

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 5, 1983

The fifty-ninth meeting of the Taxation Committee was called to order at 8:05 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 740: Representative Ted Neuman, House District 33, sponsor of the bill, said HB 740 requires taxpayers to add back a portion of the depreciation deduction provided for by ACRS. This is piggy-backed on the federal ACRS add-back. The result of the depreciation deduction on the state level has been reduced income to the state. This bill will require an add-back according to the schedule on page 2 of the bill and will bring in about \$12.2 million over the next biennium. Representative Neuman also submitted an amendment (Exhibit A) that says that after the third year, you can start deducting or adding back one-fifth of that so that you will finally be able to deduct it all. This is done from a study by the U.S. Treasury, he said.

PROPONENTS

Dan Bucks, representing the Department of Revenue, said that in 1981, Congress reduced taxes for corporations and real estate taxes. ACRS has shortened the life over which certain items could be depreciated. This affects state revenue because deductions early in the life of an asset mean tax dollars are reduced now and it is worth more now than later. See Exhibit B (State Responses to ACRS, Comparison of Funds--HB 739 and HB 740, Form 4562, ACRS and Out-of-State Investments, Impact on Taxpayers). The add-back will not require taxpayers to keep two sets of books. This will operate at the level of tax forms, not at the level of depreciation records. It is an appropriate investment credit by ACRS for two reasons--ACRS does not work at the state level as an incentive for investing inside a state. Referring to page 4 of his handout, Exhibit B, he said that in the case of multistate corporations, they take the depreciation deductions on all property before they compute net income for federal and state purposes. The first column lists the acceleration benefit on net income of a multistate firm. If all investments are made outside the state of Montana, the same reduction occurs as if investments were made within the state of Montana. ACRS doesn't discriminate as to whether investments are in-state or out-of-state. Mr. Bucks reviewed the rest of Exhibit B for the committee's benefit.

OPPONENTS

Tom Harrison, representing the Montana Society of CPAs, pointed out that HB 740 provides for two substantial areas-- (1) 2-3 year old automobiles and light trucks, and (2) real estate. He questioned the magnitude of the figures the Department of Revenue presented. ACRS was enacted as a simplification method. You had five methods--200, 150, 125, straight line, and sum-of-the-years digits. You also had to depreciate in the year of acquiescence only from the month you acquired the property. ACRS solidified that and did away with the old methods. It utilized 25 percent in the first year of vehicles to do away with the 0-12 month period. This is counterproductive to what was intended. The second problem concerns the amendment to adjust for loss on mathematical computation. What happens when the property is disposed of? It would be simpler if at the time of disposition, 100% were added back.

Joe Loendorf, CPA, Helena, said we claim more during the first three years, so ACRS doesn't really accelerate depreciation of property. HB 740 introduces something new in tax law by adding the imputed present value to the deduction. Mr. Loendorf said there was no provision for when property is disposed of or exchanged in a nontaxable transfer under federal law. He said HB 740 was not good tax legislation.

Joe Shevlin, CPA, Helena, provided an example of a farmer buying a tractor and using HB 740 (Exhibit C). The Montana taxpayer is paying taxes on a gain he has not realized.

Mike Holland, CPA, Helena, agreed with the other CPAs opposing the bill. The amendments seem to be just as much work as, if not more than, keeping a dual set of books. He asked the committee to consider Joe Loendorf's comments that ACRS has not increased the deduction except maybe on real estate. ACRS has been in effect for two years. If HB 740 passes, farmers will have problems with the equipment they own already.

Ann Bullington, CPA, Helena, said that the assumption being made is that ACRS is a great benefit. Many CPAs feel that is not true. People who bought assets in 1981 and 1982 can't elect to use ACRS or the straight-line method, so they get a surtax. She recommends that people use the straight-line method on real property because under ACRS you have to add back on real estate.

Clark Pyfer, past president of the Montana Society of CPAs and a partner in Galusha, Higgins & Galusha, urged the committee to vote against this bill.

Questions from the committee were called for.

Senator Elliott asked Mr. Bucks why the Department takes such a strong position on this if it is not going to have an effect

over the life of the assets. Ellen Feaver, director of the Department of Revenue, responded that there was no investment credit included in the budgets. The cabinet people put together the legislation to be considered, and it had a self-funding mechanism since no investment credit provisions were included.

Senator Crippen asked what the Department's attitude would be regarding taxpayers claiming under investment credit or ACRS if HB 740 does not pass. Ms. Feaver said the strongest case can be made for the 20% investment credit.

Senator Mazurek asked how significant the investment credit was. Mr. Loendorf replied that it was good for people who are buying equipment.

Senator Mazurek asked how the federal and state investment credits work together. He thought whatever was gained at the state level was lost at the federal level. Mr. Loendorf replied that Montana's law piggy-backs on the federal credit.

Senator Lynch asked Mr. Bucks if it would be a wash if neither bill (HB 739, HB 740) passes. Mr. Bucks stated no, if both bills do pass, it is almost a wash. He added that the preferred legal opinion is the 20% investment credit.

Senator Towe asked Mr. Bucks how he responded to the concerns regarding sale of property. Mr. Bucks suggested that it wasn't affected fundamentally by the add-back but by the depreciation method chosen.

Tom Harrison stated that the one-fifth referred to in Representative Neuman's amendment should be defined, and some language regarding when assets are traded or disposed of and their basis should be added to the bill.

Senator Crippen recalled that Dan Bucks mentioned we would lose revenue on HB 739. He disagreed with that because "you can't lose something you never had." We did not eliminate the investment tax credit.

Senator Eck stated that a number of states have done this on a temporary basis, addressing it with a termination date. Ms. Feaver said the Department is trying to come up with the best idea they can for Montana citizens. The way HB 740 is written, the cost is paid mostly by multistate corporations, not by Montana citizens.

Senator Eck asked what the impact would be if HB 740 was limited to the corporate tax.

Senator Towe asked, if we make the decision that we can't afford ACRS in Montana, is it better to use the add-back or to go to a non-ACRS system. Joe Loendorf said he would prefer the straight line method.

Senator Goodover asked what the effect would be if everyone used the straight line method, and Mr. Bucks said there would be no effect.

Senator Elliott, addressing Mr. Bucks, said they did not compare ACRS with another fast write-off system--80R. He wondered what authority was being used for the straight line method referred to on page 2, line 6. Senator Towe said that in § 168 of the Internal Revenue Code, there is an exclusion in subsection (e) that lets you elect the straight line method. The problem is, though, that if you want to go ACRS for federal tax purposes, you can't turn around and elect to use the straight line method for the state.

The hearing on HB 740 was closed.

CONSIDERATION OF HOUSE BILL 582: Chairman Goodover told the committee that two amendments which were voted on favorably during executive action on HB 582 on March 29 were inadvertently left off the standing committee report. He asked how the committee wanted to handle putting those amendments in the bill.

Senator Towe moved that the committee authorize an amendment to be made on the Committee of the Whole on second reading so the bill would reflect the amendments made during the taxation committee action and as shown in the minutes. The motion was seconded and passed unanimously. See Exhibit D.

DISCUSSION RE HOUSE BILL 573: Chairman Goodover stated that the committee would hear HB 573 after HB 511 is heard. He submitted a written statement explaining his reasons. See Exhibit E.

Senator Towe moved that HB 573 be considered by the committee on Tuesday, April 12. His motion died for lack of a second.

Senator Goodover said he talked with Herb Sammons at the Board of Aeronautics, and they discussed hearing the bill on April 13.

Senator Towe moved that the committee put HB 573 on the calendar for April 13 at this time. He stated that if the chairman would schedule the bill, he would withdraw his motion. Senator Towe's motion died for lack of a second.

They discussed at length whether the chairman had the prerogative of not scheduling a bill that had entered the committee. The chairman then stated that HB 573 would be heard on April 13.

CONSIDERATION OF HOUSE BILL 890: Senators Towe and Turnage and Cort Harrington, the committee's staff attorney, are working on amendments to HB 890 which will correct the situation of the November and December fees being different.

NOTICE OF SUBCOMMITTEE MEETING ON HOUSE BILL 637: Senator Severson, chairman of the subcommittee, said they will be meeting tonight at 7 in Room 415 with the agriculture people, and he will be ready to present this to the committee in the morning.

Jo Brunner, representing WIFE, submitted to the committee a copy of a letter to an editor from Donna Fornfeist, taxation chairman of WIFE, explaining the changes in agricultural land taxation. It is attached as Exhibit F.

Chairman Goodover announced that the committee would meet in executive session at 9 a.m. on April 6 to act on HB 637 and HB 890.

The meeting adjourned at 9:45 a.m.

Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 4/5 /8

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

, 2003

TABLE 1

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Clark Ryder	Mont. Sen. Cda	740		X
Joe Finkbeiner	" " "	740		
Joe Shwiler	" " "	740		X
James Burr	Mont. Sen.	740		X
Ann Bullington	Muhlman & Bullington	740		X
Jim Mochla	MT. Coal Council	740		X
Pat Wilson	Mont. Co.	740		X
Tom Hannon	Mont. Society of CPAs	740		X
Judith Fallon	Mont. Chamber	740		X
Lloyd ...	NFIB	740		X
Don Buckle	Dept. of Revenue	740	X	
Bob ...	OBPP			
Cheri ...	MT Society of CPAs	740		X
Steve ...	MSCPA	740		X
Tom ...	Commerce	740		X
Steve ...	Steel City ...	740		X
Ellen ...	Dept. of ...	740	X	
...	...	740		

(Please leave prepared statement with Secretary)

April 5, 1983House BILL/RES. 740

Page 2 Following, line 11 Insert: "the taxpayer shall recapture the above addition to adjusted gross income of a portion of accelerated cost recovery system deductions. Beginning in the third year after each taxable year in which the above percentages of accelerated cost recovery system deductions are added to his adjusted gross income, the taxpayer shall subtract from his adjusted gross income in each of the 5 succeeding taxable years $1/5$ of the amounts that were added."

Page 5 Following, line 19 Insert: "The taxpayer shall recapture the above addition to gross income of a portion of accelerated cost recovery system deductions. Beginning in the third year after each taxable year in which the above percentages of accelerated cost recovery system deductions are added to gross income, the taxpayer shall subtract from the corporation's gross income in each of the 5 succeeding taxable years $1/5$ of the amounts that were added."

April 5, 1983House BILL/RES. 740

STATE RESPONSES TO ACRS

44 states levy corporation license or income taxes.

19 states conformed to ACRS without making any compensating changes in their tax laws.

4 states raised their tax rates to compensate for ACRS.

12 states disallow ACRS depreciation deductions and require pre-1981 depreciation rules.

9 states have adopted an "addback" procedure, or some variation, to compensate for ACRS.

COMPARISON OF FUNDS SPENT BY HB 739 AND RAISED BY HB 740
84-85 BIENNIUM

	<u>Expenditures</u> <u>HB 739</u>	<u>Revenues</u> <u>HB 740</u>
Individual Income Tax	\$ 10,220,000	\$ 2,279,000
Corporation License Tax	<u>\$ 2,494,000</u>	<u>\$ 9,939,000</u>
Total	\$ 12,714,000	\$ 12,218,000

Name(s) as shown on return

Identifying number

Business or activity to which this form relates

Part I Depreciation

Section A Election to expense recovery property (Section 179)

[illegible]

1 Total (not more than \$5,000). Enter here and on line 8 (Partnerships—enter this amount on Schedule K (Form 1065))

Section B Depreciation of recovery property

[illegible]

4 Total column G. Enter here and on line 9.

See Paperwork Reduction Act Notice on page 1 of the separate instructions.

[illegible][illegible]

☆ U.S. GOVERNMENT PRINTING OFFICE : 1982-O-363-179 E.I. 43-1110209

ILLUSTRATION: ACRS AND OUT-OF-STATE INVESTMENTS

	Federal Income Benefit From ACRS	Apportionment Factor	Reduction in Montana Net Income
<u>Example A.</u>			
New Investments Outside Montana	\$ 100,000		
New Investments Inside Montana	<u>\$ 0</u>		
Total	\$ 100,000	10%	\$ 10,000
<u>Example B.</u>			
New Investments Outside Montana	\$ 90,000		
New Investments Inside Montana	<u>\$ 10,000</u>		
Total	\$ 100,000	10%	\$ 10,000
<u>Example C.</u>			
New Investments Outside Montana	\$ 0		
New Investments Inside Montana	<u>\$ 100,000</u>		
Total	\$ 100,000	10%	\$ 10,000

The same tax benefit occurs regardless of whether or not new investments are made inside or outside Montana. Thus, ACRS does not work at the state level as an incentive for investing inside a state.

The federal government has adopted special rules for depreciation for property used outside the United States. Under these rules, the short-time period benefits of ACRS are not available. In this manner, the federal government has eliminated ACRS for property outside the country.

IMPACT OF HB 740 ON MONTANA TAXPAYERS

EXAMPLE #1

Assumptions:

Farm Family of 4 Persons
Taxable Income Before Depreciation: \$25,000
(Each Year for 10 Years)
\$50,000 Tractor Purchase
\$1,000 Investment Credit Claimed per HB739
(\$500 each spouse)

<u>Depreciation Method</u>	<u>Present Value of 10 Years of State Taxes</u>
ACRS - No addback	\$ 6,610
ACRS - With HB 740, plus recapture	6,737
ACRS - Straight line	7,829
ADR - Old law accelerated method	6,745
ADR - Old law straight line	7,284

EXAMPLE #2

Farm Family of 4 Persons
Taxable Income Before Depreciation: \$25,000
per year, except \$10,000 loss in 1984,
\$20,000 loss in 1989, with losses carried
over to subsequent years.
\$50,000 Tractor Purchase
\$1,000 Investment Credit Claimed per HB 739
(\$500 each spouse)

<u>Depreciation Method</u>	<u>Present Value of 10 Years of State Taxes</u>
ACRS - No addback	\$ 3,547
ACRS - HB 740, plus recapture	3,661
ACRS - Straight line	4,036
ADR - Old law accelerated method	3,768
ADR - Old law straight line	3,880

EXAMPLE - USING HB 740

FARMER BUYS A
TRACTOR 7/1/81
* 40000.00

ACRS DEPRECIATION - FEDERAL RTN

MONTANA RETURN

WHEN THIS TRACTOR IS SOLD

1986

BASIS

GAIN

BASIS -
COST LESS
DEPRECIATION
- 0 -

TOTAL
DEPRECIATION
40000.00

40000.00

36000.00

X5

X4

X3

X2

X1

6000.00

8400.00

8400.00

8400.00

8400.00

8400.00

8400.00

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FED

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0 -

15000.00

MONTANA

15000.00

0 -

15000.00

SHOULD BE

15000.00

4000.00

11000.00

MONTANA IS
TAXPAYER'S GAIN
AND HE
PAID TAX
ON THE
GAIN HE
REALIZED
THAT

COMMITTEE OF THE WHOLE AMENDMENT

STATE TAXATION COMMITTEE

EXHIBIT D

April 5, 1983

House BILL/RES. 582

MR. CHAIRMAN: I MOVE TO AMEND

HOUSE BILL 582, Third Reading

Copy, as follows:

1. Page 2, line 10.

Following: "ore"

Strike: remainder of line 10 through "gas," on line 11.

2. Page 2, line 17.

Following: "that is"

Strike: remainder of line 17 and line 18 in its entirety.

4/5/83 - submitted to Harriett



The Big Sky Country

MONTANA STATE SENATE

SENATE TAXATION COMMITTEE

EXHIBIT E

April 5 1983

House BILL/RES. 573

SEN. PAT. M. GOODOVER
803 FOREST AVENUE
GREAT FALLS, MONTANA 59404
PHONE 406/453-2186

HELENA ADDRESS:
BOX 22, CAPITOL BLDG.
HELENA, MONTANA 59620

COMMITTEES:
TAXATION —
CHAIRMAN
BUSINESS & INDUSTRY
VICE-CHAIRMAN
LABOR & EMPLOYMENT RELATIONS
LEGISLATIVE COUNCIL
CHAIRMAN
COUNCIL OF STATE
GOVERNMENTS
GOVERNING BOARD
CSG TRANSPORTATION

April 4, 1983

TO: Members of the Senate Taxation Committee

FROM: Senator Pat Goodover, Chairman

RE: HB-573.....adding 1 cent to aviation fuel tax

You are now getting, or will be getting phone calls from members of the Montana Pilots Association asking about HB-573. This is to let you know that we have not scheduled that bill for hearing yet for a couple reasons.

The bill is to raise added money for the Board of Aeronautics. One penny would raise about \$300,000 more or less. They already are receiving that amount from an existing one cent tax on aviation fuel, even though their duties and responsibilities have been reduced. Some of this money is used for loans and grants to airports, in addition to administrative costs.

For your information, we are working with the administration to get some matching money, about 1.3 million which would allow some 72 small airports in the state to get up-front money to qualify for 13 million in airport improvement funds available on a use it or lose it basis for 1984-85, from federal funds which originate IN MONTANA, thru taxes on airline tickets, and various excise taxes on oil, tires and other costs assessed to the airlines, and other aviation channels.

The people we've been working with in the administration are either going to set aside the 1.3 million or will use about \$200,000 annually to retire a bond that will provide the 1.3 million up-front, so that Montana does not lose the 13 million AIP money. With that kind of money, there will be no need for the added one-penny tax on airline aviation fuel. The small airports will be able to get the money they need to put people to work in all parts of the state not only in 1984-85, but there will be about 17 million in that fund for the 1986-87 biennium, and over \$20 million for the two years after that.

In addition, the new B-52 training mission that is in the wings for Montana using Malmstrom as headquarters, will also pay into the state aeronautics fund, the full one cent per gallon that Airforce uses for this mission, and that in itself will more than double the money the Department of Aeronautics will get. That's why there's no urgency for HB-573.

Pat M. Goodover, Chairman

Dear Editor:

HB 637

Agricultural producers should be aware that there is going to be an updating of Montana agricultural land values for property taxation purposes. The periodic review and update of agricultural property values is done at the request of the Legislature and is a cyclical ongoing process. The Property Assessment Division of the Montana Department of Revenue had been considering four alternatives for developing updated values and at first they chose Alternative Two. By October they decided that Alternative Four would be more equitable, but now because of more data and more input they have come out with a whole NEW set of figures.

There would be the greatest change in valuation on wild Hay Land and on Irrigated land. On wild hay land Grade 1, the value would change from \$67.60 to \$294.30 per acre. On irrigated land, Grade 1A, the value would change from an average of \$86 to \$717.25 per acre. The Department of Revenue believes that when land values were set in 1963 that irrigated land got a 60% break and they are now out to correct this.

Today, agriculture property is taxed at 30% of its productive capacity. The Dept. of Revenue would like to change this figure to 14%.

Taking the valuation change and the tax rate change into account these are some examples of how taxes might change. For wild hay land present taxes on land valued at \$67.60 and taxed at 30% and then at an average of 200 mills would be \$4.05 per acre. This would change to an updated value of \$294.30 taxed at 14% and then at 200 mills would be \$8.24. The taxes would be double. For irrigated land, present taxes on land valued at \$86 an acre and taxed at 30% and 200 mills would be \$5.16 per acre. This would change to an updated value of \$717.25 an acre taxed at 14% and then at 200 mills and the new tax figure would be \$20.08. In other words an increase of 400%. On non irrigated summer fallow land and grazing land it is possible that taxes could be lower.

The Department of Revenue will now write an Administrative Rule and file it with the Secretary of State and 30 days later there will be a public hearing, probably the first part of February. At this public hearing there will be a hearings officer who will make recommendations but the ultimate decision is up to the Department of Revenue. The Legislature does have responsibility for setting the rate upon which taxes will be set. This change in agriculture land values would not become effective until tax year 1986.

WIFE urges all agriculture producers to contact their County appraisal office, their county commissioners and their Legislators to determine how this would affect their property taxes.

Donna Fornfeist, Taxation Chairman
Woman Involved in Farm Economics

SENATE TAXATION COMMITTEE

EXHIBIT F

April 5, 1983