HOUSE BILL NO. 690

INTRODUCED BY SPAETH, SMITH, THOMAS, HARP

IN THE HOUSE

FEBRUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 18, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
FEBRUARY 20, 1989	ON MOTION, TAKEN FROM PRINTING AND REREFERRED TO COMMITTEE ON TAXATION.
MARCH 15, 1989	COMMITTEE RECOMMEND BILL DO NOT PASS. REPORT ADOPTED.
MARCH 16, 1989	PASS CONSIDERATION UNTIL THE 64TH LEGISLATIVE DAY.
MARCH 20, 1989	PASS CONSIDERATION FOR THE DAY.
MARCH 21, 1989	ON MOTION, ADVERSE COMMITTEE REPORT REJECTED, BILL PRINTED AND PLACED ON SECOND READING.
MARCH 29, 1989	SECOND READING, DO PASS AS AMENDED.
MARCH 30, 1989	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 74; NOES, 25.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 31, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.

APRIL 5, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 6, 1989	SECOND READING, CONCURRED IN.
APRIL 10, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 11, 1989	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 12, 1989	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

House BILL NO. 690

INTRODUCED BY ~~Spaeth~~ Smith Thomas HARP

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR DEDUCTION FROM THE TAXABLE VALUE OF A TITLE INSURER OR A TITLE AGENT THE VALUE OF ITS TITLE PLANT; AND AMENDING SECTIONS 15-6-201 AND 15-24-602, MCA."

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

Section 1. Section 15-6-201, MCA, is amended to read:

"**15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(ii) irrigation districts organized under the laws of Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of such buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record

INTRODUCED BILL

HB690

upon real or personal property in the state of Montana;

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from taxation under 61-3-504(2) and 61-3-537.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

(m) land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect,

or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit;

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100; and

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) a title plant owned by a title insurer or a title agent, as those terms are defined in 33-25-105.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(c) applicable to taxable years beginning after December 31, 1987--sec. 4, Ch. 455, L. 1987.)"

Section 2. Section 15-24-602, MCA, is amended to read:

"**15-24-602. Determining insurance company taxable property.** In computing the taxable property of insurance companies organized under the laws of ~~this state~~ Montana, there ~~shall~~ must be deducted therefrom:

(1) the value of the real property on which the company pays taxes, ~~such~~ if the real estate ~~being~~ is assessed to the company as other real estate;

(2) the legal reserve required by the laws of ~~this state~~ Montana or by the insurance department ~~thereof~~ of

LC 1518/01

Montana for the protection of policyholders;

(3) all assets not admitted as such by the state or by the insurance department ~~thereof~~ of Montana; ~~and~~

(4) ~~such~~ debts and liabilities as may be due or owing by ~~such~~ the company; and

(5) the value of a title plant owned by a title insurer or a title agent, as those terms are defined in 33-25-105."

NEW SECTION. **Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB690, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for deduction from the taxable value of a title insurer or a title agent the value of its title plant.

ASSUMPTIONS:

1. The taxable value of the state will be $1,899,969,000 in FY90 and $1,869,831,000 in FY91 (REAC).
2. It is estimated that there are 76 title plants in the state with an average market value of $15,000.
3. Levies are 6 mills for universities and 45 mills for the school foundation program. Average county and local school district levies are 62.51 and 111.93 mills, respectively. The average city and town levy is 96.67 mills.
4. It is assumed the proposal will impact FY91 and subsequent fiscal year revenues.

FISCAL IMPACT:

Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
University Levy	$11,400,000	$11,400,000	$ 0	$11,219,000	$11,218,111	$ (889)
School Equalization	85,499,000	85,499,000	0	84,142,000	84,135,331	(6,669)
	$96,899,000	$96,899,000	$ 0	$95,361,000	$95,353,442	($7,558)

Expediture Impact:

It is estimated the proposal will reduce revenues for counties and local school districts by $9,264 and $16,588, respectively, in FY91 and each subsequent fiscal year. City and Town revenues are expected to be reduced by $14,327 in FY91 and each subsequent fiscal year.

Ray Shackleford DATE 2/20/89
RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Gary L. Spaeth DATE 2/21/89
GARY L. SPAETH, PRIMARY SPONSOR

Fiscal Note for HB690, as introduced

HB 690

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

House BILL NO. 690

INTRODUCED BY ~~Speck~~ ~~Smith~~ Thomas HARP

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR DEDUCTION FROM THE TAXABLE VALUE OF A TITLE INSURER OR A TITLE AGENT THE VALUE OF ITS TITLE PLANT; AND AMENDING SECTIONS 15-6-201 AND 15-24-602, MCA."

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

Section 1. Section 15-6-201, MCA, is amended to read:

"**15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(ii) irrigation districts organized under the laws of Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of such buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record

SECOND READING
HB 690

upon real or personal property in the state of Montana;

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from taxation under 61-3-504(2) and 61-3-537.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

(m) land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect,

or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit;

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100; ~~and~~

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) a title plant owned by a title insurer or a title agent, as those terms are defined in 33-25-105.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(c) applicable to taxable years beginning after December 31, 1987--sec. 4, Ch. 455, L. 1987.)"

Section 2. Section 15-24-602, MCA, is amended to read:

"**15-24-602. Determining insurance company taxable property.** In computing the taxable property of insurance companies organized under the laws of ~~this state~~ Montana, there ~~shall~~ must be deducted therefrom:

(1) the value of the real property on which the company pays taxes, ~~such~~ if the real estate ~~being~~ is assessed to the company as other real estate;

(2) the legal reserve required by the laws of ~~this state~~ Montana or by the insurance department ~~thereof~~ of

Montana for the protection of policyholders;

(3) all assets not admitted as such by the state or by the insurance department ~~thereof~~ of Montana; ~~and~~

(4) ~~such~~ debts and liabilities as may be due or owing by ~~such~~ the company; and

(5) the value of a title plant owned by a title insurer or a title agent, as those terms are defined in 33-25-105."

NEW SECTION. **Section 3. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

HOUSE BILL NO. 690

INTRODUCED BY SPAETH, SMITH, THOMAS, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR DEDUCTION FROM THE TAXABLE VALUE OF A TITLE INSURER OR A TITLE AGENT THE VALUE OF ITS TITLE PLANT; DISALLOWING DEPRECIATION OR AMORTIZATION OF THE TITLE PLANT; AND AMENDING SECTIONS 15-6-201, ~~AND~~ 15-24-602, 15-30-111, AND 15-31-114, MCA."

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

Section 1. Section 15-6-201, MCA, is amended to read:

"15-6-201. **Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(ii) irrigation districts organized under the laws of Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of such buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

THIRD READING
AS AMENDED

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from taxation under 61-3-504(2) and 61-3-537.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

(m) land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit;

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100; ~~and~~

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) a title plant owned by a title insurer or a title agent, as those terms are defined in 33-25-105.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or

HB 0690/02

chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(c) applicable to taxable years beginning after December 31, 1987--sec. 4, Ch. 455, L. 1987.)"

Section 2. Section 15-24-602, MCA, is amended to read:

"**15-24-602. Determining insurance company taxable property.** In computing the taxable property of insurance companies organized under the laws of ~~this--state~~ Montana, there ~~shall~~ must be deducted therefrom:

(1) the value of the real property on which the company pays taxes, ~~such~~ if the real estate ~~being~~ is assessed to the company as other real estate;

(2) the legal reserve required by the laws of ~~this state~~ Montana or by the insurance department ~~thereof~~ of Montana for the protection of policyholders;

(3) all assets not admitted as such by the state or by the insurance department ~~thereof~~ of Montana; ~~and~~

(4) ~~such~~ debts and liabilities as may be due or owing by ~~such~~ the company; and

(5) the value of a title plant owned by a title insurer or a title agent, as those terms are defined in 33-25-105."

SECTION 3. SECTION 15-30-111, MCA, IS AMENDED TO READ:

"**15-30-111. Adjusted gross income.** (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

(b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability; ~~and~~

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of 1954 that has been reduced by any federal taxes paid by the subchapter S. corporation on the income~~.~~; and

(d) depreciation or amortization taken on a title plant as defined in 33-25-105(15).

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954 as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof;

(b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) all benefits, not in excess of $3,600, received:

(i) under the Federal Employees' Retirement Act;

(ii) under the public employee retirement laws of a state other than Montana; or

(iii) as an annuity, pension, or endowment under any private or corporate retirement plan or system;

(d) all benefits paid under the teachers' retirement law which are specified as exempt from taxation by 19-4-706;

(e) all benefits paid under The Public Employees' Retirement System Act which are specified as exempt from

taxation by 19-3-105;

(f) all benefits paid under the highway patrol retirement law which are specified as exempt from taxation by 19-6-705;

(g) all Montana income tax refunds or credits thereof;

(h) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters, their surviving spouses and orphans or specified as exempt from taxation by 19-13-1003;

(i) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-1005;

(j) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(k) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

(l) all benefits received under the workers' compensation laws;

(m) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law; and

(n) all benefits paid under an optional retirement program that are specified as exempt from taxation by 19-21-212.

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.

(4) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in his adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(5) A taxpayer who, in determining federal adjusted gross income, has reduced his business deductions by an amount for wages and salaries for which a federal tax credit

was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of such wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(6) Married taxpayers filing a joint federal return who must include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(7) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married

couple deduction exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(8) A person receiving benefits described in subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not exclude benefits described in subsection (2)(c) from adjusted gross income unless the benefits received under subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are less than $3,600, in which case the person may combine benefits to exclude up to a total of $3,600 from adjusted gross income. (Subsection (2)(k) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

SECTION 4. <u>SECTION 15-31-114, MCA, IS AMENDED TO READ:</u>

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

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

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of

any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made. No depreciation or amortization deduction shall be allowed on a title plant as defined in 33-25-105(15).

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

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

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

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

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

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

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

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

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

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

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

elections made for federal income tax purposes.

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

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

(i) Taxes imposed by this part.

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

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

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

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

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

(7) (a) Except as provided in subsection (b), charitable contributions and gifts that qualify for

deduction under section 170 of the Internal Revenue Code, as amended.

(b) The public service commission shall not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.

(8) In lieu of the deduction allowed under subsection (7), the taxpayer may deduct the fair market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(a) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(b) the property is not transferred by the donee in exchange for money, other property, or services; and

(c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of (b) of this subsection (8)."

NEW SECTION. **Section 5.** **Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

[this act].

-End-

SENATE STANDING COMMITTEE REPORT

April 5, 1989

MR. PRESIDENT:
We, your committee on Taxation, having had under consideration HB 690 (third reading copy -- blue), respectfully report that HB 690 be amended and as so amended be concurred in:

Sponsor: Spaeth (Mazurek)

1. Title, line 7.
Strike: "AND"

2. Title, line 8.
Following: "MCA"
Insert: "; AND PROVIDING AN APPLICABILITY DATE"

3. Page 18.
Following: line 1
Insert: "NEW SECTION. **Section 6. Applicability.** [This act] applies to taxable years beginning after December 31, 1989."

AND AS AMENDED BE CONCURRED IN

Signed: ______________________
Bob Brown, Chairman

SENATE

HOUSE BILL NO. 690

INTRODUCED BY SPAETH, SMITH, THOMAS, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR DEDUCTION FROM THE TAXABLE VALUE OF A TITLE INSURER OR A TITLE AGENT THE VALUE OF ITS TITLE PLANT; DISALLOWING DEPRECIATION OR AMORTIZATION OF THE TITLE PLANT; ~~AND~~ AMENDING SECTIONS 15-6-201, ~~AND~~ 15-24-602, 15-30-111, AND 15-31-114, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-6-201, MCA, is amended to read:

"**15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(ii) irrigation districts organized under the laws of

Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of such buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or

REFERENCE BILL
AS AMENDED

corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from taxation under 61-3-504(2) and 61-3-537.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

(m) land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right

reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit;

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100; and

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

<u>(r) a title plant owned by a title insurer or a title agent, as those terms are defined in 33-25-105.</u>

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating

facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(c) applicable to taxable years beginning after December 31, 1987--sec. 4, Ch. 455, L. 1987.)"

Section 2. Section 15-24-602, MCA, is amended to read:

"**15-24-602. Determining insurance company taxable property.** In computing the taxable property of insurance companies organized under the laws of ~~this-state~~ Montana, there ~~shall~~ must be deducted therefrom:

(1) the value of the real property on which the company pays taxes, ~~such~~ if the real estate ~~being~~ is

assessed to the company as other real estate;

(2) the legal reserve required by the laws of ~~this state~~ Montana or by the insurance department ~~thereof~~ of Montana for the protection of policyholders;

(3) all assets not admitted as such by the state or by the insurance department ~~thereof~~ of Montana; ~~and~~

(4) ~~such~~ debts and liabilities as may be due or owing by ~~such~~ the company; and

(5) the value of a title plant owned by a title insurer or a title agent, as those terms are defined in 33-25-105."

SECTION 3. SECTION 15-30-111, MCA, IS AMENDED TO READ:

"**15-30-111. Adjusted gross income.** (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

(b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability; ~~and~~

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of

1954 that has been reduced by any federal taxes paid by the subchapter S. corporation on the income~~.~~; and

(d) depreciation or amortization taken on a title plant as defined in 33-25-105(15).

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954 as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof;

(b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) all benefits, not in excess of $3,600, received:

(i) under the Federal Employees' Retirement Act;

(ii) under the public employee retirement laws of a state other than Montana; or

(iii) as an annuity, pension, or endowment under any private or corporate retirement plan or system;

(d) all benefits paid under the teachers' retirement law which are specified as exempt from taxation by 19-4-706;

(e) all benefits paid under The Public Employees'

Retirement System Act which are specified as exempt from taxation by 19-3-105;

(f) all benefits paid under the highway patrol retirement law which are specified as exempt from taxation by 19-6-705;

(g) all Montana income tax refunds or credits thereof;

(h) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters, their surviving spouses and orphans or specified as exempt from taxation by 19-13-1003;

(i) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-1005;

(j) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(k) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

(l) all benefits received under the workers' compensation laws;

(m) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law; and

(n) all benefits paid under an optional retirement program that are specified as exempt from taxation by 19-21-212.

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.

(4) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in his adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(5) A taxpayer who, in determining federal adjusted gross income, has reduced his business deductions by an

amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of such wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(6) Married taxpayers filing a joint federal return who must include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(7) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this

exclusion and before application of the two-earner married couple deduction exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(8) A person receiving benefits described in subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not exclude benefits described in subsection (2)(c) from adjusted gross income unless the benefits received under subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are less than $3,600, in which case the person may combine benefits to exclude up to a total of $3,600 from adjusted gross income. (Subsection (2)(k) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

SECTION 4. <u>SECTION 15-31-114, MCA, IS AMENDED TO READ:</u>

"**15-31-114. Deductions allowed in computing income.** In computing the net income, the following deductions shall be allowed from the gross income received by such corporation

within the year from all sources:

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

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent

improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made. No depreciation or amortization deduction shall be allowed on a title plant as defined in 33-25-105(15).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Taxes imposed by this part.

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

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

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

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

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

(7) (a) Except as provided in subsection (b),

charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code, as amended.

(b) The public service commission shall not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.

(8) In lieu of the deduction allowed under subsection (7), the taxpayer may deduct the fair market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(a) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(b) the property is not transferred by the donee in exchange for money, other property, or services; and

(c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of (b) of this subsection (8)."

NEW SECTION. **Section 5.** Extension of authority. Any existing authority to make rules on the subject of the

provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **SECTION 6.** APPLICABILITY. [THIS ACT] APPLIES TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1989.

-End-