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

LC 0870/01

E BILL NO. 5 1 INTRODUCED BY mitral ENTITLED: *AN ACT TO REQUIRE THE DEPARTMENT OF REVENUE TO INCLUDE A BRIEF DESCRIPTION OF THE 5 ITEMIZED DEDUCTION FOR CERTAIN EXPENSES INCURRED IN 6 7 REHABILITATING CERTIFIED HISTORIC STRUCTURES IN THE TAX RETURN FORMS AND INSTRUCTIONS MADE AVAILABLE TO TAXPAYERS 8 9 EACH YEAR; AMENDING SECTION 15-30-121, MCA.* 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 15-30-121. MCA. is amended to read: 12 #15-30-121. Deductions allowed in computing net 13 14 income. (1) In computing net income, there are allowed as 15 deductions: the items referred to in sections 161 and 211 16 17 of the Internal Revenue Code of 1954+ or as sections 161 and 18 211 shall be labeled or amended, subject to the following exceptions which are not deductible: 19

20 (s)(i) items provided for in 15-30-123;

21 (b)(ii) state income tax paid;

22 <u>t2tibl</u> federal income tax paid within the taxable 23 year;

tild and dependent care expenses determined in
 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 (4)[d] 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 15-30-142.*

-End-

HE 578 -2-INTRODUCED BILL

LC 0870/01

STATE OF MONTANA

FISCAL NOTE

In compliance with a written request received <u>March 26</u>, 19 <u>79</u>, there is hereby submitted a Fiscal Note for <u>Amended House Bill 573 (3rd Reading Version</u>) 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%.
- 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

		FY 80		FY 81
Individual Income Tax Collections				
under current law	\$154	1,268,000	\$:	169,790,000
under proposed law	\$154,222,625	5 to \$154,235,000	\$169,608,	500 to \$169,658,000
Estimated Decrease	(\$ 45,375	5 to \$ 33,000)	(\$ 181,	500 to \$ 132,000)
Department of Revenue Expenditures (attributable to proposed law) under current law under proposed law Estimated Increase	\$	0 2,000 2,000	\$ \$	0 2,000 2,000

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BUDGET DIRECTOR Office of Budget and Program Planning Date: 3/3//79

STATE OF MONTANA

REQUEST NO. 505-79

FISCAL NOTE

Form BD-15

of the Legislature upon request.
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
for Amended House Bill 573 (3rd Reading Version) for Amended House Bill 573 (3rd Reading Version)
In compliance with a written request received <u>March 26</u> , 19 79, there is hereby submitted a Fiscal Note

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FISCAL IMPACT (cont.)

	FY 80	FY 81
Net Effect		
under current law	\$ 154,268,000	\$ 169,790,000
under proposed law	\$154,220,625 to \$154,233,000	\$169,606,500 to \$169,656,000
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	\$ 98,700,480 to \$ 98,708,400	\$108,547,440 to \$108,579,120
Estimated Decrease	(\$ <u>31,040 to \$23,120</u>)	(\$ <u>118,160 to \$86,480</u>)
Earmarked Revenue Fund		
under current law	\$ 38,567,000	\$ 42,447,500
under proposed law	\$ 38,555,656 to \$ 38,558,750	\$ 42,402,125 to \$ 42,414,500
Estimated Decrease	(\$ <u>11,344 to \$8,250</u>)	(\$ 45,375 to \$ 33,000)
Sinking Fund*		
under current law	\$ 16,969,480	\$ 18,676,900
under proposed law	\$ 16,964,489 to \$ 16,965,850	\$ 18,656,935 to \$ 18,662,380
Estimated Decrease	(\$ <u>4,991 to \$3,630</u>)	\$ 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

FISCAL NOTE

Form BD-15

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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 "<u>paid or incurred</u>," 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: H9 573
2	
3	
4	A statement of intent is required for this bill because
5	rulemaking authority is delegated to the Montana Historical
Ġ	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 Department of Interior for historical preservation 17 certificates pursuant to the Tax Reform Act of 1976, 36 18 C.F.R., Part 67. 19

HB 573

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HB 0573/02

Approved by Committee on <u>Texation</u>

1	HOUSE BILL NO. 573
2	INTRODUCED BY ROTH, IVERSON, LUND, ANDERSON, MARKS, SCULLY,
3	DUSSAULT, METCALF, KENMIS, HUENNEKENS, HOLMES
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8	CERTAIN EXPENSES INCURRED IN REHABILITATING CERTIFIED
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10	MABE-AVAILABLE- TO TAXPAYER5EACHYEAR; AMENDING SEETION
11	SECTIONS15-30-111AND 15-30-121. MCA:_PROVIDING_AN
12	EFFECTIVE_DATE.*
13	
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. <u>ftt</u> In computing net income, there are allowed as
18	deductions:
19	<pre>ttytat(1) the items referred to in sections 161 and</pre>
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	<pre>tattitLA1 items provided for in 15-30-123;</pre>
24	<pre>tbttit(B) state income tax paid;</pre>

tettb:// federal income tax paid within the taxable

1	year ;
2	t3)ff131 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	f4 <u>ffd1(4)</u> that portion of an energy-related investment
7	allowed as a deduction under 15-32-103 v<u>; AND</u>
8	151_EXPENSESINCURRED_IN_REHABILITATING_CERTIFIED
9	HISTORIC_SIRUCTURES_AS_PROVIDED_IN_[SECTION_3].
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13 14	aestigo:t61:of:the:Interoal:Reyeous:Eoder:gs:gmendedy:in-the inceme::tex::return:forma:and:inatructiona:made:evoilable:to
14	incometexreturn_formaland_instructions_made_eveilable_to
14 15	incometexreturn_forma_and_inatructiona_mode_evoilable_to texpeyera_eecb_year_ea_provided_io_15_20=142x"
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14 15 16 17 18 19	<pre>income_taxreturn_forma_and_instructions_made_available_to taxpayara:each_year_ea_provided_in_15=30=142x** SECTION_2*** SECTION_15=30=111*********************************</pre>
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14 15 16 17 18 19 20 21	income_tax_return_forma-and_instructions_made_available_to taxpayers_each_year_es_provided_in_15=30=1482x* SECTION_2xSECTION_15=30=111* MCA*_IS_AMENDED_TO_READ: "15=30=111* Adjusted gross income* (1) Adjusted gross income shall be the taxpayer*s federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:
14 15 16 17 18 19 20 21 22	<pre>income_tax_return_forma_and_instructions_mode_available_to taxnayers_coch_year_cosprevided_in_15=30=142** SECTION_2*SECTION_15=30=111*_MCA*_IS_AMENDED_TO_READ; "15=30=111*_Adjusted gross income*_(1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:</pre>

-2-HB 573 SECOND READING

HB 573

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

3 [c1__deductions_allowed_under__section_191_of__the
4 Internal__Revenue_Code_of_19541_as_amended1_if_the_deduction
5 allowed_in_section_3_is_claimeda

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 Nontana, county,
10 municipality, district, or other political subdivision
11 thereof;

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

(c) all benefits paid under the teachers* retirement
law which are specified as exempt from taxation by 19-4-706;
(d) all benefits paid under The Public Employees*
Retirement System Act which are specified as exempt from
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;

(f) all Montana income tax refunds or credits thereof;
(g) all benefits paid under 19-11-602, 19-11-604, and
19-11-605 to retired and disabled firefighters, their
surviving spouses and orphans;

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

SECTION 3. THERE IS A NEW MCA SECTION THAT READS:

18

19Deductionforexpensesforrehabilitatingcertain20historic structures. (1) Approved expenses incurred during a21taxable year in rehabilitating an historic structure22certified by the Montana historical society historic23preservation office may be deducted in computing net income.24(2)(a) "Approved expenses" are any expenses for25material or labor meeting the standards established in rules

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1 published by the Montana historical society. 2 (b) "Certified historic structures" are those 3 structures certified by the historic preservation office as: (i) listed on the national register; or 4 5 (ii) located in a registered historic district and of historic significance to the district. 6 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 approved expenses claimed as deductions when filing his 11 income tax return. 12 13 (4) The Nontana historical society shall publish rules establishing: 14 15 (a) criteria and procedures for certifying historic structures; and 16 17 (b) criteria for and examples of approved expenses for 18 rehabilitating historic structures. (5) If a taxpayer claims a deduction under this 19 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. EEFECTIVE AND APPLICABILITY DATE. THIS ACT 23 IS EFECTIVE ON PASSAGE AND APPROVAL AND APPLIES TO TAXABLE Ž4 YEARS DEGINNING AFTER DECEMBER 31+ 1978. -End-

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HB 573

STATEMENT OF INTENT RE: HB 573

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1 2 3

A statement of intent is required for this bill because
rulemaking authority is delegated to the Montana Historical
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This bill allows a deduction in computing net income

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

HB 573

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HB 0573/02

Approved by Committee on <u>Texation</u>

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1	year;
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11	of <u>==tha==itemized=dection=for_certoin=exponses=incurred=in</u>
12	rebobilitating_certified_bistoric_structures_referred_toin
13	action_161_of_the_Internal_Revanue_Eodex_as_amendedx_in_the
14	incomerranserraturniforasingdrinatructionsimaderavaitableito
15	texpererecebsyesssorerided_in=15=38=142x"
16	SECTION 2. SECTION 15-30-111. NCA. IS AMENDED TO BEAD:
17	<pre>#15-30-111. Adjusted gross income. (1) Adjusted gross</pre>
18	income shall be the taxpayer's federal income tax adjusted
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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

-2- HB 573

THIRD READING

extent the deduction of such tax resulted in a reduction of
 Montana income tax liability=:

3 [c]_deductions_allowed_under_section_191_of_the
4 Internal_Revenue_Code_of_1954s_as_amendeds_if_the_deduction
5 allowed_in_section_3_is_claimeds

6 (2) Adjusted gross income does not include the
7 following which are exampt from taxation under this chapter:
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9 States government, the state of Montana, county,
10 municipality, district, or other political subdivision
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12 (b) all benefits received under the Federal Employees*
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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;

(f) all Montana income tax refunds or credits thereof;
(g) all benefits paid under 19-11-602, 19-11-604, and
19-11-605 to retired and disabled firefighters, their
surviving spouses and orphans;

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HB 573

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(h) all benefits paid by first- or second-class cities
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(3) In the case of a shareholder of a corporation with 4 respect to which the election provided for under subchapter 5 5. of the Internal Revenue Code of 1954, as amended, is in 6 effect but with respect to which the election provided for 7 under 15-31-202, as amended, is not in effect, adjusted я 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 included in the shareholder's federal income tax adjusted 12 gross income by reason of the said election under subchapter 13 S. However, the shareholder's adjusted gross income shall 14 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."

SECTION 3. THERE IS A NEW MCA SECTION THAT READS:

19Deductionforexpensesforrehabilitatingcertain20historic structures. (1) Approved expenses incurred during a21taxable year in rehabilitating an historic structure22certified by the Montana historical society historic23preservation office may be deducted in computing net income.24(2)(a) "Approved expenses" are any expenses for25material or labor meeting the standards established in rules

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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
۴	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 Hontana 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_4EFFECTIVE_AND_APPLICABILITY_DATEIHIS_ACT
23	ISEFFECTIVE_ON_PASSAGE_AND_APPROVAL_AND_APPLIES_IO_TAXABLE
24	YEARS_BEGINNING_AFTER_DECEMBER_31+_1978+

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-End-

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