

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
February 3, 1983

The meeting was called to order at 8:00 a.m. by Vice-Chairman Neuman. Roll call was taken and all committee members were present except Representatives Keenan and Yardley, who were excused but came in later.

Testimony was heard on HB 549, HB 550 and HB 556 during this meeting. Executive action was taken on HB 168, HB 261 and HB 460 during this meeting.

HOUSE BILL 549

REPRESENTATIVE DOZIER, District 61, sponsor of the bill, said HB 549 is directed at the working student. House Bill 549 is an act creating an income tax deduction for tuition paid for postsecondary education up to a maximum of \$400 a student; limiting the deduction to taxpayers with adjusted gross income of less than \$12,000 if a joint return is not filed and \$15,000 if a joint return is filed. He said this bill will give equity to the working students.

Proponents

JANE SOUNIGNEY, representing the students of the University of Montana, said the tuition at the U of M is over \$400 a year, and if you include room and board, the total bill is over \$4,000 per year. House Bill 549 helps parents who have more than one child in school.

CARROL KRAUSE, representing the Montana University System, supports HB 549 but said he is concerned with the definition of the word "postsecondary". Mr. Krause said someone could set up shop and charge tuition and say it is postsecondary education. He would like the definition of postsecondary from chapter 20-3102 included in the bill.

ELLEN FEAVER, Director of the Department of Revenue, offered a recommendation for the definition of "student". She read the definition contained in Section 15-30-113, MCA.

REPRESENTATIVE DOZIER, in closing, asked that HB 549 be put on the consent calendar.

REPRESENTATIVE DEVLIN asked what the fiscal impact will be if HB 549 passes. Ms. Feaver said there will be no fiscal impact in 1984 and the fiscal impact in 1985 will be \$430,000.

The hearing on HB 549 was closed.

HOUSE BILL 556

REPRESENTATIVE TOM ASAY, District 50, sponsor of the bill, said HB 556 will have far-reaching effects. He asked the committee to look at the depth of the impact and how it will affect the business climate of Montana.

HOUSE BILL 50 is an act to limit a Montana corporate taxpayer to the use of only those deductions set forth in section 15-31-114, MCA; and to disallow the use of federal internal revenue code deductions in the calculation of net income for Montana corporation license tax purposes.

REPRESENTATIVE ASAY passed out copies of EXHIBIT 1 which is an agreement between Rosebud County and Montana Power on prepayment of taxes. The prepayment of property taxes can be reclaimed at 20% per year for 5 years.

REPRESENTATIVE ASAY said the whole purpose of the bill is to allow those taxes to be recovered not through property tax but through impact money of coal tax. He said this will be one way to handle front-end impact.

Proponents

ED MCCAFFNEY, Rosebud County Commissioner, said he was on the board and involved in the request of the prepayment program. The prepayment program would be fair to the rural people who did not have anything to do with the impact caused by the construction of a major new industrial facility. The money will come from the coal board severance tax.

JAMES MOCKLER, Director of the Montana Coal Council, said HB 556 has no fiscal impact to the state's revenue. The bill allows the Coal Board to carry out duties and the coal tax to go to the purposes to which it is levied. He urged this committee to pass the bill.

CARL KNUTSON spoke as a proponent to HB 556. He would like to see this bill passed so that the impact would benefit people in business and who live in Rosebud County.

REPRESENTATIVE DEAN SWITZER, District 54, said Rosebud County would be put in a "crunch" if they did not have an opportunity to supplement the county's budget with this type of payment. He said he thinks HB 556 is a good bill.

There were no opponents testifying on HB 556.

REPRESENTATIVE NORDTVEDT asked what the mill levy for Rosebud County was. Mr. Knutson said he thought the mill levy is 140 mills. Representative Nordtvedt said the average mill levy is 250 mills or better and yet the people of Rosebud County are asking for more money. Mr. Knutson said just because the

citizens in Rosebud County are living in an impacted coal area is not a reason for them to carry the burden of the whole state. Representative Nordtvedt said the original notion of prepayment of taxes was to help with immediate upfront expenses. Now those expenses are going on indefinitely so you want the impact board to pay back accelerated taxes. He asked if the prepayment of taxes is covering the original fiscal impact or if those taxes are paying for ongoing taxes. Representative Asay said the prepaid taxes are paying the original impact expenses.

REPRESENTATIVE ASAY said the total money going to the Coalstrip school program is \$8 million. That school has an indebtedness of \$29 million. Coalstrip is not getting the "goodies" people think it is. He said during the school's peak there were 2,000 people attending that school. Now there are only 100 people in that school. The benefits of that coal money have been spread throughout the state of Montana. It is only right and fair that we recover that money from the prepaid taxes.

REPRESENTATIVE UNDERDAL asked if it is possible that part of the impact expenses will be offset by taxable valuation. Mr. McCaffney said the problem is that the impact has a severe immediate effect. Down the road, the taxable valuation will be a plus for the county but not immediately.

The hearing was closed on HB 556.

HOUSE BILL 550

REPRESENTATIVE DAN YARDLEY, District 74, sponsor of the bill, said the purpose of HB 550 is to allow Montana corporations only those deductions allowed by Montana law and not those provided for in the federal Internal Revenue Codes when paying state taxes.

REPRESENTATIVE YARDLEY said the Montana Supreme Court has decided, as a result of a lawsuit heard, that deductions contained in the federal Internal Revenue Code are deductible in determining net income for Montana corporations. It is the intent of this bill to change that court ruling so that the only deductions allowable would be those in our state statutes. Section 1 of HB 550 is the statute the court decided to rule upon at the time it made its decision. Section 1 is the determination of gross income and net income. Further down in the bill, it is stated, "The term 'net income' means the gross income of the corporation less the deductions set forth in 15-31-114. The definition of net income set forth in this section may not be construed to allow any deduction contained in the federal Internal Revenue Code unless that deduction is expressly provided for in this chapter."

REPRESENTATIVE YARDLEY said the lawsuit previously mentioned was decided in December of 1982. That suit involved other banks and the banks' holding companies. The name of the case was Baker Bancorporation, Inc. et al versus Department of Revenue, State of Montana. Originally the State Tax Appeal Board felt the deductions from the federal code were allowable. The State District Court, in Helena, then ruled those deductions were not allowable. The Supreme Court then reversed that decision and upheld the original State Tax Appeal Board's decision. The basis for the decision was that in 1973 there were some amendments which the Department of Revenue interpreted as changing the law limiting the deductions to only those provided for by the state, but, in fact, those amendments did not change the law. Therefore, federal deductions were still applicable. The particular deduction being talked about in the bank case is the dividend paid by subsidiaries to their parent holding companies. Under federal law, if the parent holding companies hold 80% or more of the stock, then those dividends are not taxable or part of that net income. House Bill 550 would change that. House Bill 550 would provide that this act would be effective immediately and that the act would apply to taxable years beginning after December 31, 1982. Representative Yardley said the question of whether dividends and subsidiaries are deductible or not is not the question before this committee. The question is whether the federal government of the state of Montana will make those decisions. As long as there is the court interpretation that the federal deductions are applicable to Montana, we are susceptible to whatever happens to those changes in federal law. He said the policies for these types of deductions should be made by Montana.

Proponents

JERRY FOSTER, Administrator of the Corporation Tax Division, Department of Revenue, said HB 550 will get back what Montana thought it had previously with the 1973 amendments and that is to allow only those deductions as specifically provided for in Section 15-31-114, MCA. The opponents of this legislation will argue that HB 550 is attempting to enact double taxation and that the state will tax the corporation that generates the income and then when that corporation passes the dividends on to the subsidiaries, they will be taxed again. Mr. Foster said that is a matter of philosophy as to whether income should be taxed when it passes from one entity to another or from one individual to another.

DON JUDGE, representing the Montana State AFL-CIO, said HB 550 provides that Montana corporations are allowed to use only deductions as set forth in Montana law, and not those provided for by federal Internal Revenue Code deductions in the calculation of net income for Montana corporation license tax purposes.

House Bill 550 was requested by the Department of Revenue because of a recent Montana Supreme Court ruling which allowed a Montana bank to deduct dividends from their corporation license tax. This was not the manner in which the law had been applied or interpreted before, and the decision opens the door to allowing corporations to use deductions which had not been provided for under Montana law. House Bill 550 seeks to clarify the law so that it conforms with original legislative intent, and reaffirms state authority for the setting of state tax laws.

MR. JUDGE said without the passage of this bill, the loss to state revenue is estimated at \$1.2 million annually. The state can ill-afford that kind of loss during severe budget constraints caused by the current economic recession. State Budget Director Dave Lewis has already warned that the state's budget surplus may be smaller than originally anticipated because money from oil taxes and other sources is running below estimates. He predicts that the state's general fund surplus may be only \$19.5 million at the end of the current fiscal year. Unemployment in Montana is at the highest level since the Great Depression, with over 37,000 presently unemployed. That number is predicted by the Montana Department of Labor to rise to over 50,000 in the next few months. Montana business and farm bankruptcies are also increasing and the tax bases for state and local government are being eroded. Montana workers, small businesses, farmers and governments are suffering real hardship because of the Reagan recession. And, cuts in social programs are causing suffering for the state's elderly, sick, handicapped and poor. This is no time to be giving tax breaks to corporations, especially when this was never the intent of the current law. He asked this committee to vote for HB 550.

VIRGINIA JELLISON, representing L.I.G.H.T., Inc., urged this committee's support of HB 550. That organization is concerned with the immediate loss of income to the state. They are also concerned with the state's ability to provide social services.

JIM MAYES, assistant business manager for Operating Engineers, Local 400, testified in favor of HB 550. House Bill 550 ensures that Montana corporations take only those deductions allowed by Montana law and not those provided for in the federal law, when paying taxes. That is what the present law was intended to accomplish. A recent ruling by the Supreme Court of Montana changed the original intent of the law. The union he represents believes it is very important that the original intent be reinstated by means of passing HB 550. If corporations are allowed to take all the various deductions allowed by the federal government when paying taxes, this will cause significant reduction in state revenue. Montana cannot afford to lose more revenue at this time. Revenue is down, and there have been many cutbacks at the federal level, which has caused a real budget crunch

for the state. Many good programs and essential services have already been cut. Further reductions to state revenues could cause even more detrimental cuts. He asked this committee to vote for HB 550.

JESSE LONG, Executive Secretary of the School Administrators of Montana, said the erosion of the revenue base for education is severe and this bill would be a counterbalance to that so they support HB 550.

Opponents

RON HAUGEN testified in opposition to HB 550 because HB 550 will alter an historical method of accounting for Montana Corporation Tax. Businessmen will have to live with Montana law and the federal law. House Bill 550 is a patchwork effort to resolve a supreme court decision. Mr. Haugen explained the two tier tax system and said he thinks that tax system is an inequitable tax system and HB 550 perpetuates that system.

CLARK PYFER, representing the accounting firm of Galusha-Higgins-Galusha, said HB 550 will do great violence to the concept of not requiring business people to have two different methods of computing income taxes. House Bill 550 will make the filing of income tax returns much more difficult. Mr. Pyfer said HB 550 addresses and perpetuates the three tier taxation but does violence to precedents and opens a can of worms.

TOM HARRISON, representing the Montana Bank Systems, tried the Baker Bancorporation case and said the courts have not been able to resolve this case for ten years. He said all the Montana codes say, in reference to corporate tax deductions, is all ordinary and necessary expenses incurred. There are no deductions listed. He asked what that means? The state is inviting litigation with every corporation deduction presently allowed under the federal Internal Revenue Code. There is no Montana provision for a corporate donation. He asked if Montana should sit back and second guess every deduction until the next legislature makes a decision or should Montana take advantage of those deductions and build the economy of the state like other states do. The Montana code section on depreciation isn't even the correct section to the federal Internal Revenue Code. Mr. Harrison said he doesn't know why we drive business from the state of Montana.

MR. HARRISON passed out testimony from D. A. Davidson because they were not able to attend this hearing. (See EXHIBIT 2.)

JOHN CADBY, representing the Montana Bank Owners Association, echoed and supports the testimony given by Mr. Harrison. He said HB 550 will drive holding companies out of Montana and will make it impossible for any new business to come into the state.

Businesses have said if this bill goes through, they will just move out of the state of Montana. House Bill 550 could do more damage to the "Build Montana" program than any other bill. Mr. Cadby said we need to attract new businesses into Montana.

DENNIS BURR, representing the Montana Taxpayers Association, said that association opposed HB 550 because they do not understand the total impact of the bill to the state of Montana. He said he hopes the fiscal note on this bill takes into consideration the total impact and not just the impact for banks. Mr. Burr asked the committee to be careful of this legislation. The impact will be greater than what has been proposed.

REPRESENTATIVE HARRINGTON said almost all citizens have to pay taxes on money they make. Why should the corporate structure be different as far as paying taxes on earnings? Mr. Harrison said if you are a sole proprietor, you pay taxes on the earnings you make. But if you incorporate you would have to pay taxes on that same money twice - once when the money was originally earned and then again when the money is given out as dividends.

REPRESENTATIVE UNDERDAL asked if HB 550 is passed, how much addition will have to be made to the Montana codes to address this issue. Mr. Harrison said it would take a massive undertaking.

REPRESENTATIVE DOZIER asked what the cost would be to implement this program. Mr. Foster said to adopt our own set of deductions? There would be no additional cost because we have those deductions set forth now.

REPRESENTATIVE WILLIAMS asked for a definition of independent banks. Mr. Cadby said, under the state of Montana, those Montana owned banks cannot branch out.

REPRESENTATIVE YARDLEY, in closing, said the law was amended in 1973 and the Department of Revenue believed that change allowed only those deductions provided for in the Montana state law. A lot was said concerning the deductions provided for in 15-31-114, MCA. Mr. Harrison kept talking about only "all the ordinary and necessary expenses paid or incurred..." but that section of the codes also lists itemized deductions such as: physical losses, taxes paid, interest paid, license fees on vehicles, depreciation, energy related investments, and charitable contributions that also qualify for deductions under the Internal Revenue Code.

REPRESENTATIVE YARDLEY said there would not be a massive undertaking to change the Montana codes - it practically requires no undertaking at all.

REPRESENTATIVE YARDLEY said someone had said the statute would give the authority to the Department of Revenue to make all the decisions on allowable deductions. The statute, in fact, gives that authority to the Montana State Legislature. The legislature makes the policy decisions.

REPRESENTATIVE YARDLEY said, in his opinion, federal laws are not necessarily based on logic or equitable considerations. Everytime a new tax reform bill comes out, an endless amount of special interests take those dollars. The federal government does not operate on a balanced budget. That is the basis they operate on when they decide the tax laws. The federal government is not worried, every session, whether or not they balance the budget. Montana legislatures should be making the policies for this state. Montana should not "piggyback" on the federal level but should use our own discretionary power.

The hearing on HB 550 was closed.

REPRESENTATIVE YARDLEY took over as chairman of the committee.

CHAIRMAN YARDLEY called the meeting into Executive Session.

EXECUTIVE SESSION

House Bill 460

REPRESENTATIVE UNDERDAL moved HB 460 DO PASS.

REPRESENTATIVE WILLIAMS said he has a lot of questions as to the repercussion in the future from this type of bill.

REPRESENTATIVE DOZIER said the main reason given for this bill was not necessarily the tax break it would provide but instead the borrowing power for money.

REPRESENTATIVE NEUMAN asked Jim Oppedahl, legal researcher, from the Legislative Council, if it is a possibility that a large corporation could form a nonprofit corporation to pump water. Mr. Oppedahl said that would be a reasonable interpretation and the law doesn't prevent that from happening.

REPRESENTATIVE NORDTVEDT said he has to pay property taxes on his well and he doesn't see why corporations should not pay taxes on their wells.

The motion of DO PASS was voted on and PASSED. A roll call vote was taken and all committee members voted yes except Representatives Bertelsen, Harp, Neuman, Nordtvedt, Ream, Vinger, Williams, Zabrocki and Yardley, who voted no.

House Bill 168

CHAIRMAN YARDLEY said this committee received amendments to HB 168, reducing the original amounts to one-fourth of what they were. (See EXHIBIT 3.)

REPRESENTATIVE DOZIER moved HB 168 DO PASS.

CHAIRMAN YARDLEY said instead of \$1,794,000 going to the Department of Institutions' allocation, the amount would now be \$448,000 per year.

REPRESENTATIVE DOZIER moved the amendments to HB 168.

The motion was voted on and PASSED unanimously.

REPRESENTATIVE DOZIER moved HB 168 DO PASS AS AMENDED.

The motion was voted on and FAILED. A roll call vote was taken. All committee members voted no except Representatives Asay, Dozier, Harp, Neuman, Nilson, Ream, Switzer, Underdal and Zabrocki, who voted yes.

CHAIRMAN YARDLEY said if there is no objection, the vote will be reversed and HB 168 will come out of committee as AND AS AMENDED, DO NOT PASS.

House Bill 261

REPRESENTATIVE SWITZER moved AMENDMENTS TO HB 261. (See EXHIBIT 4.)

JIM OPPEDAHN said the amendments add a new section to the bill that would have certain vehicles exempted from taxes and fees and in what cases those vehicles can be exempted.

REPRESENTATIVE BERTELSEN said since we have gone to the fee system, fees can be excused for cases such as military service-people where the property taxes could not be.

The motion to pass the amendments was voted on and PASSED. All committee members voted yes except Representatives Devlin, Nordtvedt and Yardley.

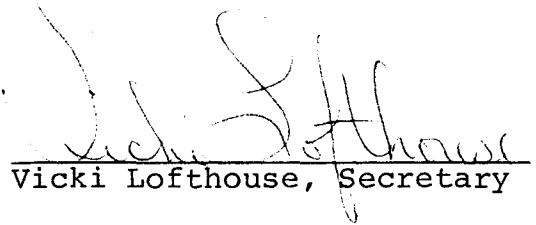
REPRESENTATIVE HARRINGTON moved HB 261 DO PASS AS AMENDED.

The motion was voted on and FAILED. All committee members voted against the motion except Representatives Harrington, Keenan, Nilson and Zabrocki, who voted yes.

The meeting was adjourned at 11:15 a.m.

A handwritten signature in cursive script, reading "Ted Neuman". The signature is written in dark ink and is positioned above a horizontal line.

TED NEUMAN, Vice-Chairman

A handwritten signature in cursive script, reading "Vicki Lofthouse". The signature is written in dark ink and is positioned above a horizontal line.

Vicki Lofthouse, Secretary

AGREEMENT

This Agreement is entered into as of this 9th day of March, 1981 by and between Rosebud County, Montana, acting by and through the Board of Commissioners of said county, and the Montana Power Company, on behalf of the owners of Colstrip Units #3 & #4, hereinafter referred to as the "Consortium," said builders and owners being, at the present time, The Montana Power Company, a Montana corporation, Puget Sound Power & Light Company, a Washington corporation, Pacific Power & Light Company, a Maine corporation, Portland General Electric Company, an Oregon corporation, and The Washington Water Power Company, a Washington corporation.

WITNESSETH:

WHEREAS, Montana Code Annotated Section 15-16-201 provides that a person intending to construct a major new industrial facility shall, upon request of the Board of County Commissioners of the county in which the facility is to be located, prepay an amount equal to three times the estimated property tax due the year the facility is completed but shall prepay only that amount shown to be needed from time to time; and

WHEREAS, the Consortium is engaged in the construction at Colstrip, Rosebud County, Montana of Colstrip Units #3 & #4, which is a major new industrial facility which will employ on an average annual basis at least 100 people and is, therefore, liable under the provisions of Section 15-16-201 for prepayment of taxes as needed and requested by the Board of County Commissioners of Rosebud County, Montana; and

WHEREAS, The Board of County Commissioners, by two letters dated December 11, 1980, has requested the prepayment of taxes by the Consortium to meet financial needs of Elementary School District #19 and High School District #19 caused by the impact of the construction of Colstrip Units #3 & #4; and

WHEREAS, Rosebud County and the Consortium desire to enter into an agreement setting forth in detail the need for such prepayment, the amounts and times of payment for such prepayment, the items and expenses on which the prepaid taxes will be expended, and the parties' understanding with respect to the operation of the tax credit following the start of productive operation of the facility:

NOW, THEREFORE, Rosebud County and the Consortium hereby agree as follows:

1. NEED FOR PREPAYMENT. Rosebud County and the Consortium agree that the construction of Colstrip Units #3 & #4 has created and will create a substantial impact on existing county and municipal services, particularly educational services. The population increase in school age children residing within the boundaries of Elementary School District #19 has created an immediate need for acquisition of classrooms and classroom facilities. Therefore, the Board of County Commissioners find, and the Consortium agrees, that there is a need for the prepayment of taxes under MCA Section 15-16-201.

2. AMOUNT AND TIMING OF PREPAYMENT. Rosebud County hereby requests and the Consortium hereby consents to the prepayment of taxes in an amount not to exceed \$804,100 requested for Elementary School District #19, and the \$1,702,900 requested for High School District #19. That total amount shall be paid in the estimated amounts,

anticipated to be due at the times listed below:

	<u>AMOUNT</u>	<u>DATE DUE</u>
	\$ 40,000.00	March 16, 1981
	164,000.00	March 30, 1981
	650,000.00	April 27, 1981
	410,000.00	May 25, 1981
	593,000.00	June 29, 1981
	500,000.00	July 27, 1981
	<u>150,000.00</u>	Aug. 24, 1981
TOTAL	\$ 2,507,000.00	

The Consortium will make such payments upon confirmation by Rosebud County, given before each payment date, that the amounts are then needed for the expenditures listed below.

3. EXPENDITURES. Rosebud County hereby agrees that it will make the amount of such prepayments available for expenditure on the following:

ELEMENTARY SCHOOL DISTRICT #19:

Site Survey	\$ 1,500
Site Work	125,000
Building Construction	590,000
Furniture & Equipment	67,600
A/E Fees	<u>20,000</u>
Subtotal	\$ 804,100

HIGH SCHOOL DISTRICT #19:

Site Survey	\$ 2,500
Site Work	75,000
Construction:	
Shop & Garage (3600 s.f.)	120,000
Music Addition (1900 s.f.)	90,000
Relocatable Classrooms (25,800 s.f.)	1,050,000
Kitchen Equipment	90,000
Furniture & Equipment	210,400
A/E Fees	<u>65,000</u>
Subtotal	\$ 1,702,900
TOTAL	<u>\$ 2,507,000</u>

4. TAX CREDIT. Rosebud County and the Consortium acknowledge that MCA Section 15-16-201 provides for a tax credit of the amount prepaid hereunder, with one-fifth (1/5) of the amount prepaid allowed as a credit against Rosebud County property taxes in each of the first five (5) years after the start of productive operation of the facility. Therefore, the members of the Consortium are entitled collectively to take a tax credit equal to one-fifth (1/5) of the amount prepaid against the property taxes levied against Colstrip Units #3 & #4, and Rosebud County is entitled through its financing and budget processes to set the tax credit off against the levies for Elementary School District #19 and High School District #19.

The total tax credit claimed each year shall be divided among the members of the Consortium in proportion to their then ownership shares in Colstrip Units #3 & #4. For purposes of this agreement, Rosebud County and the Consortium agree that fifty percent (50%) of this tax prepayment is made on behalf of Colstrip Unit #3 and fifty percent (50%) on behalf of Colstrip Unit #4 and that the tax credit on each respective Unit shall begin following the start of productive operation of each Unit, which the parties agree shall be the date each respective Unit is put into commercial operation.

5. BINDING EFFECT. The parties hereto agree that this agreement shall bind themselves and their respective successors and assigns. Upon inclusion or succession of other parties as owners of Colstrip Units #3 & #4, such other parties shall succeed to a portion of the tax credit and shall be entitled to claim such share of the credit as may be agreed by the members of the Consortium.

Special Payment Provisions

15-16-201. Tax prepayment — new industrial facilities. (1) A person intending to construct or locate a major new industrial facility, as defined in subsection (2) of this section, shall upon request of the board of county commissioners of the county in which the facility is to be located, prepay, when permission is granted to construct or locate by the appropriate governmental agency, an amount equal to three times the estimated property tax due the year the facility is completed. The person who is to prepay under this section shall not be obligated to prepay the entire amount at one time but, upon request of the board of county commissioners of the county, shall prepay only that amount shown to be needed from time to time. To assure this payment or payments, the person who is to prepay shall guarantee to the board of county commissioners and also have a bank or banks guarantee that these amounts will be paid as needed for expenditures created by the impact. When the facility is completed and assessed by the department of revenue, it shall be subject during the first 3 years and thereafter to taxation as all other property similarly situated, except that one-fifth of the amount prepaid shall be allowed as a credit against property taxes in each of the first 5 years after the start of productive operation of the facility.

(2) A major new industrial facility is a manufacturing or mining facility which will employ on an average annual basis at least 100 people in construction or operation of the facility and which will create a substantial adverse impact on existing state, county, or municipal services.

History: En. 84-41-105 by Sec. 1, Ch. 449, L. 1975; R.C.M. 1947, 84-41-105.

Part 3

Reporting Delinquent Taxes

15-16-301. Delinquent list — real property. On the third Monday of December and on the third Monday of June of each year, the county treasurer must make a report to the county clerk and recorder in detail, showing the amount of taxes collected and a complete delinquent list of all persons and property then owing taxes, and the county clerk and recorder shall compare such report with the books of the county treasurer and shall keep a record of such report in his office.

History: En. Sec. 101, p. 109, L. 1891; re-en. Sec. 3867, Pol. C. 1895; re-en. Sec. 2623, Rev. C. 1907; re-en. Sec. 2176, R.C.M. 1921; Cal. Pol. C. Sec. 3758; amd. Sec. 5, (Ch. 96, L. 1923; re-en. Sec. 2176, R.C.M. 1935; R.C.M. 1947, 84-4111.

15-16-302. Tabulation and transmittal of real property delinquent list. (1) The county treasurer must, at the time specified in 15-16-301, deliver to the county clerk and recorder a complete delinquent list of all persons and property then owing taxes.

(2) In the list so delivered, all matters and things contained in the assessment book and relating to delinquent persons or property must be set down in numerical or alphabetical order.

(3) The county clerk and recorder must make an assessment book, and if satisfied that the assessment of all taxes due and unpaid so remaining unpaid, credit the same with, and make a final settlement on the assessment book and must show any existing deficiency.

History: (1) En. Sec. 102, p. 109, L. 1891; re-en. Sec. 2177, R.C.M. 1921; (2) En. Sec. 103, p. 109, L. 1891; re-en. Sec. 2178, R.C.M. 1921; Cal. Pol. C. Sec. 1947; (3) En. Sec. 104, p. 109, L. 1891; re-en. Sec. 2179, R.C.M. 1921; Cal. Pol. C. R.C.M. 1947, 84-4112, 84-41

15-16-303. Treasurer's charge. The county treasurer shall be charged with the county treasurer's recorder must charge the treasurer due on the delinquent tax list and duly certified, to the county treasurer.

History: En. Sec. 105, p. 109, L. 1891; re-en. Sec. 2180, R.C.M. 1921; Cal. 2180, R.C.M. 1935; R.C.M. 1947, 84-4115.

15-16-304. Statement to county clerk and recorder. The county clerk and recorder must make a statement in such form as assessed and delinquent and the

History: En. Sec. 106, p. 109, L. 1891; re-en. Sec. 2181, R.C.M. 1921; Cal. 2181, R.C.M. 1935; amd. Sec. 150, Ch. 516

15-16-305. Disposition of delinquent taxes. The county clerk and recorder must annually on the third Monday of each year, make a report to the county clerk and recorder with sons and property not marked taxes have been paid, he must make an assessment book.

(2) The county clerk and recorder must make an oath, to be written by every person and all property a have been paid have been credit

(3) The county clerk and recorder must make an oath and credit the settlement with him. The delinquent and recorder's office.

(4) At the time mentioned in must make an affidavit, endorse "paid" have not been paid and

2-3-83

TO: CHAIRMAN HOUSE TAXATION COMMITTEE

FROM: BRUCE A. MacKENZIE, VICE PRESIDENT AND GENERAL COUNSEL
D. A. DAVIDSON & CO.

RE: HOUSE BILL 550

D. A. Davidson & Company opposes the amendments proposed to Montana Code Annotated, Section 15-31-113 by House Bill 550. The bill proposes to disallow the use by corporations of any federal Internal Revenue Code deductions not specifically adopted or provided for under State Law.

Specifically, this amendment would disallow, among others, the deductions available to corporations under Internal Revenue Code Section 243 for dividends received from other corporations. This Internal Revenue Code Section provides deductions equal to 100% of all dividends received from an 80% owned corporation and 100% of dividends received by a Small Business Investment Company. It also allows the deduction of 85% of all dividends received from other corporations regardless of the ownership percentage or status of the receiving corporation.

To disallow this deduction would remove the incentive for a corporation doing business within the state to invest in other Montana corporations. This regressive tax policy, in light of the mandate of Initiative 95 and other measures designed to encourage and develop investment in Montana businesses, can only be viewed as counter-productive.

D. A. Davidson and Company opposes this legislation and urges a do not pass recommendation.



The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

REP. PAUL G. PISTORIA
DISTRICT NO. 39
2421 CENTRAL AVE.
GREAT FALLS, MONTANA 59401

January 29, 1983

COMMITTEES:
LOCAL GOVERNMENT
EDUCATION
STATE ADMINISTRATION

Dan Yardley, Chairman & Members
of the Taxation Committee

My new proposal on H.B. 168 is to transfer \$476,702 from the 16% Liquor Tax instead of \$1,906,808 per year as I originally proposed. This amount of \$476,702 is only 1/4 of 25% of the amount I asked for. It is better than nothing and will help some.

If the 16% Liquor Tax Revenue of \$7,627,232 as in 1982-1983 stays the same each year, then, by increasing the 12% to 15% = \$476,702 which will be transferred to the 14% for Cities and Towns, Counties and Institutions, which increases this fund by that amount. Therefore, the 14% is reduced to 11%.

In order to maintain the same amount for Cities and Towns - Counties to still use as they desire in the law, the 21.5% for Cities and Towns is increased to 27.25% and the 3.25% for Counties is increased to 4.1%. Thus, \$476,702 is transferred to the 85/15% to Counties for alcohol treatment.

Thank you.

Paul G. Pistoria
Paul G. Pistoria
State Representative

PROPOSED AMENDMENTS FOR H.B. 168 IS ATTACHED.

1. Page 1, line 15.

Following: "16%"

Delete: "12%"

Insert: "15%"

2. Page 2, line 3.

Following: "10%"

Delete: "14%"

Insert: "11%"

3. Page 2, line 8.

Following: "10%"

Delete: "14%"

Insert: "11%"

4. Page 2, line 12 and 13.

Following "10%" on line 12

Delete: "14%"

Insert: "11%"

4. Page 2, line 12

Following: "Thirty" on line 12

Delete: "Twenty-one and one-half" ending on line 12 line 12 through "one-half"

Insert: "Twenty-seven and one-fourth" on line 13.

5. Page 2, line 17

Following: "Four and one-half" line 16

Delete: "Three and one-fourth" on line 17

Insert: "Four and one-tenth"

PROPOSED AMENDMENTS TO H.B. 261

1. Title, line 5.
Following: "AGAINST"
Insert: "CERTAIN"

2. Page 2, line 12.
Following: "(2)"
Strike: "A"
Insert: "Except as provided in [section 3], a"

3. Page 2, line 19 and 20.
Following: "assessed" on line 19
Strike: line 19 through "registration" on line 20

4. Page 2, line 23 and 24.
Following: "61-3-532" on line 23
Strike: line 23 through "registration" on line 24

5. Page 3, line 5 through line 8.
Following: "." on line 5
Strike: line 5 through line 8 in their entirety

6. Page 4, line 7.
Following: line 6
Insert: "NEW SECTION. Section 3. Certain vehicles exempted from taxes and fees - when. The county treasurer may not assess or collect taxes or fees, other than the new motor vehicle sales tax, for a taxable period when a vehicle was not registered or operated on the highways of the state if:

(1) the owner of the vehicle is:

(a) a Montana resident, a member of the regular armed forces of the United States and is on active duty outside of the state;

(b) an unemployed resident of Montana who has left the county to seek employment; and

(2) the vehicle has been in storage for the entire taxable period and the owner provides the affidavit required in 61-3-304.

NEW SECTION. Section 4. Codification instruction.
Section 3 is intended to be codified as an integral part of Title 61, chapter 3, part 5, and the provisions of Title 61, chapter 3, part 5 apply to section 3."

Renumber: subsequent section

DEPARTMENT OF REVENUE



EDWARD WINDEN GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

HELENA MONTANA 59620

House Bill No. 550 has been introduced in response to the Montana Supreme Court's decision in the matter of Baker Bancorporation, Inc. et al v. Department of Revenue State of Montana decided December 29, 1982 petition for rehearing denied January 31, 1983. The Court determined in this matter that the 1973 legislative amendment to Section 84-1504, RCM (now Section 15-31-113 MCA) intending to limit Corporate License Tax deductions to only those deductions found in Section 84-1502 RCM, (now 15-31-114 MCA), does in fact provide no limitation.

The present state of the law is that a corporate taxpayer in computing its Montana Taxable Net Income, is entitled to all of those deductions specifically found in Section 15-31-114 MCA and any and all other federal deductions found in the IRC and not explicitly prohibited by our statutes.

In practical terms, this decision effectively nullifies Montana's deduction section and ties Montana directly to every change in the federal deduction sections. This results in removing from Montana's Legislative Assembly, the ability to determine its own policies regarding taxation and can easily be viewed as an infringement on our state's sovereignty.

At this point in time, the principal deduction allowed by federal statutes, but not specifically provided for by Montana statutes, is what is known as a Federal Section 243 dividend deduction. Briefly, Section 243 provides for a federal deduction for certain dividends received from domestic corporations, an 85% deduction for dividends received from unaffiliated corporations and a 100% deduction for dividends received from affiliated corporations. The immediate potential loss of revenue to the state is estimated to be approximately \$1.2 million per year. The long range projections are impossible to predict for two reasons. First, the state will be completely dependent upon what changes may be made to the Federal deduction section. Second, many corporations may have been withholding paying dividends because they felt they would be taxable. With the Baker case, those same corporations may now begin to pay dividends with the understanding that they are not taxable. Under that situation, the tax effect would be substantially increased.

Therefore, we feel this legislation is critical. We feel it will correct the problems demonstrated and perceived, and is in accord with the legislative intent in establishing Montana's own definition of net income. Finally, it grants no new authority to the Department, but merely states that only those deductions specifically provided for by the Montana Legislature shall be granted.



School Administrators of Montana

501 North Sanders

Helena, MT 59601

(406) 442-2510

February 3, 1983

TO: Representative Dan Yardley, Chairman
House Taxation Committee

FROM: Jesse W. Long, Executive Secretary
School Administrators of Montana

RE: House Bill 549 "An Act creating an income tax deduction for tuition paid for post secondary education up to a maximum of \$400 a student; limiting the deduction to taxpayers with adjusted gross income of less than \$12,000 if a joint return is not filed and \$15,000 if a joint return is filed; amending....

The School Administrators of Montana oppose H.B. 549.

The estimated loss of \$430,000 in income tax is a continuing loss of revenue for public schools.

The use of the word "postsecondary" on line 22, page 2, leaves the door wide open to all kinds of fly by night operations. An appropriate definition that would cover properly accredited institutions clarifies the bill.

We would suggest that the bill be amended by inserting the word "public" between "for" and "postsecondary" in line 22, page 2, as well as in the title line 5, page 1.

WITNESS STATEMENT

Name Clark Ogden Committee On Taxation
 Address Box 1699 Helena MT Date 7/3/83
 Representing Saluska Higgins & Saluska, Attorneys Support
 Bill No. 550 Oppose X
 Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. This bill purports to address the Supreme Ct decision that allowed dividends for bank holding companies to avoid double taxation. That Ct decision in our opinion is a good one anyway. U.S. should make a not different as there is no graduated corporate income tax.
2. However this bill goes far beyond that by opening the door to overturn all the precedent since about 1917 of following the federal rules for ordinary & necessary deductions.

This bill should be defeated on its face.

another signal to business

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34

1-83

Double taxation is actually triple taxation in this case.

WITNESS STATEMENT

Name Jim Mackler Committee On Tax
Address 2301 Colonial Dr Date 2/3/83
Representing MT. Coal Council Support ✓
Bill No. 556 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Veterans' Benefits

10-2-301. License plates to disabled veterans. Any person who is a veteran of the armed service of the United States and 100% disabled because of an injury which has been determined by the veterans administration to be service connected and who is a citizen and resident of the state of Montana and who is the owner of a passenger automobile or of a truck up to and including three-quarter ton GVW-rated capacity shall be provided with license plates upon payment of a fee of \$5 for such automobile or truck and upon proof of 100% service-connected disability.

History: En. Sec. 1, Ch. 215, L. 1971; amd. Sec. 1, Ch. 33, L. 1975; amd. Sec. 1, Ch. 67, L. 1977; R.C.M. 1947, 53-106.8; amd. Sec. 7, Ch. 614, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "provided with license plates upon payment of a fee of \$5" for "provided with free license plates upon payment of personal property tax equal to 1% of the taxable value" near the end of the section.

Effective Date: Section 66, Ch. 614, L. 1981, provided: "(1) Except as provided in subsection (2), this act is effective on January 1, 1982.

(2) Section 5 [61-3-535] is effective on passage and approval." Approved May 7, 1981.

10-2-302. Plates nontransferable. The license issued pursuant to 10-2-301 shall not be transferable.

History: En. Sec. 2, Ch. 215, L. 1971; R.C.M. 1947, 53-106.9.

10-2-303. Veterans' plates limited to one automobile or truck. No disabled veteran is entitled to license plates under 10-2-301 for more than one passenger automobile or one truck up to and including three-quarter ton GVW-rated capacity.

61-3-533. Schedule of fees for automobiles and light trucks. (1) Except as provided in subsection (3), the following schedule, based on vehicle age and weight, is used to determine the fee imposed by 61-3-532:

Vehicle Age	Weight	
	2,850 pounds or less	More than 2,850 pounds
Less than or equal to 4 years	\$70	\$90
More than 4 years and less than 8 years	40	50
More than 8 years	10	15

(2) The fee for a light vehicle is the appropriate dollar amount from the table in subsection (1) multiplied by the ratio of the PCE for the second quarter of the year prior to the year of licensing to the PCE for the second quarter of 1981. "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the United States department of commerce.

(3) The light vehicle license fee for disabled veterans qualifying under the provisions of 10-2-301 through 10-2-304 is \$5.

VISITOR'S REGISTER

HOUSE Agitation

COMMITTEE

BILL 549

DATE 2-3-83

SPONSOR Danier

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE Taxation

COMMITTEE

BILL 550

DATE 2/3/83

SPONSOR Gardley

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL 556

DATE 2-3-83

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATE OF MONTANA

REQUEST NO. 285-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, 19 83, there is hereby submitted a Fiscal Note for House Bill 549 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 549 creates an income tax deduction for tuition paid for postsecondary education up to a maximum of \$400 a student; limits the deduction to taxpayers with adjusted gross income of less than \$12,000 if a joint return is not filed and \$15,000 if a joint return is filed; and provides an applicability date.

ASSUMPTIONS:

- 1) The Office of the Commissioner of Higher Education forecasts that there will be an average of 40,360 Montana residents attending college in calendar year 1984.
- 2) In the fall of 1982, there were 2,653 students attending vocational/technical schools in the state. It is assumed that the number will remain constant through calendar year 1984.
- 3) It is assumed that the total annual tuition paid is sufficiently high to yield a \$400 deduction per eligible taxpayer.
- 4) It is assumed that 50% of the students or their families will be eligible to claim the deduction.
- 5) A 5% average marginal tax rate is assumed.
- 6) For simplicity, it is assumed that all the affected returns are processed in the first half of calendar year 1985.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Individual Income Tax		
Under Current Law	No Effect	\$175,459,375
Under Proposed Law	No Effect	175,029,375
Estimated Decrease	No Effect	<u>\$ (430,000)</u>

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-3-83

-2-

General Fund

Under Current Law	No Effect	\$112,294,000
Under Proposed Law	No Effect	112,018,800
Estimated Decrease	No Effect	<u>\$ (275,200)</u>

Earmarked Revenue Fund

Under Current Law	No Effect	\$ 43,864,844
Under Proposed Law	No Effect	43,757,344
Estimated Decrease	No Effect	<u>\$ (107,500)</u>

Sinking Fund

Under Current Law	No Effect	\$ 19,300,531
Under Proposed Law	No Effect	19,253,231
Estimated Decrease	No Effect	<u>\$ (47,300)</u>

FISCAL NOTE 10:X/2

HB549

STATE OF MONTANA

REQUEST NO. 286-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 550 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

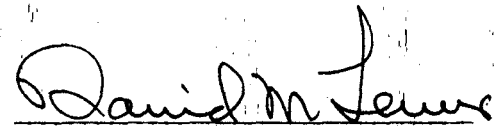
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 550 limits a Montana corporate taxpayer to the use of only those deductions set forth in Section 15-31-114, MCA; disallows the use of Federal Internal Revenue code deductions in the calculation of net income for Montana corporation license tax purposes; and provides an immediate effective date and an applicability date.

FISCAL IMPACT:

It is not possible to know how many corporations may have potential deductions allowed under federal law which are not expressly permitted by state law. On the basis of research done in connection with litigation, it is believed that, if all such deductions were disallowed, the state would collect \$1,200,000 in additional corporation license tax revenue annually. In the absence of this provision, corporation license tax collections will drop below current estimates if greater numbers of taxpayers avail themselves of such deductions.

FISCAL NOTE 10:P/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-3-83

STANDING COMMITTEE REPORT

March 16,

19 83

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 550

First reading copy (White)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT A MONTANA CORPORATE TAXPAYER TO THE USE OF ONLY THOSE DEDUCTIONS SET FORTH IN SECTION 15-31-114, MCA; AND TO DISALLOW THE USE OF FEDERAL INTERNAL REVENUE CODE DEDUCTIONS IN THE CALCULATION OF NET INCOME FOR MONTANA CORPORATION LICENSE TAX PURPOSES; AMENDING SECTION 15-31-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

Respectfully report as follows: That HOUSE Bill No. 550

~~DO PASS~~

Do Not Pass

STANDING COMMITTEE REPORT

February 7, 19 83

MR. **SPEAKER:**

We, your committee on **TAXATION**

having had under consideration **HOUSE** Bill No. **556**

First reading copy (**White** color)

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE COAL BOARD TO
MAKE GRANTS TO QUALIFIED APPLICANTS FOR THE PURPOSE OF PAYING
PART OR ALL OF AN APPLICANT'S CREDIT OBLIGATION FOR PREPAID
PROPERTY TAXES."

Respectfully report as follows: That **HOUSE** Bill No. **556**

DO PASS