

HOUSE BILL NO. 590

1/31 Introduced
1/31 Referred to Taxation
2/01 Fiscal Note Requested
2/08 Fiscal Note Received
3/14 Hearing
 Died in Committee

HOUSE BILL NO. 5902 INTRODUCED BY Keenan

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE INCLUSION
5 IN ADJUSTED GROSS INCOME, FOR CERTAIN PROPERTY, OF A PORTION
6 OF THE DEPRECIATION DEDUCTION PROVIDED FOR BY THE
7 ACCELERATED COST RECOVERY SYSTEM AS ENACTED BY THE FEDERAL
8 ECONOMIC RECOVERY TAX ACT OF 1981; AMENDING SECTIONS
9 15-30-111 AND 15-31-113, MCA; AND PROVIDING AN APPLICABILITY
10 DATE."

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

12 Section 1. Section 15-30-111, MCA, is amended to read:
13 "15-30-111. Adjusted gross income. (1) Adjusted gross
14 income shall be the taxpayer's federal income tax adjusted
15 gross income as defined in section 62 of the Internal
16 Revenue Code of 1954 or as that section may be labeled or
17 amended and in addition shall include the following:
18 (a) interest received on obligations of another state
19 or territory or county, municipality, district, or other
20 political subdivision thereof;

21 (b) refunds received of federal income tax, to the
22 extent the deduction of such tax resulted in a reduction of
23 Montana income tax liability;

24 (c) the deferral value of certain income that is not

1 recognized for federal tax purposes, which value shall be an
2 amount equal to part of the deduction for cost recovery
3 allowable pursuant to section 168 of the Internal Revenue
4 Code of 1954, as labeled or amended, determined by applying
5 the following percentages to the deduction, except that none
6 of these percentages apply to a federal deduction determined
7 by use of the straight-line method:

8 (i) 0% for 3-year property;
9 (ii) 10% for 5-year property;
10 (iii) 15% for 10-year property;
11 (iv) 25% for 15-year utility property; and
12 (v) 35% for 15-year real property.

13 (2) Notwithstanding the provisions of the federal
14 Internal Revenue Code of 1954 as labeled or amended,
15 adjusted gross income does not include the following which
16 are exempt from taxation under this chapter:

17 (a) all interest income from obligations of the United
18 States government, the state of Montana, county,
19 municipality, district, or other political subdivision
20 thereof;

21 (b) interest income earned by a taxpayer age 65 or
22 older in a taxable year up to and including \$800 for a
23 taxpayer filing a separate return and \$1,600 for each joint
24 return;

25 (c) all benefits received under the Federal Employees'

1 Retirement Act not in excess of \$3,600;

2 (d) all benefits, not in excess of \$360, received as

3 an annuity, pension, or endowment under any private or

4 corporate retirement plan or system;

5 (e) all benefits paid under the teachers' retirement

6 law which are specified as exempt from taxation by 19-4-706;

7 (f) all benefits paid under The Public Employees'

8 Retirement System Act which are specified as exempt from

9 taxation by 19-3-105;

10 (g) all benefits paid under the highway patrol

11 retirement law which are specified as exempt from taxation

12 by 19-6-705;

13 (h) all Montana income tax refunds or credits thereof;

14 (i) all benefits paid under 19-11-602, 19-11-604, and

15 19-11-605 to retired and disabled firefighters, their

16 surviving spouses and orphans;

17 (j) all benefits paid by first- or second-class cities

18 for the policemen's retirement system provided for by Title

19, chapter 9;

20 (k) gain required to be recognized by a liquidating

21 corporation under 15-31-113(1)(a)(ii);

22 (l) all tips covered by section 3402(k) of the

23 Internal Revenue Code of 1954, as amended and applicable on

24 January 1, 1983, received by persons for services rendered

25 by them to patrons of premises licensed to provide food,

1 beverage, or lodging.

2 (3) In the case of a shareholder of a corporation with

3 respect to which the election provided for under subchapter

4 S. of the Internal Revenue Code of 1954, as amended, is in

5 effect but with respect to which the election provided for

6 under 15-31-202, as amended, is not in effect, adjusted

7 gross income does not include any part of the corporation's

8 undistributed taxable income, net operating loss, capital

9 gains or other gains, profits, or losses required to be

10 included in the shareholder's federal income tax adjusted

11 gross income by reason of the said election under subchapter

12 S. However, the shareholder's adjusted gross income shall

13 include actual distributions from the corporation to the

14 extent they would be treated as taxable dividends if the

15 subchapter S. election were not in effect.

16 (4) A shareholder of a DISC that is exempt from the

17 corporation license tax under 15-31-102(1)(1) shall include

18 in his adjusted gross income the earnings and profits of the

19 DISC in the same manner as provided by federal law (section

20 995, Internal Revenue Code) for all periods for which the

21 DISC election is effective.

22 (5) A taxpayer who, in determining federal adjusted

23 gross income, has reduced his business deductions by an

24 amount for wages and salaries for which a federal tax credit

25 was elected under section 44B of the Internal Revenue Code

1 of 1954 or as that section may be labeled or amended is
 2 allowed to deduct the amount of such wages and salaries paid
 3 regardless of the credit taken. The deduction must be made
 4 in the year the wages and salaries were used to compute the
 5 credit. In the case of a partnership or small business
 6 corporation, the deduction must be made to determine the
 7 amount of income or loss of the partnership or small
 8 business corporation."

9 Section 2. Section 15-31-113, MCA, is amended to read:
 10 "15-31-113. Gross income and net income. (1) The term
 11 "gross income" means all income recognized in determining
 12 the corporation's gross income for federal income tax
 13 purposes and:

14 (a) including:
 15 (i) interest exempt from federal income tax;
 16 (ii) the portion of gain from a liquidation of the
 17 reporting corporation not recognized for federal corporate
 18 income tax purposes pursuant to sections 331 through 337 of
 19 the Internal Revenue Code (as those sections may be amended
 20 or renumbered) attributable to stockholders, either
 21 individual or corporate, not subject to Montana income or
 22 license tax under Title 15, chapter 30 or chapter 31, as
 23 appropriate, on the gain passing through to the stockholders
 24 pursuant to federal law; and
 25 (iii) the deferral value of certain income that is not

1 recognized for federal income tax purposes, which value is
 2 an amount equal to part of the deduction for cost recovery
 3 allowable pursuant to section 168 of the Internal Revenue
 4 Code of 1954 (as those sections may be amended or
 5 renumbered), determined by applying the following
 6 percentages to the deduction, except that none of these
 7 percentages apply to a federal deduction determined by use
 8 of the straight-line method:

9 (A) 0% for 3-year property;
 10 (B) 10% for 5-year property;
 11 (C) 15% for 10-year property;
 12 (D) 25% for 15-year utility property; and
 13 (E) 35% for 15-year real property; and
 14 (b) excluding gain recognized for federal tax purposes
 15 as a shareholder of a liquidating corporation pursuant to
 16 sections 331 through 337 of the Internal Revenue Code (as
 17 those sections may be amended or renumbered) when the gain
 18 is required to be recognized by the liquidating corporation
 19 pursuant to subsection (1)(a)(ii) of this section.
 20 (2) The term "net income" means the gross income of
 21 the corporation less the deductions set forth in 15-31-114.
 22 (3) No corporation is exempt from the corporation
 23 license tax unless specifically provided for under
 24 15-31-101(3) or 15-31-102. Any corporation not subject to or
 25 liable for federal income tax but not exempt from the

1 corporation license tax under 15-31-101(3) or 15-31-102
2 shall compute gross income for corporation license tax
3 purposes in the same manner as a corporation that is subject
4 to or liable for federal income tax according to the
5 provisions for determining gross income in the federal
6 Internal Revenue Code in effect for the taxable year."

7 NEW SECTION. Section 3. Extension of authority. Any
8 existing authority of the department of revenue to make
9 rules on the subject of the provisions of this act is
10 extended to the provisions of this act.

11 NEW SECTION. Section 4. Applicability. This act
12 applies to taxable years beginning after December 31, 1984.

-End-

STATE OF MONTANA

REQUEST NO. FNN308-85

F I S C A L N O T E

Form BD-15

In compliance with a written request received February 4, 1985, there is hereby submitted a Fiscal Note for House Bill 590 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 requiring the inclusion in adjusted gross income, for certain property, of a portion of the depreciation deduction provided for by the accelerated cost recovery system as enacted by the federal economic recovery tax act of 1981.

ASSUMPTIONS:

1. Individual income tax collections are estimated to be \$196,157,813 and \$209,890,625 in FY86 and FY87, respectively (OBPP).
2. Total corporate license tax collections are estimated to be \$50,447,000 in FY86 and \$54,399,000 in FY87 (OBPP).
3. The total revenue foregone because of Montana's conformity with federal depreciation rules, accelerated cost recovery system, is estimated to be \$14.3M in FY86 and \$14.4M in FY87. Individual income taxpayers are estimated to realize \$3.8M in FY86 and \$4.0M in FY87 of the total revenue foregone. These figures are estimated based on federal statistics, with corrections for differing tax rates.
4. It is estimated this legislation will capture 85% of the total revenue foregone. This assumption is based on West Virginia's experience with an identical law.
5. Increased staffing and operating expenditures would be required to facilitate the proposed change. Additional staff would be needed to verify numerous calculations per return and the automated data processing system would need to be updated in FY86.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 7, 1985
HB 590

FISCAL IMPACT:

	<u>FY 86</u>			<u>FY87</u>		
	<u>Under Current Law</u>	<u>Under Proposed Law</u>	<u>Difference</u>	<u>Under Current Law</u>	<u>Under Proposed Law</u>	<u>Difference</u>
Effect on Revenue by Source:						
Individual Income Tax	\$196,157,813	\$199,387,813	\$ 3,230,000	\$209,890,625	\$213,290,625	\$ 3,400,000
Corporate License Tax	50,447,000	59,372,000	8,925,000	54,399,000	63,239,000	8,840,000
TOTAL REVENUE	\$246,604,813	\$258,759,813	\$12,155,000	\$264,289,625	\$276,529,625	\$12,240,000
Effect on Expenditures:						
Personal Services	-0-	48,981	48,981	-0-	48,981	48,981
Operating Expenses	-0-	20,634	20,634	-0-	15,049	15,049
TOTAL EXPENDITURES	-0-	69,615	69,615	-0-	64,030	64,030
NET EFFECT	\$246,604,813	\$258,690,198	\$12,085,385	\$264,289,625	\$276,465,595	\$12,175,970
Fund Information:						
General Fund	\$155,498,000	\$162,865,022	\$ 7,367,022	\$166,634,000	\$174,059,348	\$ 7,425,348
Earmarked Revenue Fund	60,741,403	63,619,146	2,877,743	65,091,406	67,991,932	2,900,526
Capital Project Fund	26,726,210	27,992,417	1,266,207	28,640,219	29,916,451	1,276,232
Local Governments	3,639,200	4,283,228	644,028	3,924,000	4,561,894	637,894