

HOUSE BILL 22

Introduced by Connelly, et al.

6/19	Introduced
6/19	Fiscal Note Requested
6/20	Referred to Taxation
6/21	Fiscal Note Received
6/22	Fiscal Note Printed
6/23	Hearing
	Died in Committee

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INTRODUCED BY *HOUSE BILL NO. 22*
Connelly Bob Brown
HAIRY Kaye Smith

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A CORPORATION WHOSE INTEREST ON ITS BONDS TOTALS 80 PERCENT OR MORE OF ALL INTEREST, DIVIDENDS, AND OTHER DEBTS PAID IN A TAX YEAR MAY NOT DEDUCT THE INTEREST PAID ON THE BONDS FROM ITS GROSS INCOME FOR CORPORATION LICENSE AND INCOME TAX PURPOSES; AMENDING SECTION 15-31-114, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. In computing the net income, the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable allowance for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking

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title or in which it has no equity. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made. No depreciation or amortization deduction shall be allowed on a title plant as defined in 33-25-105(15).

(b) There shall be allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of 15-31-119.



1 (3) In the case of mines, other natural deposits, oil
2 and gas wells, and timber, a reasonable allowance for
3 depletion and for depreciation of improvements; such
4 reasonable allowance to be determined according to the
5 provisions of the Internal Revenue Code in effect for the
6 taxable year. All elections made under the Internal Revenue
7 Code with respect to capitalizing or expensing exploration
8 and development costs and intangible drilling expenses for
9 corporation license tax purposes shall be the same as the
10 elections made for federal income tax purposes.

11 (4) (a) The Subject to the provisions of subsection
12 (4)(b), the amount of interest paid within the year on its
13 indebtedness incurred in the operation of the business from
14 which its income is derived; but no interest shall be
15 allowed as a deduction if paid on an indebtedness created
16 for the purchase, maintenance, or improvement of property or
17 for the conduct of business unless the income from such
18 property or business would be taxable under this part.

19 (b) Unless paid to stop or attempt to stop a hostile
20 takeover, as defined by department rule, interest the
21 corporation paid within the year on bonds of the corporation
22 is not deductible if the total interest paid amounts to 80%
23 or more of the total of the following amounts paid within
24 the year:

25 (i) interest on bonds of the corporation;

1 (ii) interest on loans and other forms of indebtedness;

2 and

3 (iii) dividends on stock of the corporation.

4 (5) (a) Taxes paid within the year, except the
5 following:

6 (i) Taxes imposed by this part.

7 (ii) Taxes assessed against local benefits of a kind
8 tending to increase the value of the property assessed.

9 (iii) Taxes on or according to or measured by net
10 income or profits imposed by authority of the government of
11 the United States.

12 (iv) Taxes imposed by any other state or country upon
13 or measured by net income or profits.

14 (b) Taxes deductible under this part shall be
15 construed to include taxes imposed by any county, school
16 district, or municipality of this state.

17 (6) That portion of an energy-related investment
18 allowed as a deduction under 15-32-103.

19 (7) (a) Except as provided in subsection (b) (7)(b),
20 charitable contributions and gifts that qualify for
21 deduction under section 170 of the Internal Revenue Code, as
22 amended.

23 (b) The public service commission shall not allow in
24 the rate base of a regulated corporation the inclusion of
25 contributions made under this subsection.

1 (8) In lieu of the deduction allowed under subsection
2 (7), the taxpayer may deduct the fair market value, not to
3 exceed 30% of the taxpayer's net income, of a computer or
4 other sophisticated technological equipment or apparatus
5 intended for use with the computer donated to an elementary,
6 secondary, or accredited postsecondary school located in
7 Montana if:

8 (a) the contribution is made no later than 5 years
9 after the manufacture of the donated property is
10 substantially completed;

11 (b) the property is not transferred by the donee in
12 exchange for money, other property, or services; and

13 (c) the taxpayer receives a written statement from the
14 donee in which the donee agrees to accept the property and
15 representing that the use and disposition of the property
16 will be in accordance with the provisions of ~~(b)-of-this~~
17 subsection (8)(b)."

18 NEW SECTION. Section 2. Applicability. [This act]
19 applies to tax years beginning after December 31, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB22, as introduced.

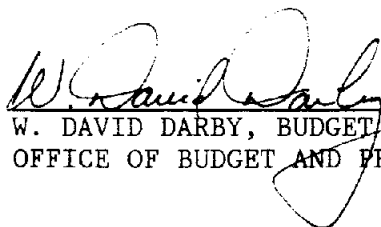
DESCRIPTION OF PROPOSED LEGISLATION:

An act providing that a corporation whose interest on its bonds totals 80 percent of all interest, dividends, and other debts paid in a tax year may not deduct the interest paid on the bonds from its gross income for corporation license and income tax purposes; and providing an applicability date.

FISCAL IMPACT:

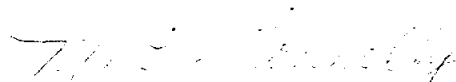
While it is possible that passage of this bill would increase corporation license tax revenue, an accurate estimate of the impact of this proposal is not possible within the time constraints for development of a fiscal note. In the absence of a protracted and detailed study, the Department of Revenue cannot accurately assess the number of corporations affected, the type of corporation affected (domestic or multi-state), the extent to which interest expenses deducted are related to bonds, etc.

The bill would not impact Department of Revenue expenditures.



DATE 6/21/89

W. DAVID DARBY, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE 6/22/89

MARY ELLEN CONNELLY, PRIMARY SPONSOR

Fiscal Note for HB22, as introduced

HB 22