

House Bill 599

In The House

January 31, 1981	Introduced and referred to Committee on Taxation.
February 3, 1981	Fiscal note requested.
February 9, 1981	Fiscal note returned.
February 23, 1981	Committee recommend bill do not pass.

1 HOUSE BILL NO. 599
2 INTRODUCED BY Timothy James Lee

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE THE
5 OWNERSHIP OF AGRICULTURAL LAND BY REQUIRING CERTAIN PERSONS,
6 BUSINESSES, AND CORPORATIONS TO REPORT OWNERSHIP OF INTEREST
7 IN AGRICULTURAL LAND, BY DISALLOWING DEDUCTIONS FROM INCOME
8 TAX AND CORPORATION LICENSE TAX LIABILITY FOR CERTAIN
9 FARM-RELATED EXPENSES AND CAPITAL GAINS CLAIMED BY THESE
10 PERSONS, BUSINESSES, OR CORPORATIONS, AND BY PROVIDING TAX
11 INCENTIVES FOR THE SALE OF LAND TO SMALL OR BEGINNING
12 FARMERS; AMENDING SECTIONS 15-30-101, 15-30-121, AND
13 80-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

16 NEW SECTION. Section 1. Definitions. As used in
17 [sections 2 and 3], the following definitions apply:

18 (1) "Agricultural land" means land meeting the
19 qualifications imposed in 15-7-202(1)(e). The term does not
20 include land for which a mining permit has been issued by
21 the department of state lands or for which a reclamation
22 bond is in effect.

23 (2) "Department" means the department of agriculture.

24 (3) "Director" means the director of the department of
25 agriculture.

1 (4) "Foreign business" means any business entity,
2 including but not limited to corporations, partnerships, and
3 associations, in which a controlling interest is owned by
4 aliens.

5 (5) "Nonresident alien" means any person who is not a
6 citizen of the United States and who is not a resident of
7 the United States or of some state, territory, trusteeship,
8 or protectorate of the United States.

9 (6) "Qualifying individual" means any person who:

10 (a) is required under 15-30-142 to file an individual
11 income tax return;

12 (b) has had an average annual gross income, as shown
13 on his tax returns, exceeding \$500,000 during the preceding
14 3 years; and

15 (c) earned less than 50% of this income during the
16 3-year period from the sale of raw agricultural products.

17 (7) "Qualifying corporation" means any corporation
18 that:

19 (a) is required under 15-31-101 to pay corporation
20 license tax;

21 (b) had an average annual gross income, as shown on
22 its tax returns, exceeding \$500,000 during the preceding 3
23 years; and

24 (c) received less than 50% of this income during the
25 3-year period from the sale of raw agricultural products.

1 NEW SECTION. Section 2. Reporting by certain owners
 2 of agricultural land required. (1) Any nonresident alien,
 3 foreign business, qualifying corporation, or qualifying
 4 individual that acquires or transfers any interest, other
 5 than a security interest, in agricultural land or who holds
 6 an interest, other than a security interest, in agricultural
 7 land on [the effective date of this act] must file a report
 8 with the director not later than 60 days after the date of
 9 such acquisition or transfer, or not later than January 1,
 10 1982, whichever occurs sooner.

11 (2) The report must be on a form provided by the
 12 department and must contain:

13 (a) the legal name and address of the owner of any
 14 interest;

15 (b) the citizenship of any owner who is an individual;

16 (c) the nature of the legal entity holding the
 17 interest. If the owner is a business or corporation, the
 18 country in which it was created, and the principal place of
 19 business;

20 (d) the type of interest in agricultural land that the
 21 owner acquired or transferred;

22 (e) a legal description of the agricultural land
 23 acquired or transferred;

24 (f) the purchase price paid or any other consideration
 25 given for the interest, or the legal name, address, and

1 citizenship of the person to whom the interest is
 2 transferred; and

3 (g) such other information as the director may
 4 consider necessary.

5 (3) Any person who holds or acquires an interest,
 6 other than a security interest, in agricultural land and who
 7 subsequently becomes a nonresident alien must submit a
 8 report, as provided in subsection (2), to the director not
 9 later than 60 days after he becomes a nonresident alien.

10 (4) Any nonresident alien, foreign business,
 11 qualifying corporation, or qualifying individual who holds
 12 or acquires any interest, other than a security interest, in
 13 nonagricultural land that subsequently is assessed as
 14 agricultural land must submit a report, as provided in
 15 subsection (2), to the director not later than 60 days after
 16 the land is reclassified as agricultural land.

17 NEW SECTION. Section 3. Penalty for failure to file
 18 report. Any nonresident alien, foreign business, qualifying
 19 corporation, or qualifying individual refusing to file the
 20 report as required in [section 2] is guilty of a misdemeanor
 21 and upon conviction shall be fined not less than \$100 and
 22 not more than a sum equal to 25% of the market value of his
 23 interest in agricultural land on the day the report was due.

24 Section 4. Section 80-1-102, MCA, is amended to read:
 25 "80-1-102. Duties of department. The department shall:

1 (1) encourage and promote the interests of
2 agriculture, including horticulture and apiculture, and all
3 other allied industries;

4 (2) collect and publish statistics relating to the
5 production and marketing of crops and other agricultural
6 products so far as the information may be of value to the
7 agricultural and allied interests of the state;

8 (3) assist, encourage, and promote the organization of
9 farmers' institutes, horticultural and agricultural
10 societies, the holding of fairs, livestock shows, or other
11 exhibits of the products of agriculture;

12 (4) adopt standards for open and closed receptacles
13 for farm products and standards for the grade and other
14 classification of farm products;

15 (5) cooperate with producers and consumers in devising
16 and maintaining economical and efficient systems of
17 distribution and aid in the reduction of waste and expense
18 incidental to marketing;

19 (6) have the authority to maintain a market news
20 service, including information as to crops, freight rates,
21 commission rates, and other matters as may be of service to
22 producers and consumers, and act as a clearinghouse for
23 information of value to producers and consumers;

24 (7) gather and diffuse information concerning the
25 supply, demand, prevailing prices, and commercial movement

1 of farm products;

2 (8) investigate the practices and methods of factors,
3 commission merchants, and others who receive, solicit, buy,
4 sell, handle on commission or otherwise, or deal in grain,
5 vegetables, or other farm products, so that distribution of
6 the commodities is accomplished efficiently, economically,
7 and without hardship, waste, or fraud;

8 (9) cooperate with Montana state university, the
9 agricultural experiment station, and the federal government
10 for the betterment of the agricultural industries of the
11 state, the improvement of rural life, and promotion of
12 equality of opportunity for the farmers of the state;

13 (10) take and hold in the name of the state of Montana
14 property, real and personal, acquired by gifts,
15 subscriptions, donations, and bequests;

16 (11) sell and dispose of personal property owned by it
17 in a manner the department may provide, when in the judgment
18 of the department the sale or disposal best promotes the
19 purposes for which the department is established;

20 (12) contract in respect to any matter within the scope
21 of its authority;

22 ~~(13) gather reports of and compile data on ownership of~~
23 ~~agricultural land by nonresident aliens, foreign businesses,~~
24 ~~qualifying corporations, and qualifying individuals; and~~

25 ~~(13)(14) enforce this title and all other laws for the~~

1 protection and regulation of agriculture."

2 Section 5. Section 15-30-101, MCA, is amended to read:

3 "15-30-101. Definitions. For the purpose of this
4 chapter, unless otherwise required by the context, the
5 following definitions apply:

6 (1) "Department" means the department of revenue.

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

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

18 ~~(4) "Foreign business" means any business entity,
19 including but not limited to corporations, partnerships, and
20 associations, in which a controlling interest is owned by
21 aliens.~~

22 ~~(4)(5) "Foreign country" or "foreign government" means
23 any jurisdiction other than the one embraced within the
24 United States, its territories and possessions.~~

25 ~~(5)(6) "Gross income" means the taxpayer's gross~~

1 income for federal income tax purposes as defined in section
2 61 of the Internal Revenue Code of 1954 or as that section
3 may be labeled or amended, excluding unemployment
4 compensation included in federal gross income under the
5 provisions of section 85 of the Internal Revenue Code of
6 1954 as amended.

7 ~~(6)(7) "Information agents" includes all individuals,
8 corporations, associations, and partnerships, in whatever
9 capacity acting, including lessees or mortgagors of real or
10 personal property, fiduciaries, employers, and all officers
11 and employees of the state or of any municipal corporation
12 or political subdivision of the state, having the control,
13 receipt, custody, disposal, or payment of interest, rent,
14 salaries, wages, premiums, annuities, compensations,
15 remunerations, emoluments, or other fixed or determinable
16 annual or periodical gains, profits, and income with respect
17 to which any person or fiduciary is taxable under this
18 chapter.~~

19 ~~(7)(8) "Knowingly" is as defined in 45-2-101.~~

20 ~~(8)(9) "Net income" means the adjusted gross income of
21 a taxpayer less the deductions allowed by this chapter.~~

22 ~~(10) "Nonresident alien" means any person who is not a
23 citizen of the United States and who is not a resident of
24 the United States or of some state, territory, trusteeship,
25 or protectorate of the United States.~~

1 ~~(9)(11)~~ "Paid", for the purposes of the deductions and
 2 credits under this chapter, means paid or accrued or paid or
 3 incurred, and the terms "paid or incurred" and "paid or
 4 accrued" shall be construed according to the method of
 5 accounting upon the basis of which the taxable income is
 6 computed under this chapter.

7 ~~(10)(12)~~ "Purposely" is as defined in 45-2-101.

8 ~~(13) "Qualifying individual" means any person who:~~

9 ~~(a) is required to file an individual income tax~~
 10 ~~return under 15-30-142;~~

11 ~~(b) has had an average annual gross income, as shown~~
 12 ~~on his tax returns, exceeding \$1 million during the~~
 13 ~~preceding 3 years; and~~

14 ~~(c) earned less than 50% of this income during the~~
 15 ~~3-year period from the sale of raw agricultural products.~~

16 ~~(11)(14)~~ "Received", for the purpose of computation of
 17 taxable income under this chapter, means received or accrued
 18 and the term "received or accrued" shall be construed
 19 according to the method of accounting upon the basis of
 20 which the taxable income is computed under this chapter.

21 ~~(12)(15)~~ "Resident" applies only to natural persons and
 22 includes, for the purpose of determining liability to the
 23 tax imposed by this chapter with reference to the income of
 24 any taxable year, any person domiciled in the state of
 25 Montana and any other person who maintains a permanent place

1 of abode within the state even though temporarily absent
 2 from the state and has not established a residence
 3 elsewhere.

4 ~~(13)(16)~~ "Taxable income" means the adjusted gross
 5 income of a taxpayer less the deductions and exemptions
 6 provided for in this chapter.

7 ~~(14)(17)~~ "Taxable year" means the taxpayer's taxable
 8 year for federal income tax purposes.

9 ~~(15)(18)~~ "Taxpayer" includes any person or fiduciary,
 10 resident or nonresident, subject to a tax imposed by this
 11 chapter and does not include corporations."

12 Section 6. Section 15-30-121, MCA, is amended to read:
 13 "15-30-121. Deductions allowed in computing net
 14 income. In computing net income, there are allowed as
 15 deductions:

16 (1) the items referred to in sections 161 and 211 of
 17 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 (a) items provided for in 15-30-123;

21 (b) state income tax paid;

22 ~~(c) expenses generated directly or indirectly as a~~
 23 ~~result of the growing or production of any raw agricultural~~
 24 ~~product, claimed by:~~

25 ~~(i) a qualifying individual;~~

1 (ii) a nonresident alien; or
 2 (iii) a foreign business;
 3 (d) the deduction for net capital gain allowed under
 4 section 1202 of the Internal Revenue Code, as amended,
 5 claimed by:

6 (i) a qualifying individual;
 7 (ii) a nonresident alien; or
 8 (iii) a foreign business;
 9 (2) federal income tax paid within the taxable year;
 10 (3) child and dependent care expenses determined in
 11 accordance with the provisions of section 214 of the
 12 Internal Revenue Code of 1954 that were in effect for the
 13 taxable year that began January 1, 1974. However, the
 14 limitation set forth in section 214(e)(4) of the Internal
 15 Revenue Code of 1954 as that section was in effect for the
 16 taxable year that began January 1, 1974, applies only to
 17 payments made to a child of the taxpayer who is under 19
 18 years of age at the close of the taxable year and to
 19 payments made to an individual with respect to whom a
 20 deduction is allowable under 15-30-112(5) to the taxpayer or
 21 the taxpayer's spouse.
 22 (4) that portion of an energy-related investment
 23 allowed as a deduction under 15-32-103;
 24 (5) in the case of an individual, political
 25 contributions determined in accordance with the provisions

1 of section 218(a) and (b) of the Internal Revenue Code that
 2 were in effect for the taxable year ended December 31,
 3 1978."

4 **NEW SECTION.** Section 7. Certain farm-related items
 5 not deductible. (1) Deductions under 15-31-114 generated
 6 directly or indirectly as a result of the growing or
 7 production of any raw agricultural product may not be
 8 claimed by a foreign business or qualifying corporation.

9 (2) (a) "Foreign business" means any business entity,
 10 including but not limited to corporations, partnerships, and
 11 associations, in which a controlling interest is owned by
 12 aliens.

13 (b) "Qualifying corporation" means any corporation
 14 that:

15 (i) is required under 15-31-101 to pay corporation
 16 license tax;

17 (ii) had an average annual gross income, as shown on
 18 its tax returns, exceeding \$1 million during the preceding 3
 19 years; and

20 (iii) received less than 50% of this income during the
 21 3-year period from the sale of raw agricultural products.

22 **NEW SECTION.** Section 8. Income tax deduction for
 23 small farming operation. A taxpayer, other than a
 24 nonresident alien or foreign business as defined in [section
 25 1] or a taxpayer reporting an average annual gross income

1 exceeding \$500,000 during the preceding 3 years, is entitled
2 to a deduction from his taxable income equal to 100% of any
3 income realized as a result of farming activity on any land
4 during the first 5 years of ownership of such land, up to a
5 maximum of \$50,000 a year.

6 NEW SECTION. Section 9. Income tax deduction for land
7 sale to small farmers. A landowner who sells or transfers
8 any interest in land assessed as agricultural land to a
9 person other than a nonresident alien or foreign business as
10 defined in [section 1] or a taxpayer reporting an average
11 annual gross income exceeding \$500,000 during the preceding
12 3 years is entitled to a deduction from his taxable income
13 equal to 100% of any income or capital gain, or both,
14 realized or otherwise subject to state income taxation from
15 the sale, up to a maximum of \$50,000, as long as the land
16 continues to be assessed as agricultural land.

17 Section 10. Severability. If a part of this act is
18 invalid, all valid parts that are severable from the invalid
19 part remain in effect. If a part of this act is invalid in
20 one or more of its applications, the part remains in effect
21 in all valid applications that are severable from the
22 invalid applications.

23 Section 11. Effective date. This act is effective on
24 passage and approval and applies to taxable years beginning
25 after December 31, 1980.

STATE OF MONTANA

REQUEST NO. 295-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 4, 19 81, there is hereby submitted a Fiscal Note for House Bill 599 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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

An act to regulate the ownership of agricultural land by requiring certain persons, businesses, and corporations to report ownership of interest in agricultural land, by disallowing deductions from income tax and corporation license tax liability for certain farm-related expenses and capital gains claimed by these persons, businesses, or corporations, and by providing tax incentives for the sale of land to small or beginning farmers.

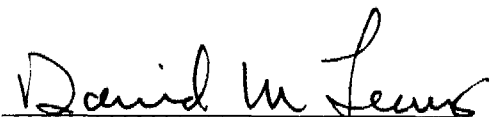
Fiscal Impact

The fiscal impact of this proposal cannot be estimated. All other things being equal, Sections 6 and 7 would result in an increase in tax liabilities, whereas Sections 8 and 9 would decrease tax liabilities. It is not believed that the proposed income tax deductions for new, small farming operations (Section 8) would result in a substantial loss of revenue, however.

The measure mandates specific reports to the Department of Agriculture. The administrative costs for such reporting procedures will be \$2,000 for the biennium.

Technical Note

1. The Department of Agriculture would have responsibility for enforcement of the reporting requirements provided in the bill; however, because of the confidentiality of tax return information, it would be difficult for that agency to identify qualifying individuals and corporations.
2. Administration of the tax provisions included in Section 6 through 9 would necessitate substantial information-processing requirements for the Department of Revenue.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-9-81