

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

1 HOUSE BILL NO. 590
2 INTRODUCED BY Keenan
3
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
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 15-30-111, MCA, is amended to read:

14 "15-30-111. Adjusted gross income. (1) Adjusted gross
15 income shall be the taxpayer's federal income tax adjusted
16 gross income as defined in section 62 of the Internal
17 Revenue Code of 1954 or as that section may be labeled or
18 amended and in addition shall include the following:

19 (a) interest received on obligations of another state
20 or territory or county, municipality, district, or other
21 political subdivision thereof;

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

25 (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 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

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

Section 2. Section 15-31-113, MCA, is amended to read:

"15-31-113. Gross income and net income. (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code (as those sections may be amended or renumbered) attributable to stockholders, either individual or corporate, not subject to Montana income or license tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(iii) the deferral value of certain income that is not

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

(A) 0% for 3-year property;

(B) 10% for 5-year property;

(C) 15% for 10-year property;

(D) 25% for 15-year utility property; and

(E) 35% for 15-year real property; and

(b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code (as those sections may be amended or renumbered) when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section.

(2) The term "net income" means the gross income of the corporation less the deductions set forth in 15-31-114.

(3) No corporation is exempt from the corporation license tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or 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
FISCAL NOTE

REQUEST NO. FNN308-85

Form BD-15

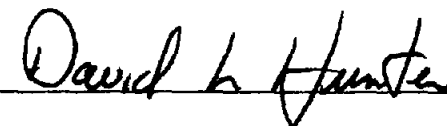
In compliance with a written request received February 4, 19 85, there is hereby submitted a Fiscal Note for House Bill 590 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and 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

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	<u>\$246,604,813</u>	<u>\$258,759,813</u>	<u>\$12,155,000</u>	<u>\$264,289,625</u>	<u>\$276,529,625</u>	<u>\$12,240,000</u>
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-	<u>69,615</u>	<u>69,615</u>	-0-	<u>64,030</u>	<u>64,030</u>
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