



REQUESTED.

APRIL 18, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1991

CONFERENCE COMMITTEE REPORTED.

APRIL 23, 1991

SECOND READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE HOUSE

APRIL 23, 1991

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 24, 1991

THIRD READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. 462  
 2 INTRODUCED BY *Masjub*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE  
 5 TELEPHONE COMPANY LICENSE TAX; EXCLUDING CARRIER ACCESS  
 6 SERVICE REVENUE FROM THE TAX; REVISING THE TAX RATE;  
 7 DEFINING "CARRIER ACCESS SERVICE" AND "TELEPHONE BUSINESS";  
 8 AMENDING SECTIONS 15-53-101, 15-53-102, 15-53-105, AND  
 9 15-53-111, MCA; AND PROVIDING AN EFFECTIVE DATE."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 15-53-101, MCA, is amended to read:

13 "15-53-101. Rate Definitions -- rate of license tax on  
 14 telephone companies -- itemized pass through prohibited. (1)  
 15 There is hereby levied and shall be collected an annual tax  
 16 of 1.725% of the gross income in excess of \$250 quarterly  
 17 derived from any telephone business within this state,  
 18 including the transmission of telephone messages in this  
 19 state over telephone lines or by microwave electronic  
 20 equipment in this state owned by any person, provided,  
 21 however, that no bill, statement, or account rendered or  
 22 given any customer shall set out or contain as a separate  
 23 item any amount on account or by reason of the license tax  
 24 imposed by this chapter.

25 (2) Such annual license tax shall be paid As used in

1 this section:  
 2 (a) "carrier access service" means the service a local  
 3 exchange company, as defined in 53-19-302, provides to an  
 4 interexchange carrier for the origination or termination of  
 5 telecommunications; and  
 6 (b) "telephone business" means the access and  
 7 transport, for hire, of two-way communications from point of  
 8 access to point of termination, both of which are within  
 9 Montana.  
 10 (2) A license tax of 1.8% is imposed upon the gross  
 11 revenue received by a person in Montana from telephone  
 12 business in Montana. As used in this section, "gross  
 13 revenue" does not include:  
 14 (a) carrier access service revenue;  
 15 (b) revenue from the sale of telephone services to  
 16 another telephone service provider who uses the services to  
 17 provide telephone service to the ultimate retail consumer  
 18 who originates or terminates the transmission;  
 19 (c) revenue from the sale, lease, repair, installation,  
 20 or maintenance of equipment or from the provision of  
 21 nontransmission-related services or activities; or  
 22 (d) customer access line charges assessed under federal  
 23 communications commission orders or rules.  
 24 (3) A bill or statement may not itemize the tax imposed  
 25 by subsection (2).



-2- INTRODUCED BILL  
 SB 462

1       (4) The tax imposed by subsection (2) is due in  
2 quarterly installments for the quarters ending,  
3 respectively, March 31, June 30, September 30, and December  
4 31 in each year."

5       **Section 2.** Section 15-53-102, MCA, is amended to read:

6       "15-53-102. Statement required of telephone companies.

7       (1) ~~Each-and-every A person, who is~~ liable to tax under this  
8 chapter ~~engaged--in--carrying-on-such-telephone-business-in~~  
9 ~~this-state~~ shall, within 60 days after the end of each  
10 quarter,~~make-and:~~

11       (a) file with the department of revenue a statement, in  
12 such a form as that the department may require and  
13 prescribe, showing the ~~total-gross--income--of--such--person~~  
14 ~~derived--from--the--telephone--business--within--this-state,~~  
15 ~~including-the-transmission-of-telephone-messages-originating~~  
16 ~~and-terminating-within-this-state-but--excluding--therefrom~~  
17 ~~the--gross-income-derived-from-the-transmission-of-telephone~~  
18 ~~messages-passing-through-this-state-but-both-originating-and~~  
19 ~~terminating-outside-of-this-state-and-from-those-originating~~  
20 ~~outside-of-but-terminating-within-this-state-and-from--those~~  
21 ~~originating--within--but--terminating-outside-of-this-state,~~  
22 taxable revenue of the person during the preceding quarter  
23 and containing such other information as that the department  
24 may require; and ~~shall-accompany-such~~

25       (b) statement with pay the payment-to-the-department-of

1       ~~a-license-tax-in-the-amount-equal-to-1-725% tax owed for the~~  
2 preceding quarter.

3       (2) The department may grant a reasonable extension of  
4 time for filing the statement upon good cause shown."

5       **Section 3.** Section 15-53-105, MCA, is amended to read:

6       "15-53-105. Deficiency assessment -- hearing --  
7 interest. (1) When the department of revenue determines that  
8 the amount of tax due is greater than the amount disclosed  
9 by a return, it shall mail to the taxpayer a notice of the  
10 additional tax proposed to be assessed. Within 30 days after  
11 mailing of the notice, the taxpayer may file with the  
12 department a written protest against the proposed additional  
13 tax, setting forth the grounds upon which the protest is  
14 based, and may request in his protest an oral hearing or an  
15 opportunity to present additional evidence relating to his  
16 tax liability. If no protest is filed, the amount of the  
17 additional tax proposed to be assessed becomes final upon  
18 the expiration of the 30-day period. If a protest is filed,  
19 the department must reconsider the proposed assessment and,  
20 if the taxpayer has so requested, must grant the taxpayer an  
21 oral hearing. After consideration of the protest and the  
22 evidence presented at any oral hearing, the department's  
23 action upon the protest is final when it mails notice of its  
24 action to the taxpayer.

25       (2) (a) When a deficiency is determined and the tax

1 becomes final, the department shall mail a notice and demand  
 2 for payment to the taxpayer. The tax is due and payable at  
 3 the expiration of 10 days from the date of ~~such~~ the notice  
 4 and demand. Interest on any deficiency assessment ~~shall bear~~  
 5 bears interest until paid at the rate of 1% a month or  
 6 fraction ~~thereof~~ of a month, computed from the original due  
 7 date of the return.

8 (b) If payment is not made within 10 days, the tax is  
 9 delinquent and a penalty of 10% must be added to the amount  
 10 of the deficiency."

11 **Section 4.** Section 15-53-111, MCA, is amended to read:

12 "15-53-111. **Penalty and interest for delinquency --**  
 13 **waiver.** (1) License taxes due under this chapter become  
 14 delinquent if not paid within 60 days after the end of each  
 15 calendar quarter. The department of revenue shall add to the  
 16 amount of all delinquent telephone company license taxes a  
 17 penalty of 10% of the amount of license taxes plus interest  
 18 at the rate of 1% per month or fraction ~~thereof~~ of a month,  
 19 computed on the total amount of license taxes ~~and penalty~~.  
 20 Interest is computed from the date the license taxes were  
 21 due to the date of payment.

22 (2) The 10% penalty may be waived by the department if  
 23 reasonable cause for the failure or neglect to file the  
 24 statement required by 15-53-102 or pay the tax due is  
 25 provided to the department."

1 NEW SECTION. **Section 5. Saving clause.** [This act] does  
 2 not affect rights and duties that matured, penalties that  
 3 were incurred, or proceedings that were begun before [the  
 4 effective date of this act].

5 NEW SECTION. **Section 6. Effective date.** [This act] is  
 6 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0462, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the Telephone Company License Tax; excluding carrier access service revenue from the tax; revising the tax rate; defining "carrier access service" and "telephone business"; and providing an effective date.

ASSUMPTIONS:

1. Under current law, the telephone company license tax rate is 1.725 percent of "gross revenue"; under the proposal the rate would be 1.8 percent of "taxable revenue".
2. Telephone company license tax revenues are projected to be \$4.007 million in FY92, and \$4.164 million in FY93 (OBPP).
3. Telephone company license tax revenue is deposited 100% in the state general fund.


FISCAL IMPACT:

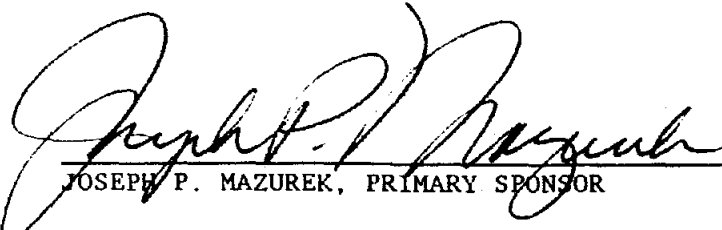
Expenditures:

None

Revenues:

The increase in the rate is calculated to offset the reduction in revenues to which the rate is applied, resulting in no change in tax revenue under this proposal.

  
ROD SUNDSTED, BUDGET DIRECTOR      3-13-91      DATE  
Office of Budget and Program Planning

  
JOSEPH P. MAZUREK, PRIMARY SPONSOR      3/13/91      DATE  
Fiscal Note for SB0462, as introduced      SB 462-1

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 462  
INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE TELEPHONE COMPANY LICENSE TAX; EXCLUDING CARRIER ACCESS SERVICE REVENUE FROM THE TAX; REVISING THE TAX RATE; DEFINING "CARRIER ACCESS SERVICE" AND "TELEPHONE BUSINESS"; AMENDING SECTIONS 15-53-101, 15-53-102, 15-53-105, AND 15-53-111, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 15-53-101, MCA, is amended to read:

"15-53-101. Rate Definitions -- rate of license tax on telephone companies -- itemized pass through prohibited. (1) ~~There--is--hereby--levied--and--shall--be--collected--an--annual--tax--of--1.725%--of--the--gross--income--in--excess--of--\$250--quarterly--derived--from--any--telephone--business--within--this--state--including--the--transmission--of--telephone--messages--in--this--state--over--telephone--lines--or--by--microwave--electronic--equipment--in--this--state--owned--by--any--person,--provided,--however,--that--no--bill,--statement,--or--account--rendered--or--given--any--customer--shall--set--out--or--contain--as--a--separate--item--any--amount--on--account--or--by--reason--of--the--license--tax--imposed--by--this--chapter.~~

~~(2) --Such--annual--license--tax--shall--be--paid~~ As used in this section:

(a) "carrier access service" means the service a local exchange company, as defined in 53-19-302, provides to an interexchange carrier for the origination or termination of telecommunications; and

(b) "telephone business" means the access and transport, for hire, of two-way communications from point of access to point of termination, both of which are within Montana.

(2) A license tax of 1.8% is imposed upon the gross revenue IN EXCESS OF \$250 EACH QUARTER received by a person in Montana from telephone business in Montana. As used in this section, "gross revenue" does not include:

(a) carrier access service revenue;  
(b) revenue from the sale of telephone services to another telephone service provider who uses the services to provide telephone service to the ultimate retail consumer who originates or terminates the transmission;

(c) revenue from the sale, lease, repair, installation, or maintenance of equipment or from the provision of nontransmission-related services or activities; or

(d) customer access line charges assessed under federal communications commission orders or rules.

(3) A bill or statement may not itemize the tax imposed



1 by subsection (2).

2 (4) The tax imposed by subsection (2) is due in  
3 quarterly installments for the quarters ending,  
4 respectively, March 31, June 30, September 30, and December  
5 31 in each year."

6 **Section 2.** Section 15-53-102, MCA, is amended to read:

7 **"15-53-102. Statement required of telephone companies.**

8 (1) ~~Each-and-every A person, who is~~ liable to tax under this  
9 ~~chapter engaged--in--carrying-on-such-telephone-business-in~~  
10 ~~this-state shall, within 60 days after the end of each~~  
11 ~~quarter, make-and:~~

12 (a) file with the department of revenue a statement, in  
13 such a form as that the department may require and  
14 prescribe, showing the total-gross--income--of--such--person  
15 derived--from--the--telephone--business--within--this--state,  
16 including-the-transmission-of-telephone-messages-originating  
17 and-terminating-within-this-state, but--excluding--therefrom  
18 the--gross-income-derived-from-the-transmission-of-telephone  
19 messages-passing-through-this-state-but-both-originating-and  
20 terminating-outside-of-this-state-and-from-those-originating  
21 outside-of-but-terminating-within-this-state-and-from--those  
22 originating--within--but--terminating-outside-of-this-state,  
23 taxable revenue of the person during the preceding quarter  
24 and containing such other information as that the department  
25 may require; and shall-accompany-such

1 (b) statement with pay the payment-to-the-department-of  
2 a-license-tax-in-the-amount-equal-to-1.725% tax owed for the  
3 preceding quarter.

4 (2) The department may grant a reasonable extension of  
5 time for filing the statement upon good cause shown."

6 **Section 3.** Section 15-53-105, MCA, is amended to read:

7 **"15-53-105. Deficiency assessment -- hearing --**  
8 **interest.** (1) When the department of revenue determines that  
9 the amount of tax due is greater than the amount disclosed  
10 by a return, it shall mail to the taxpayer a notice of the  
11 additional tax proposed to be assessed. Within 30 days after  
12 mailing of the notice, the taxpayer may file with the  
13 department a written protest against the proposed additional  
14 tax, setting forth the grounds upon which the protest is  
15 based, and may request in his protest an oral hearing or an  
16 opportunity to present additional evidence relating to his  
17 tax liability. If no protest is filed, the amount of the  
18 additional tax proposed to be assessed becomes final upon  
19 the expiration of the 30-day period. If a protest is filed,  
20 the department must reconsider the proposed assessment and,  
21 if the taxpayer has so requested, must grant the taxpayer an  
22 oral hearing. After consideration of the protest and the  
23 evidence presented at any oral hearing, the department's  
24 action upon the protest is final when it mails notice of its  
25 action to the taxpayer.



1 (2) (a) When a deficiency is determined and the tax  
 2 becomes final, the department shall mail a notice and demand  
 3 for payment to the taxpayer. The tax is due and payable at  
 4 the expiration of 10 days from the date of such ~~such~~ the notice  
 5 and demand. Interest on any deficiency assessment ~~shall bear~~  
 6 bears interest until paid at the rate of 1% a month or  
 7 fraction ~~thereof~~ of a month, computed from the original due  
 8 date of the return.

9 (b) If payment is not made within 10 days, the tax is  
 10 delinquent and a penalty of 10% must be added to the amount  
 11 of the deficiency."

12 **Section 4.** Section 15-53-111, MCA, is amended to read:  
 13 "15-53-111. **Penalty and interest for delinquency --**  
 14 **waiver.** (1) License taxes due under this chapter become  
 15 delinquent if not paid within 60 days after the end of each  
 16 calendar quarter. The department of revenue shall add to the  
 17 amount of all delinquent telephone company license taxes a  
 18 penalty of 10% of the amount of license taxes plus interest  
 19 at the rate of 1% per month or fraction ~~thereof~~ of a month,  
 20 computed on the total amount of license taxes ~~and penalty~~  
 21 AND PENALTY. Interest is computed from the date the license  
 22 taxes were due to the date of payment.

23 (2) The 10% penalty may be waived by the department if  
 24 reasonable cause for the failure or neglect to file the  
 25 statement required by 15-53-102 or pay the tax due is

1 provided to the department."

2 NEW SECTION. **Section 5. Saving clause.** [This act] does  
 3 not affect rights and duties that matured, penalties that  
 4 were incurred, or proceedings that were begun before [the  
 5 effective date of this act].

6 NEW SECTION. **Section 6. Effective date** --  
 7 APPLICABILITY. [This act] is effective July 1, 1991, AND  
 8 APPLIES TO TAXABLE QUARTERS BEGINNING AFTER JUNE 30, 1991.

-End-

1 SENATE BILL NO. 462  
2 INTRODUCED BY MAZUREK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE  
5 TELEPHONE COMPANY LICENSE TAX; EXCLUDING CARRIER ACCESS  
6 SERVICE REVENUE FROM THE TAX; REVISING THE TAX RATE;  
7 DEFINING "CARRIER ACCESS SERVICE" AND "TELEPHONE BUSINESS";  
8 AMENDING SECTIONS 15-53-101, 15-53-102, 15-53-105, AND  
9 15-53-111, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN  
10 APPLICABILITY DATE."

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

13 **Section 1.** Section 15-53-101, MCA, is amended to read:

14 "15-53-101. Rate Definitions -- rate of license tax on  
15 telephone companies -- itemized pass through prohibited. (1)  
16 There--is--hereby--levied--and--shall--be--collected--an--annual--tax  
17 of--1.725%--of--the--gross--income--in--excess--of--\$250--quarterly  
18 derived--from--any--telephone--business--within--this--state,  
19 including--the--transmission--of--telephone--messages--in--this  
20 state--over--telephone--lines--or--by--microwave--electronic  
21 equipment--in--this--state--owned--by--any--person, provided,  
22 however, that no bill, statement, or account rendered or  
23 given--any--customer--shall--set--out--or--contain--as--a--separate  
24 item--any--amount--on--account--or--by--reason--of--the--license--tax  
25 imposed--by--this--chapter.

1 ~~(2)~~ Such--annual--license--tax--shall--be--paid As used in  
2 this section:

3 (a) "carrier access service" means the service a local  
4 exchange company, as defined in 53-19-302, provides to an  
5 interexchange carrier for the origination or termination of  
6 telecommunications; and

7 (b) "telephone business" means the access and  
8 transport, for hire, of two-way communications from point of  
9 access to point of termination, both of which are within  
10 Montana.

11 (2) A license tax of 1.8% is imposed upon the gross  
12 revenue IN EXCESS OF \$250 EACH QUARTER received by a person  
13 in Montana from telephone business in Montana. As used in  
14 this section, "gross revenue" does not include:

15 (a) carrier access service revenue;

16 (b) revenue from the sale of telephone services to  
17 another telephone service provider who uses the services to  
18 provide telephone service to the ultimate retail consumer  
19 who originates or terminates the transmission;

20 (c) revenue from the sale, lease, repair, installation,  
21 or maintenance of equipment or from the provision of  
22 nontransmission-related services or activities; or

23 (d) customer access line charges assessed under federal  
24 communications commission orders or rules.

25 (3) A bill or statement may not itemize the tax imposed

1 by subsection (2).

2 (4) The tax imposed by subsection (2) is due in  
 3 quarterly installments for the quarters ending,  
 4 respectively, March 31, June 30, September 30, and December  
 5 31 in each year."

6 **Section 2.** Section 15-53-102, MCA, is amended to read:

7 **"15-53-102. Statement required of telephone companies.**

8 (1) ~~Each and every A person, who is liable to tax under this~~  
 9 ~~chapter engaged in carrying on such telephone business in~~  
 10 ~~this state shall, within 60 days after the end of each~~  
 11 ~~quarter, make and:~~

12 (a) file with the department of revenue a statement, in  
 13 such a form as that the department may require and  
 14 prescribe, showing the total gross income of such person  
 15 derived from the telephone business within this state,  
 16 including the transmission of telephone messages originating  
 17 and terminating within this state, but excluding therefrom  
 18 the gross income derived from the transmission of telephone  
 19 messages passing through this state but both originating and  
 20 terminating outside of this state and from those originating  
 21 outside of but terminating within this state and from those  
 22 originating within but terminating outside of this state,  
 23 taxable revenue of the person during the preceding quarter  
 24 and containing such other information as that the department  
 25 may require; and shall accompany such

1 (b) statement with pay the payment to the department of  
 2 a license tax in the amount equal to 1.725% tax owed for the  
 3 preceding quarter.

4 (2) The department may grant a reasonable extension of  
 5 time for filing the statement upon good cause shown."

6 **Section 3.** Section 15-53-105, MCA, is amended to read:

7 **"15-53-105. Deficiency assessment -- hearing --**  
 8 **interest.** (1) When the department of revenue determines that  
 9 the amount of tax due is greater than the amount disclosed  
 10 by a return, it shall mail to the taxpayer a notice of the  
 11 additional tax proposed to be assessed. Within 30 days after  
 12 mailing of the notice, the taxpayer may file with the  
 13 department a written protest against the proposed additional  
 14 tax, setting forth the grounds upon which the protest is  
 15 based, and may request in his protest an oral hearing or an  
 16 opportunity to present additional evidence relating to his  
 17 tax liability. If no protest is filed, the amount of the  
 18 additional tax proposed to be assessed becomes final upon  
 19 the expiration of the 30-day period. If a protest is filed,  
 20 the department must reconsider the proposed assessment and,  
 21 if the taxpayer has so requested, must grant the taxpayer an  
 22 oral hearing. After consideration of the protest and the  
 23 evidence presented at any oral hearing, the department's  
 24 action upon the protest is final when it mails notice of its  
 25 action to the taxpayer.

1 (2) (a) When a deficiency is determined and the tax  
 2 becomes final, the department shall mail a notice and demand  
 3 for payment to the taxpayer. The tax is due and payable at  
 4 the expiration of 10 days from the date of such the notice  
 5 and demand. Interest on any deficiency assessment ~~shall bear~~  
 6 bears interest until paid at the rate of 1% a month or  
 7 fraction thereof of a month, computed from the original due  
 8 date of the return.

9 (b) If payment is not made within 10 days, the tax is  
 10 delinquent and a penalty of 10% must be added to the amount  
 11 of the deficiency."

12 **Section 4.** Section 15-53-111, MCA, is amended to read:

13 "15-53-111. Penalty and interest for delinquency --  
 14 waiver. (1) License taxes due under this chapter become  
 15 delinquent if not paid within 60 days after the end of each  
 16 calendar quarter. The department of revenue shall add to the  
 17 amount of all delinquent telephone company license taxes a  
 18 penalty of 10% of the amount of license taxes plus interest  
 19 at the rate of 1% per month or fraction thereof of a month,  
 20 computed on the total amount of license taxes ~~and penalty~~  
 21 ~~AND-PENALTY~~. Interest is computed from the date the license  
 22 taxes were due to the date of payment.

23 (2) The 10% penalty may be waived by the department if  
 24 reasonable cause for the failure or neglect to file the  
 25 statement required by 15-53-102 or pay the tax due is

1 provided to the department."

2 NEW SECTION. Section 5. Saving clause. [This act] does  
 3 not affect rights and duties that matured, penalties that  
 4 were incurred, or proceedings that were begun before [the  
 5 effective date of this act].

6 NEW SECTION. Section 6. Effective date --  
 7 APPLICABILITY. [This act] is effective July 1, 1991, AND  
 8 APPLIES TO TAXABLE QUARTERS BEGINNING AFTER JUNE 30, 1991.

-End-

HOUSE COMMITTEE OF THE WHOLE AMENDMENT  
Senate Bill 462  
Representative O'Keefe

April 10, 1991 2:45 pm  
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 462 (third reading copy -- blue).

Signed: *Mark O'Keefe*  
Representative O'Keefe

And, that such amendments to Senate Bill 462 read as follows:

1. Page 1, line 15.  
Strike: "-- itemized pass through prohibited"
2. Page 2, line 25 through page 3, line 1.  
Strike: subsection (3) in its entirety  
Renumber: subsequent section

ADOPT

REJECT

HOUSE

SB 462

1 SENATE BILL NO. 462

2 INTRODUCED BY MAZUREK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE  
5 TELEPHONE COMPANY LICENSE TAX; EXCLUDING CARRIER ACCESS  
6 SERVICE REVENUE FROM THE TAX; REVISING THE TAX RATE;  
7 DEFINING "CARRIER ACCESS SERVICE" AND "TELEPHONE BUSINESS";  
8 AMENDING SECTIONS 15-53-101, 15-53-102, 15-53-105, AND  
9 15-53-111, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN  
10 APPLICABILITY DATE."

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

13 **Section 1.** Section 15-53-101, MCA, is amended to read:

14 "15-53-101. Rate Definitions -- rate of license tax on  
15 telephone companies ~~---itemized-pass-through-prohibited.~~ (1)  
16 ~~There--is--hereby--levied--and--shall--be--collected--an--annual--tax~~  
17 ~~of--1.725%--of--the--gross--income--in--excess--of--\$250--quarterly~~  
18 ~~derived--from--any--telephone--business--within--this--state,~~  
19 ~~including--the--transmission--of--telephone--messages--in--this~~  
20 ~~state--over--telephone--lines--or--by--microwave--electronic~~  
21 ~~equipment--in--this--state--owned--by--any--person,~~ provided,  
22 however, that no bill, statement, or account rendered or  
23 given any customer shall set out or contain as a separate  
24 item any amount on account or by reason of the license tax  
25 imposed by this chapter.

1 ~~{2}--Such--annual--license--tax--shall--be--paid~~ As used in  
2 this section:

3 (a) "carrier access service" means the service a local  
4 exchange company, as defined in 53-19-302, provides to an  
5 interexchange carrier for the origination or termination of  
6 telecommunications; and

7 (b) "telephone business" means the access and  
8 transport, for hire, of two-way communications from point of  
9 access to point of termination, both of which are within  
10 Montana.

11 (2) A license tax of 1.8% is imposed upon the gross  
12 revenue IN EXCESS OF \$250 EACH QUARTER received by a person  
13 in Montana from telephone business in Montana. As used in  
14 this section, "gross revenue" does not include:

15 (a) carrier access service revenue;

16 (b) revenue from the sale of telephone services to  
17 another telephone service provider who uses the services to  
18 provide telephone service to the ultimate retail consumer  
19 who originates or terminates the transmission;

20 (c) revenue from the sale, lease, repair, installation,  
21 or maintenance of equipment or from the provision of  
22 nontransmission-related services or activities; or

23 (d) customer access line charges assessed under federal  
24 communications commission orders or rules.

25 ~~{3}--A--bill--or--statement--may--not--itemize--the--tax--imposed~~

1 ~~by-subsection-(2)-~~

2 ~~{4}(3)~~ The tax imposed by subsection (2) is due in  
3 quarterly installments for the quarters ending,  
4 respectively, March 31, June 30, September 30, and December  
5 31 in each year."

6 **Section 2.** Section 15-53-102, MCA, is amended to read:

7 "15-53-102. Statement required of telephone companies.

8 (1) ~~Each-and-every~~ A person, who is liable to tax under this  
9 chapter engaged in carrying on such ~~telephone business in~~  
10 ~~this state~~ shall, within 60 days after the end of each  
11 quarter, ~~make and:~~

12 (a) file with the department of revenue a statement, in  
13 such a form as that the department may require and  
14 prescribe, showing the ~~total gross income of such person~~  
15 ~~derived from the telephone business within this state,~~  
16 ~~including the transmission of telephone messages originating~~  
17 ~~and terminating within this state, but excluding therefrom~~  
18 ~~the gross income derived from the transmission of telephone~~  
19 ~~messages passing through this state but both originating and~~  
20 ~~terminating outside of this state and from those originating~~  
21 ~~outside of but terminating within this state and from those~~  
22 ~~originating within but terminating outside of this state,~~  
23 taxable revenue of the person during the preceding quarter  
24 and containing such other information as that the department  
25 may require; and ~~shall accompany such~~

1 (b) ~~statement with pay~~ the payment to the department of  
2 ~~a license tax in the amount equal to 1.725%~~ tax owed for the  
3 preceding quarter.

4 (2) The department may grant a reasonable extension of  
5 time for filing the statement upon good cause shown."

6 **Section 3.** Section 15-53-105, MCA, is amended to read:

7 "15-53-105. Deficiency assessment -- hearing --

8 interest. (1) When the department of revenue determines that  
9 the amount of tax due is greater than the amount disclosed  
10 by a return, it shall mail to the taxpayer a notice of the  
11 additional tax proposed to be assessed. Within 30 days after  
12 mailing of the notice, the taxpayer may file with the  
13 department a written protest against the proposed additional  
14 tax, setting forth the grounds upon which the protest is  
15 based, and may request in his protest an oral hearing or an  
16 opportunity to present additional evidence relating to his  
17 tax liability. If no protest is filed, the amount of the  
18 additional tax proposed to be assessed becomes final upon  
19 the expiration of the 30-day period. If a protest is filed,  
20 the department must reconsider the proposed assessment and,  
21 if the taxpayer has so requested, must grant the taxpayer an  
22 oral hearing. After consideration of the protest and the  
23 evidence presented at any oral hearing, the department's  
24 action upon the protest is final when it mails notice of its  
25 action to the taxpayer.

1 (2) (a) When a deficiency is determined and the tax  
 2 becomes final, the department shall mail a notice and demand  
 3 for payment to the taxpayer. The tax is due and payable at  
 4 the expiration of 10 days from the date of such the notice  
 5 and demand. Interest on any deficiency assessment shall bear  
 6 bears interest until paid at the rate of 1% a month or  
 7 fraction thereof of a month, computed from the original due  
 8 date of the return.

9 (b) If payment is not made within 10 days, the tax is  
 10 delinquent and a penalty of 10% must be added to the amount  
 11 of the deficiency."

12 **Section 4.** Section 15-53-111, MCA, is amended to read:

13 "15-53-111. Penalty and interest for delinquency --  
 14 waiver. (1) License taxes due under this chapter become  
 15 delinquent if not paid within 60 days after the end of each  
 16 calendar quarter. The department of revenue shall add to the  
 17 amount of all delinquent telephone company license taxes a  
 18 penalty of 10% of the amount of license taxes plus interest  
 19 at the rate of 1% per month or fraction thereof of a month,  
 20 computed on the total amount of license taxes and--penalty  
 21 ~~AND--PENALTY~~. Interest is computed from the date the license  
 22 taxes were due to the date of payment.

23 (2) The 10% penalty may be waived by the department if  
 24 reasonable cause for the failure or neglect to file the  
 25 statement required by 15-53-102 or pay the tax due is

1 provided to the department."

2 NEW SECTION. Section 5. Saving clause. [This act] does  
 3 not affect rights and duties that matured, penalties that  
 4 were incurred, or proceedings that were begun before [the  
 5 effective date of this act].

6 NEW SECTION. Section 6. Effective date --  
 7 APPLICABILITY. [This act] is effective July 1, 1991, AND  
 8 APPLIES TO TAXABLE QUARTERS BEGINNING AFTER JUNE 30, 1991.

-End-



Conference Committee  
on Senate Bill No. 462  
Report No. 1, April 20, 1991

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 462, met and considered the House Committee of the Whole amendments of Rep. O'Keefe and we recommend that Senate Bill No. 462 (reference copy - salmon) be amended as follows:

1. Page 3, line 2.

Following: line 1

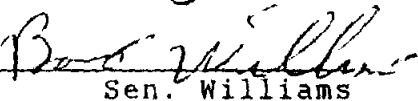
Insert: "(3) A bill or statement may itemize the tax imposed by subsection (2)."

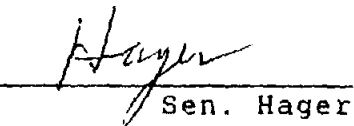
Renumber: subsequent subsection

And that this Conference Committee report be adopted.

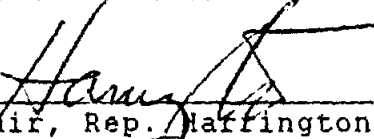
For the Senate:

  
Chair, Sen. Mazurek

  
Sen. Williams

  
Sen. Hager

For the House:

  
Chair, Rep. Harrington

  
Rep. Madison

  
Rep. Foster

4-22-91  
Mnd. Coord.

SP 4-20  
Sec. of Senate

ADOPT

REJECT

CCR # 1  
SB 462  
831628CC.Sji

1 SENATE BILL NO. 462  
2 INTRODUCED BY MAZUREK

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE  
5 TELEPHONE COMPANY LICENSE TAX; EXCLUDING CARRIER ACCESS  
6 SERVICE REVENUE FROM THE TAX; REVISING THE TAX RATE;  
7 DEFINING "CARRIER ACCESS SERVICE" AND "TELEPHONE BUSINESS";  
8 AMENDING SECTIONS 15-53-101, 15-53-102, 15-53-105, AND  
9 15-53-111, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN  
10 APPLICABILITY DATE."

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

13 **Section 1.** Section 15-53-101, MCA, is amended to read:

14 "15-53-101. Rate Definitions -- rate of license tax on  
15 telephone companies ---itemized-pass-through-prohibited. (1)  
16 There--is-hereby-levied-and-shall-be-collected-an-annual-tax  
17 of-1.725%--of-the-gross-income-in-excess--of--\$250--quarterly  
18 derived--from--any--telephone--business--within--this--state,  
19 including-the-transmission-of--telephone--messages--in--this  
20 state--over--telephone--lines--or--by--microwave--electronic  
21 equipment--in--this--state--owned--by--any-person,--provided,  
22 however,--that-no-bill,--statement,--or--account--rendered--or  
23 given--any--customer--shall-set-out-or-contain-as-a-separate  
24 item-any-amount-on-account-or-by-reason-of-the--license--tax  
25 imposed-by-this-chapter.

1 ~~(2)--Such--annual--license--tax--shall--be--paid~~ As used in  
2 this section:

3 (a) "carrier access service" means the service a local  
4 exchange company, as defined in 53-19-302, provides to an  
5 interexchange carrier for the origination or termination of  
6 telecommunications; and

7 (b) "telephone business" means the access and  
8 transport, for hire, of two-way communications from point of  
9 access to point of termination, both of which are within  
10 Montana.

11 (2) A license tax of 1.8% is imposed upon the gross  
12 revenue IN EXCESS OF \$250 EACH QUARTER received by a person  
13 in Montana from telephone business in Montana. As used in  
14 this section, "gross revenue" does not include:

15 (a) carrier access service revenue;

16 (b) revenue from the sale of telephone services to  
17 another telephone service provider who uses the services to  
18 provide telephone service to the ultimate retail consumer  
19 who originates or terminates the transmission;

20 (c) revenue from the sale, lease, repair, installation,  
21 or maintenance of equipment or from the provision of  
22 nontransmission-related services or activities; or

23 (d) customer access line charges assessed under federal  
24 communications commission orders or rules.

25 ~~(3)--A-bill-or-statement-may-not-itemize-the-tax-imposed~~

1 ~~by subsection (2).~~

2 (3) A BILL OR STATEMENT MAY ITEMIZE THE TAX IMPOSED BY  
3 SUBSECTION (2).

4 ~~(4)(3)~~(4) The tax imposed by subsection (2) is due in  
5 quarterly installments for the quarters ending,  
6 respectively, March 31, June 30, September 30, and December  
7 31 in each year."

8 **Section 2.** Section 15-53-102, MCA, is amended to read:

9 "15-53-102. Statement required of telephone companies.

10 (1) ~~Each-and-every~~ A person, who is liable to tax under this  
11 ~~chapter engaged--in--carrying-on-such-telephone-business-in~~  
12 ~~this-state~~ shall, within 60 days after the end of each  
13 ~~quarter, make-and:~~

14 (a) file with the department of revenue a statement, and  
15 such a form as that the department may require and  
16 prescribe, showing the total-gross--income--of--such--person  
17 derived--from--the--telephone--business--within--this-state,  
18 including-the-transmission-of-telephone-messages-originating  
19 and-terminating-within-this-state,-but--excluding--therefrom  
20 the--gross-income-derived-from-the-transmission-of-telephone  
21 messages-passing-through-this-state-but-both-originating-and  
22 terminating-outside-of-this-state-and-from-those-originating  
23 outside-of-but-terminating-within-this-state-and-from--those  
24 originating--within--but--terminating-outside-of-this-state,  
25 taxable revenue of the person during the preceding quarter

1 and containing such other information as that the department  
2 may require, and shall-accompany-such

3 (b) statement-with pay the payment-to-the-department-of  
4 a-license-tax-in-the-amount-equal-to-1-725% tax owed for the  
5 preceding quarter.

6 (2) The department may grant a reasonable extension of  
7 time for filing the statement upon good cause shown."

8 **Section 3.** Section 15-53-105, MCA, is amended to read:

9 "15-53-105. Deficiency assessment -- hearing --

10 interest. (1) When the department of revenue determines that  
11 the amount of tax due is greater than the amount disclosed  
12 by a return, it shall mail to the taxpayer a notice of the  
13 additional tax proposed to be assessed. Within 30 days after  
14 mailing of the notice, the taxpayer may file with the  
15 department a written protest against the proposed additional  
16 tax, setting forth the grounds upon which the protest is  
17 based, and may request in his protest an oral hearing or an  
18 opportunity to present additional evidence relating to his  
19 tax liability. If no protest is filed, the amount of the  
20 additional tax proposed to be assessed becomes final upon  
21 the expiration of the 30-day period. If a protest is filed,  
22 the department must reconsider the proposed assessment and,  
23 if the taxpayer has so requested, must grant the taxpayer an  
24 oral hearing. After consideration of the protest and the  
25 evidence presented at any oral hearing, the department's

1 action upon the protest is final when it mails notice of its  
2 action to the taxpayer.

3 (2) (a) When a deficiency is determined and the tax  
4 becomes final, the department shall mail a notice and demand  
5 for payment to the taxpayer. The tax is due and payable at  
6 the expiration of 10 days from the date of such the notice  
7 and demand. Interest on any deficiency assessment ~~shall bear~~  
8 bears interest until paid at the rate of 1% a month or  
9 fraction thereof of a month, computed from the original due  
10 date of the return.

11 (b) If payment is not made within 10 days, the tax is  
12 delinquent and a penalty of 10% must be added to the amount  
13 of the deficiency."

14 **Section 4.** Section 15-53-111, MCA, is amended to read:

15 "15-53-111. **Penalty and interest for delinquency --**  
16 **waiver.** (1) License taxes due under this chapter become  
17 delinquent if not paid within 60 days after the end of each  
18 calendar quarter. The department of revenue shall add to the  
19 amount of all delinquent telephone company license taxes a  
20 penalty of 10% of the amount of license taxes plus interest  
21 at the rate of 1% per month or fraction thereof of a month,  
22 computed on the total amount of license taxes ~~and penalty~~  
23 AND-PENALTY. Interest is computed from the date the license  
24 taxes were due to the date of payment.

25 (2) The 10% penalty may be waived by the department if

1 reasonable cause for the failure or neglect to file the  
2 statement required by 15-53-102 or pay the tax due is  
3 provided to the department."

4 NEW SECTION. Section 5. Saving clause. [This act] does  
5 not affect rights and duties that matured, penalties that  
6 were incurred, or proceedings that were begun before [the  
7 effective date of this act].

8 NEW SECTION. Section 6. Effective date --  
9 APPLICABILITY. [This act] is effective July 1, 1991, AND  
10 APPLIES TO TAXABLE QUARTERS BEGINNING AFTER JUNE 30, 1991.

-End-