

1 *House* BILL NO. *545*
 2 INTRODUCED BY *D. Spindler* *K. Rogers* *MULLEN* *Brand*
 3 *Magone Johnson* *Stummerfeldt* *Harlevi*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 84-708.1, R.C.M. 1947, TO ALLOW THE DEPARTMENT OF REVENUE
 6 THE DISCRETION TO ENTER INTO RECIPROCAL AGREEMENTS WITH
 7 STATES CONCERNING THE TAXING OF NON-RESIDENT INCOME."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 84-708.1, R.C.M. 1947, is amended
11 to read as follows:

12 "84-708.1. Powers and duties of the state department
 13 of revenue. (1) To annually assess the franchise, roadway,
 14 roadbeds, rails, and rolling stock, and all other property
 15 of all railroads, and the pole lines and rights of way and
 16 all other property of all telegraph and telephone lines,
 17 electric power and transmission lines, ditches, canals and
 18 flumes, and other similar property, constituting a single
 19 and continuous property operated in more than one (1) county
 20 in the state, and to apportion such assessments to the
 21 counties in which such properties are located on a mileage
 22 basis, or in the case of telegraph or telephone microwave
 23 electronic equipment, which has no physical connection with
 24 the total system, but is an integral part of such system,
 25 apportion the valuation for assessment of such company in

1 this state among the several counties of this state in such
 2 proportion as will fairly represent the valuation for
 3 assessment within each such county, utilizing commonly
 4 recognized methods of apportioning as shall be just and
 5 equitable, provided, however, that lots and parcels of real
 6 estate not included in right of way, with the buildings,
 7 structures, and improvements thereon, dams and power houses,
 8 depots, stations, shops, and other buildings, erected upon
 9 right of way, furniture, machinery, and other personal
 10 property, shall not be considered as a part of any such
 11 single and continuous property, but shall be considered as
 12 separate and distinct therefrom, and shall be assessed by
 13 the agent of the department of revenue in the county wherein
 14 they are situate.

15 (2) To transmit to the county clerk of each county its
 16 apportionment of all assessments made by the department.

17 (3) To adjust and equalize the valuation of taxable
 18 property among the several counties, and the different
 19 classes of taxable property in any county and in the several
 20 counties and between individual taxpayers; supervise and
 21 review the acts of agents of the department; change,
 22 increase or decrease valuations made by its agents; and
 23 exercise such authority and do all things necessary to
 24 secure a fair, just and equitable valuation of all taxable
 25 property among counties between the different classes of

1 property and between individual taxpayers.

2 (4) To have and exercise general supervision over the
3 administration of the assessment and tax laws of the state,
4 and over its agents and any officers of municipal
5 corporations, having any duties to perform under any of the
6 laws of this state relating to taxation to the end that all
7 assessments of property be made relatively just and equal at
8 true value in substantial compliance with law, and to
9 supervise the administration of all revenue laws of the
10 state and assist in their enforcement. Further, the state
11 department of revenue is empowered to organize, and it shall
12 be its duty to schedule and hold area schools within the
13 state for appraisers and assessors as often as is deemed
14 necessary in the judgment of the department and the costs of
15 such appraisers and assessors attending shall be borne by
16 the state. Further, the department shall determine if there
17 is a need for a taxing, assessing, and appraising school,
18 and such school shall be held, when deemed necessary. The
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20 least six (6) months before such school is scheduled and it
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22 and the cost of their attendance shall be borne by the
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24 (5) To confer with, advise and direct officers of
25 municipal corporations as to their duties, with respect to

1 taxation, under the statutes of the state.

2 (6) To direct proceedings, actions and prosecutions to
3 be instituted to enforce the laws relating to the penalties,
4 liabilities and punishment of public officials and persons,
5 or their agents, for failure or neglect to comply with the
6 provisions of the statutes governing the revenue of the
7 state or municipal corporations; and to cause complaints to
8 be made against assessors and other public officers to the
9 proper district court for their removal from office for
10 official misconduct or neglect of duty.

11 (7) To require county attorneys to assist in the
12 commencement and prosecution of actions and proceedings for
13 penalties, forfeitures, removals and punishment for
14 violations of the laws of the state in respect to the
15 assessment of property and other revenue laws, in their
16 respective counties.

17 (8) To collect annually from the proper officers of
18 the municipal corporations information as to the assessment
19 of property, collection of taxes, receipts from licenses and
20 other sources, the expenditure of public funds for all
21 purposes, and such other information as may be needful and
22 helpful in the work of the department in such form and upon
23 such blanks as the department shall prescribe; and it shall
24 be the duty of all public officers so called upon to fill
25 out properly and return promptly to the department all

1 blanks so transmitted and in every way aid the department in
2 its work; to examine the records of all municipal
3 corporations for such purposes as are deemed needful or
4 helpful by the department.

5 (9) In its discretion, to inspect and examine, or
6 cause an inspection and examination of the records of the
7 officers of any municipality, whenever such officer shall
8 have failed, neglected or refused to return properly the
9 information required by this section within the time set by
10 the department. Upon completion of such inspection and
11 examination the department shall transmit to the clerk, or
12 other proper official of the municipality, a statement of
13 the expenses incurred by the department to secure the
14 necessary information. Within sixty (60) days after the
15 receipt by the municipality of the above statement, the same
16 shall be audited, as other claims of the municipal
17 corporation are audited and shall be paid into the state
18 treasury and if the same is not so paid the attorney general
19 shall institute an action, in the proper court, against the
20 municipality to recover the same.

21 The officers responsible for the furnishing of the
22 information collected pursuant to this section, shall be
23 jointly and severally liable for any loss the municipality
24 may suffer, through their delinquency; and no payment shall
25 be made to them for salary, or on any other account, until

1 the cost of such inspection and examination as provided
2 above shall have been paid into the treasury, or to the
3 proper officers of such municipality. They shall also be
4 subject to such other fines and penalties as prescribed by
5 law.

6 (10) To require persons, as defined above, to furnish
7 information concerning their capital, funded or other debt,
8 current assets and liabilities, cost and value of property,
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HB 545

1 discovered, and to ascertain wherein existing laws are
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3 (14) To investigate the tax systems of other states and
4 countries and to formulate and recommend legislation for the
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6 just and equal taxation and improvement in the system of
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9 (15) To consult and confer with the governor of the
10 state upon the subject of taxation, the administration of
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14 (16) To transmit to the governor and to each member of
15 the legislature twenty (20) days before the meeting of the
16 legislature, a report of the department, showing all the
17 taxable property of the state and the value of the same in
18 tabulated form, with recommendations for improvements in the
19 system of taxation, together with such measures as may be
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21 include therein a report showing the selling price of
22 gasoline at the wholesale level in prime market centers of
23 Montana and in surrounding states during the biennium, with
24 indexes tabulated at sufficient intervals to show the
25 comparative state price structures.

1 (17) In its discretion, to enter into reciprocal
2 agreements with the taxing authorities of states which tax
3 the income of Montana residents earned in that state to
4 provide that the tax imposed by Title 84, chapter 49, R.C.M.
5 1947, on income derived by persons who are non-residents of
6 this state shall not be payable when such other state or
7 states agree to grant similar treatment to residents of
8 Montana."

-End-

STATE OF MONTANA

REQUEST NO. 170-75

FISCAL NOTE

Form BD 15

In compliance with a written request received February 6, 1975, 19 _____, there is hereby submitted a Fiscal Note for House Bill 545 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 545 allows the Department of Revenue the discretion to enter into reciprocal agreements with states concerning the taxing of non-resident income.

ASSUMPTIONS:

1. It is not possible to predict the states which are likely to enter into reciprocal taxing agreements with Montana.
2. Montana State personal income taxes are the ninth highest in the U.S. based on state taxes paid per \$1,000 personal income. Thus, assume higher tax rates for Montana than reciprocal states.
3. Current Montana personal income tax statutes require non-residents to pay Montana income taxes on income earned within Montana.
4. Current Montana personal income tax statutes require residents to pay Montana income taxes on all income earned, regardless of where earned. A tax credit is allowed for taxes paid other states.

CONCLUSIONS:

Enactment of House Bill 545 would result in increased tax collections from Montana residents earning income in reciprocal states since residents' earnings would no longer be taxed in the reciprocal state and hence no credit for such against Montana tax. The gain in each case would be the product of the reciprocal state's tax rate and the income earned in that state. Enactment of House Bill 545 would result in decreased tax collections from non-residents of reciprocal states since non-residents would now be completely exempt from paying Montana state income tax. The loss in each case would be the product of the Montana tax rate and the income earned in Montana. To unequivocally predict the net impact of House Bill 545 the relative tax rates, respective definitions of taxable income and distribution of resident and non-resident returns affected would have to be known. Given the current treatment of incomes affected and the likelihood of Montana tax rates being higher than reciprocal states, it is highly probable that Montana personal income tax net collections would decrease as a result of enactment of House Bill 545.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 11, 1975

Approved by Committee
on Taxation

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March 21, 1975

SENATE COMMITTEE ON TAXATION
AMENDMENTS TO HOUSE BILL NO. 545

That House Bill No. 545, third reading, be amended as follows:

1. Amend page 8, section 1, line 2.
Following: "states"
Insert: "contiguous to the state of Montana"

HOUSE BILL NO. 545

INTRODUCED BY DASSINGER, AAGESON, MULAR, BRAND, HERLEVI,
MAGONE, JOHNSON, KUMMERFELDT

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
84-708.1, R.C.M. 1947, TO ALLOW THE DEPARTMENT OF REVENUE
THE DISCRETION TO ENTER INTO RECIPROCAL AGREEMENTS WITH
STATES CONCERNING THE TAXING OF NON-RESIDENT INCOME."

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

Section 1. Section 84-708.1, R.C.M. 1947, is amended
to read as follows:

"84-708.1. Powers and duties of the state department
of revenue. (1) To annually assess the franchise, roadway,
roadbeds, rails, and rolling stock, and all other property
of all railroads, and the pole lines and rights of way and
all other property of all telegraph and telephone lines,
electric power and transmission lines, ditches, canals and
flumes, and other similar property, constituting a single
and continuous property operated in more than one (1) county
in the state, and to apportion such assessments to the
counties in which such properties are located on a mileage
basis, or in the case of telegraph or telephone microwave
electronic equipment, which has no physical connection with
the total system, but is an integral part of such system,

apportion the valuation for assessment of such company in
this state among the several counties of this state in such
proportion as will fairly represent the valuation for
assessment within each such county, utilizing commonly
recognized methods of apportioning as shall be just and
equitable, provided, however, that lots and parcels of real
estate not included in right of way, with the buildings,
structures, and improvements thereon, dams and power houses,
depots, stations, shops, and other buildings, erected upon
right of way, furniture, machinery, and other personal
property, shall not be considered as a part of any such
single and continuous property, but shall be considered as
separate and distinct therefrom, and shall be assessed by
the agent of the department of revenue in the county wherein
they are situate.

(2) To transmit to the county clerk of each county its
apportionment of all assessments made by the department.

(3) To adjust and equalize the valuation of taxable
property among the several counties, and the different
classes of taxable property in any county and in the several
counties and between individual taxpayers; supervise and
review the acts of agents of the department; change,
increase or decrease valuations made by its agents; and
exercise such authority and do all things necessary to
secure a fair, just and equitable valuation of all taxable

1 property among counties between the different classes of
2 property and between individual taxpayers.

3 (4) To have and exercise general supervision over the
4 administration of the assessment and tax laws of the state,
5 and over its agents and any officers of municipal
6 corporations, having any duties to perform under any of the
7 laws of this state relating to taxation to the end that all
8 assessments of property be made relatively just and equal at
9 true value in substantial compliance with law, and to
10 supervise the administration of all revenue laws of the
11 state and assist in their enforcement. Further, the state
12 department of revenue is empowered to organize, and it shall
13 be its duty to schedule and hold area schools within the
14 state for appraisers and assessors as often as is deemed
15 necessary in the judgment of the department and the costs of
16 such appraisers and assessors attending shall be borne by
17 the state. Further, the department shall determine if there
18 is a need for a taxing, assessing, and appraising school,
19 and such school shall be held, when deemed necessary. The
20 department shall notify all assessors and appraisers at
21 least six (6) months before such school is scheduled and it
22 shall be the duty of all assessors and appraisers to attend
23 and the cost of their attendance shall be borne by the
24 state.

25 (5) To confer with, advise and direct officers of

1 municipal corporations as to their duties, with respect to
2 taxation, under the statutes of the state.

3 (6) To direct proceedings, actions and prosecutions to
4 be instituted to enforce the laws relating to the penalties,
5 liabilities and punishment of public officials and persons,
6 or their agents, for failure or neglect to comply with the
7 provisions of the statutes governing the revenue of the
8 state or municipal corporations; and to cause complaints to
9 be made against assessors and other public officers to the
10 proper district court for their removal from office for
11 official misconduct or neglect of duty.

12 (7) To require county attorneys to assist in the
13 commencement and prosecution of actions and proceedings for
14 penalties, forfeitures, removals and punishment for
15 violations of the laws of the state in respect to the
16 assessment of property and other revenue laws, in their
17 respective counties.

18 (8) To collect annually from the proper officers of
19 the municipal corporations information as to the assessment
20 of property, collection of taxes, receipts from licenses and
21 other sources, the expenditure of public funds for all
22 purposes, and such other information as may be needful and
23 helpful in the work of the department in such form and upon
24 such blanks as the department shall prescribe; and it shall
25 be the duty of all public officers so called upon to fill

1 out properly and return promptly to the department all
 2 blanks so transmitted and in every way aid the department in
 3 its work; to examine the records of all municipal
 4 corporations for such purposes as are deemed needful or
 5 helpful by the department.

6 (9) In its discretion, to inspect and examine, or
 7 cause an inspection and examination of the records of the
 8 officers of any municipality, whenever such officer shall
 9 have failed, neglected or refused to return properly the
 10 information required by this section within the time set by
 11 the department. Upon completion of such inspection and
 12 examination the department shall transmit to the clerk, or
 13 other proper official of the municipality, a statement of
 14 the expenses incurred by the department to secure the
 15 necessary information. Within sixty (60) days after the
 16 receipt by the municipality of the above statement, the same
 17 shall be audited, as other claims of the municipal
 18 corporation are audited and shall be paid into the state
 19 treasury and if the same is not so paid the attorney general
 20 shall institute an action, in the proper court, against the
 21 municipality to recover the same.

22 The officers responsible for the furnishing of the
 23 information collected pursuant to this section, shall be
 24 jointly and severally liable for any loss the municipality
 25 may suffer, through their delinquency; and no payment shall

1 be made to them for salary, or on any other account, until
 2 the cost of such inspection and examination as provided
 3 above shall have been paid into the treasury, or to the
 4 proper officers of such municipality. They shall also be
 5 subject to such other fines and penalties as prescribed by
 6 law.

7 (10) To require persons, as defined above, to furnish
 8 information concerning their capital, funded or other debt,
 9 current assets and liabilities, cost and value of property,
 10 earnings, operating and other expenses, taxes and all other
 11 facts which may enable the department to ascertain the value
 12 of the relative burdens borne by all kinds of property and
 13 occupations in the state.

14 (11) To summon witnesses to appear and give evidence,
 15 and to produce records, books, papers and documents relating
 16 to any matter which the department shall have authority to
 17 investigate and determine.

18 (12) To cause the deposition of witnesses residing
 19 within or without the state, or absent therefrom, to be
 20 taken upon notice to the interested party, if any, in like
 21 manner that depositions are taken in actions pending in the
 22 district court, in any matter which the department shall
 23 have authority to investigate and determine.

24 (13) To examine into all cases where evasion or
 25 violation of the laws for taxation of property, proceeds,

1 occupation or business is alleged, complained of or
2 discovered, and to ascertain wherein existing laws are
3 ineffective or are improperly or negligently administered.

4 (14) To investigate the tax systems of other states and
5 countries and to formulate and recommend legislation for the
6 better administration of the fiscal laws so as to secure
7 just and equal taxation and improvement in the system of
8 taxation and the economical expenditure of public revenue in
9 the state.

10 (15) To consult and confer with the governor of the
11 state upon the subject of taxation, the administration of
12 the laws relating thereto and the progress of the work of
13 the department, and to furnish the governor such assistance
14 as he may require.

15 (16) To transmit to the governor and to each member of
16 the legislature twenty (20) days before the meeting of the
17 legislature, a report of the department, showing all the
18 taxable property of the state and the value of the same in
19 tabulated form, with recommendations for improvements in the
20 system of taxation, together with such measures as may be
21 formulated for the consideration of the legislature; and to
22 include therein a report showing the selling price of
23 gasoline at the wholesale level in prime market centers of
24 Montana and in surrounding states during the biennium, with
25 indexes tabulated at sufficient intervals to show the

1 comparative state price structures.

2 (17) In its discretion, to enter into reciprocal
3 agreements with the taxing authorities of states CONTIGUOUS
4 TO THE STATE OF MONTANA which tax the income of Montana
5 residents earned in that state to provide that the tax
6 imposed by Title 84, chapter 49, R.C.M. 1947, on income
7 derived by persons who are nonresidents of this state shall
8 not be payable when such other state or states agree to
9 grant similar treatment to residents of Montana."

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