

SENATE BILL 115

Introduced by Blaylock, et al.

1/16	Introduced
1/17	Referred to Taxation
1/17	First Reading
1/24	Hearing
2/16	Committee Report--Bill Passed as Amended
2/20	Rereferred to Taxation
2/21	Committee Report--Bill Passed as Amended
2/25	2nd Reading Do Pass as Amended Motion Failed
2/25	Motion Failed to Indefinitely Postpone on 2nd Reading
2/26	2nd Reading Passed as Amended
2/27	3rd Reading Passed
	Transmitted to House
3/04	First Reading
3/04	Referred to Taxation
3/22	Hearing
4/13	Committee Report--Bill Concurred as Amended
4/15	2nd Reading Concur as Amended Motion Failed

1 *Senate* BILL NO. *115* *Sam Nelson*
 2 INTRODUCED BY *Stanlock Johnson Jager Hallys Lowe*
 3 *Bimbley Brink Jolie Day Tomita Jagg*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
 5 GOVERNMENT TO IMPOSE ANY TYPE OF TAX NOT PROHIBITED BY LAW
 6 IF IT IS APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT;
 7 PROVIDING FOR ADMINISTRATION OF THE TAX; AND PROVIDING CIVIL
 8 AND CRIMINAL PENALTIES NECESSARY FOR ADMINISTRATION OF THE
 9 TAX."

STATEMENT OF INTENT

A statement of intent is required for this bill because the department of revenue is granted rulemaking authority under [section 3] for the administration of a local option income tax. The legislature intends that the department adopt rules that:

- 17 (1) define income subject to a local income tax;
- 18 (2) specify the conditions under which a taxpayer who resides in a jurisdiction that imposes a local income tax is liable for the tax;
- 21 (3) specify the conditions under which a taxpayer who is not a resident of the jurisdiction imposing a local income tax but whose principal place of business or employment is in the jurisdiction is liable for the local income tax;

- 1 (4) provide for the necessary forms and required procedures for reporting taxes; and
- 3 (5) establish procedures for the efficient administration of a local income tax, including the collection and timely remittance of the proceeds from the income tax to the jurisdiction imposing the tax.

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

NEW SECTION. **Section 1.** Definitions. As used in [sections 1 through 6], the following definitions apply:

- 11 (1) "Department" means the department of revenue.
- 12 (2) "Enabling authority" means a proposal approved by the electorate in accordance with 7-5-136 that enables a local government to impose a tax.
- 15 (3) "Local government" means the government of a county or a municipality.
- 17 (4) "Municipality" means an incorporated city, town, or city-county consolidated government.

NEW SECTION. **Section 2.** Authorization of local option tax. (1) Subject to the provisions of the enabling authority, a local government may impose upon its residents and upon transactions within its jurisdiction:

- 23 (a) taxes on income;
- 24 (b) taxes on the sale of goods or services; or
- 25 (c) any other type of tax not prohibited by law.



1 (2) The proposal to impose a tax authorized by this
2 section may be initiated by a petition of the electorate, as
3 provided in 7-5-131 through 7-5-135, or by a referendum
4 proposed by the governing body.

5 (3) The proposal must state:

6 (a) the specific type of tax the local government
7 proposes to impose;

8 (b) the proposed tax rate;

9 (c) proposed exclusions and exemptions, if any;

10 (d) the proposed duration of the tax;

11 (e) the purpose for which the proceeds of the proposed
12 tax would be used; and

13 (f) the estimated total annual revenue to be produced
14 by the proposed tax.

15 (4) In addition to the provisions required by
16 subsection (3), the proposal must grant the governing body
17 authority to establish administrative procedures, rules,
18 penalties, and other powers that are consistent with the
19 approved enabling authority.

20 (5) Except as provided in [section 6], the enabling
21 authority may not be amended or repealed by the governing
22 body without a vote of the electorate.

23 NEW SECTION. Section 3. Local option income tax --
24 administration -- nonresidents. If the tax authorized by
25 [section 2] is a percentage of the state income tax

1 liability of residents of a county or municipality or of
2 persons earning or receiving income from activity in the
3 county or municipality, the following provisions apply:

4 (1) A local option income tax must be administered by
5 the department, and the department shall adopt rules for the
6 administration of the tax.

7 (2) Money collected by the department must be credited
8 to a local income tax account in the fiduciary fund of the
9 state treasury.

10 (3) The department shall return the tax proceeds to the
11 jurisdiction where they were collected after deducting:

12 (a) the amount of refunds;

13 (b) a reserve for anticipated refunds; and

14 (c) an amount for administering the tax, not to exceed
15 1% of the proceeds collected in each jurisdiction.

16 (4) A taxpayer whose principal place of business or
17 employment is in a jurisdiction with a local income tax but
18 who lives outside the boundaries of that jurisdiction is
19 liable for one-half the rate of the income tax.

20 NEW SECTION. Section 4. Enforcement -- penalties for
21 nonpayment -- interlocal agreements. (1) Subject to any
22 restrictions in the enabling authority, a governing body may
23 enforce the provisions pertaining to the imposition and
24 collection of the tax by establishing:

25 (a) criminal penalties, not to exceed the penalties for

1 violation of an ordinance as set forth in 7-5-109; and

2 (b) civil penalties that are monetary amounts, either
3 fixed or in percentages, enforceable in a justice's, city,
4 or municipal court.

5 (2) A governing body may contract or enter into
6 interlocal agreements with other local governments or state
7 agencies for the administration of a tax authorized by
8 [section 2].

9 NEW SECTION. **Section 5.** Distribution of tax proceeds.

10 (1) The proceeds of a tax authorized by [section 2] must be
11 used for the purpose stated in the enabling authority,
12 except that the governing body may use a portion of the
13 proceeds for the administration of the tax.

14 (2) A local option tax imposed by a county must be
15 levied countywide, and unless otherwise provided by
16 agreement with municipalities, the county shall distribute
17 the proceeds based on the point of origin of the tax
18 revenue. After a pro rata deduction for its administrative
19 expenses, the county shall distribute tax revenue collected
20 within each municipality to the municipality and shall
21 retain tax revenue not collected within any municipality.

22 NEW SECTION. **Section 6.** Double taxation prohibited.

23 (1) A local option tax may not be levied on the same person
24 or transaction by more than one local government.

25 (2) If the electorate of a county approves a local

1 option tax after the electorate of a municipality in the
2 county has approved a local option tax on the same person or
3 transaction at the same or a higher rate, persons and
4 transactions in the municipality are exempt from the county
5 tax as long as the municipal tax is in effect. If the
6 municipal tax is at a lower rate than the county tax, the
7 governing body of the municipality shall repeal its tax
8 without a vote of the electorate.

9 NEW SECTION. **Section 7.** Codification instruction.

10 [Sections 1 through 6] are intended to be codified as an
11 integral part of Title 7, chapter 6, and the provisions of
12 Title 7, chapter 6, apply to [sections 1 through 6].

-End-

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 115

INTRODUCED BY BLAYLOCK, R. JOHNSON, HAGER, HALLIGAN,
T. NELSON, TOWE, KIMBERLEY, BROOKE, J. RICE, FORRESTER,
STRIZICH, FAGG, SOUTHWORTH, DOLEZAL, MCCULLOCH

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
GOVERNMENT TO IMPOSE ~~ANY TYPE OF TAX NOT PROHIBITED BY LAW~~
LOCAL OPTION INCOME, SALES, OR PROPERTY TAXES IF ~~IT IS~~
APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT;
PROVIDING FOR ADMINISTRATION AND DISTRIBUTION OF THE TAX
TAXES; AND PROVIDING CIVIL AND CRIMINAL PENALTIES NECESSARY
FOR ADMINISTRATION OF THE TAX TAXES; EXEMPTING LOCAL OPTION
PROPERTY TAXES FROM THE PROVISIONS OF TITLE 15, CHAPTER 10,
PART 4, MCA; AND AMENDING SECTION 15-10-412, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because
the department of revenue is granted rulemaking authority
under [section SECTIONS 3 AND 6] for the administration of a
local option income tax. The legislature intends that the
department adopt rules that:

- (1) define income subject to a local income tax;
- (2) specify the conditions under which a taxpayer who
resides in a jurisdiction that imposes a local income tax is
liable for the tax;

~~(3) specify the conditions under which a taxpayer who
is not a resident of the jurisdiction imposing a local
income tax but whose principal place of business or
employment is in the jurisdiction is liable for the local
income tax;~~

~~(4)~~(3) provide for the necessary forms and required
procedures for reporting taxes; and

~~(5)~~(4) establish procedures for the efficient
administration of a local income tax, including the
collection and timely remittance of the proceeds from the
income tax to the jurisdiction imposing the tax; AND

(5) ESTABLISH PROCEDURES TO ENSURE THAT NO TAXPAYER IS
SUBJECT TO DOUBLE TAXATION.

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

NEW SECTION. Section 1. Definitions. As used in
[sections 1 through 6], the following definitions apply:

- (1) "Department" means the department of revenue.
- (2) "Enabling authority" means a proposal approved by
the electorate in accordance with 7-5-136 that enables a
local government to impose a tax.
- (3) "Local government" means the government of a county
or a municipality.
- (4) "Municipality" means an incorporated city, town, or
city-county consolidated government.

SECOND READING



1 (5) "UTILITY SERVICES" MEANS THE SALE OF GAS,
 2 ELECTRICITY, WATER, SEWER SERVICES, GARBAGE AND SANITATION
 3 SERVICES, AND TELECOMMUNICATION SERVICES EXCEPT CABLE
 4 TELEVISION SERVICES.

5 **NEW SECTION. Section 2.** Authorization of local option
 6 tax. (1) Subject to the provisions of the enabling
 7 authority, a local government may impose upon its residents
 8 and upon transactions within its jurisdiction:

9 (a) taxes on INDIVIDUAL income;
 10 (b) taxes on the GENERAL sale OR USE of goods or
 11 services, EXCEPT UTILITY SERVICES; or
 12 (c) any other type of tax not prohibited by law.

13 (2) The proposal to impose a tax authorized by this
 14 section may be initiated by a petition of the electorate, as
 15 provided in 7-5-131 through 7-5-135, or by a referendum
 16 proposed by the governing body.

17 (3) The proposal must state:
 18 (a) the specific type of tax the local government
 19 proposes to impose;
 20 (b) the proposed tax rate;
 21 (c) proposed exclusions, DEDUCTIONS, and exemptions, if
 22 any;
 23 (d) the proposed duration of the tax;
 24 (e) the purpose for which the proceeds of the proposed
 25 tax would be used; and

1 (f) the estimated total annual revenue to be produced
 2 by the proposed tax.

3 (4) In addition to the provisions required by
 4 subsection (3), the proposal must grant the governing body
 5 authority to establish administrative procedures, rules,
 6 penalties, and other powers that are consistent with the
 7 approved enabling authority.

8 (5) Except as provided in [section 6], the enabling
 9 authority may not be amended or repealed by the governing
 10 body without a vote of the electorate.

11 (6) A LOCAL OPTION PROPERTY TAX IS NOT SUBJECT TO THE
 12 PROVISIONS OF TITLE 15, CHAPTER 10, PART 4.

13 **NEW SECTION. Section 3.** Local option income tax --
 14 administration ----nonresidents. If the tax authorized by
 15 [section 2] is a percentage of the state income tax
 16 liability of residents of a county or municipality ~~or~~ ~~of~~
 17 ~~persons--earning--or--receiving--income--from--activity--in--the~~
 18 ~~county--or--municipality~~, the following provisions apply:

19 (1) A local option income tax must be administered by
 20 the department, and the department shall adopt rules for the
 21 administration of the tax. THE PROVISIONS OF TITLE 15,
 22 CHAPTER 30, PART 3, APPLY TO A LOCAL OPTION INCOME TAX
 23 ADMINISTERED BY THE DEPARTMENT.

24 (2) Money collected by the department must be credited
 25 to a local income tax account in the fiduciary fund of the

1 state treasury.

2 (3) The department shall, EXCEPT AS PROVIDED IN
3 SUBSECTION (4), return the tax proceeds to the jurisdiction
4 where they were collected after deducting:

- 5 (a) the amount of refunds;
 - 6 (b) a reserve for anticipated refunds; and
 - 7 (c) an amount for administering the tax, not to exceed
- 8 ~~to~~ 5% of the proceeds collected in each jurisdiction.

9 (4) ~~A taxpayer whose principal place of business or~~
10 ~~employment is in a jurisdiction with a local income tax but~~
11 ~~who lives outside the boundaries of that jurisdiction is~~
12 ~~liable for one-half the rate of the income tax~~ IF THERE IS
13 PARTIAL PAYMENT OF INCOME TAXES, THE PAYMENT MUST FIRST BE
14 APPLIED TO THE STATE INCOME TAX OBLIGATION BEFORE IT IS
15 APPLIED TO THE LOCAL INCOME TAX OBLIGATION.

16 NEW SECTION. Section 4. Enforcement -- penalties for
17 nonpayment -- interlocal agreements. (1) Subject to any
18 restrictions in the enabling authority, a governing body may
19 enforce the provisions pertaining to the imposition and
20 collection of the tax by establishing:

- 21 (a) criminal penalties, not to exceed the penalties for
- 22 violation of an ordinance as set forth in 7-5-109; and
- 23 (b) civil penalties that are monetary amounts, either
- 24 fixed or in percentages, enforceable in a justice's, city,
- 25 or municipal court.

1 (2) A governing body may contract or enter into
2 interlocal agreements with other local governments or state
3 agencies for the administration of a tax authorized by
4 [section 2].

5 (3) THE DEPARTMENT MAY ADMINISTER OTHER LOCAL OPTION
6 TAXES PROVIDED THERE IS A CORRESPONDING STATE TAX.

7 NEW SECTION. Section 5. Distribution of tax proceeds.
8 (1) The proceeds of a tax authorized by [section 2] must be
9 used for the purpose stated in the enabling authority,
10 except that the governing body may use a portion of the
11 proceeds for the administration of the tax.

12 (2) A local option tax imposed by a county must be
13 levied countywide, and unless otherwise provided by
14 agreement with municipalities, the county shall distribute:
15 ~~the proceeds based on the point of origin of the tax~~
16 ~~revenue. After a pro-rata deduction for its administrative~~
17 ~~expenses, the county shall distribute tax revenue collected~~
18 ~~within each municipality to the municipality and shall~~
19 ~~retain tax revenue not collected within any municipality~~

20 (A) SALES TAX REVENUE IN THE FOLLOWING MANNER:

21 (1) 50% OF THE AMOUNT COLLECTED IN THE COUNTY BASED ON
22 THE RATIO OF THE POPULATION OF THE MUNICIPALITIES TO THE
23 POPULATION OF THE COUNTY DERIVED FROM THE MOST RECENT
24 POPULATION ESTIMATES PROVIDED BY THE U.S. BUREAU OF CENSUS
25 OR, IF ESTIMATES ARE NOT AVAILABLE, DERIVED FROM THE 1990

1 CENSUS; AND

2 (II) 50% BASED ON THE POINT OF ORIGIN OF THE SALES TAX

3 REVENUE;

4 (B) INCOME TAX REVENUE BASED ON THE RATIO OF THE

5 POPULATION OF THE MUNICIPALITIES TO THE POPULATION OF THE

6 COUNTY DERIVED FROM THE MOST RECENT POPULATION ESTIMATES

7 PROVIDED BY THE U.S. BUREAU OF CENSUS OR, IF ESTIMATES ARE

8 NOT AVAILABLE, DERIVED FROM THE 1990 CENSUS; AND

9 (C) PROPERTY TAX REVENUE TO THE COUNTY FOR COUNTY

10 PURPOSES ONLY IF BY AGREEMENT A DIFFERENT DISTRIBUTION IS

11 PRESENTED IN THE PROPOSAL.

12 (3) AFTER A PRORATA DEDUCTION FOR ITS ADMINISTRATIVE

13 EXPENSES, THE COUNTY SHALL DISTRIBUTE TAX REVENUE TO EACH

14 MUNICIPALITY, AS PROVIDED IN SUBSECTION (2)(A) OR (2)(B),

15 AND SHALL RETAIN TAX REVENUE NOT DISTRIBUTED TO THE

16 MUNICIPALITIES.

17 NEW SECTION. Section 6. Double taxation prohibited --

18 DEPARTMENT TO ADOPT RULES. (1) A local option tax may not be

19 levied on the same person or transaction by more than one

20 local government.

21 (2) If the electorate of a county approves a local

22 option tax after the electorate of a municipality in the

23 county has approved a local option tax on the same person or

24 transaction at the same or a higher rate, persons and

25 transactions in the municipality are exempt from the county

1 tax as long as the municipal tax is in effect. If the

2 municipal tax is at a lower rate than the county tax, the

3 governing body of the municipality shall repeal its tax

4 without a vote of the electorate.

5 (3) THE DEPARTMENT SHALL ADOPT RULES TO PREVENT DOUBLE

6 TAXATION UNDER LOCAL OPTION TAXES AND TO RESOLVE THE

7 ADMINISTRATION AND ALLOCATION OF TAXES AMONG LOCAL

8 GOVERNMENTS FOR TAXES ADMINISTERED BY THE DEPARTMENT.

9 NEW SECTION. SECTION 7. LOCAL GOVERNMENT TAX

10 ADMINISTRATION ACCOUNT. (1) THERE IS WITHIN THE STATE

11 SPECIAL REVENUE FUND A LOCAL GOVERNMENT TAX ADMINISTRATION

12 ACCOUNT.

13 (2) THE AMOUNTS DEDUCTED UNDER [SECTION 3(3)(C)] MUST

14 BE DEPOSITED BY THE DEPARTMENT OF REVENUE INTO THE LOCAL

15 GOVERNMENT TAX ADMINISTRATION ACCOUNT.

16 (3) THERE MUST BE RETAINED IN THE LOCAL GOVERNMENT TAX

17 ADMINISTRATION ACCOUNT THE AMOUNTS NECESSARY FOR THE

18 DEPARTMENT TO ADMINISTER THE TAX.

19 SECTION 8. SECTION 15-10-412, MCA, IS AMENDED TO READ:

20 *15-10-412. Property tax limited to 1986 levels --

21 clarification -- extension to all property classes. Section

22 15-10-402 is interpreted and clarified as follows:

23 (1) The limitation to 1986 levels is extended to apply

24 to all classes of property described in Title 15, chapter 6,

25 part 1.

1 (2) The limitation on the amount of taxes levied is
 2 interpreted to mean that, except as otherwise provided in
 3 this section, the actual tax liability for an individual
 4 property is capped at the dollar amount due in each taxing
 5 unit for the 1986 tax year. In tax years thereafter, the
 6 property must be taxed in each taxing unit at the 1986 cap
 7 or the product of the taxable value and mills levied,
 8 whichever is less for each taxing unit, except in a taxing
 9 unit that levied a tax in tax years 1983 through 1985 but
 10 did not levy a tax in 1986, in which case the actual tax
 11 liability for an individual property is capped at the dollar
 12 amount due in that taxing unit for the 1985 tax year.

13 (3) The limitation on the amount of taxes levied does
 14 not mean that no further increase may be made in the total
 15 taxable valuation of a taxing unit as a result of:

- 16 (a) annexation of real property and improvements into a
 17 taxing unit;
- 18 (b) construction, expansion, or remodeling of
 19 improvements;
- 20 (c) transfer of property into a taxing unit;
- 21 (d) subdivision of real property;
- 22 (e) reclassification of property;
- 23 (f) increases in the amount of production or the value
 24 of production for property described in 15-6-131 or
 25 15-6-132;

1 (g) transfer of property from tax-exempt to taxable
 2 status;

3 (h) revaluations caused by:

4 (i) cyclical reappraisal; or

5 (ii) expansion, addition, replacement, or remodeling of
 6 improvements; or

7 (i) increases in property valuation pursuant to
 8 15-7-111(4) through (8) in order to equalize property values
 9 annually.

10 (4) The limitation on the amount of taxes levied does
 11 not mean that no further increase may be made in the taxable
 12 valuation or in the actual tax liability on individual
 13 property in each class as a result of:

14 (a) a revaluation caused by:

15 (i) construction, expansion, replacement, or remodeling
 16 of improvements that adds value to the property; or

17 (ii) cyclical reappraisal;

18 (b) transfer of property into a taxing unit;

19 (c) reclassification of property;

20 (d) increases in the amount of production or the value
 21 of production for property described in 15-6-131 or
 22 15-6-132;

23 (e) annexation of the individual property into a new
 24 taxing unit;

25 (f) conversion of the individual property from

1 tax-exempt to taxable status; or

2 (g) increases in property valuation pursuant to
3 15-7-111(4) through (8) in order to equalize property values
4 annually.

5 (5) Property in classes four, twelve, and fourteen is
6 valued according to the procedures used in 1986, including
7 the designation of 1982 as the base year, until the
8 reappraisal cycle beginning January 1, 1986, is completed
9 and new valuations are placed on the tax rolls and a new
10 base year designated, if the property is:

11 (a) new construction;

12 (b) expanded, deleted, replaced, or remodeled
13 improvements;

14 (c) annexed property; or

15 (d) property converted from tax-exempt to taxable
16 status.

17 (6) Property described in subsections (5)(a) through
18 (5)(d) that is not class four, class twelve, or class
19 fourteen property is valued according to the procedures used
20 in 1986 but is also subject to the dollar cap in each taxing
21 unit based on 1986 mills levied.

22 (7) The limitation on the amount of taxes, as clarified
23 in this section, is intended to leave the property appraisal
24 and valuation methodology of the department of revenue
25 intact. Determinations of county classifications, salaries

1 of local government officers, and all other matters in which
2 total taxable valuation is an integral component are not
3 affected by 15-10-401 and 15-10-402 except for the use of
4 taxable valuation in fixing tax levies. In fixing tax
5 levies, the taxing units of local government may anticipate
6 the deficiency in revenues resulting from the tax
7 limitations in 15-10-401 and 15-10-402, while understanding
8 that regardless of the amount of mills levied, a taxpayer's
9 liability may not exceed the dollar amount due in each
10 taxing unit for the 1986 tax year unless:

11 (a) the taxing unit's taxable valuation decreases by 5%
12 or more from the 1986 tax year. If a taxing unit's taxable
13 valuation decreases by 5% or more from the 1986 tax year, it
14 may levy additional mills to compensate for the decreased
15 taxable valuation, but in no case may the mills levied
16 exceed a number calculated to equal the revenue from
17 property taxes for the 1986 tax year in that taxing unit.

18 (b) a levy authorized under Title 20 raised less
19 revenue in 1986 than was raised in either 1984 or 1985, in
20 which case the taxing unit may, after approval by the voters
21 in the taxing unit, raise each year thereafter an additional
22 number of mills but may not levy more revenue than the
23 3-year average of revenue raised for that purpose during
24 1984, 1985, and 1986;

25 (c) a levy authorized in 50-2-111 that was made in 1986

1 was for less than the number of mills levied in either 1984
 2 or 1985, in which case the taxing unit may, after approval
 3 by the voters in the taxing unit, levy each year thereafter
 4 an additional number of mills but may not levy more than the
 5 3-year average number of mills levied for that purpose
 6 during 1984, 1985, and 1986.

7 (8) The limitation on the amount of taxes levied does
 8 not apply to the following levy or special assessment
 9 categories, whether or not they are based on commitments
 10 made before or after approval of 15-10-401 and 15-10-402:

- 11 (a) rural improvement districts;
- 12 (b) special improvement districts;
- 13 (c) levies pledged for the repayment of bonded
 14 indebtedness, including tax increment bonds;
- 15 (d) city street maintenance districts;
- 16 (e) tax increment financing districts;
- 17 (f) satisfaction of judgments against a taxing unit;
- 18 (g) street lighting assessments;
- 19 (h) revolving funds to support any categories specified
 20 in this subsection (8);
- 21 (i) levies for economic development authorized pursuant
 22 to 90-5-112(4); and
- 23 (j) elementary and high school districts; and
- 24 (k) local option property tax levies authorized
 25 pursuant to [section 2].

1 (9) The limitation on the amount of taxes levied does
 2 not apply in a taxing unit if the voters in the taxing unit
 3 approve an increase in tax liability following a resolution
 4 of the governing body of the taxing unit containing:

5 (a) a finding that there are insufficient funds to
 6 adequately operate the taxing unit as a result of 15-10-401
 7 and 15-10-402;

8 (b) an explanation of the nature of the financial
 9 emergency;

10 (c) an estimate of the amount of funding shortfall
 11 expected by the taxing unit;

12 (d) a statement that applicable fund balances are or by
 13 the end of the fiscal year will be depleted;

14 (e) a finding that there are no alternative sources of
 15 revenue;

16 (f) a summary of the alternatives that the governing
 17 body of the taxing unit has considered; and

18 (g) a statement of the need for the increased revenue
 19 and how it will be used.

20 (10) (a) The limitation on the amount of taxes levied
 21 does not apply to levies required to address the funding of
 22 relief of suffering of inhabitants caused by famine,
 23 conflagration, or other public calamity.

24 (b) The limitation set forth in this chapter on the
 25 amount of taxes levied does not apply to levies to support a

1 city-county board of health as provided in Title 50, chapter
2 2, if the governing bodies of the taxing units served by the
3 board of health determine, after a public hearing, that
4 public health programs require funds to ensure the public
5 health. A levy for the support of a local board of health
6 may not exceed the 5-mill limit established in 50-2-111.

7 (11) The limitation on the amount of taxes levied by a
8 taxing jurisdiction subject to a statutory maximum mill levy
9 does not prevent a taxing jurisdiction from increasing its
10 number of mills beyond the statutory maximum mill levy to
11 produce revenue equal to its 1986 revenue.

12 (12) The limitation on the amount of taxes levied does
13 not apply to a levy increase to repay taxes paid under
14 protest in accordance with 15-1-402."

15 NEW SECTION. Section 9. Codification instruction. (1)
16 [Sections 1 through 6] are intended to be codified as an
17 integral part of Title 7, chapter 6, and the provisions of
18 Title 7, chapter 6, apply to [sections 1 through 6].

19 (2) [SECTION 7] IS INTENDED TO BE CODIFIED AS AN
20 INTEGRAL PART OF TITLE 15, CHAPTER 1, AND THE PROVISIONS OF
21 TITLE 15, CHAPTER 1, APPLY TO [SECTION 7].

-End-

SB 0115/03
RE-REFERRED AND
APPROVED BY COMMITTEE
ON JUDICIARY
AS AMENDED

1 SENATE BILL NO. 115
 2 INTRODUCED BY BLAYLOCK, R. JOHNSON, HAGER, HALLIGAN,
 3 T. NELSON, TOWE, KIMBERLEY, BROOKE, J. RICE, FORRESTER,
 4 STRIZICH, FAGG, SOUTHWORTH, DOLEZAL, MCCULLOCH
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
 7 GOVERNMENT TO IMPOSE ~~ANY TYPE OF TAX NOT PROHIBITED BY LAW~~
 8 LOCAL OPTION INCOME, SALES, OR PROPERTY TAXES IF ~~IT~~ IS
 9 APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT;
 10 PROVIDING FOR ADMINISTRATION AND DISTRIBUTION OF THE ~~TAX~~
 11 TAXES; AND PROVIDING CIVIL AND CRIMINAL PENALTIES NECESSARY
 12 FOR ADMINISTRATION OF THE ~~TAX TAXES~~; EXEMPTING LOCAL OPTION
 13 PROPERTY TAXES FROM THE PROVISIONS OF TITLE 15, CHAPTER 10,
 14 PART 4, MCA; AND AMENDING SECTION 15-10-412, MCA."

15
 16 STATEMENT OF INTENT
 17 A statement of intent is required for this bill because
 18 the department of revenue is granted rulemaking authority
 19 under ~~[section SECTIONS 3 AND 6]~~ for the administration of a
 20 local option income tax. The legislature intends that the
 21 department adopt rules that:
 22 (1) define income subject to a local income tax;
 23 (2) specify the conditions under which a taxpayer who
 24 resides in a jurisdiction that imposes a local income tax is
 25 liable for the tax;

1 ~~{3}--specify the conditions under which a taxpayer who~~
 2 ~~is not a resident of the jurisdiction imposing a local~~
 3 ~~income tax but whose principal place of business or~~
 4 ~~employment is in the jurisdiction is liable for the local~~
 5 ~~income tax;~~
 6 ~~{4}~~{3} provide for the necessary forms and required
 7 procedures for reporting taxes; and
 8 ~~{5}~~{4} establish procedures for the efficient
 9 administration of a local income tax, including the
 10 collection and timely remittance of the proceeds from the
 11 income tax to the jurisdiction imposing the tax; AND
 12 {5} ESTABLISH PROCEDURES TO ENSURE THAT NO TAXPAYER IS
 13 SUBJECT TO DOUBLE TAXATION.
 14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 NEW SECTION. Section 1. Definitions. As used in
 17 [sections 1 through 6], the following definitions apply:
 18 (1) "Department" means the department of revenue.
 19 (2) "Enabling authority" means a proposal approved by
 20 the electorate in accordance with 7-5-136 that enables a
 21 local government to impose a tax.
 22 (3) "Local government" means the government of a county
 23 or a municipality.
 24 (4) "Municipality" means an incorporated city, town, or
 25 city-county consolidated government.



1 (5) "UTILITY SERVICES" MEANS THE SALE OF GAS,
 2 ELECTRICITY, WATER, SEWER SERVICES, GARBAGE AND SANITATION
 3 SERVICES, AND TELECOMMUNICATION SERVICES EXCEPT CABLE
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 6 tax. (1) Subject to the provisions of the enabling
 7 authority, a local government may impose upon its residents
 8 and upon transactions within its jurisdiction:

9 (a) taxes on INDIVIDUAL income;

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 11 services, EXCEPT UTILITY SERVICES; or

12 (c) ~~any--other--type-of-tax-not-prohibited-by-law~~ TAXES
 13 ON PROPERTY.

14 (2) The proposal to impose a tax authorized by this
 15 section may be initiated by a petition of the electorate, as
 16 provided in 7-5-131 through 7-5-135, or by a referendum
 17 proposed by the governing body.

18 (3) The proposal must state:

19 (a) the specific type of tax the local government
 20 proposes to impose;

21 (b) the proposed tax rate;

22 (c) proposed exclusions, DEDUCTIONS, and exemptions, if
 23 any;

24 (d) the proposed duration of the tax;

25 (e) the purpose for which the proceeds of the proposed

1 tax would be used; and

2 (f) the estimated total annual revenue to be produced
 3 by the proposed tax.

4 (4) In addition to the provisions required by
 5 subsection (3), the proposal must grant the governing body
 6 authority to establish administrative procedures, rules,
 7 penalties, and other powers that are consistent with the
 8 approved enabling authority.

9 (5) Except as provided in [section 6], the enabling
 10 authority may not be amended or repealed by the governing
 11 body without a vote of the electorate.

12 (6) A LOCAL OPTION PROPERTY TAX IS NOT SUBJECT TO THE
 13 PROVISIONS OF TITLE 15, CHAPTER 10, PART 4.

14 NEW SECTION. Section 3. Local option income tax --
 15 administration ---nonresidents. If the tax authorized by
 16 [section 2] is a percentage of the state income tax
 17 liability of residents of a county or municipality or-of
 18 persons-earning-or-receiving-income--from--activity--in--the
 19 county-or-municipality, the following provisions apply:

20 (1) A local option income tax must be administered by
 21 the department, and the department shall adopt rules for the
 22 administration of the tax. THE PROVISIONS OF TITLE 15,
 23 CHAPTER 30, PART 3, APPLY TO A LOCAL OPTION INCOME TAX
 24 ADMINISTERED BY THE DEPARTMENT.

25 (2) Money collected by the department must be credited

1 to a local income tax account in the fiduciary fund of the
2 state treasury.

3 (3) The department shall, EXCEPT AS PROVIDED IN
4 SUBSECTION (4), return the tax proceeds to the jurisdiction
5 where they were collected after deducting:

- 6 (a) the amount of refunds;
- 7 (b) a reserve for anticipated refunds; and
- 8 (c) an amount for administering the tax, not to exceed
9 ~~1%~~ 5% of the proceeds collected in each jurisdiction.

10 (4) ~~A taxpayer whose principal place of business or~~
11 ~~employment is in a jurisdiction with a local income tax but~~
12 ~~who lives outside the boundaries of that jurisdiction is~~
13 ~~liable for one-half the rate of the income tax~~ IF THERE IS
14 PARTIAL PAYMENT OF INCOME TAXES, THE PAYMENT MUST FIRST BE
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16 APPLIED TO THE LOCAL INCOME TAX OBLIGATION.

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20 enforce the provisions pertaining to the imposition and
21 collection of the tax by establishing:

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25 fixed or in percentages, enforceable in a justice's, city,

1 or municipal court.

2 (2) A governing body may contract or enter into
3 interlocal agreements with other local governments or state
4 agencies for the administration of a tax authorized by
5 [section 2].

6 (3) THE DEPARTMENT MAY ADMINISTER OTHER LOCAL OPTION
7 TAXES PROVIDED THERE IS A CORRESPONDING STATE TAX.

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9 (1) The proceeds of a tax authorized by [section 2] must be
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11 except that the governing body may use a portion of the
12 proceeds for the administration of the tax.

13 (2) A local option tax imposed by a county must be
14 levied countywide, and unless otherwise provided by
15 agreement with municipalities, the county shall distribute:
16 ~~the proceeds based on the point of origin of the tax~~
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19 ~~within each municipality to the municipality and shall~~
20 ~~retain tax revenue not collected within any municipality~~

21 (A) SALES TAX REVENUE IN THE FOLLOWING MANNER:

22 (I) 50% OF THE AMOUNT COLLECTED IN THE COUNTY BASED ON
23 THE RATIO OF THE POPULATION OF THE MUNICIPALITIES TO THE
24 POPULATION OF THE COUNTY DERIVED FROM THE MOST RECENT
25 POPULATION ESTIMATES PROVIDED BY THE U.S. BUREAU OF CENSUS

1 OR, IF ESTIMATES ARE NOT AVAILABLE, DERIVED FROM THE 1990
2 CENSUS; AND

3 (II) 50% BASED ON THE POINT OF ORIGIN OF THE SALES TAX
4 REVENUE;

5 (B) INCOME TAX REVENUE BASED ON THE RATIO OF THE
6 POPULATION OF THE MUNICIPALITIES TO THE POPULATION OF THE
7 COUNTY DERIVED FROM THE MOST RECENT POPULATION ESTIMATES
8 PROVIDED BY THE U.S. BUREAU OF CENSUS OR, IF ESTIMATES ARE
9 NOT AVAILABLE, DERIVED FROM THE 1990 CENSUS; AND

10 (C) PROPERTY TAX REVENUE TO THE COUNTY FOR COUNTY
11 PURPOSES ONLY IF UNLESS, BY AGREEMENT, A DIFFERENT
12 DISTRIBUTION IS PRESENTED IN THE PROPOSAL.

13 (3) AFTER A PRORATA DEDUCTION FOR ITS ADMINISTRATIVE
14 EXPENSES, THE COUNTY SHALL DISTRIBUTE TAX REVENUE TO EACH
15 MUNICIPALITY, AS PROVIDED IN SUBSECTION (2)(A) OR (2)(B),
16 AND SHALL RETAIN TAX REVENUE NOT DISTRIBUTED TO THE
17 MUNICIPALITIES.

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19 DEPARTMENT TO ADOPT RULES. (1) A local option tax may not be
20 levied on the same person or transaction by more than one
21 local government.

22 (2) If the electorate of a county approves a local
23 option tax after the electorate of a municipality in the
24 county has approved a local option tax on the same person or
25 transaction at the same or a higher rate, persons and

1 transactions in the municipality are exempt from the county
2 tax as long as the municipal tax is in effect. If the
3 municipal tax is at a lower rate than the county tax, the
4 governing body of the municipality shall repeal its tax
5 without a vote of the electorate.

6 (3) THE DEPARTMENT SHALL ADOPT RULES TO PREVENT DOUBLE
7 TAXATION UNDER LOCAL OPTION TAXES AND TO RESOLVE THE
8 ADMINISTRATION AND ALLOCATION OF TAXES AMONG LOCAL
9 GOVERNMENTS FOR TAXES ADMINISTERED BY THE DEPARTMENT.

10 NEW SECTION. SECTION 7. LOCAL GOVERNMENT TAX
11 ADMINISTRATION ACCOUNT. (1) THERE IS WITHIN THE STATE
12 SPECIAL REVENUE FUND A LOCAL GOVERNMENT TAX ADMINISTRATION
13 ACCOUNT.

14 (2) THE AMOUNTS DEDUCTED UNDER [SECTION 3(3)(C)] MUST
15 BE DEPOSITED BY THE DEPARTMENT OF REVENUE INTO THE LOCAL
16 GOVERNMENT TAX ADMINISTRATION ACCOUNT.

17 (3) THERE MUST BE RETAINED IN THE LOCAL GOVERNMENT TAX
18 ADMINISTRATION ACCOUNT THE AMOUNTS NECESSARY FOR THE
19 DEPARTMENT TO ADMINISTER THE TAX.

20 SECTION 8. SECTION 15-10-412, MCA, IS AMENDED TO READ:

21 "15-10-412. Property tax limited to 1986 levels --
22 clarification -- extension to all property classes. Section
23 15-10-402 is interpreted and clarified as follows:

24 (1) The limitation to 1986 levels is extended to apply
25 to all classes of property described in Title 15, chapter 6,

1 part 1.

2 (2) The limitation on the amount of taxes levied is
3 interpreted to mean that, except as otherwise provided in
4 this section, the actual tax liability for an individual
5 property is capped at the dollar amount due in each taxing
6 unit for the 1986 tax year. In tax years thereafter, the
7 property must be taxed in each taxing unit at the 1986 cap
8 or the product of the taxable value and mills levied,
9 whichever is less for each taxing unit, except in a taxing
10 unit that levied a tax in tax years 1983 through 1985 but
11 did not levy a tax in 1986, in which case the actual tax
12 liability for an individual property is capped at the dollar
13 amount due in that taxing unit for the 1985 tax year.

14 (3) The limitation on the amount of taxes levied does
15 not mean that no further increase may be made in the total
16 taxable valuation of a taxing unit as a result of:

- 17 (a) annexation of real property and improvements into a
18 taxing unit;
19 (b) construction, expansion, or remodeling of
20 improvements;
21 (c) transfer of property into a taxing unit;
22 (d) subdivision of real property;
23 (e) reclassification of property;
24 (f) increases in the amount of production or the value
25 of production for property described in 15-6-131 or

1 15-6-132;

2 (g) transfer of property from tax-exempt to taxable
3 status;

4 (h) revaluations caused by:

- 5 (i) cyclical reappraisal; or
6 (ii) expansion, addition, replacement, or remodeling of
7 improvements; or
8 (i) increases in property valuation pursuant to
9 15-7-111(4) through (8) in order to equalize property values
10 annually.

11 (4) The limitation on the amount of taxes levied does
12 not mean that no further increase may be made in the taxable
13 valuation or in the actual tax liability on individual
14 property in each class as a result of:

- 15 (a) a revaluation caused by:
16 (i) construction, expansion, replacement, or remodeling
17 of improvements that adds value to the property; or
18 (ii) cyclical reappraisal;
19 (b) transfer of property into a taxing unit;
20 (c) reclassification of property;
21 (d) increases in the amount of production or the value
22 of production for property described in 15-6-131 or
23 15-6-132;
24 (e) annexation of the individual property into a new
25 taxing unit;

1 (f) conversion of the individual property from
2 tax-exempt to taxable status; or

3 (g) increases in property valuation pursuant to
4 15-7-111(4) through (8) in order to equalize property values
5 annually.

6 (5) Property in classes four, twelve, and fourteen is
7 valued according to the procedures used in 1986, including
8 the designation of 1982 as the base year, until the
9 reappraisal cycle beginning January 1, 1986, is completed
10 and new valuations are placed on the tax rolls and a new
11 base year designated, if the property is:

12 (a) new construction;

13 (b) expanded, deleted, replaced, or remodeled
14 improvements;

15 (c) annexed property; or

16 (d) property converted from tax-exempt to taxable
17 status.

18 (6) Property described in subsections (5)(a) through
19 (5)(d) that is not class four, class twelve, or class
20 fourteen property is valued according to the procedures used
21 in 1986 but is also subject to the dollar cap in each taxing
22 unit based on 1986 mills levied.

23 (7) The limitation on the amount of taxes, as clarified
24 in this section, is intended to leave the property appraisal
25 and valuation methodology of the department of revenue

1 intact. Determinations of county classifications, salaries
2 of local government officers, and all other matters in which
3 total taxable valuation is an integral component are not
4 affected by 15-10-401 and 15-10-402 except for the use of
5 taxable valuation in fixing tax levies. In fixing tax
6 levies, the taxing units of local government may anticipate
7 the deficiency in revenues resulting from the tax
8 limitations in 15-10-401 and 15-10-402, while understanding
9 that regardless of the amount of mills levied, a taxpayer's
10 liability may not exceed the dollar amount due in each
11 taxing unit for the 1986 tax year unless:

12 (a) the taxing unit's taxable valuation decreases by 5%
13 or more from the 1986 tax year. If a taxing unit's taxable
14 valuation decreases by 5% or more from the 1986 tax year, it
15 may levy additional mills to compensate for the decreased
16 taxable valuation, but in no case may the mills levied
17 exceed a number calculated to equal the revenue from
18 property taxes for the 1986 tax year in that taxing unit.

19 (b) a levy authorized under Title 20 raised less
20 revenue in 1986 than was raised in either 1984 or 1985, in
21 which case the taxing unit may, after approval by the voters
22 in the taxing unit, raise each year thereafter an additional
23 number of mills but may not levy more revenue than the
24 3-year average of revenue raised for that purpose during
25 1984, 1985, and 1986;

1 (c) a levy authorized in 50-2-111 that was made in 1986
 2 was for less than the number of mills levied in either 1984
 3 or 1985, in which case the taxing unit may, after approval
 4 by the voters in the taxing unit, levy each year thereafter
 5 an additional number of mills but may not levy more than the
 6 3-year average number of mills levied for that purpose
 7 during 1984, 1985, and 1986.

8 (8) The limitation on the amount of taxes levied does
 9 not apply to the following levy or special assessment
 10 categories, whether or not they are based on commitments
 11 made before or after approval of 15-10-401 and 15-10-402:

- 12 (a) rural improvement districts;
- 13 (b) special improvement districts;
- 14 (c) levies pledged for the repayment of bonded
 15 indebtedness, including tax increment bonds;
- 16 (d) city street maintenance districts;
- 17 (e) tax increment financing districts;
- 18 (f) satisfaction of judgments against a taxing unit;
- 19 (g) street lighting assessments;
- 20 (h) revolving funds to support any categories specified
 21 in this subsection (8);
- 22 (i) levies for economic development authorized pursuant
 23 to 90-5-112(4); and
- 24 (j) elementary and high school districts; and
- 25 (k) local option property tax levies authorized

1 pursuant to [section 2].

2 (9) The limitation on the amount of taxes levied does
 3 not apply in a taxing unit if the voters in the taxing unit
 4 approve an increase in tax liability following a resolution
 5 of the governing body of the taxing unit containing:

6 (a) a finding that there are insufficient funds to
 7 adequately operate the taxing unit as a result of 15-10-401
 8 and 15-10-402;

9 (b) an explanation of the nature of the financial
 10 emergency;

11 (c) an estimate of the amount of funding shortfall
 12 expected by the taxing unit;

13 (d) a statement that applicable fund balances are or by
 14 the end of the fiscal year will be depleted;

15 (e) a finding that there are no alternative sources of
 16 revenue;

17 (f) a summary of the alternatives that the governing
 18 body of the taxing unit has considered; and

19 (g) a statement of the need for the increased revenue
 20 and how it will be used.

21 (10) (a) The limitation on the amount of taxes levied
 22 does not apply to levies required to address the funding of
 23 relief of suffering of inhabitants caused by famine,
 24 conflagration, or other public calamity.

25 (b) The limitation set forth in this chapter on the

1 amount of taxes levied does not apply to levies to support a
2 city-county board of health as provided in Title 50, chapter
3 2, if the governing bodies of the taxing units served by the
4 board of health determine, after a public hearing, that
5 public health programs require funds to ensure the public
6 health. A levy for the support of a local board of health
7 may not exceed the 5-mill limit established in 50-2-111.

8 (11) The limitation on the amount of taxes levied by a
9 taxing jurisdiction subject to a statutory maximum mill levy
10 does not prevent a taxing jurisdiction from increasing its
11 number of mills beyond the statutory maximum mill levy to
12 produce revenue equal to its 1986 revenue.

13 (12) The limitation on the amount of taxes levied does
14 not apply to a levy increase to repay taxes paid under
15 protest in accordance with 15-1-402."

16 NEW SECTION. Section 9. Codification instruction. (1)
17 [Sections 1 through 6] are intended to be codified as an
18 integral part of Title 7, chapter 6, and the provisions of
19 Title 7, chapter 6, apply to [sections 1 through 6].

20 (2) [SECTION 7] IS INTENDED TO BE CODIFIED AS AN
21 INTEGRAL PART OF TITLE 15, CHAPTER 1, AND THE PROVISIONS OF
22 TITLE 15, CHAPTER 1, APPLY TO [SECTION 7].

-End-

SENATE BILL NO. 115

INTRODUCED BY BLAYLOCK, R. JOHNSON, HAGER, HALLIGAN,
T. NELSON, TOWE, KIMBERLEY, BROOKE, J. RICE, FORRESTER,
STRIZICH, FAGG, SOUTHWORTH, DOLEZAL, MCCULLOCH

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
GOVERNMENT TO IMPOSE ~~ANY TYPE OF TAX NOT PROHIBITED BY LAW~~
LOCAL OPTION INCOME, SALES, OR PROPERTY TAXES IF ~~IT IS~~
APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT;
PROVIDING FOR ADMINISTRATION AND DISTRIBUTION OF THE ~~TAX~~
TAXES; AND PROVIDING CIVIL AND CRIMINAL PENALTIES NECESSARY
FOR ADMINISTRATION OF THE ~~TAX TAXES~~; EXEMPTING LOCAL OPTION
PROPERTY TAXES FROM THE PROVISIONS OF TITLE 15, CHAPTER 10,
PART 4, MCA; AND AMENDING SECTION 15-10-412, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because
the department of revenue is granted rulemaking authority
under [~~section~~ SECTIONS 3 AND 6] for the administration of a
local option income tax. The legislature intends that the
department adopt rules that:

- (1) define income subject to a local income tax;
- (2) specify the conditions under which a taxpayer who
resides in a jurisdiction that imposes a local income tax is
liable for the tax;

~~(3) specify the conditions under which a taxpayer who
is not a resident of the jurisdiction imposing a local
income tax but whose principal place of business or
employment is in the jurisdiction is liable for the local
income tax;~~

~~(4)~~(3) provide for the necessary forms and required
procedures for reporting taxes; and

~~(5)~~(4) establish procedures for the efficient
administration of a local income tax, including the
collection and timely remittance of the proceeds from the
income tax to the jurisdiction imposing the tax; AND

(5) ESTABLISH PROCEDURES TO ENSURE THAT NO TAXPAYER IS
SUBJECT TO DOUBLE TAXATION.

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

NEW SECTION. Section 1. Definitions. As used in

[sections 1 through 6], the following definitions apply:

- (1) "Department" means the department of revenue.
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24 any;

25 (d) the proposed duration of the tax;

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2 tax would be used; and

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4 by the proposed tax.

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6 subsection (3), the proposal must grant the governing body
7 authority to establish administrative procedures, rules,
8 penalties, and other powers that are consistent with the
9 approved enabling authority.

10 (5) Except as provided in [section 6], the enabling
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2 part 1.

3 (2) The limitation on the amount of taxes levied is
4 interpreted to mean that, except as otherwise provided in
5 this section, the actual tax liability for an individual
6 property is capped at the dollar amount due in each taxing
7 unit for the 1986 tax year. In tax years thereafter, the
8 property must be taxed in each taxing unit at the 1986 cap
9 or the product of the taxable value and mills levied,
10 whichever is less for each taxing unit, except in a taxing
11 unit that levied a tax in tax years 1983 through 1985 but
12 did not levy a tax in 1986, in which case the actual tax
13 liability for an individual property is capped at the dollar
14 amount due in that taxing unit for the 1985 tax year.

15 (3) The limitation on the amount of taxes levied does
16 not mean that no further increase may be made in the total
17 taxable valuation of a taxing unit as a result of:

- 18 (a) annexation of real property and improvements into a
19 taxing unit;
- 20 (b) construction, expansion, or remodeling of
21 improvements;
- 22 (c) transfer of property into a taxing unit;
- 23 (d) subdivision of real property;
- 24 (e) reclassification of property;
- 25 (f) increases in the amount of production or the value

1 of production for property described in 15-6-131 or
2 15-6-132;

3 (g) transfer of property from tax-exempt to taxable
4 status;

5 (h) revaluations caused by:

6 (i) cyclical reappraisal; or

7 (ii) expansion, addition, replacement, or remodeling of
8 improvements; or

9 (i) increases in property valuation pursuant to
10 15-7-111(4) through (8) in order to equalize property values
11 annually.

12 (4) The limitation on the amount of taxes levied does
13 not mean that no further increase may be made in the taxable
14 valuation or in the actual tax liability on individual
15 property in each class as a result of:

16 (a) a revaluation caused by:

17 (i) construction, expansion, replacement, or remodeling
18 of improvements that adds value to the property; or

19 (ii) cyclical reappraisal;

20 (b) transfer of property into a taxing unit;

21 (c) reclassification of property;

22 (d) increases in the amount of production or the value
23 of production for property described in 15-6-131 or
24 15-6-132;

25 (e) annexation of the individual property into a new

1 taxing unit;

2 (f) conversion of the individual property from
3 tax-exempt to taxable status; or

4 (g) increases in property valuation pursuant to
5 15-7-111(4) through (8) in order to equalize property values
6 annually.

7 (5) Property in classes four, twelve, and fourteen is
8 valued according to the procedures used in 1986, including
9 the designation of 1982 as the base year, until the
10 reappraisal cycle beginning January 1, 1986, is completed
11 and new valuations are placed on the tax rolls and a new
12 base year designated, if the property is:

13 (a) new construction;

14 (b) expanded, deleted, replaced, or remodeled
15 improvements;

16 (c) annexed property; or

17 (d) property converted from tax-exempt to taxable
18 status.

19 (6) Property described in subsections (5)(a) through
20 (5)(d) that is not class four, class twelve, or class
21 fourteen property is valued according to the procedures used
22 in 1986 but is also subject to the dollar cap in each taxing
23 unit based on 1986 mills levied.

24 (7) The limitation on the amount of taxes, as clarified
25 in this section, is intended to leave the property appraisal

1 and valuation methodology of the department of revenue
2 intact. Determinations of county classifications, salaries
3 of local government officers, and all other matters in which
4 total taxable valuation is an integral component are not
5 affected by 15-10-401 and 15-10-402 except for the use of
6 taxable valuation in fixing tax levies. In fixing tax
7 levies, the taxing units of local government may anticipate
8 the deficiency in revenues resulting from the tax
9 limitations in 15-10-401 and 15-10-402, while understanding
10 that regardless of the amount of mills levied, a taxpayer's
11 liability may not exceed the dollar amount due in each
12 taxing unit for the 1986 tax year unless:

13 (a) the taxing unit's taxable valuation decreases by 5%
14 or more from the 1986 tax year. If a taxing unit's taxable
15 valuation decreases by 5% or more from the 1986 tax year, it
16 may levy additional mills to compensate for the decreased
17 taxable valuation, but in no case may the mills levied
18 exceed a number calculated to equal the revenue from
19 property taxes for the 1986 tax year in that taxing unit.

20 (b) a levy authorized under Title 20 raised less
21 revenue in 1986 than was raised in either 1984 or 1985, in
22 which case the taxing unit may, after approval by the voters
23 in the taxing unit, raise each year thereafter an additional
24 number of mills but may not levy more revenue than the
25 3-year average of revenue raised for that purpose during

1 1984, 1985, and 1986;

2 (c) a levy authorized in 50-2-111 that was made in 1986
3 was for less than the number of mills levied in either 1984
4 or 1985, in which case the taxing unit may, after approval
5 by the voters in the taxing unit, levy each year thereafter
6 an additional number of mills but may not levy more than the
7 3-year average number of mills levied for that purpose
8 during 1984, 1985, and 1986.

9 (8) The limitation on the amount of taxes levied does
10 not apply to the following levy or special assessment
11 categories, whether or not they are based on commitments
12 made before or after approval of 15-10-401 and 15-10-402:

- 13 (a) rural improvement districts;
14 (b) special improvement districts;
15 (c) levies pledged for the repayment of bonded
16 indebtedness, including tax increment bonds;
17 (d) city street maintenance districts;
18 (e) tax increment financing districts;
19 (f) satisfaction of judgments against a taxing unit;
20 (g) street lighting assessments;
21 (h) revolving funds to support any categories specified
22 in this subsection (8);
23 (i) levies for economic development authorized pursuant
24 to 90-5-112(4); and
25 (j) elementary and high school districts; and

1 (k) local option property tax levies authorized
2 pursuant to [section 2].

3 (9) The limitation on the amount of taxes levied does
4 not apply in a taxing unit if the voters in the taxing unit
5 approve an increase in tax liability following a resolution
6 of the governing body of the taxing unit containing:

7 (a) a finding that there are insufficient funds to
8 adequately operate the taxing unit as a result of 15-10-401
9 and 15-10-402;

10 (b) an explanation of the nature of the financial
11 emergency;

12 (c) an estimate of the amount of funding shortfall
13 expected by the taxing unit;

14 (d) a statement that applicable fund balances are or by
15 the end of the fiscal year will be depleted;

16 (e) a finding that there are no alternative sources of
17 revenue;

18 (f) a summary of the alternatives that the governing
19 body of the taxing unit has considered; and

20 (g) a statement of the need for the increased revenue
21 and how it will be used.

22 (10) (a) The limitation on the amount of taxes levied
23 does not apply to levies required to address the funding of
24 relief of suffering of inhabitants caused by famine,
25 conflagration, or other public calamity.

1 (b) The limitation set forth in this chapter on the
2 amount of taxes levied does not apply to levies to support a
3 city-county board of health as provided in Title 50, chapter
4 2, if the governing bodies of the taxing units served by the
5 board of health determine, after a public hearing, that
6 public health programs require funds to ensure the public
7 health. A levy for the support of a local board of health
8 may not exceed the 5-mill limit established in 50-2-111.

9 (11) The limitation on the amount of taxes levied by a
10 taxing jurisdiction subject to a statutory maximum mill levy
11 does not prevent a taxing jurisdiction from increasing its
12 number of mills beyond the statutory maximum mill levy to
13 produce revenue equal to its 1986 revenue.

14 (12) The limitation on the amount of taxes levied does
15 not apply to a levy increase to repay taxes paid under
16 protest in accordance with 15-1-402."

17 NEW SECTION. Section 9. Codification instruction. (1)
18 [Sections 1 through 6] are intended to be codified as an
19 integral part of Title 7, chapter 6, and the provisions of
20 Title 7, chapter 6, apply to [sections 1 through 6].

21 (2) [SECTION 7] IS INTENDED TO BE CODIFIED AS AN
22 INTEGRAL PART OF TITLE 15, CHAPTER 1, AND THE PROVISIONS OF
23 TITLE 15, CHAPTER 1, APPLY TO [SECTION 7].

-End-

April 12, 1991
Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that Senate Bill 115 (third reading copy -- blue) be concurred in as amended.

Signed: 
Dan Harrington, Chairman

Carried by: Rep. FAGG

And, that such amendments read:

1. Title, line 14.
Following: "MCA;"
Insert: "PROVIDING A STATUTORY APPROPRIATION;"
Strike: "SECTION"
Insert: "SECTIONS"
Following: "15-10-412"
Insert: "AND 17-7-502"
2. Page 3, line 13.
Following: "~~law~~"
Insert: "general"
3. Page 3, line 14.
Following: "PROPERTY"
Insert: "that are levied uniformly against all taxable property in its jurisdiction"
4. Page 8.
Following: line 20
Insert: "(4) The amount necessary to administer the tax is statutorily appropriated, as provided in 17-7-502, to the department."
5. Page 15.
Following: line 16
Section 9. Section 17-7-502, MCA, is amended to read:
"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.
(2) Except as provided in subsection (4), to be

effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; [section 7]; and section 13, House Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

Renumber: subsequent section

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 115
Representative Kadas

April 15, 1991 12:51 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 115 (third reading copy -- blue).

Signed: Kadas
Representative Kadas

And, that such amendments to Senate Bill 115 read as follows:

1. Amend the House Committee on Taxation amendments dated April 12, 1991, as follows:

Strike: amendments #1, #4, and #5 in their entirety

ADOPT

REJECT

HOUSE
SB 115

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HOUSE
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