HOUSE BILL 449

IN THE HOUSE

January 27, 1979	On motion, rules suspended to allow bill to be introduced.
January 29, 1979	Introduced.
January 29, 1979	Referred to Committee on Taxation.

House BILL NO. 449

INTRODUCED BY [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE TAX ON INFLATION IN THE MONTANA INDIVIDUAL INCOME TAX BY PROVIDING THAT THE RATE OF TAX, THE MAXIMUM STANDARD DEDUCTION, EXEMPTIONS, AND THE MINIMUM INCOME REQUIREMENT FOR FILING A RETURN MAY VARY ACCORDING TO A CUMULATIVE INFLATION FACTOR; AMENDING SECTIONS 15-30-101, 15-30-103, 15-30-112, 15-30-122, AND 15-30-142, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the legislature finds that because of substantial rates of inflation during the past several years many taxpayers are paying ever higher percentages of their income in state taxation and that this higher tax rate has been caused by a movement into higher tax brackets.

THEREFORE, it is the intent of this bill to eliminate what is essentially a tax on inflation. Only income increases beyond those resulting by inflation are subject to progressive income tax rates under provisions of this bill.

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

Section 1. Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this

chapter, unless otherwise required by the context, the following definitions apply:

(1) "AIF" means annual inflation factor which is calculated under [section 7].

(2) "CIF" means cumulative inflation factor which is calculated under [section 7].

(3) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the United States department of labor.

~~(1)~~(4) "Department" means the department of revenue.

~~(2)~~(5) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

~~(3)~~(6) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(4)~~(7) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

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INTRODUCED BILL

~~(5)~~(8) "Information agents" include all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

~~(6)~~(9) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(7)~~(10) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(8)~~(11) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(9)~~(12) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~(10)~~(13) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(11)~~(14) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(12)~~(15) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Section 2. Section 15-30-103, MCA, is amended to read:

"15-30-103. Rate of tax. There shall be levied, collected, and paid for each taxable year commencing on or after December 31, ~~1968~~ 1978, upon the taxable income of every taxpayer subject to this tax, after making allowance for exemptions and deductions as hereinafter provided, a tax at the following rates:

~~(1)--on-the-first-$1,000-of-taxable-income-or-any--part thereof,-2%;~~

~~(2) on the next $1,000 of taxable income or any part thereof, 3%;~~

~~(3) on the next $2,000 of taxable income or any part thereof, 4%;~~

~~(4) on the next $2,000 of taxable income or any part thereof, 5%;~~

~~(5) on the next $2,000 of taxable income or any part thereof, 6%;~~

~~(6) on the next $2,000 of taxable income or any part thereof, 7%;~~

~~(7) on the next $4,000 of taxable income or any part thereof, 8%;~~

~~(8) on the next $6,000 of taxable income or any part thereof, 9%;~~

~~(9) on the next $15,000 of taxable income or any part thereof, 10%;~~

~~(10) on any taxable income in excess of $35,000 or any part thereof, 11%.~~

If Taxable Income Is:	The Tax Is:
Not over $1,000 times the CIF	2%
Over $1,000 times the CIF but not over $2,000 times the CIF	$20 times the CIF plus 3% of excess over $1,000 times the CIF
Over $2,000 times the CIF but not over $4,000 times the CIF	$50 times the CIF plus 4% of excess over $2,000 times the CIF
Over $4,000 times the CIF but not over $6,000 times the CIF	$130 times the CIF plus 5% of excess over $4,000 times the CIF
Over $6,000 times the CIF but not over $8,000 times the CIF	$230 times the CIF plus 6% of excess over $6,000 times the CIF
Over $8,000 times the CIF but not over $10,000 times the CIF	$350 times the CIF plus 7% of excess over $8,000 times the CIF
Over $10,000 times the CIF but not over $14,000 times the CIF	$490 times the CIF plus 8% of excess over $10,000 times the CIF
Over $14,000 times the CIF but not over $20,000 times the CIF	$810 times the CIF plus 9% of excess over $14,000 times the CIF
Over $20,000 times the CIF but not over $35,000 times the CIF	$1,350 times the CIF plus 10% of excess over $20,000 times the CIF
Over $35,000 times the CIF	$2,950 times the CIF plus 11% of excess over $35,000 times the CIF"

Section 3. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) In the case of an individual, the exemptions provided by this section shall be

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allowed as deductions in computing taxable income.

(2) (a) An exemption of $650 times the CIF shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the taxpayer.

(b) An additional exemption of $650 times the CIF shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of $650 times the CIF shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of $650 times the CIF shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of $650 times the CIF shall be allowed for taxable years beginning after December

31, ~~1973~~ 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of $650 times the CIF shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of $650 times the CIF shall be allowed for taxable years beginning after December 31, ~~1973~~ 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $650 times the CIE; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this

subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income."

Section 4. Section 15-30-122, MCA, is amended to read:

"15-30-122. Standard deduction. In the case of a resident individual, a standard deduction equal to 10% of adjusted gross income shall be allowed if elected by the taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum standard deduction shall be $500 times the CIE, except in the case of a single joint return of husband and wife the maximum standard deduction shall be $1,000 times the CIE. The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be

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made as of the date of death."

Section 5. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than $720 times the CIE and married individuals not filing separate returns and having a combined gross income for the taxable year of more than $1,445 times the CIE shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by $650 times the CIE for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even

though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so computed is greater by $1 than the amount withheld and/or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estimated tax exceeds by more than $1 the amount of income tax as computed, the taxpayer shall be entitled to a refund of the

excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer."

NEW SECTION. Section 6. Base CIF. (1) The CIF for taxable years beginning after December 31, 1978, but before January 1, 1980, is the base for calculation of the CIF in subsequent years.

(2) The CIF for taxable years beginning after December 31, 1978, but before January 1, 1980, is 1.075.

NEW SECTION. Section 7. Calculation of new CIF and AIF. (1) By November 1 of each year, the department shall calculate a new CIF to be applied to all taxable years commencing during the following calendar year by multiplying the CIF calculated the previous year by the AIF calculated under subsection (2).

(2) By November 1 of each year, the department shall

calculate the AIF by dividing the most recent September's consumer price index by the preceding September's consumer price index.

Section 8. Effective date. This act is effective on passage and approval.

Section 9. Applicability. This act is applicable for taxable years beginning after December 31, 1978.

Section 10. Codification. Sections 6 and 7 are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions contained in Title 15, chapter 30, part 1, apply to sections 6 and 7.

-End-

HB 449

STATE OF MONTANA

REQUEST NO. 185-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 30, 19 79, there is hereby submitted a Fiscal Note for House Bill 449 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

This proposed bill eliminates the tax on inflation in the Montana individual income tax by providing that the rate of tax, the maximum standard deduction, exemptions, and the minimum income requirement for filing a return may vary according to a cumulative inflation factor; provides an effective date.

ASSUMPTIONS

a)

time	Sept. 1978	Sept. 1979	Sept. 1980
CPI	199.3	216.0	229.7

b) Under continuation of the present law, the income elasticity of income tax revenue will be between 1.25 and 1.5 over the 80-81 biennium (i.e., a 1% increase in total income will lead to a 1.25% to 1.5% increase in income tax receipts).

c) It is assumed that the proposed law will eliminate increases in income tax liabilities associated with inflation in the preceding year.

d) 80% of income tax receipts in FY(t) are attributable to liabilities incurred in CY(t-1) and 20% of income tax receipts in FY(t) are attributable to liabilities incurred in CY(t).

e) The Department of Revenue forecast of individual income tax collections for the 80-81 biennium is the basis for comparison.

FISCAL IMPACT

	FY 80	FY 81
Individual Income Tax Collections		
under current law	$ 154.268 M	$ 169.790 M
under proposed law	138.191 M - 140.870 M	151.343 M - 154.417 M
Estimated Decrease	($ 13.398 M - 16.077 M)	($ 15.373 M - 18.447 M)

FUND INFORMATION

	FY 80	FY 81
General Fund		
under current law	$ 98.732 M	$ 108.666 M
under proposed law	$ 88.442 M - 90.157 M	96.859 M - 98.827 M
Estimated Decrease	($ 8.575 M - 10.290 M)	($ 9.839 M - 11.807 M)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: ______________

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STATE OF MONTANA

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FUND INFORMATION (Cont.)

Earmarked Fund		
under current law	$ 38.567 M	$ 42.447 M
under proposed law	34.548 M - 35.217 M	37.836 M - 38.604 M
Estimated Decrease	($ 3.350 M - 4.019 M)	($ 3.843 M - 4.611 M)
Sinking Fund*		
under current law	$ 16.969 M	$ 18.677 M
under proposed law	15.201 M - 15.496 M	16.648 M - 16.986 M
Estimated Decrease	($ 1.473 M - 1.768 M)	($ 1.691 M - 2.029 M)

*A portion of this account may be transferred to the general fund as long-range bond excess.

EFFECT ON LOCAL GOVERNMENTS

No direct impact on local governments, but see Technical Note (a) for possible indirect effect upon public school finance.

LONG-RANGE EFFECTS

Assuming that the inflation rate will continue to be between 6% and 8% per year, individual income tax receipts will be 7 1/2 to 12% lower than would be received under continuation of the present law. During periods of high inflation or low economic growth, income tax collections may decline.

TECHNICAL NOTE

(a) Income to the indicated Earmarked Revenue Fund are used to support the Public School Foundation Program; therefore, any decrease in income to that account may necessitate additional support from other sources.
(b) It is to be expected that the number of arithmetical errors by taxpayers will increase dramatically under the proposed law because the many adjustments to the present law policy variables involving multiplication by the "CIF" do not allow some rounding to a more convenient number.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Draney for
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2/6/79

STATE OF MONTANA

REQUEST NO. 185-79 revised

FISCAL NOTE

Form BD-15

In compliance with a written request received February 8, 19 79, there is hereby submitted a Fiscal Note for House Bill 449 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

This proposed bill eliminates the tax on inflation in the Montana individual income tax by providing that the rate of tax, the maximum standard deduction, exemptions and the minimum income requirement for filing a return may vary according to a cumulative inflation factor; provides an effective date.

ASSUMPTIONS

a)

time	Sept. 1978	Sept. 1979	Sept. 1980
CPI	199.3	216.0	229.7

b) Under continuation of the present law, the income elasticity of income tax revenue will be between 1.25 and 1.5 over the 80-81 biennium (i.e., a 1% increase in total income will lead to a 1.25% to 1.5% increase in income tax receipts).

c) It is assumed that the proposed law will eliminate certain increases in income tax liabilities associated with the preceding year's inflation (i.e., increases attributable to devaluation of fixed deductions and exemptions, and increases attributable to "bracket-shift" effects of inflation).

d) 80% of income tax receipts in FY(t) are attributable to liabilities incurred in CY(t-1) and 20% of income tax receipts in FY(t) are attributable to liabilities incurred in CY(t).

e) The Department of Revenue forecast of individual income tax collections for the 80-81 biennium is the basis for comparison.

FISCAL IMPACT

	FY80	FY81
Individual Income Tax Collections		
under current law	$ 154.268 M	$ 169.790 M
under proposed law	$147.774 M to $151.021 M	$155.917 M to $162.853 M
Estimated Decrease	($ 3.247 M to $ 6.494 M)	($ 6.937 M to $ 13.873 M)

(Continued on Page 2)

Richard L. Frang for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/9/79

STATE OF MONTANA

REQUEST NO. 185-79 revise

FISCAL NOTE

Form BD 15

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FUND INFORMATION

	FY80	FY81
General Fund		
under current law	$ 98.732 M	$ 108.666 M
under proposed law	$ 94.576 M to $ 96.653 M	$ 99.787 M to $104.226 M
Estimated Decrease	($ 2.079 M to $ 4.156 M)	($ 4.440 M to $ 8.879 M)
Earmarked Revenue Fund		
under current law	$ 38.567 M	$ 42.447 M
under proposed law	$ 36.943 M to $ 37.755 M	$ 38.979 M to $ 40.713 M
Estimated Decrease	($ 0.812 M to $ 1.624 M)	($ 1.734 M to $ 3.468 M)
Sinking Fund*		
under current law	$ 16.969 M	$ 18.677 M
under proposed law	$ 16.255 M to $ 16.612 M	$ 17.151 M to $ 17.914 M
Estimated Decrease	($ 0.357 M to $ 0.714 M)	($ 0.763 M to $ 1.526 M)

*A portion of this account may be transferred to the general fund as long-range bond excess.

EFFECT ON LOCAL GOVERNMENT

See technical note (c).

LONG-RANGE EFFECTS

Income tax receipts will increase from one year to the next whenever the "real" rate of growth (i.e., rate of growth adjusted for inflation) is greater than the rate of inflation divided by the negative of the income elasticity of income tax revenue (e.g., with 6% inflation, receipts will increase as long as the economy does not decline by more than 4%, after adjusting for inflation).

TECHNICAL NOTE

a) This revision of the original fiscal note was necessitated by the discovery that fiscal note 185-79 overestimated the effect of HB 449 by adjusting taxes to a fixed prior year level.

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BUDGET DIRECTOR

Office of Budget and Program Planning

Date: ____________________

STATE OF MONTANA

REQUEST NO. 185-79 revised

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TECHNICAL NOTE (cont.)

b) It is to be expected that the number of arithmetical errors by taxpayers will increase dramatically under the proposed law, because the many adjustments to the present law policy variables involving multiplication by the "CIF" do not allow some rounding to a more convenient number.

c) It should be noted that receipts to the indicated earmarked revenue account are used to support the Public School Foundation Program; therefore, any reductions in income to that account may necessitate additional support from other sources.

(Prepared by the Department of Revenue)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: ____________________