



IN THE HOUSE

APRIL 16, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 17, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 *House Bill No. 703*  
 2 INTRODUCED BY *Gilbert Meyer*  
 3 *Harold Mitchell* *J. Brown* *Dave Brown*  
 4 *Lance Smith* *Walt*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE

6 CORPORATE LICENSE OR INCOME TAX AND TO ALLOW CORPORATE  
 7 LICENSE OR INCOME TAXPAYERS TO APPORTION INCOME FOR  
 8 CORPORATE LICENSE OR INCOME TAX PURPOSES UNDER THE  
 9 WATER'S-EDGE UNITARY COMBINATION METHOD, THE NEW INVESTMENT  
 10 TAXPAYER ELECTION, OR CONTINUE TO FILE UNDER CURRENT LAW AS  
 11 PROVIDED FOR IN TITLE 15, CHAPTER 31, MCA; AND PROVIDING AN  
 12 APPLICABILITY DATE."

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

14 Section 1. Definitions. As used in [sections 1 through  
 15 6], unless the context requires otherwise, the following  
 16 definitions apply:

- 17 (1) "Affiliated corporation" means a United States  
 18 parent corporation and any subsidiary of which more than 50%  
 19 of the voting stock is owned directly or indirectly by  
 20 another corporate member of the water's-edge combined group.
- 21 (2) "United States" means the 50 states of the United  
 22 States and the District of Columbia.
- 23 (3) "Water's-edge combined group" means all  
 24 corporations or entities included in the election of a  
 25 taxpayer under [section 2].

1 Section 2. Water's-edge election. Notwithstanding any  
 2 other provisions of law, a taxpayer subject to the taxes  
 3 imposed under this chapter may apportion its income under  
 4 this section. A return under a water's-edge election must  
 5 include the income and apportionment factors of the  
 6 following affiliated corporations only:

- 7 (1) a corporation incorporated in the United States in  
 8 a unitary relationship with the taxpayer and eligible to be  
 9 included in a federal consolidated return as described in  
 10 sections 1501 through 1505 of the Internal Revenue Code that  
 11 has more than 20% of its payroll and property assignable to  
 12 locations inside the United States. For purposes of  
 13 determining eligibility for inclusion in a federal  
 14 consolidated return under this subsection (1), the 80% stock  
 15 ownership requirements of section 1504 of the Internal  
 16 Revenue Code must be reduced to ownership of over 50% of the  
 17 voting stock directly or indirectly owned or controlled by  
 18 an includable corporation.
- 19 (2) domestic international sales corporations, as  
 20 described in sections 991 through 994 of the Internal  
 21 Revenue Code, and foreign sales corporations, as described  
 22 in sections 921 through 927 of the Internal Revenue Code;
- 23 (3) export trade corporations, as described in  
 24 sections 970 and 971 of the Internal Revenue Code;
- 25 (4) foreign corporations deriving gain or loss from



1 disposition of a United States real property interest to the  
2 extent recognized under section 897 of the Internal Revenue  
3 Code;

4 (5) a corporation incorporated outside the United  
5 States if over 50% of its voting stock is owned directly or  
6 indirectly by the taxpayer and if more than 20% of the  
7 average of its payroll and property is assignable to a  
8 location inside the United States.

9 Section 3. Apportionment factors. For purposes of  
10 [section 2(1) and (5)], the location of payroll and property  
11 is determined under the individual state's laws and  
12 regulations that set forth the apportionment formulas used  
13 to assign net income subject to taxes on or measured by net  
14 income. If a state does not impose a tax on or measured by  
15 net income, apportionment is determined under this chapter.

16 Section 4. Water's-edge election period -- consent.  
17 (1) A water's-edge election may be made by a taxpayer and is  
18 effective only if every affiliated corporation subject to  
19 the taxes imposed under this chapter consents to the  
20 election. Consent by the common parent of an affiliated  
21 group constitutes consent of all members of the group. An  
22 affiliated corporation that becomes subject to taxes under  
23 this chapter subsequent to the water's-edge election is  
24 considered to have consented to the election.

25 (2) Each water's-edge election must be for 3-year

1 renewable periods, except as follows:

2 (a) No water's-edge election may be made for an income  
3 year beginning before [the effective date of this act].

4 (b) A water's-edge election may be changed by a  
5 taxpayer prior to the end of each 3-year period only with  
6 the permission of the department of revenue. In granting a  
7 change of election, the department shall impose reasonable  
8 conditions that are necessary to prevent the avoidance of  
9 tax or clearly reflect income for the election period prior  
10 to the change.

11 Section 5. Treatment of dividends. For purposes of  
12 [sections 1 through 6], dividends must be treated as  
13 follows:

14 (1) Dividends received from corporations incorporated  
15 outside the United States, to the extent taxable, are  
16 considered income subject to apportionment.

17 (2) The after-tax net income of United States  
18 corporations excluded from eligibility as affiliated  
19 corporations under [section 2(1)] and possession  
20 corporations described in sections 931 through 934 and 936  
21 of the Internal Revenue Code are considered dividends  
22 received from corporations incorporated outside the United  
23 States.

24 (3) Amounts included in income under sections 951  
25 through 962 and 964 of the Internal Revenue Code are

1 considered dividends from corporations incorporated outside  
2 the United States.

3 (4) Eighty-five percent of all dividends apportionable  
4 under this section must be excluded from income subject to  
5 apportionment.

6 (5) "Deemed" distributions, as set forth in section 78  
7 of the Internal Revenue Code, and corresponding amounts with  
8 respect to dividends considered received under subsection  
9 (2) of this section must be excluded from the income of the  
10 water's-edge combined group.

11 (6) The dividends apportionable under this section are  
12 in lieu of any expenses attributable to dividend income.

13 (7) A dividend from a corporation required to be  
14 combined in the water's-edge combined group must be  
15 eliminated from the calculation of apportionable income.

16 Section 6. Domestic disclosure spreadsheet. The  
17 department of revenue may require taxpayers making a  
18 water's-edge election to submit within 6 months after the  
19 taxpayer files its federal income tax return a domestic  
20 disclosure spreadsheet to provide full disclosure of the  
21 income reported to each state for the year, the tax  
22 liability for each state, the method used for allocating or  
23 apportioning income to the states, and the identity of the  
24 water's-edge corporate group and those of its United States  
25 affiliated corporations.

1 Section 7. New investment taxpayer election.  
2 Notwithstanding any other provisions of law, if a taxpayer  
3 subject to the taxes imposed under this chapter adds to its  
4 Montana property and/or payroll by \$1 million over the  
5 previous tax year, the taxpayer may apportion its income on  
6 a separate company reporting basis for a period of 5 tax  
7 years or any part thereof. This election does not affect  
8 how corporations affiliated with the electing taxpayer file  
9 their Montana corporate license or income tax returns.

10 Section 8. Codification instruction. Sections 1  
11 through 7 are intended to be codified as an integral part of  
12 Title 15, chapter 31, part 3, and the provisions of Title  
13 15, chapter 31, part 3, apply to sections 1 through 7,  
14 except as otherwise provided.

15 Section 9. Extension of authority. Any existing  
16 authority of the department of revenue to make rules on the  
17 subject of the provisions of this act is extended to the  
18 provisions of this act.

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

25 Section 11. Applicability. This act applies to taxable

LC 0903/01

1 years beginning after December 31, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB703, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to clarify the corporate license or income tax and to allow taxpayers to apportion income for corporate license or income tax purposes under the water's-edge unitary combination method, the new investment taxpayer election, or continue to file under current law as provided in Title 15, Chapter 31, MCA; and providing an applicability date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimates of corporate license tax collections provide the basis for comparison.
- 2) Corporate license tax collections will be \$53,063,000 in FY88 and \$58,995,000 in FY89.
- 3) Financial institutions will pay 11.57 percent of the total tax under current law. The proposal will have no effect on the payment of these corporations.
- 4) Based on a detailed examination of returns filed by multistate/multinational taxpayers in FY86, it is estimated the proposal would reduce their taxes by \$3,848,000 when in effect for a full year. Less than 50 corporations would receive the bulk of the savings. The applicability date of the proposal, however, will affect only 60 percent of FY89 collections.
- 5) It is assumed that corporations that would be affected by the proposal do not change the timing or amount of their dividend payments in response to the delayed applicability date of the proposal. These reactions would increase the revenue impact of the proposal over the estimated amount.
- 6) The estimated impact does not include the potential impact of the new investment taxpayer election, since it depends on the amount of future investment by certain taxpayers and the income generated from the specific investment.

FISCAL IMPACT:

Revenue Impact:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Corporate License Tax	N/A	N/A	N/A	\$58,995,000	\$56,686,200	(\$2,308,800)*

\*The loss represents 60 percent of a full year's impact as a result of the applicability date of the proposal.

David L. Hunter DATE 2/17/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

Bob Gilbert DATE \_\_\_\_\_  
 BOB GILBERT, PRIMARY SPONSOR

Fiscal Note for HB703, as introduced.

**HB 703**

Fiscal Note Request, HB703, as introduced.

Form BD-15

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Fund Information:

	<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
General Fund	\$34,261,760	\$32,784,128	(\$1,477,632)
Foundation Program	13,383,500	12,806,300	( 577,200)
Debt Service Fund	5,888,740	5,634,772	( 253,968)
Local Governments	5,461,000	5,461,000	0

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The impact in FY90 is estimated to decrease revenues by \$3,848,000, since the proposal will apply to a full year of returns.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The proposal includes domestic international sales corporations (DISC's) in the definition of an affiliated group. Yet, these corporations are exempt from taxation by other sections of Title 15.

HB 703



APPROVED BY COMMITTEE  
ON TAXATION

1 *House Bill No. 703*  
 2 INTRODUCED BY *Gilbert Pyle*  
 3 *Spencer Mitchell* *J. Bowen* *Dave Brown*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE *Water's-edge*  
 5 CORPORATE LICENSE OR INCOME TAX AND TO ALLOW CORPORATE *election*  
 6 LICENSE OR INCOME TAXPAYERS TO APPORTION INCOME FOR *purposes*  
 7 CORPORATE LICENSE OR INCOME TAX PURPOSES UNDER THE *new*  
 8 WATER'S-EDGE UNITARY COMBINATION METHOD, THE NEW INVESTMENT  
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 24 sections 970 and 971 of the Internal Revenue Code;  
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2 extent recognized under section 897 of the Internal Revenue  
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21 group constitutes consent of all members of the group. An  
22 affiliated corporation that becomes subject to taxes under  
23 this chapter subsequent to the water's-edge election is  
24 considered to have consented to the election.

25 (2) Each water's-edge election must be for 3-year

1 renewable periods, except as follows:

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3 year beginning before [the effective date of this act].

4 (b) A water's-edge election may be changed by a  
5 taxpayer prior to the end of each 3-year period only with  
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3 (4) Eighty-five percent of all dividends apportionable  
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6 (5) "Deemed" distributions, as set forth in section 78  
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24 water's-edge corporate group and those of its United States  
25 affiliated corporations.

1 Section 7. New investment taxpayer election.  
2 Notwithstanding any other provisions of law, if a taxpayer  
3 subject to the taxes imposed under this chapter adds to its  
4 Montana property and/or payroll by \$1 million over the  
5 previous tax year, the taxpayer may apportion its income on  
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7 years or any part thereof. This election does not affect  
8 how corporations affiliated with the electing taxpayer file  
9 their Montana corporate license or income tax returns.

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12 Title 15, chapter 31, part 3, and the provisions of Title  
13 15, chapter 31, part 3, apply to sections 1 through 7,  
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15 Section 9. Extension of authority. Any existing  
16 authority of the department of revenue to make rules on the  
17 subject of the provisions of this act is extended to the  
18 provisions of this act.

19 Section 10. Severability. If a part of this act is  
20 invalid, all valid parts that are severable from the invalid  
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25 Section 11. Applicability. This act applies to taxable

LC 0903/01

1 years beginning after December 31, 1987.

-End-

House Bill No. 703

INTRODUCED BY *Albert P. Ryan*  
*Spice, Michael* *John* *John* *John*  
*John* *John* *John* *John*

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE CORPORATE LICENSE OR INCOME TAX AND TO ALLOW CORPORATE LICENSE OR INCOME TAXPAYERS TO APPORTION INCOME FOR CORPORATE LICENSE OR INCOME TAX PURPOSES UNDER THE WATER'S-EDGE UNITARY COMBINATION METHOD, THE NEW INVESTMENT TAXPAYER ELECTION, OR CONTINUE TO FILE UNDER CURRENT LAW AS PROVIDED FOR IN TITLE 15, CHAPTER 31, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

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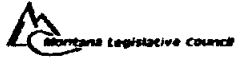
Section 2. Water's-edge election. Notwithstanding any other provisions of law, a taxpayer subject to the taxes imposed under this chapter may apportion its income under this section. A return under a water's-edge election must include the income and apportionment factors of the following affiliated corporations only:

(1) a corporation incorporated in the United States in a unitary relationship with the taxpayer and eligible to be included in a federal consolidated return as described in sections 1501 through 1505 of the Internal Revenue Code that has more than 20% of its payroll and property assignable to locations inside the United States. For purposes of determining eligibility for inclusion in a federal consolidated return under this subsection (1), the 80% stock ownership requirements of section 1504 of the Internal Revenue Code must be reduced to ownership of over 50% of the voting stock directly or indirectly owned or controlled by an includable corporation.

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-2-  
THIRD READING  
HB 703

1 disposition of a United States real property interest to the  
2 extent recognized under section 897 of the Internal Revenue  
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LC 0903/01

1 years beginning after December 31, 1987.

-End-



## 1 HOUSE BILL NO. 703

2 INTRODUCED BY GILBERT, THAYER, IVERSON, HIRSCH, MANUEL,  
3 CRIPPEN, LYNCH, J. BROWN, D. BROWN, SANDS, TVEIT,  
4 C. SMITH, WALLIN, POULSEN, BENGTSON

5  
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15 ELECTION; TO IMPOSE A 5 4 PERCENT SURCHARGE ON THE CORPORATE  
16 LICENSE OR INCOME TAX FOR TAX YEAR 1988; AMENDING SECTION  
17 15-31-121, MCA; AND PROVIDING AN APPLICABILITY DATE."  
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14 (1) a corporation incorporated in the United States in  
15 a unitary relationship with the taxpayer and eligible to be  
16 included in a federal consolidated return as described in  
17 sections 1501 through 1505 of the Internal Revenue Code that  
18 has more than 20% of its payroll and property assignable to  
19 locations inside the United States. For purposes of  
20 determining eligibility for inclusion in a federal  
21 consolidated return under this subsection (1), the 80% stock  
22 ownership requirements of section 1504 of the Internal  
23 Revenue Code must be reduced to ownership of over 50% of the  
24 voting stock directly or indirectly owned or controlled by  
25 an includable corporation.

1 (2) domestic international sales corporations, as  
2 described in sections 991 through 994 of the Internal  
3 Revenue Code, and foreign sales corporations, as described  
4 in sections 921 through 927 of the Internal Revenue Code;

5 (3) export trade corporations, as described in  
6 sections 970 and 971 of the Internal Revenue Code;

7 (4) foreign corporations deriving gain or loss from  
8 disposition of a United States real property interest to the  
9 extent recognized under section 897 of the Internal Revenue  
10 Code;

11 (5) a corporation incorporated outside the United  
12 States if over 50% of its voting stock is owned directly or  
13 indirectly by the taxpayer and if more than 20% of the  
14 average of its payroll and property is assignable to a  
15 location inside the United States.

16 NEW SECTION. Section 3. Apportionment factors. For  
17 purposes of [section 2(1) and (5)], the location of payroll  
18 and property is determined under the individual state's laws  
19 and regulations that set forth the apportionment formulas  
20 used to assign net income subject to taxes on or measured by  
21 net income. If a state does not impose a tax on or measured  
22 by net income, apportionment is determined under this  
23 chapter.

24 NEW SECTION. Section 4. Water's-edge election period  
25 -- consent. (1) A water's-edge election may be made by a

1 taxpayer and is effective only if every affiliated  
2 corporation subject to the taxes imposed under this chapter  
3 consents to the election. Consent by the common parent of  
4 an affiliated group constitutes consent of all members of  
5 the group. An affiliated corporation that becomes subject  
6 to taxes under this chapter subsequent to the water's-edge  
7 election is considered to have consented to the election.

8 (2) Each water's-edge election must be for 3-year  
9 renewable periods, except as follows:

10 (a) No water's-edge election may be made for an income  
11 year beginning before [the effective date of this act].

12 (b) A water's-edge election may be changed by a  
13 taxpayer prior to the end of each 3-year period only with  
14 the permission of the department of revenue. In granting a  
15 change of election, the department shall impose reasonable  
16 conditions that are necessary to prevent the avoidance of  
17 tax or clearly reflect income for the election period prior  
18 to the change.

19 NEW SECTION. Section 5. Treatment of dividends. For  
20 purposes of [sections 1 through 6], dividends must be  
21 treated as follows:

22 (1) Dividends received from corporations incorporated  
23 outside the United States, to the extent taxable, are  
24 considered income subject to apportionment.

25 (2) The after-tax net income of United States

1 corporations excluded from eligibility as affiliated  
 2 corporations under [section 2(1)] and possession  
 3 corporations described in sections 931 through 934 and 936  
 4 of the Internal Revenue Code are considered dividends  
 5 received from corporations incorporated outside the United  
 6 States.

7 (3) Amounts included in income under sections 951  
 8 through 962 and 964 of the Internal Revenue Code are  
 9 considered dividends from corporations incorporated outside  
 10 the United States.

11 (4) Eighty-five EIGHTY percent of all dividends  
 12 apportionable under this section must be excluded from  
 13 income subject to apportionment.

14 (5) "Deemed" distributions, as set forth in section 78  
 15 of the Internal Revenue Code, and corresponding amounts with  
 16 respect to dividends considered received under subsection  
 17 (2) of this section must be excluded from the income of the  
 18 water's-edge combined group.

19 (6) The dividends apportionable under this section are  
 20 in lieu of any expenses attributable to dividend income.

21 (7) A dividend from a corporation required to be  
 22 combined in the water's-edge combined group must be  
 23 eliminated from the calculation of apportionable income.

24 NEW SECTION. Section 6. Domestic disclosure  
 25 spreadsheet. The department of revenue may require taxpayers

1 making a water's-edge election to submit within 6 months  
 2 after the taxpayer files its federal income tax return a  
 3 domestic disclosure spreadsheet to provide full disclosure  
 4 of the income reported to each state for the year, the tax  
 5 liability for each state, the method used for allocating or  
 6 apportioning income to the states, and the identity of the  
 7 water's-edge corporate group and those of its United States  
 8 affiliated corporations.

9 ~~Section 7. New investment taxpayer election.~~  
 10 ~~Notwithstanding any other provisions of law, if a taxpayer~~  
 11 ~~subject to the taxes imposed under this chapter adds to its~~  
 12 ~~Montana property and/or payroll by \$1 million over the~~  
 13 ~~previous tax year, the taxpayer may apportion its income on~~  
 14 ~~a separate company reporting basis for a period of 5 tax~~  
 15 ~~years or any part thereof. This election does not affect~~  
 16 ~~how corporations affiliated with the electing taxpayer file~~  
 17 ~~their Montana corporate license or income tax returns.~~

18 SECTION 7. SECTION 15-31-121, MCA, IS AMENDED TO READ:  
 19 "15-31-121. Rate of tax -- minimum tax -- surtax. (1)  
 20 The Except as provided in subsection (2), the percentage of  
 21 net income to be paid under 15-31-101 shall be 6 3/4% of all  
 22 net income for the taxable period. The rate set forth in  
 23 this part subsection (1) shall be effective for all taxable  
 24 years ending on or after February 28, 1971. This rate is  
 25 retroactive to and effective for all taxable years ending on

1 or after February 28, 1971.

2 ~~(2) For a taxpayer that is subject to worldwide~~  
 3 ~~apportionment and eligible to make~~ MAKING a water's-edge  
 4 ~~election, the percentage of net income to be paid under~~  
 5 ~~15-31-101 shall be 7% of all taxable net income for the~~  
 6 ~~taxable period, whether or not the taxpayer makes the~~  
 7 ~~water's-edge election.~~

8 {2}(3) Every corporation subject to taxation under  
 9 this part shall, in any event, pay a minimum tax of not less  
 10 than \$50.

11 (4) After the amount of tax liability has been  
 12 computed under subsections (1) through (3), each corporation  
 13 subject to taxation under this part shall add as a surtax  
 14 for tax year 1988, 5% 4% of the tax liability, and the  
 15 amount so derived is the amount due the state."

16 NEW SECTION. Section 8. Codification instruction.  
 17 Sections 1 through 7 6 are intended to be codified as an  
 18 integral part of Title 15, chapter 31, part 3, and the  
 19 provisions of Title 15, chapter 31, part 3, apply to  
 20 sections 1 through 7 6, except as otherwise provided.

21 NEW SECTION. Section 9. Extension of authority. Any  
 22 existing authority of the department of revenue to make  
 23 rules on the subject of the provisions of this act is  
 24 extended to the provisions of this act.

25 NEW SECTION. Section 10. Severability. If a part of

1 this act is invalid, all valid parts that are severable from  
 2 the invalid part remain in effect. If a part of this act is  
 3 invalid in one or more of its applications, the part remains  
 4 in effect in all valid applications that are severable from  
 5 the invalid applications.

6 NEW SECTION. Section 11. Applicability. This act  
 7 applies to taxable years beginning after December 31, 1987.

-End-

STANDING COMMITTEE REPORT

scrhb703.scr

Page 2 of 2  
SCRHB703

SENATE

SCRHB703

April 10, 1987

April 10, 1987

MR. PRESIDENT

Taxation

We, your committee on

House Bill 703

having had under consideration

third blue No.

reading copy ( color )

GILBERT (THAYER)

PROVIDE FOR WATER'S-EDGE UNITARY COMBINATION METHOD OR NEW INVESTMENT CHOICE

Respectfully report as follows: That House Bill No. 703

BE AMENDED AS FOLLOWS:

1. Title, lines 8 and 9.

Following: "METHOD" on line 8

Strike: ", THE NEW INVESTMENT TAXPAYER ELECTION,"

2. Title, line 10.

Following: "MCA;"

Insert: "TO IMPOSE A 7% TAX RATE ON CORPORATIONS SUBJECT TO WORLD-WIDE APPORTIONMENT AND ELIGIBLE TO MAKE A WATER'S-EDGE ELECTION; TO IMPOSE A 5% SURCHARGE ON THE CORPORATE LICENSE OR INCOME TAX; AMENDING SECTION 15-31-121, MCA;"

3. Page 5, line 3.

Strike: "Eighty-five"

Insert: "Eighty"

4. Page 6, lines 1 through 9.

Following: "7." on line 1

Strike: remainder of line 1 through end of line 9

Insert: "Section 15-31-121, MCA, is amended to read:

"15-31-121. Rate of tax -- minimum tax--surtax. (1) ~~The~~ Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be 6 3/4% of all net income for the taxable period. The rate set forth in this ~~part~~ subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

DO PASS

DO NOT PASS

CONTINUED

Chairman

(2) For a taxpayer that is subject to world-wide apportionment and eligible to make a water's-edge election, the percentage of net income to be paid under 15-31-101 shall be 7% of all taxable net income for the taxable period, whether or not the taxpayer makes the water's-edge election.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50.

(4) After the amount of tax liability has been computed under subsections (1) through (3), each corporation subject to taxation under this part shall add as a surtax 5% of the tax liability, and the amount so derived at is the amount due the state."

5. Page 6, lines 11 and 13.

Following: "through"

Strike: "7"

Insert: "6"

6. Insert: "NEW SECTION." preceding "Section" in the following locations:

Page 1, line 14.

Page 2, line 1.

Page 3, lines 9 and 16.

Page 4, line 11.

Page 5, line 16.

Page 6, lines 10,15,19, and 25.

AND AS AMENDED

BE CONCURRED IN

4-10-87  
Senator McCallum

April 10, 1987

STANDING COMMITTEE REPORT

SENATE

SCRHB703.SCR

April 10, 1987

MR. PRESIDENT

Taxation

We, your committee on Taxation  
having had under consideration House Bill No. 703  
third reading copy (blue color)

PROVIDE FOR WATER'S-EDGE UNITARY COMBINATION METHOD OR NEW INVESTMENT CHOICE

GILBERT (THAYER)

Respectfully report as follows: That House Bill No. 703  
BE AMENDED AS FOLLOWS:

- Title, lines 8 and 9.  
Following: "METHOD" on line 8  
Strike: ", THE NEW INVESTMENT TAXPAYER ELECTION,"
- Title, line 10.  
Following: "MCA;"  
Insert: "TO IMPOSE A 7% TAX RATE ON CORPORATIONS SUBJECT TO WORLD-WIDE APPORTIONMENT AND ELIGIBLE TO MAKE A WATER'S-EDGE ELECTION; TO IMPOSE A 5% SURCHARGE ON THE CORPORATE LICENSE OR INCOME TAX FOR TAX YEAR 1988; AMENDING SECTION 15-31-121, MCA;"
- Page 5, line 3.  
Strike: "Eighty-five"  
Insert: "Eighty"
- Page 6, lines 1 through 9.  
Following: "7." on line 1  
Strike: remainder of line 1 through end of line 9  
Insert: "Section 15-31-121, MCA, is amended to read:  
"15-31-121. Rate of tax -- minimum tax--surtax. (1) ~~The~~ Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be 6 3/4% of all net income for the taxable period. The rate set forth in this ~~part~~ subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

(2) For a taxpayer that is subject to world-wide apportionment and eligible to make a water's-edge election, the percentage of net income to be paid under 15-31-101 shall be 7% of all taxable net income for the taxable period, whether or not the taxpayer makes the water's-edge election.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than \$50.

(4) After the amount of tax liability has been computed under subsections (1) through (3), each corporation subject to taxation under this part shall add as a surtax for tax year 1988, 5% of the tax liability, and the amount so derived at is the amount due the state."

5. Page 6, lines 11 and 13.  
Following: "through"  
Strike: "7"  
Insert: "6"

6. Insert: "NEW SECTION," preceding "Section" in the following locations:  
Page 1, line 14.  
Page 2, line 1.  
Page 3, lines 9 and 16.  
Page 4, line 11.  
Page 5, line 16.  
Page 6, lines 10, 15, 19, and 25.

AND AS AMENDED,  
BE CONCURRED IN

CORRECTED COPY

~~XXXX~~  
~~XXXX~~

*SM*  
CONTINUED

Chairman.

*George M. McClintock*  
George M. McClintock  
CORRECTED COPY

4141055p.cwr

### COMMITTEE OF THE WHOLE AMENDMENT

## SENATE

4-14-87  
DATE  
10:55  
TIME

MR. CHAIRMAN: I MOVE TO AMEND House Bill No. 703  
third reading copy ( blue ) as follows:  
Color

AMEND TAXATION STANDING COMMITTEE REPORT OF APRIL 10, 1987.

1. Amendment no. 1, in Insert.

Following: "TO IMPOSE A"

Strike: "5%"

Insert: "4%"

2. Amendment no. 4, Section 15-31-121 (4).

Following: "add as a surtax"

Strike: " 5% "

Insert: " 4% "

411830n.cwo

### COMMITTEE OF THE WHOLE AMENDMENT

4-11-87  
DATE  
8:30  
TIME

MR. CHAIRMAN: I MOVE TO AMEND House Bill No. 703  
third reading copy ( blue ) as follows:  
Color

AMENDING TAXATION STANDING COMMITTEE REPORT, DATED 4-10-87

1. Amend the second amendment's inserted material.

Following: "CORPORATIONS"

Strike: "SUBJECT TO WORLD-WIDE APPORTIONMENT AND ELIGIBLE

TO MAKE"

Insert: "MAKING"

2. Amend the fourth amendment's changes to 15-31-121.

Following: "taxpayer" on the first line in subsection (2)

Strike: "that is subject to world-wide apportionment and eligible to make"

Insert: "making"

Following: "period" on the fifth line of subsection (2)

Strike: ", whether or not the taxpayer makes the water's-edge election"

*MAC*  
ADOPT  
REJECT

*Donath Eck*  
Senator Eck

*NAB*  
ADOPT  
REJECT

*Sen. Thayer*  
Senator Thayer

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB703, Reference copy.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to clarify the corporate license or income tax and to allow corporate license or income taxpayers to apportion income for corporate license or income tax purposes under the water's-edge unitary combination method, or continue to file under current law as provided in Title 15, Chapter 31, MCA; to impose a 7 percent tax rate on corporations making a water's edge election; to impose a 4 percent surcharge on the corporate license or income tax for tax year 1988; and providing an applicability date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's estimates of corporate license tax collections provide the basis for comparison.
2. Corporate license tax collections will be \$53,063,000 in FY88 and \$58,995,000 in FY89.
3. Financial institutions will pay 11.57 percent of the total tax under current law.
4. Based on a detailed examination of returns filed by multistate/multinational taxpayers in FY86, it is estimated the water's edge election would reduce their taxes by \$3,431,700 when in effect for a full year. Less than 50 corporations would receive the bulk of the savings. The applicability date of the proposal, however, will affect only 60 percent of FY89 collections.
5. It is assumed that corporations that would be affected by the proposal do not change the timing or amount of their dividend payments in response to the delayed applicability date of the proposal. These reactions would increase the revenue impact of the proposal over the estimated amount.
6. The surtax applies to tax year 1988. 60% of the surtax will be collected in FY89 and 40% in FY90.

FISCAL IMPACT:Revenue Impact:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Corporate License Tax	N/A	N/A	N/A	\$58,995,000	\$58,108,800	(\$ 886,200)*

\*The effect represents 60 percent of a full year's impact as a result of the applicability date of the proposal.

David L. Hunter DATE 7/16/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

Bob Gilbert DATE \_\_\_\_\_  
 BOB GILBERT, PRIMARY SPONSOR

Fiscal Note for HB703, reference copy.

HB 703  
#2



Fund Information:

	<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
General Fund	\$34,261,760	\$ 33,625,115	( \$ 636,645)
Foundation Program	13,383,500	13,134,810	( 248,690)
Debt Service Fund	5,888,740	5,779,317	( 109,423)
Local Governments	5,461,000	5,569,558	108,558

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The impact in FY90 is estimated to decrease revenues by \$2,650,000, since the water's edge election will apply to a full year of returns and the surtax will apply to 40% of returns. In FY91, with no surtax applying, the proposal will decrease revenues by \$3,432,000.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The proposal includes domestic international sales corporations (DISC's) in the definition of an affiliated group. Yet, these corporations are exempt from taxation by other sections of Title 15.

HB703  
#2