

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.

1 House BILL NO. 690
2 INTRODUCED BY Spencer Smith Thomas HARP
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR DEDUCTION
5 FROM THE TAXABLE VALUE OF A TITLE INSURER OR A TITLE AGENT
6 THE VALUE OF ITS TITLE PLANT; AND AMENDING SECTIONS 15-6-201
7 AND 15-24-602, MCA."
8

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

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

11 "15-6-201. **Exempt categories.** (1) The following
12 categories of property are exempt from taxation:

13 (a) the property of:

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

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

25 (iii) municipal corporations; and

1 (iv) public libraries;

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

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

15 (d) property that meets the following conditions:

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

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

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

24 (e) institutions of purely public charity;

25 (f) evidence of debt secured by mortgages of record

1 upon real or personal property in the state of Montana;

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

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

9 (i) a truck canopy cover or topper weighing less than
10 300 pounds and having no accommodations attached. Such
11 property is also exempt from taxation under 61-3-504(2) and
12 61-3-537.

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

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

16 (l) all watercraft;

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

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

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

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

7 (p) all farm buildings with a market value of less than
8 \$500 and all agricultural implements and machinery with a
9 market value of less than \$100; and

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

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

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

25 (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-

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:

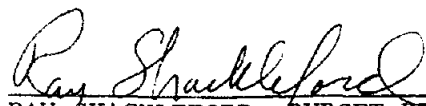
1. The taxable value of the state will be \$1,899,969,000 in FY90 and \$1,869,831,000 in FY91 (REAC).
2. It is estimated that there are 76 title plants in the state with an average market value of \$15,000.
3. Levies are 6 mills for universities and 45 mills for the school foundation program. Average 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)
	<u>\$96,899,000</u>	<u>\$96,899,000</u>	<u>\$ 0</u>	<u>\$95,361,000</u>	<u>\$95,353,442</u>	<u>(\$7,558)</u>

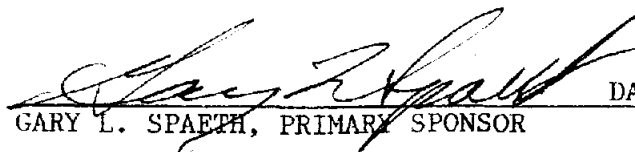
Expenditure Impact:

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, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/20/89



GARY L. SPAETH, PRIMARY SPONSOR

DATE 2/21/89

Fiscal Note for HB690, as introduced**HB 690**

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

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2 INTRODUCED BY Spaulding Smith Thomas HARP
3
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16 legislation that allows the state to tax property owned by
17 an agency created by congress to transmit or distribute
18 electrical energy, the property constructed, owned, or
19 operated by a public agency created by the congress to
20 transmit or distribute electric energy produced at privately
21 owned generating facilities (not including rural electric
22 cooperatives);

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

25 (iii) municipal corporations; and

1 (iv) public libraries;

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

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

15 (d) property that meets the following conditions:

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19 cemetery or cemeteries for which a permanent care and
20 improvement fund has been established as provided for in
21 Title 35, chapter 20, part 3; and

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

24 (e) institutions of purely public charity;

25 (f) evidence of debt secured by mortgages of record

1 upon real or personal property in the state of Montana;

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

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

9 (i) a truck canopy cover or topper weighing less than
10 300 pounds and having no accommodations attached. Such
11 property is also exempt from taxation under 61-3-504(2) and
12 61-3-537.

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

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

16 (l) all watercraft;

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

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

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

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

7 (p) all farm buildings with a market value of less than
8 \$500 and all agricultural implements and machinery with a
9 market value of less than \$100; and

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

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

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

25 (b) The terms "public art galleries" and "public

1 observatories" include only those art galleries and
 2 observatories, whether of public or private ownership, that
 3 are open to the public without charge at all reasonable
 4 hours and are used for the purpose of education only.

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

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 11 dwelling;

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 13 dwelling or a nonresidential structure. (Subsection (1)(c)
 14 applicable to taxable years beginning after December 31,
 15 1987--sec. 4, Ch. 455, L. 1987.)"

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

17 "15-24-602. Determining insurance company taxable
 18 property. In computing the taxable property of insurance
 19 companies organized under the laws of this-state Montana,
 20 there ~~shall~~ must be deducted therefrom:

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

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

1 Montana for the protection of policyholders;

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

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

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

8 **NEW SECTION. Section 3.** Extension of authority. Any
 9 existing authority to make rules on the subject of the
 10 provisions of [this act] is extended to the provisions of
 11 [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);

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 22 customers for uses other than the irrigation of agricultural
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 7 vocationally handicapped as defined in 18-5-101, which is
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 10 than \$500 and all agricultural implements and machinery with
 11 a market value of less than \$100; and
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 13 organized to provide facilities primarily for training and
 14 practice for or competition in international sports and
 15 athletic events and not held or used for private or
 16 corporate gain or profit. For purposes of this subsection
 17 (1)(q), "nonprofit corporation" means an organization exempt
 18 from taxation under section 501(c) of the Internal Revenue
 19 Code and, incorporated and admitted under the Montana
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 22 agent, as those terms are defined in 33-25-105.
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(a) \$20,000 in the case of a single-family residential dwelling;

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(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

1 subchapter S. corporation on the income; and
 2 (d) depreciation or amortization taken on a title
 3 plant as defined in 33-25-105(15).
 4 (2) Notwithstanding the provisions of the federal
 5 Internal Revenue Code of 1954 as labeled or amended,
 6 adjusted gross income does not include the following which
 7 are exempt from taxation under this chapter:
 8 (a) all interest income from obligations of the United
 9 States government, the state of Montana, county,
 10 municipality, district, or other political subdivision
 11 thereof;
 12 (b) interest income earned by a taxpayer age 65 or
 13 older in a taxable year up to and including \$800 for a
 14 taxpayer filing a separate return and \$1,600 for each joint
 15 return;
 16 (c) all benefits, not in excess of \$3,600, received:
 17 (i) under the Federal Employees' Retirement Act;
 18 (ii) under the public employee retirement laws of a
 19 state other than Montana; or
 20 (iii) as an annuity, pension, or endowment under any
 21 private or corporate retirement plan or system;
 22 (d) all benefits paid under the teachers' retirement
 23 law which are specified as exempt from taxation by 19-4-706;
 24 (e) all benefits paid under The Public Employees'
 25 Retirement System Act which are specified as exempt from

1 taxation by 19-3-105;
 2 (f) all benefits paid under the highway patrol
 3 retirement law which are specified as exempt from taxation
 4 by 19-6-705;
 5 (g) all Montana income tax refunds or credits thereof;
 6 (h) all benefits paid under 19-11-602, 19-11-604, and
 7 19-11-605 to retired and disabled firefighters, their
 8 surviving spouses and orphans or specified as exempt from
 9 taxation by 19-13-1003;
 10 (i) all benefits paid under the municipal police
 11 officers' retirement system that are specified as exempt
 12 from taxation by 19-9-1005;
 13 (j) gain required to be recognized by a liquidating
 14 corporation under 15-31-113(1)(a)(ii);
 15 (k) all tips covered by section 3402(k) of the
 16 Internal Revenue Code of 1954, as amended and applicable on
 17 January 1, 1983, received by persons for services rendered
 18 by them to patrons of premises licensed to provide food,
 19 beverage, or lodging;
 20 (l) all benefits received under the workers'
 21 compensation laws;
 22 (m) all health insurance premiums paid by an employer
 23 for an employee if attributed as income to the employee
 24 under federal law; and
 25 (n) all benefits paid under an optional retirement

1 program that are specified as exempt from taxation by
2 19-21-212.

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

17 (4) A shareholder of a DISC that is exempt from the
18 corporation license tax under 15-31-102(1)(1) shall include
19 in his adjusted gross income the earnings and profits of the
20 DISC in the same manner as provided by federal law (section
21 995, Internal Revenue Code) for all periods for which the
22 DISC election is effective.

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

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

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

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

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

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

21 **SECTION 4. SECTION 15-31-114, MCA, IS AMENDED TO READ:**

22 **"15-31-114. Deductions allowed in computing income.** In
 23 computing the net income, the following deductions shall be
 24 allowed from the gross income received by such corporation
 25 within the year from all sources:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 elections made for federal income tax purposes.

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

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

11 (i) Taxes imposed by this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 [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

1 corporate profit;

2 (e) institutions of purely public charity;

3 (f) evidence of debt secured by mortgages of record

4 upon real or personal property in the state of Montana;

5 (g) public art galleries and public observatories not

6 used or held for private or corporate profit;

7 (h) all household goods and furniture, including but

8 not limited to clocks, musical instruments, sewing machines,

9 and wearing apparel of members of the family, used by the

10 owner for personal and domestic purposes or for furnishing

11 or equipping the family residence;

12 (i) a truck canopy cover or topper weighing less than

13 300 pounds and having no accommodations attached. Such

14 property is also exempt from taxation under 61-3-504(2) and

15 61-3-537.

16 (j) a bicycle, as defined in 61-1-123, used by the

17 owner for personal transportation purposes;

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

19 (l) all watercraft;

20 (m) land, fixtures, buildings, and improvements owned

21 by a cooperative association or nonprofit corporation

22 organized to furnish potable water to its members or

23 customers for uses other than the irrigation of agricultural

24 land;

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

1 reserved in land or received by mesne conveyance (exclusive

2 of leasehold interests), devise, or succession to enter land

3 whose surface title is held by another to explore, prospect,

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

5 (o) property owned and used by a corporation or

6 association organized and operated exclusively for the care

7 of the developmentally disabled, mentally ill, or

8 vocationally handicapped as defined in 18-5-101, which is

9 not operated for gain or profit;

10 (p) all farm buildings with a market value of less

11 than \$500 and all agricultural implements and machinery with

12 a market value of less than \$100; and

13 (q) property owned by a nonprofit corporation

14 organized to provide facilities primarily for training and

15 practice for or competition in international sports and

16 athletic events and not held or used for private or

17 corporate gain or profit. For purposes of this subsection

18 (1)(q), "nonprofit corporation" means an organization exempt

19 from taxation under section 501(c) of the Internal Revenue

20 Code and incorporated and admitted under the Montana

21 Nonprofit Corporation Act.

22 (r) a title plant owned by a title insurer or a title

23 agent, as those terms are defined in 33-25-105.

24 (2) (a) The term "institutions of purely public

25 charity" includes organizations owning and operating

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

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

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

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

15 (b) \$100,000 in the case of a multifamily residential
16 dwelling or a nonresidential structure. (Subsection (1)(c)
17 applicable to taxable years beginning after December 31,
18 1987--sec. 4, Ch. 455, L. 1987.)"

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

20 ***15-24-602.** Determining insurance company taxable
21 property. In computing the taxable property of insurance
22 companies organized under the laws of this-state Montana,
23 there ~~shall~~ must be deducted therefrom:

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

1 assessed to the company as other real estate;

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

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

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

9 (5) the value of a title plant owned by a title
10 insurer or a title agent, as those terms are defined in
11 33-25-105."

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

13 **"15-30-111.** Adjusted gross income. (1) Adjusted gross
14 income shall be the taxpayer's federal income tax adjusted
15 gross income as defined in section 62 of the Internal
16 Revenue Code of 1954 or as that section may be labeled or
17 amended and in addition shall include the following:

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

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

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

1 1954 that has been reduced by any federal taxes paid by the
 2 subchapter S. corporation on the income; and
 3 (d) depreciation or amortization taken on a title
 4 plant as defined in 33-25-105(15).

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

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

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

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

18 (i) under the Federal Employees' Retirement Act;

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

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

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

25 (e) all benefits paid under The Public Employees'

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

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

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

7 (h) all benefits paid under 19-11-602, 19-11-604, and
 8 19-11-605 to retired and disabled firefighters, their
 9 surviving spouses and orphans or specified as exempt from
 10 taxation by 19-13-1003;

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

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

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

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

23 (m) all health insurance premiums paid by an employer
 24 for an employee if attributed as income to the employee
 25 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)(1) 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

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

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

22 **SECTION 4. SECTION 15-31-114, MCA, IS AMENDED TO READ:**

23 "15-31-114. Deductions allowed in computing income. In
 24 computing the net income, the following deductions shall be
 25 allowed from the gross income received by such corporation

1 within the year from all sources:

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

16 (2) (a) All losses actually sustained and charged off
 17 within the year and not compensated by insurance or
 18 otherwise, including a reasonable allowance for the wear and
 19 tear and obsolescence of property used in the trade or
 20 business, such allowance to be determined according to the
 21 provisions of section 167 of the Internal Revenue Code in
 22 effect with respect to the taxable year. All elections for
 23 depreciation shall be the same as the elections made for
 24 federal income tax purposes. No deduction shall be allowed
 25 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

1 carried on within the state of Montana.

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

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

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

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

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

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

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

12 (i) Taxes imposed by this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

-End-