

HOUSE BILL 573

IN THE HOUSE

February 5, 1979	Introduced and referred to Committee on Taxation.
March 6, 1979	Intent statement attached.
March 8, 1979	Printed and placed on members' desks.
March 12, 1979	Second reading, do pass.
March 14, 1979	Considered correctly engrossed.
March 15, 1979	Third reading, passed.

IN THE SENATE

March 16, 1979	Introduced and referred to Committee on Taxation.
April 20, 1979	Died in Committee.

1 *House* BILL NO. 573  
 2 INTRODUCED BY *Ron Lewis* *Glenn Haysom*  
 3 *Alissa and Mitchell Holmes* *Mark Kenner* *SJH*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE  
 5 DEPARTMENT OF REVENUE TO INCLUDE A BRIEF DESCRIPTION OF THE  
 6 ITEMIZED DEDUCTION FOR CERTAIN EXPENSES INCURRED IN  
 7 REHABILITATING CERTIFIED HISTORIC STRUCTURES IN THE TAX  
 8 RETURN FORMS AND INSTRUCTIONS MADE AVAILABLE TO TAXPAYERS  
 9 EACH YEAR; AMENDING SECTION 15-30-121, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 Section 1. Section 15-30-121, MCA, is amended to read:  
 13 "15-30-121. Deductions allowed in computing net  
 14 income. (1) In computing net income, there are allowed as  
 15 deductions:  
 16 (a) the items referred to in sections 161 and 211  
 17 of the Internal Revenue Code of 1954, or as sections 161 and  
 18 211 shall be labeled or amended, subject to the following  
 19 exceptions which are not deductible:  
 20 (i) items provided for in 15-30-123;  
 21 (ii) state income tax paid;  
 22 (iii) federal income tax paid within the taxable  
 23 year;  
 24 (iv) child and dependent care expenses determined in  
 25 accordance with the provisions of section 214 of the

1 Internal Revenue Code of 1954 that were in effect for the  
 2 taxable year that began January 1, 1974;  
 3 (b) that portion of an energy-related investment  
 4 allowed as a deduction under 15-32-103.  
 5 (2) The department shall include a brief description  
 6 of the itemized deduction for certain expenses incurred in  
 7 rehabilitating certified historic structures referred to in  
 8 section 161 of the Internal Revenue Code, as amended, in the  
 9 income tax return forms and instructions made available to  
 10 taxpayers each year as provided in 15-30-142a."

-End-

## STATE OF MONTANA

REQUEST NO. 505-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received March 26, 19 79, there is hereby submitted a Fiscal Note for Amended House Bill 573 (3rd Reading Version) 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 would provide an individual income tax deduction for certain expenses incurred in rehabilitating certified historic structures.

ASSUMPTIONS

- a) The number of individual income taxpayers that will legitimately claim itemized deductions for expenses paid or incurred for rehabilitating certified historic structures in 1979 and 1980 will be 75 and 300, respectively.
- b) The average deduction of expenses for rehabilitating certified historic structures will amount to \$5,000.
- c) The marginal tax rate for the taxpayers specified by assumption (a) will range from 8% to 11%.
- d) Administration of the proposed law will require an additional \$2,000 annually to be expended by the Department of Revenue, and an unspecified amount for necessary expenses of the Historic Preservation Program of the Montana Historical Society. (See Technical Note (c).)

FISCAL IMPACT

	<u>FY 80</u>	<u>FY 81</u>
Individual Income Tax Collections		
under current law	\$154,268,000	\$169,790,000
under proposed law	<u>\$154,222,625 to \$154,235,000</u>	<u>\$169,608,500 to \$169,658,000</u>
Estimated Decrease	<u>(\$ 45,375 to \$ 33,000)</u>	<u>(\$ 181,500 to \$ 132,000)</u>
Department of Revenue Expenditures (attributable to proposed law)		
under current law	\$ 0	\$ 0
under proposed law	<u>2,000</u>	<u>2,000</u>
Estimated Increase	<u>\$ 2,000</u>	<u>\$ 2,000</u>

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*Richard L. Terry Jr.*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 3/31/79

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FISCAL IMPACT (cont.)

	<u>FY 80</u>	<u>FY 81</u>
Net Effect		
under current law	\$ 154,268,000	\$ 169,790,000
under proposed law	<u>\$ 154,220,625 to \$ 154,233,000</u>	<u>\$ 169,606,500 to \$ 169,656,000</u>
Estimated Decrease	(\$ 47,375 to \$ 35,000)	(\$ 183,500 to \$ 134,000)

FUND INFORMATION

## General Fund

under current law	\$ 98,731,520	\$ 108,665,600
under proposed law	<u>\$ 98,700,480 to \$ 98,708,400</u>	<u>\$ 108,547,440 to \$ 108,579,120</u>
Estimated Decrease	(\$ 31,040 to \$ 23,120)	(\$ 118,160 to \$ 86,480)

## Earmarked Revenue Fund

under current law	\$ 38,567,000	\$ 42,447,500
under proposed law	<u>\$ 38,555,656 to \$ 38,558,750</u>	<u>\$ 42,402,125 to \$ 42,414,500</u>
Estimated Decrease	(\$ 11,344 to \$ 8,250)	(\$ 45,375 to \$ 33,000)

## Sinking Fund\*

under current law	\$ 16,969,480	\$ 18,676,900
under proposed law	<u>\$ 16,964,489 to \$ 16,965,850</u>	<u>\$ 18,656,935 to \$ 18,662,380</u>
Estimated Decrease	(\$ 4,991 to \$ 3,630)	(\$ 19,965 to \$ 14,520)

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

EFFECT ON LOCAL GOVERNMENT

No direct impact. (See Technical Note (a))

LONG-RANGE EFFECTS

The total cumulative effect of the proposed law, assuming the present stock of historic structures remains unchanged in number, could be as much as a \$350,000 to \$1,000,000 reduction in individual income taxes, but this impact will be spread out over many years.

CONTINUED ON PAGE 3

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: \_\_\_\_\_

## STATE OF MONTANA

Request No. 505-79

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TECHNICAL NOTES

- a) It should be noted that income to the indicated earmarked revenue fund is used to support the Public School Foundation Program; therefore, any reduction in receipts to that account may necessitate additional support from other sources.
- b) Subsection (5) of Section 1 provides an itemized deduction for "expenses incurred" in rehabilitating certified historic structures. In order to be consistent with similar provisions regarding itemized deductions elsewhere in the M.C.A., this should be changed to "paid or incurred," since most individual income taxpayers utilize the "cash basis" for accounting of their income and expenditures (so that deductions are taken for the year in which they are actually paid), instead of the "accrual basis" (where deductions may be taken for the year in which they are incurred).
- c) It may happen that the Historic Preservation Program of the Montana Historical Society may need to expend funds which are not presently anticipated for inclusion in that agency's budget for the 80-81 biennium for administration of this proposed law, since the Historical Society will have to approve all renovation expenses claimed for the deduction, as well as certify the historic structures themselves. It is conceivable that the number of applicants for consideration under this proposed law could exceed the administrative capacity of the Historical Society.

In the event that the Historical Society is unable to follow through on monitoring actual expenses for rehabilitation, the Department of Revenue may have to assign an auditor to this task on a part-time basis for "spot check" (\$7,500 for personal services, and \$2,500 for travel expenses, annually).

- d) It is essential that the Department of Revenue be consulted by the Historical Society, particularly during the rule-making process necessitated by approval of Section 3 of the proposed law. Furthermore, in order to minimize taxpayer compliance problems, it is advisable that some provision for the transmission of information between these two agencies be established.

(Prepared by the Department of Revenue)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: \_\_\_\_\_

1 STATEMENT OF INTENT RE: HB 573

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4 A statement of intent is required for this bill because  
5 rulemaking authority is delegated to the Montana Historical  
6 Society in section (3).

7 This bill allows a deduction in computing net income  
8 for the purposes of the Montana income tax for approved  
9 expenses used to rehabilitate certified historical  
10 structures.

11 The Historical Society is granted rulemaking authority  
12 to establish procedures for the certification of historical  
13 structures and to establish approved methods of  
14 rehabilitating historical structures. It is intended that  
15 the Historical Society adopt rules similar to and in  
16 conformity with rules promulgated by the United States  
17 Department of Interior for historical preservation  
18 certificates pursuant to the Tax Reform Act of 1976, 36  
19 C.F.R., Part 67.

HB 573

Approved by Committee  
on Taxation

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

15       Section 1. Section 15-30-121, MCA, is amended to read:

16       "15-30-121. Deductions allowed in computing net

17 income. ~~fit~~ In computing net income, there are allowed as

18 deductions:

19           title the items referred to in sections 161 and  
20       211 of the Internal Revenue Code of 1954, or as sections 161  
21       and 211 shall be labeled or amended, subject to the  
22       following exceptions, which are not deductible:

23        **tattit(A)** items provided for in 15-30-123:

25 ~~total~~ federal income tax paid within the taxable

1           year;

2           to ~~to~~ child and dependent care expenses determined

3           in accordance with the provisions of section 214 of the

4           Internal Revenue Code of 1954 that were in effect for the

5           taxable year that began January 1, 1974;

6           to ~~to~~ that portion of an energy-related investment

7           allowed as a deduction under 15-32-103*vi AND*

8           151 EXPENSES INCURRED IN REHABILITATING CERTIFIED

9           HISTORIC STRUCTURES AS PROVIDED IN [SECTION 3].

10           to ~~to~~ the department shall include a brief description

11           of the itemized deduction for certain expenses incurred in

12           rehabilitating certified historic structures referred to in

13           section 151 of the Internal Revenue Code as amended in the

14           income tax return forms and instructions made available to

15           taxpayers each year as provided in 15-30-142*x*"

16           SECTION 2. SECTION 15-30-111, MCA, IS AMENDED TO READ:

17           "15-30-111. Adjusted gross income. (1) Adjusted gross

18           income shall be the taxpayer's federal income tax adjusted

19           gross income as defined in section 62 of the Internal

20           Revenue Code of 1954 or as that section may be labeled or

21           amended and in addition shall include the following:

22            (a) interest received on obligations of another state

23            or territory or county, municipality, district, or other

24            political subdivision thereof;

25            (b) refunds received of federal income tax, to the

1 extent the deduction of such tax resulted in a reduction of  
 2 Montana income tax liability;

3 1c1\_deductions\_allowed\_under\_section\_191\_of\_the  
 4 Internal\_Revenue\_Code\_of\_1954, as amended, if the deduction  
 5 allowed in section 3 is claimed.

6 (2) Adjusted gross income does not include the  
 7 following which are exempt from taxation under this chapter:

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

12 (b) all benefits received under the Federal Employees'  
 13 Retirement Act not in excess of \$3,600;

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

16 (d) all benefits paid under The Public Employees'  
 17 Retirement System Act which are specified as exempt from  
 18 taxation by 19-3-105;

19 (e) all benefits paid under the highway patrol  
 20 retirement law which are specified as exempt from taxation  
 21 by 19-6-705;

22 (f) all Montana income tax refunds or credits thereof;

23 (g) all benefits paid under 19-11-602, 19-11-604, and  
 24 19-11-605 to retired and disabled firefighters, their  
 25 surviving spouses and orphans;

1 (h) all benefits paid by first- or second-class cities  
 2 for the policemen's retirement system provided for by Title  
 3 19, chapter 9.

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

18 SECTION 3a. THERE IS A NEW MCA SECTION THAT READS:  
 19 Deduction for expenses for rehabilitating certain  
 20 historic structures. (1) Approved expenses incurred during a  
 21 taxable year in rehabilitating an historic structure  
 22 certified by the Montana historical society historic  
 23 preservation office may be deducted in computing net income.

24 (2) (a) "Approved expenses" are any expenses for  
 25 material or labor meeting the standards established in rules

1 published by the Montana historical society.

2 (b) "Certified historic structures" are those  
3 structures certified by the historic preservation office as:  
4 (i) listed on the national register; or  
5 (ii) located in a registered historic district and of  
6 historic significance to the district.

7 (3) To claim this deduction, the taxpayer must:

8 (a) secure a statement from the historic preservation  
9 office that the structure is certified; and  
10 (b) file a copy of this statement and a list of the  
11 approved expenses claimed as deductions when filing his  
12 income tax return.

13 (4) The Montana historical society shall publish rules  
14 establishing:

15 (a) criteria and procedures for certifying historic  
16 structures; and  
17 (b) criteria for and examples of approved expenses for  
18 rehabilitating historic structures.

19 (5) If a taxpayer claims a deduction under this  
20 section, he may not claim the deduction allowed in section  
21 191 of the Internal Revenue Code of 1954, as amended.

22 SECTION 4. EFFECTIVE AND APPLICABILITY DATE. THIS ACT  
23 IS EFFECTIVE ON PASSAGE AND APPROVAL AND APPLIES TO TAXABLE  
24 YEARS BEGINNING AFTER DECEMBER 31, 1978.

-End-

STATEMENT OF INTENT RE: HB 573

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1 year;

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4 Internal Revenue Code of 1954 that were in effect for the

5 taxable year that began January 1, 1974;

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8 151 EXPENSES INCURRED IN REHABILITATING CERTIFIED

9 HISTORIC STRUCTURES AS PROVIDED IN SECTION 3.

10 ~~161~~ the department shall include a brief description

11 of the itemized deduction for certain expenses incurred in

12 rehabilitating certified historic structures referred to in

13 section 161 of the Internal Revenue Code as amended in the

14 income tax return forms and instructions made available to

15 taxpayers each year as provided in 15-30-142*x*

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18 income shall be the taxpayer's federal income tax adjusted

19 gross income as defined in section 62 of the Internal

20 Revenue Code of 1954 or as that section may be labeled or

21 amended and in addition shall include the following:

22 (a) interest received on obligations of another state

23 or territory or county, municipality, district, or other

24 political subdivision thereof;

25 (b) refunds received of federal income tax, to the

1 extent the deduction of such tax resulted in a reduction of  
 2 Montana income tax liability;

3 (c) deductions allowed under section 191 of the  
 4 Internal Revenue Code of 1954, as amended, if the deduction  
 5 allowed in section 3 is claimed;

6 (2) Adjusted gross income does not include the  
 7 following which are exempt from taxation under this chapter:

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 9 States government, the state of Montana, county,  
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12 (b) all benefits received under the Federal Employees'  
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4 (3) In the case of a shareholder of a corporation with  
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 6 S. of the Internal Revenue Code of 1954, as amended, is in  
 7 effect but with respect to which the election provided for  
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 9 gross income does not include any part of the corporation's  
 10 undistributed taxable income, net operating loss, capital  
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24 **YEARS BEGINNING AFTER DECEMBER 31, 1978.**

-End-