -- by
 13 removing -- reducing -- altering -- disposing -- or -- storing
 14 pollutants -- contaminants -- wastes -- or -- heat -- the -- department -- of
 15 health -- and -- environmental -- sciences -- shall -- determine -- if -- such
 16 utilization -- is -- being -- made -- ;
 17 (h) -- the -- department -- s -- determination -- [as -- to -- air
 18 pollution -- equipment] -- may -- be -- appealed -- to -- the -- board -- of -- health
 19 and -- environmental -- sciences -- and -- may -- not -- be -- appealed -- to -- either
 20 a -- county -- tax -- appeal -- board -- or -- the -- state -- tax -- appeal -- boards -- ;
 21 However -- the -- appraised -- value -- of -- the -- equipment -- as -- determined
 22 by -- the -- department -- of -- revenue -- may -- be -- appealed -- to -- the -- county
 23 tax -- appeal -- board -- and -- the -- state -- tax -- appeal -- boards -- ;
 24 (i) -- "New -- industrial -- property" -- means -- any -- new -- industrial
 25 plant -- including -- tanks -- buildings -- machinery -- and -- fixtures --

1 used -- by -- new -- industries -- during -- the -- first -- 3 -- years -- of -- their
 2 operation -- the -- property -- may -- not -- have -- been -- assessed -- within
 3 the -- state -- of -- Montana -- prior -- to -- July -- 1961 -- ;
 4 (4) -- (a) -- "New -- industry" -- means -- any -- person -- corporations
 5 firms -- partnership -- associations -- or -- other -- group -- that
 6 establishes -- a -- new -- plant -- in -- Montana -- for -- the -- operation -- of -- a
 7 new -- industrial -- endeavor -- as -- distinguished -- from -- a -- mere
 8 expansion -- reorganization -- or -- merger -- of -- an -- existing
 9 industry -- ;
 10 (b) -- "New -- industry" -- includes -- only -- those -- industries -- that
 11 (i) -- manufacture -- mill -- mine -- produce -- process -- or
 12 fabricate -- materials -- ;
 13 (ii) -- do -- similar -- work -- employing -- capital -- and -- labor -- in
 14 which -- materials -- unserviceable -- in -- their -- natural -- state -- are
 15 extracted -- processed -- or -- made -- fit -- for -- use -- or -- are
 16 substantially -- altered -- or -- treated -- so -- as -- to -- create -- commercial
 17 products -- or -- materials -- or
 18 (iii) -- engage -- in -- the -- mechanical -- or -- chemical
 19 transformation -- of -- materials -- or -- substances -- into -- new -- products
 20 in -- the -- manner -- defined -- as -- manufacturing -- in -- the -- 1972 -- Standard
 21 Industrial -- Classification -- Manual -- prepared -- by -- the -- United
 22 States -- office -- of -- management -- and -- budget -- ;
 23 (5) -- "New -- industrial -- property" -- does -- not -- include
 24 (a) -- property -- used -- by -- retail -- or -- wholesale -- merchants --
 25 commercial -- services -- of -- any -- type -- agriculture -- trades -- or

1 professionals

2 fbt--a--plant--that--will--create--adverse--impact--on
 3 existing-state--county--or--municipal--services--or
 4 fcj--property--used--or--employed--in--any--industrial--plant
 5 that--has--been--in--operation--in--this--state--for--3--years--or
 6 longer--

7 t6)--class--five--property--is--taxed--at--3%--of--its--market
 8 value--

9 Section 4. Section 15-30-121, MCA, is amended to read:
 10 "15-30-121. Deductions allowed in computing net
 11 income. In computing net income, there are allowed as
 12 deductions:

13 (1) the items referred to in sections 161 and 211 of
 14 the Internal Revenue Code of 1954, or as sections 161 and
 15 211 shall be labeled or amended, subject to the following
 16 exceptions which are not deductible:

17 (a) items provided for in 15-30-123;

18 (b) state income tax paid;

19 (2) federal income tax paid within the taxable year;

20 (3) child and dependent care expenses determined in
 21 accordance with the provisions of section 214 of the
 22 Internal Revenue Code of 1954 that were in effect for the
 23 taxable year that began January 1, 1974. However, the
 24 limitation set forth in section 214(e)(4) of the Internal
 25 Revenue Code of 1954 as that section was in effect for the

1 taxable year that began January 1, 1974, applies only to
 2 payments made to a child of the taxpayer who is under 19
 3 years of age at the close of the taxable year and to
 4 payments made to an individual with respect to whom a
 5 deduction is allowable under 15-30-112(5) to the taxpayer or
 6 the taxpayer's spouse.

7 (4) that portion of an energy-related investment
 8 allowed as a deduction under 15-32-103;

9 (5) in the case of an individual, political
 10 contributions determined in accordance with the provisions
 11 of section 218(a) and (b) of the Internal Revenue Code that
 12 were in effect for the taxable year ended December 31,
 13 1978;
 14 (6) that portion of expenses for organic fertilizer
 15 allowed as a deduction under [section 3] WHICH WAS NOT
 16 OTHERWISE DEDUCTED IN COMPUTING TAXABLE INCOME."

17 Section 5--Section 15-31-114, MCA, is amended to read:
 18 "15-31-114. Deductions allowed in computing incomes
 19 in computing the net income, the following deductions shall
 20 be allowed from the gross income received by such
 21 corporation within the year from all sources:
 22 tit--All the ordinary and necessary expenses paid or
 23 incurred during the taxable year in the maintenance and
 24 operation of its business and properties including
 25 reasonable allowance for salaries for personal services

1 actually-rendered--subject--to--the--limitation--hereinafter
2 contained--rentals-or-other-payments-required-to-be-made-as
3 a-condition-to-the-continued-use-or-possession--of--property
4 to--which--the--corporation--has--not-taken-or-is-not-taking
5 title-or-in-which-it-has-no-equity--No--deduction--shall--be
6 allowed--for--salaries-paid-upon-which-the-recipient-thereof
7 has-not-paid-Montana-state-income--tax--provided--however,
8 that-where-domestic-corporations-are-taxed-on-income-derived
9 from--without--the--state--salaries--of--officers--paid--in
10 connection-with-securing-such-income-shall-be-deductible--
11 ~~t2--t3--All--losses--actually--sustained--and--charged--off~~
12 within--the--year--and--not--compensated--by--insurance--or
13 otherwise--including-a-reasonable-allowance--for--the--wear--and
14 tear--and--obsolescence--of--property--used--in--the--trade--or
15 business--such--allowance--to--be--determined--according--to--the
16 provisions--of--section--167--of--the--Internal--Revenue--Code--in
17 effect--with--respect--to--the--taxable--year--All--elections--for
18 depreciation--shall--be--the--same--as--the--elections--made--for
19 federal--income--tax--purposes--No--deduction--shall--be--allowed
20 for--any--amount--paid--out--for--any--buildings--permanent
21 improvements--or--betterments--made--to--increase--the--value--of
22 any--property--or--estate--and--no--deduction--shall--be--made--for
23 any--amount--of--expense--of--restoring--property--or--making--good
24 the--exhaustion--thereof--for--which--an--allowance--is--or--has--been
25 made.

1 tbt--fit--There--shall--be--allowed--as--a--deduction--for--the
2 taxable--period--a--net--operating--loss--deduction--determined
3 according--to--the--provisions--of--this--subsection--the--net
4 operating--loss--deduction--is--the--aggregate--of--net--operating
5 loss--carryovers--to--such--taxable--period--plus--the--net
6 operating--loss--carrybacks--to--such--taxable--periods--The--term
7 "net--operating--loss"--means--the--excess--of--the--deductions
8 allowed--by--this--section--15--31--114--over--the--gross--income
9 with--the--modifications--specified--in--fit--of--this--subsection--
10 if--for--any--taxable--period--beginning--after--December--31--1970,
11 a--net--operating--loss--is--sustained--such--loss--shall--be--a--net
12 operating--loss--carryback--to--each--of--the--three--taxable
13 periods--preceding--the--taxable--period--of--such--loss--and--shall
14 be--a--net--operating--loss--carryover--to--each--of--the--five
15 taxable--periods--following--the--taxable--period--of--such--loss--A
16 net--operating--loss--for--any--taxable--period--ending--after
17 December--31--1975--in--addition--to--being--a--net--operating--loss
18 carryback--to--each--of--the--three--preceding--taxable--periods,
19 shall--be--a--net--operating--loss--carryover--to--each--of--the--seven
20 taxable--periods--following--the--taxable--period--of--such--loss--
21 The--portion--of--such--loss--which--shall--be--carried--to--each--of
22 the--other--taxable--years--shall--be--the--excess--if--any--of--the
23 amount--of--such--loss--over--the--sum--of--the--net--income--for--each
24 of--the--prior--taxable--periods--to--which--such--loss--was--carried--
25 For--purposes--of--the--preceding--sentence--the--net--income--for

1 such--prior--taxable--period--shall--be--computed--with--the
 2 modifications--specified--in--(f)(8)--of--this--subsection--and--by
 3 determining--the--amount--of--the--net--operating--loss--deduction
 4 without--regard--to--the--net--operating--loss--for--the--loss--period
 5 or--any--taxable--period--thereafter--and--the--net--income--so
 6 computed--shall--not--be--considered--to--be--less--than--zero.*

7 (f)(7)--The--modifications--referred--to--in--(f)(7)--of--this
 8 subsection--shall--be--as--follows:

9 (f)(7)(A)--No--net--operating--loss--deduction--shall--be--allowed.
 10 (f)(7)(B)--The--deduction--for--depletion--shall--not--exceed--the
 11 amount--which--would--be--allowable--if--computed--under--the--cost
 12 methods.

13 (f)(7)(C)--Any--net--operating--loss--carried--over--to--any--taxable
 14 years--beginning--after--December--31--1978--must--be--calculated
 15 under--the--provisions--of--this--section--effective--for--the
 16 taxable--year--for--which--the--return--claiming--the--net--operating
 17 loss--carryover--is--filed.

18 (f)(7)(D)--A--net--operating--loss--deduction--shall--be--allowed
 19 only--with--regard--to--losses--attributable--to--the--business
 20 carried--on--within--the--state--of--Montana.

21 (f)(7)(E)--In--the--case--of--a--merger--of--corporations--the
 22 surviving--corporation--shall--not--be--allowed--a--net--operating
 23 loss--deduction--for--net--operating--losses--sustained--by--the
 24 merged--corporations--prior--to--the--date--of--merger--in--the--case
 25 of--a--consolidation--of--corporations--the--new--corporate--entity

1 shall--not--be--allowed--a--deduction--for--net--operating--losses
 2 sustained--by--the--consolidated--corporations--prior--to--the--date
 3 of--consolidation.
 4 (f)(7)(F)--Notwithstanding--the--provisions--of--(f)(3)(F)--
 5 interest--shall--not--be--paid--with--respect--to--a--refund--of--tax
 6 resulting--from--a--net--operating--loss--carryback--or--carryover.
 7 (f)(7)(G)--The--net--operating--loss--deduction--shall--not--be
 8 allowed--with--respect--to--taxable--periods--which--ended--on--or
 9 before--December--31--1978--but--shall--be--allowed--only--with
 10 respect--to--taxable--periods--beginning--on--or--after--January--1--
 11 1979.

12 (f)(7)(H)--In--the--case--of--mines--other--natural--deposits--oil
 13 and--gas--wetts--and--timber--a--reasonable--allowance--for
 14 depletion--and--for--depreciation--of--improvements--such
 15 reasonable--allowance--to--be--determined--according--to--the
 16 provisions--of--the--Internal--Revenue--Code--in--effect--for--the
 17 taxable--years--all--elections--made--under--the--Internal--Revenue
 18 Code--with--respect--to--capitalizing--or--expensing--exploration
 19 and--development--costs--and--intangible--drilling--expenses--for
 20 corporation--license--tax--purposes--shall--be--the--same--as--the
 21 elections--made--for--federal--income--tax--purposes.

22 (f)(7)(I)--The--amount--of--interest--paid--within--the--year--on--its
 23 indebtedness--incurred--in--the--operation--of--the--business--from
 24 which--its--income--is--derived--but--no--interest--shall--be
 25 allowed--as--a--deduction--if--paid--on--an--indebtedness--created

1 for-the-purchasey-maintenance-or-improvement-of-property-or
2 for--the--conduct--of--business--unless-the-income-from-such
3 property-or-business-would-be-taxable-under-this-part
4 (5)--(a)--Taxes--paid--within--the---year---except---the
5 following:
6 (t)--Taxes-imposed-by-this-part
7 (tt)--Taxes--assessed--against--local--benefits--of-a-kind
8 tending-to-increase-the-value-of-the-property-assessed
9 (ttt)--Taxes-on-or--according--to--or--measured--by--net
10 income--or--profits-imposed-by-authority-of-the-government-of
11 the-United-States
12 (ttv)--Taxes-imposed-by-any-other-state-or--country--upon
13 or--measured--by--net--income--or--profits
14 (tb)--Taxes---deductible---under---this--part--shall--be
15 construed-to-include-taxes-imposed--by--any--county--school
16 district--or--municipality--of--this--state
17 (t6)--That--portion--of--an--energy-related--investment
18 allowed-as-a-deduction-under-§-32-103.
19 (7)--That--portion--of--expenses--for--organic--fertilizer
20 allowed-as-a-deduction-under-section-317

-End-

April 10, 1981

HOUSE COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 322:

1. Page 3, line 10.

Following: "Montana"

Insert: " if the expenditure was not otherwise deducted in computing taxable income."

2. Page 8, line 14.

Following: "3]"

Insert: "which was not otherwise deducted in computing taxable income"

3. Page 8: line 15 through line 18 on page 13.

Following: line 14 on page 8

Strike: Section 5 in its entirety