

HB 829 INTRODUCED BY QUILICI, ET AL.
IMPOSE 20 PERCENT SURTAX ON INDIVIDUALS AND
CORPORATIONS -- 20 PERCENT OF REVENUE TO
UNIVERSITY SYSTEM

2/18 INTRODUCED
2/18 REFERRED TO TAXATION
2/19 FISCAL NOTE REQUESTED
3/02 FISCAL NOTE RECEIVED
3/10 HEARING
3/19 TABLED IN COMMITTEE

1
 2 *House* BILL NO. *829*
 3 INTRODUCED BY *Luis Lopez* *by Jeffrey Smith, Jacobson*
Strand, Ross *Van Valkenburg, Ed, Hedger, Fritz*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A 20 PERCENT
 5 SURTAX ON THE AMOUNT OF INDIVIDUAL INCOME TAX AND
 6 CORPORATION LICENSE OR INCOME TAX LIABILITY; EARMARKING 20
 7 PERCENT OF THE REVENUE TO THE UNIVERSITY SYSTEM; AMENDING
 8 SECTIONS 15-1-501, 15-30-105, 15-31-143, AND 15-31-403, MCA;
 9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE
 10 APPLICABILITY DATE, AND A TERMINATION DATE."

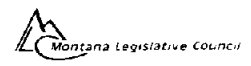
11 *Daily Journal*
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION. Section 1. Individual income surtax.
 14 After the amount of tax liability has been computed under
 15 this chapter, each person filing a Montana individual income
 16 tax return shall add as a surtax 20% of the tax liability,
 17 and the amount so derived is the amount due the state.

18 NEW SECTION. Section 2. Corporation license or income
 19 surtax. After the amount of tax liability has been computed
 20 under this chapter, each corporation filing a Montana
 21 corporation license or income tax return shall add as a
 22 surtax 20% of the tax liability, and the amount so derived
 23 is the amount due the state.

24 Section 3. Section 15-1-501, MCA, is amended to read:
 25 "15-1-501. Disposition of moneys from certain

1 designated license and other taxes. (1) The state treasurer
 2 shall deposit to the credit of the state general fund all
 3 moneys received by him from the collection of:
 4 (a) fees from driver's licenses, motorcycle
 5 endorsements, and duplicate driver's licenses as provided in
 6 61-5-121;
 7 (b) electrical energy producer's license taxes under
 8 chapter 51;
 9 (c) severance taxes allocated to the general fund
 10 under chapter 36;
 11 (d) liquor license taxes under Title 16;
 12 (e) telephone [company] license taxes under chapter
 13 53; and
 14 (f) inheritance and estate taxes under Title 72,
 15 chapter 16.
 16 (2) Seventy-five percent of all moneys, except for
 17 surtax revenue as provided in [sections 1 and 2], received
 18 from the collection of income taxes under chapter 30 and
 19 corporation license and income taxes under chapter 31,
 20 except as provided in 15-31-702, shall be deposited in the
 21 general fund subject to the prior pledge and appropriation
 22 of such income tax and corporation license tax collections
 23 for the payment of long-range building program bonds. The
 24 remaining 25% of the proceeds of the corporation license
 25 tax, excluding that allocated to the counties under



-2- INTRODUCED BILL
 HB 829

1 15-31-702, corporation income tax, and income tax shall be
 2 deposited to the credit of the state special revenue fund
 3 for state equalization aid to the public schools of Montana.
 4 Eighty percent of all revenue from the surtax provided in
 5 [sections 1 and 2] shall be deposited in the general fund.
 6 The remaining 20% of the surtax revenue shall be deposited
 7 in an account in the state special revenue fund to the
 8 credit of the university system to be spent in accordance
 9 with an expenditure appropriation by the legislature.

10 (3) The state treasurer shall also deposit to the
 11 credit of the state general fund all moneys received by him
 12 from the collection of license taxes, fees, and all net
 13 revenues and receipts from all other sources under the
 14 operation of the Montana Alcoholic Beverage Code.

15 (4) Thirty-three and one-third percent of the total
 16 collections of the oil severance tax under chapter 36 shall
 17 be deposited into the local government block grant account
 18 within the state special revenue fund. After the
 19 distribution provided for in 15-36-112, the remainder of the
 20 oil severance tax collections shall be deposited in the
 21 general fund."

22 Section 4. Section 15-30-105, MCA, is amended to read:

23 "15-30-105. Tax on nonresident -- alternative tax
 24 based on gross sales. (1) A like tax is imposed upon every
 25 person not resident of this state, which tax shall be

1 levied, collected, and paid annually at the rates specified
 2 in 15-30-103 and [section 1] with respect to his entire net
 3 income as herein defined from all property owned and from
 4 every business, trade, profession, or occupation carried on
 5 in this state.

6 (2) Pursuant to the provisions of Article III, section
 7 2, of the Multistate Tax Compact, every nonresident taxpayer
 8 required to file a return and whose only activity in Montana
 9 consists of making sales and who does not own or rent real
 10 estate or tangible personal property within Montana and
 11 whose annual gross volume of sales made in Montana during
 12 the taxable year does not exceed \$100,000 may elect to pay
 13 an income tax of 1/2 of 1% of the dollar volume of gross
 14 sales made in Montana during the taxable year. Such tax
 15 shall be in lieu of the tax imposed under 15-30-103 but not
 16 in lieu of the tax imposed under [section 1]. The gross
 17 volume of sales made in Montana during the taxable year
 18 shall be determined according to the provisions of Article
 19 IV, sections 16 and 17, of the Multistate Tax Compact."

20 Section 5. Section 15-31-143, MCA, is amended to read:

21 "15-31-143. Return and payment on corporate
 22 dissolution. (1) It is hereby declared that the policy of
 23 the state of Montana, both at the time of the enactment of
 24 the corporation license tax law and at all times since, has
 25 been and still is that every corporation doing business in

1 Montana shall pay an excise tax for the exercise of such
 2 privilege and that the amount of such tax shall be based
 3 upon the total taxable net income of such corporations
 4 during the entire period of time they are engaged in
 5 business in this state. No remission of that obligation for
 6 the last year in which a corporation engages in business in
 7 Montana was intended by the original enactment of this
 8 section.

9 (2) Therefore, every corporation which shall be
 10 dissolved or cease to do business in Montana at any time
 11 during any year shall, before such dissolution or cessation
 12 of business, make a return and pay the corporation license
 13 tax determined on the basis of its net income for the final
 14 period in which it did business in this state at the rate
 15 provided in 15-31-121 and 15-31-122, in addition to all
 16 other corporation license taxes and surtaxes for which such
 17 corporation may then be liable."

18 Section 6. Section 15-31-403, MCA, is amended to read:

19 "15-31-403. Rate of tax imposed -- income from sources
 20 within state defined -- alternative tax. (1) There is hereby
 21 imposed upon every corporation for each taxable year an
 22 income tax at the rate specified in 15-31-121 and 15-31-122
 23 upon its net income derived from sources within this state
 24 for taxable years beginning after December 31, 1970, other
 25 than income for any period for which the corporation is

1 subject to taxation under part 1 of this chapter, according
 2 to or measured by its net income, plus a surtax as provided
 3 in [section 2].

4 (2) Income from sources within this state includes
 5 income from tangible or intangible property located in or
 6 having a situs in this state and income from any activities
 7 carried on in this state, regardless of whether carried on
 8 in intrastate, interstate, or foreign commerce, but does not
 9 include interest paid on loans held by out-of-state
 10 financial institutions recognized as such in the state of
 11 their domicile, secured by mortgages, trust indentures, or
 12 other security interests on real or personal property
 13 located within the state, if the loan is originated by a
 14 lender doing business in Montana and assigned out-of-state
 15 and there is no activity conducted by the out-of-state
 16 lender in Montana except periodic inspection of the
 17 security.

18 (3) Pursuant to Article III, section 2, of the
 19 Multistate Tax Compact, any corporation required to file a
 20 return under this part and whose only activity in Montana
 21 consists of making sales and which does not own or rent real
 22 estate or tangible personal property within Montana and
 23 whose annual gross volume of sales made in Montana does not
 24 exceed \$100,000 may elect to pay a tax of 1/2 of 1% of
 25 gross sales made in Montana during the taxable year. Such

1 tax shall be in lieu of the tax otherwise imposed under this
 2 section. The gross volume of sales made in Montana during
 3 the taxable year shall be determined according to Article
 4 IV, sections 16 and 17, of the Multistate Tax Compact."

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

10 NEW SECTION. Section 8. Codification instructions.
 11 (1) Section 1 is intended to be codified as an integral part
 12 of Title 15, chapter 30, and the provisions of Title 15,
 13 chapter 30, apply to section 1.

14 (2) Section 2 is intended to be codified as an
 15 integral part of Title 15, chapter 31, and the provisions of
 16 Title 15, chapter 31, apply to section 2.

17 NEW SECTION. Section 9. Applicability. This act
 18 applies retroactively, within the meaning of 1-2-109, to
 19 taxable years beginning after December 31, 1986.

20 NEW SECTION. Section 10. Effective date. This act is
 21 effective on passage and approval.

22 NEW SECTION. Section 11. Termination. (1) This act
 23 terminates when the ending general fund balance on June 30
 24 of any year, as certified by the director of the department
 25 of administration, is equal to or greater than 5% of the

1 total general fund appropriations for that fiscal year.

2 (2) In making the determination required in subsection
 3 (1), the director of the department of administration shall
 4 consider biennial appropriations to be split evenly between
 5 fiscal years, with one-half of the appropriation allocated
 6 to the first fiscal year of the biennium and one-half
 7 allocated to the second fiscal year of the biennium.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB829, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing a 20 percent surtax on the amount of individual income tax and corporate license or income tax liability; earmarking 20 percent of the revenue to the university system; and providing an immediate effective date, a retroactive applicability date and a termination date.

ASSUMPTIONS:

1. The Revenue Estimating Advisory Council's individual and corporate income tax estimates provide the basis for comparison.
2. Corporate tax collections will be \$53,063,000 in FY88 and \$58,995,000 in FY89. Payments by financial institutions will be \$6,140,000 of the total in FY88 and \$6,826,250 in FY89.
3. Individual income tax collections will be \$208,088,000 in FY88 and \$229,991,000 in FY89.
4. A 20 percent individual income tax surtax will raise \$39,680,000 in FY88 and \$44,060,000 in FY89. The corporate license tax surtax will raise \$5,556,000 in FY88 and \$10,460,000 in FY89 (OBPP). FY88 receipts are lower because the surtax will affect only 60 percent of the FY88 receipts.
5. Financial institutions are assumed to pay 11.57 percent of the total corporate license tax collections (REAC). Local governments are to receive none of the surtax revenue under the proposed law.
6. New withholding tables will not be in place until July 1, 1987, so no additional revenue is produced in FY87.
7. Administrative costs for the surtax are as follows:

	<u>FY87</u>	<u>FY88</u>	<u>FY89</u>
Start-up Costs (DP)	\$11,210	\$ 0	\$ 0
Ongoing DP Costs	0	9,700	9,700
Form Design		700	400
Withholding Tables	10,000	0	0
<u>Total</u>	<u>21,210</u>	<u>10,400</u>	<u>10,100</u>

8. To avoid additional administrative costs, all withholding payments received after October 1987 will be assumed to contain the proposed surtax. Current year individual income tax payments received after January 1988 will be assumed to contain the surtax. All tentative and current year corporate license tax payments after March 1988 will be assumed to contain the surtax. This treatment avoids tracking the surtax revenue when the checks are processed by cashiers, and the additional work and staffing adjustments required by the additional workload.

David L. Hunter DATE 2/26/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Joe Quilici }
 DATE _____
 JOE QUILICI, PRIMARY SPONSOR

Fiscal Note for HB829, as introduced.

HB 829

FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenue Impact:</u>						
Individual Income Tax	\$208,088,000	\$247,768,000	\$39,680,000	\$229,991,000	\$274,051,000	\$44,060,000
Corporate License Tax	53,063,000	58,619,000	5,556,000	58,995,000	69,455,000	10,460,000

Expenditure Impact:
 Shown Above.

Fund Information:

General Fund	\$163,992,960	\$200,181,760	\$36,188,800	\$181,456,000	\$225,072,000	\$43,616,000
Foundation Program	64,059,750	64,059,750	0	70,881,250	70,881,250	0
Sinking Fund	28,186,290	28,186,290	0	31,187,750	31,187,750	0
Local Governments	4,912,000	4,912,000	0	5,461,000	5,461,000	0
University System	0	9,047,200	9,047,200	0	10,904,000	10,904,000

ADMINISTRATIVE COMMENTS:

HB829 requires the Department of Administration (DOA) to certify the year end general fund balance for purposes of determining whether or not there will be a 20% surtax on corporate and individual income taxes. The DOA has reviewed the bill and the following are questions/concerns -

- What happen if, in a subsequent year, the DOA becomes aware of an error in the fund balance reported for a prior year? Does the DOA go back and recalculate the prior year's percentage of appropriations to the corrected fund balance figure? If so, and the percentage changes from less than 5% to greater than 5%, would taxpayers be entitled to a refund of the surtax on their income for that year?
- Should the DOA calculate the percentage of appropriations to "total fund balance" or to "unreserved fund balance?" The total fund balance figure includes reserves for encumbrances and inventories. General fund balance "reserves" represent amounts not available for appropriation.
- The intended relationship in HB829 between tax year and fiscal year is not clear. Does a large enough fund balance at fiscal year end 1987 result in no surtax on calendar year 1987 income or calendar 1988 income? The audited general fund balance figure for fiscal year 1987 will not be available until the first part of November; that may be too late to revise the 1987 tax forms.