

HOUSE BILL NO. 3

O'CONNELL, PALMER, BOBBINS, SHELDEN, STAIGMILLER, SCULLY, VINCENT, WALDRON

INTRODUCED BY DUSSAULT, WM. BAETH, BARDANOUE, BRADLEY, BRAND, COONEY, COURTNEY, ELLIS, ESTENSON, EUDALLY, FRATES, GILLIGAN, GOULD, E. GUNDERSON, J. GUNDERSON, HANSEN, HUENNEKENS, HARRINGTON, HARPER, HOLMES, KANDUCH, KENNY, KIMBLE, MENAHAN, METCALF, A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A REPLACEMENT TAX FOR THE PROPERTY TAX NOW LEVIED ON HABITABLE PROPERTY AND PROVIDING A METHOD FOR CALCULATING AND COLLECTING THE REPLACEMENT TAX; DEFINING HABITABLE PROPERTY AND PROVIDING FOR ITS SEPARATE LISTING; AND PROVIDING FOR WITHHOLDING."

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

Section 1. Short title. This act may be cited as the "Property Tax Replacement Act".

Section 2. Declaration of purpose. The purpose of this act is to provide an alternative method of assessing and collecting property taxes on housing. Basic to this act is the presumption that all persons use housing and that all should therefore pay taxes thereon in accordance with their ability. To accomplish this, the replacement tax, although not an income tax, will depend upon each person's total personal income as do "circuit breaker" laws but, calculated in a proportional manner, will vary according to taxing jurisdictions and revenue needs. Since all now vote on bond issues, this act requires all to participate in their retirement. It will encourage more and better housing and

will often prevent persons from losing their homes due to inability to pay high property taxes.

Section 3. Definitions. For the purpose of this act the following definitions apply:

(1) (a) "Habitable property" means all urban and rural buildings, houses, dwellings, duplexes, apartments, rest homes, or mobile homes used or intended for human habitation as domiciles and such supplementary buildings as a garage or small storage building normally associated with a residence and not income-producing. Every person is presumed to have a domicile but each head of household shall be entitled to only one unit qualifying as habitable property in any year, and all other buildings he may occupy will not be considered habitable property for purposes of this act. This does not preclude the ownership of rental or other habitable property in which other persons are domiciled.

(b) Habitable property also means the land occupied by the building not exceeding a typical town or city lot in area for duplexes or single family dwellings and for multiple family buildings not exceeding that normally used for such construction, considering the number of units and type of construction. Somewhat larger lots may be allowed providing such yards complement the building, are not income-producing, and do not lend themselves to separation and development. An agent of the department of revenue shall

1 make this determination subject to the appeals procedure.
 2 When habitable property is located on units of land larger
 3 than indicated above and on which additional development may
 4 be expected in the future or which may be income-producing,
 5 separate listing and taxing of this additional land is
 6 required. An agent of the department of revenue shall make
 7 the determination subject to the appeals procedure. All farm
 8 or ranch homes and the land on which they sit shall be
 9 assessed as comparable city lots and residences, and this
 10 value shall be subtracted from the assessed value of the
 11 farm or ranch. Habitable property does not mean mobile
 12 homes used for recreational purposes or stock in trade of a
 13 distributor or dealer.

14 (2) (a) "Total personal income" means income from
 15 whatever source, including but not limited to compensation
 16 for services, income derived from dealings in property,
 17 income derived from business, interest, rent, royalties,
 18 dividends, alimony and separate maintenance payments,
 19 annuities, income from life insurance and endowment
 20 contracts, pensions, social security payments, railroad
 21 retirement, income from discharge of indebtedness,
 22 partnership income, income in respect of a decedent, income
 23 from an interest in an estate or trust, and income otherwise
 24 classified as "capital gains" for federal income tax
 25 purposes. Reference may be made to the federal internal

1 revenue code for the determination of the scope of the
 2 foregoing terms.

3 (b) In determining "total personal income" no
 4 deduction may be allowed for:

5 (i) depreciation of any habitable property;
 6 (ii) costs of maintenance, repair, or upkeep of any
 7 habitable property;

8 (iii) payment of one-half of real property taxes paid
 9 on any habitable property located within the state of
 10 Montana;

11 (iv) federal or state income taxes paid on income
 12 earned or accrued in Montana;

13 (v) gasoline taxes or sales taxes for items of
 14 personal use;

15 (vi) any other item unless listed in subsection (2) (c)
 16 of this section.

17 (c) In determining "total personal income", deduction
 18 shall be allowed for:

19 (i) alimony payments by the payer;
 20 (ii) extraordinary medical expenses on the same basis
 21 as in the federal or state income tax returns;

22 (iii) actual costs of conducting a business or
 23 profession, not expressly disallowed under subsection (2)

24 (b) of this section provided such costs are actually
 25 incurred and are payable (even if not paid) during the

1 taxpayer's taxable year.

2 (3) "Governmental unit" means school districts,
3 incorporated cities and towns, counties, and state.

4 (4) "Department" means the department of revenue,
5 state of Montana.

6 (5) "Mill-equivalent" means that fraction of a mill
7 that total personal income will be multiplied by to
8 determine the replacement tax at the same time a mill is
9 assessed against taxable valuation. This fraction will be
10 determined by the department.

11 Section 4. Duties of the department. The department
12 shall:

13 (1) in order to administer the property tax
14 replacement act more professionally and to guarantee
15 confidentiality, establish a centralized, computerized
16 system;

17 (2) provide forms and instructions to the county
18 treasurers;

19 (3) interpret this act for county officials to secure
20 uniformity of application and act as arbiter between
21 counties;

22 (4) hear appeals taken from decisions of county
23 officials regarding legal residence, taxing districts, and
24 taxpayers' complaints. Decisions may be further appealed to
25 the county tax appeal board and to the state tax appeal

1 board.

2 (5) establish and maintain a separate listing of all
3 habitable property. In all structures used or designed
4 partially for human habitation and partially for other uses,
5 the appraisers shall make the proper division and make two
6 assessments. Although hotels, rooming houses, and motels
7 serving transient or nonpermanent tenants are not included,
8 the appraisers shall determine if portions of these
9 establishments are used by a family or head of household for
10 long-term occupancy; and if they so determine they shall
11 also determine the proper division and make two assessments.

12 (6) in 1978 and thereafter prepare property tax
13 statements for habitable property and process them
14 separately from other tax statements, except as applies to
15 special taxing districts as explained in [section 13 (3)].
16 Then in each governmental unit the department shall
17 determine the ratio which the total taxable value of the
18 habitable property against which millage is not assessed
19 bears to the grand total taxable value in the respective
20 governmental units. The ratios so arrived at shall be used
21 to determine the dollar amounts of the approved budgets of
22 the respective governmental units which are to be replaced
23 by the property replacement tax.

24 (7) no later than August 1, 1979, determine the
25 mill-equivalent which shall be determined by analyzing the

1 total personal income reported in April, 1979, and other
2 pertinent data;

3 (8) provide the formula which local officials will use
4 in calculating the millage to be applied to taxable
5 valuations and the mill-equivalents to be applied to total
6 personal income to determine the replacement tax to meet the
7 budgets;

8 (9) after the first year of this law's operation, if
9 in its judgment sufficient data is not yet available to
10 proceed to the final implementation of the law or if
11 unanticipated problems have arisen, direct a second year of
12 operation according to the provisions for the first year's
13 operation. If this decision is made, the department may also
14 delay for 1 year the requirement of subsections (7) and (8)
15 of this section.

16 Section 5. Duties of county officials. (1) The county
17 assessor shall mail on or before February 20, 1979, and each
18 year thereafter to every person in the county required to
19 file a return under this act and who may not be on the list
20 to receive a state income tax form from the department of
21 revenue a brief form which he shall also have available in
22 his office for the general public, together with printed
23 instructions and a strong, opaque return envelope addressed
24 to the proper section of the department in Helena. The
25 department shall also enclose this form with the state

1 income tax form. On this form the taxpayer shall provide
2 name, address, social security numbers of himself and
3 spouse, school district, city or town, and total personal
4 income. He shall also indicate in the space provided for
5 that purpose whether or not his income was subject to
6 withholding for the previous taxable year. The total
7 personal income shall be itemized according to the
8 categories listed in section 3 (2). Failure to receive the
9 necessary form by mail does not excuse an individual from
10 securing a form and making a report. The forms and
11 instructions shall explain that the total personal income
12 requires the inclusion of several items not included in
13 federal or state returns, and every resident with a yearly
14 income in excess of \$600 must file a return. The reports
15 shall be completed and mailed to the department no later
16 than April 15 of each year. As these reports are received by
17 the department it shall sort and record the total personal
18 income of the taxpayer in each governmental unit in which
19 the taxpayer is a resident.

20 (2) On the second Monday of July, 1979, unless
21 postponed for 1 year by the department, and each year
22 thereafter, the county commissioners, with the advice of the
23 department, shall furnish to all officials who set millages
24 the official estimates of the total personal income for each
25 governmental unit. To arrive at these estimates the

1 commissioners shall take into account the total personal
2 income of the previous year as well as any other information
3 or studies which are available.

4 (3) The county tax appeal board shall hear and
5 determine questions as to legal residence of taxpayers,
6 questions between taxing districts, and complaints of
7 taxpayers. Appeals may be taken to the state tax appeal
8 board.

9 (4) After the first year of operation those officials
10 who set mill levies shall apply the mill-equivalent which
11 has been established by the department for all millages
12 determined by law to the official estimates of total
13 personal income provided by the county commissioners. To
14 meet all legally determined budgets they shall calculate the
15 millages to be assessed against all taxable valuations of
16 the governmental units and the mill-equivalents which will
17 be applied against all the total personal income of the
18 governmental units. The formula for this will have been
19 provided. However, when the total personal income forms are
20 received by the department in April, 1980, and thereafter,
21 the department shall as promptly as possible notify the
22 county treasurers as to the total personal income of the
23 county and of each taxing jurisdiction therein, and the
24 county treasurer shall promptly furnish to all officials who
25 set mill levies the corrected total personal income for each

1 governmental unit. The mill-equivalents which were
2 previously calculated on the basis of the official estimates
3 shall now be corrected to provide the exact anticipated
4 revenue. It is these corrected mill-equivalents which shall
5 be forwarded to the department and applied to each person's
6 total personal income.

7 Section 6. Withholding. (1) In order to insure
8 collection in the manner and to the extent provided by this
9 act, each employer (as defined in 84-4942) making payment of
10 wages (as defined in 84-4942) shall deduct and withhold
11 beginning January 1, 1978, upon such wages 1% thereof, and
12 after full implementation, 2% thereof.

13 (2) Each employer shall be liable for the amounts
14 required to be deducted and withheld and such amounts shall
15 be considered as a tax; with respect thereto the employee
16 (as defined in 84-4942) shall be considered a taxpayer.

17 (3) On or before the last day of the months of April,
18 July, October, and January of each calendar year beginning
19 January 1, 1978, each employer subject to the provisions of
20 this section shall file a return in such form and containing
21 such information as required by the department and shall pay
22 therewith the amount required by this section to be deducted
23 and withheld by the employer from the wages paid during the
24 preceding quarterly period of 3 months. However, when the
25 total amount of tax withheld on account of all employees is

1 less than \$10 in each quarterly period of any year, one
 2 yearly report shall be filed and amounts withheld paid
 3 therewith on or before February 15, 1979, and each year
 4 thereafter.

5 (4) All amounts deducted and withheld shall be
 6 considered as a tax collected, and no employee has any right
 7 of action against any employer to any money deducted and
 8 withheld from his wages and paid to the state of Montana in
 9 compliance with this section.

10 (5) Each employer shall, prior to February 15 in each
 11 year, beginning in 1979, furnish to each employee a written
 12 statement showing the total wages paid by the employer to
 13 the employee during the preceding calendar year, the amount
 14 of the federal income tax withheld, the amount of state
 15 income tax withheld, and the tax withheld under the
 16 provisions of this act. The statement shall contain such
 17 additional information and be in such form as the department
 18 prescribes, and a duplicate thereof shall be filed by the
 19 employee with his report to the department.

20 (6) Each employer shall file with the department on or
 21 before February 15 each year a statement in such form and
 22 containing such information as the department requires,
 23 including the total wages paid to each employee during the
 24 preceding calendar year or any part thereof, and showing the
 25 total amount of the federal income tax deducted and

1 withheld, the amount of state income tax deducted and
 2 withheld, and the total amount of the tax deducted and
 3 withheld under the provisions of this section.

4 (7) Each employer who deducts and withholds any
 5 amounts under this section shall hold the same in trust for
 6 the state of Montana and if any tax imposed by this act or
 7 any portion thereof is not paid within 60 days after the
 8 same becomes due, the department shall issue a warrant under
 9 its official seal which shall have the same force and effect
 10 and shall be enforced and carried into execution in the same
 11 manner as that specified in 84-4928 with respect to warrants
 12 relating to unpaid income taxes.

13 (8) If an employer fails to pay over to the state the
 14 tax deducted and withheld or fails to furnish any statement
 15 provided for, additions to the amount of such tax shall be
 16 imposed and added as those specified in 84-4924 with respect
 17 to failure to make a return of income or to pay any income
 18 tax; and an individual, corporation, or partnership or any
 19 officer or employee thereof who, with the intent to evade
 20 any tax or any requirement of this act or with the intent to
 21 evade tax, files or supplies any false or fraudulent
 22 statement or information, is liable to the same penalties as
 23 those imposed by 84-4924 with respect to filing or supplying
 24 false statements or information with respect to income
 25 taxes.

1 (9) Each taxpayer subject to withholding under this
 2 section shall use throughout the remainder of the calendar
 3 year his domicile as of his first employment of that year,
 4 and he shall file the report required by [section 5 (1)] to
 5 the credit of that county regardless of whether or not his
 6 domicile is changed during the year. Each taxpayer subject
 7 to withholding shall provide each of his employers with the
 8 address to be used on the withholding forms. If a later
 9 mailing address of the employee is different from that used
 10 for withholding, the W2 form provided to the employee shall
 11 be sent to this later mailing address. No taxpayer may pay a
 12 property tax replacement tax based on his total personal
 13 income to more than one county during any one taxable year.
 14 Should a taxpayer change his domicile, he shall notify all
 15 his employers and the county treasurers concerned of his new
 16 residence, and such change shall become effective as of
 17 January 1 of the following year.

18 (10) The department may adopt rules for carrying out
 19 the provisions of this act and the enforcement thereof. All
 20 of the remedies available to the state of Montana for the
 21 administration, enforcement, and collection of income taxes
 22 shall be available and shall apply to the tax required to be
 23 deducted and withheld under the provisions of this section.

24 Section 7. Nature of fund — disbursement to counties.
 25 (1) Amounts collected by the department under the provisions

1 of this act are county funds and shall be held in trust for
 2 the counties of this state. Such funds shall be deposited
 3 upon receipt to a separate account provided for that purpose
 4 and invested so as to obtain the most favorable rate of
 5 interest consistent with approved practices.

6 (2) In May of 1979, and periodically thereafter, the
 7 revenue collected for each county by withholding shall be
 8 forwarded to that county by the department. The department
 9 shall also notify the county treasurer as to the amount of
 10 the revenue to be credited to each governmental unit.

11 Section 8. Introductory period. In the year beginning
 12 January 1, 1978, property will be assessed and levies
 13 applied and tax bills sent as in previous years except as
 14 noted in [section 4 (6)]. However, only the first half
 15 payment, except as applies to special taxing districts as
 16 explained in [section 13 (3)], will be collected on
 17 habitable property. The second half payment will be replaced
 18 by the property replacement tax in the following manner:

19 (1) As the reports received by the department are
 20 sorted, the total personal income of the residents of each
 21 governmental unit shall be determined. For each of the
 22 governmental units the total of the revenue to be replaced
 23 shall be divided by the total personal income of the
 24 residents of that governmental unit. The quotient so arrived
 25 at shall be the rate to be used against each taxpayer's

1 total personal income to produce the replacement revenue for
2 that unit.

3 (2) Each taxpayer's total personal income shall then
4 be multiplied by the total of the rates for the units for
5 which he is liable and he shall receive his tax statement by
6 mail in a strong, opaque, sealed envelope, together with
7 such an explanation of the method by which it was determined
8 as to enable him to check its accuracy. The statement shall
9 be mailed on or before June 20, 1979, and each year
10 thereafter. For each taxpayer who submitted a withholding
11 statement, the amount withheld shall be subtracted from his
12 tax liability, and in the event the amount withheld exceeds
13 the tax liability of the taxpayer, the balance, if \$1 or
14 more, shall be refunded. The taxpayer shall pay the amount
15 due on or before July 5, 1979, and on or before July 5 each
16 year thereafter. If the tax due is less than \$1 it shall be
17 forgiven.

18 (3) All the above transactions shall be handled by the
19 department, and all county funds, interest, and penalties
20 collected by the department shall be periodically forwarded
21 to the counties for distribution to the taxing
22 jurisdictions.

23 Section 9. Penalty. All replacement taxes which are
24 due but not paid when due each year shall be delinquent and
25 shall draw interest at the rate of 2/3 of 1% per month until

1 paid and a penalty of 5% shall be added thereto.

2 Section 10. Collection of delinquent taxes. Action may
3 be brought by the county attorney at any time at the request
4 of the county treasurer in the name of the state to recover
5 the amount of any taxes, penalties, and interest due. When a
6 taxpayer becomes delinquent, the confidentiality which the
7 department is required by law to maintain does not apply
8 after the matter is placed in the hands of the county
9 attorney. Judgments secured under this section shall have
10 priority over all other judgments.

11 Section 11. Taxpayers not subject to withholding. On
12 or before September 30 after full implementation of this act
13 and each year thereafter, each taxpayer who must file a
14 report and who is not subject to withholding shall pay to
15 the department, as an advance partial payment of his
16 replacement tax, 2% of his total personal income for the
17 first 6 months of that year. A person entering or leaving
18 the state on a permanent basis within this period shall pay
19 on that portion of his total personal income which he earned
20 or received while a resident of Montana. This one-half year
21 payment shall be credited to the person making it and shall
22 be subtracted from the amount the taxpayer owes for the
23 entire year when his next tax statement is presented
24 following the reports due each April 15. When the total
25 personal income reports are received, the corrected

1 mill-equivalents which have been set shall be applied
 2 against each taxpayer's total personal income. The
 3 replacement tax payment previously received for the first
 4 half year shall be subtracted from his total tax and a
 5 statement sent to him for the remainder. With this statement
 6 shall be a simple explanation of how the figures were
 7 arrived at. These statements shall be mailed on or before
 8 May 15 of each year, and the taxpayer shall pay the amount
 9 due on or before June 10 of each year.

10 Section 12. Nonresidents. A nonresident for purposes
 11 of this act is a person who is not domiciled in Montana for
 12 at least 6 months of the calendar year preceding the April
 13 15 reporting date and who does not report at least one-half
 14 of his income to Montana for income tax purposes, whether or
 15 not one-half of the income was earned in Montana. Habitable
 16 property occupied either regularly or part-time by
 17 nonresidents of Montana, whether self-owned or rented, shall
 18 continue to be assessed and taxed as nonhabitable property.
 19 However, landlords of multiple housing and operators of
 20 mobile home courts shall, beginning July 1, 1978, require
 21 each tenant to fill out in duplicate and sign a short form
 22 stating that he is or is not a resident of Montana as
 23 determined by the above definition. The landlord shall then
 24 add 10% to the rent of nonresident tenants. This is a
 25 nonresident property replacement tax which shall be

1 transmitted quarterly to the county treasurer. This money
 2 shall be deposited to the credit of the county general fund
 3 and used to reduce the mill levy the following year. The
 4 landlord shall also transmit to the county treasurer one
 5 copy of each tenant form, both resident and nonresident, and
 6 shall retain the duplicate for his files.

7 Section 13. Applicability to existing law. (1) Nothing
 8 in this act shall be construed to affect in any way property
 9 tax laws or practices except on habitable property as herein
 10 defined and as such property supports schools, cities or
 11 towns, counties, and the state.

12 (2) This act contemplates no change in the manner in
 13 which special improvement districts' assessments are
 14 handled. Such payments may be billed and collected with the
 15 first half of the regular taxes or independently.

16 (3) This act contemplates no change in the manner of
 17 collection of taxes on special taxing districts, except that
 18 such taxes may be collected in November instead of
 19 collecting only one-half at that time.

20 (4) Notwithstanding any of the provisions of this act,
 21 all general obligation bonds now outstanding or which may be
 22 issued in the future will continue to be an obligation of
 23 all property pledged to their redemption because the
 24 replacement tax herein authorized shall be considered as an
 25 alternative method of tax assessment and collection on

1 habitable property.

2 (5) Whenever this act refers to another section of the
3 laws of Montana, it refers to that law as presently and
4 subsequently amended.

5 Section 14. Divulging information unlawful --
6 exceptions -- penalties. Except as provided in 84-4931 and
7 in [section 10 of this act], it is unlawful for any person
8 to divulge any information contained in reports filed by
9 taxpayers under the terms of this act. A violation of this
10 provision is punishable by a fine not exceeding \$1,000 or
11 imprisonment in the county jail not exceeding 1 year, or
12 both, and if such offender be an officer or employee of the
13 state or county, he shall be dismissed from office and be
14 ineligible to hold any public office in this state for 1
15 year thereafter.

16 Section 15. Severability. It is the intent of the
17 legislature that if a part of this act is invalid all valid
18 parts that are severable therefrom remain in effect. If a
19 part of this act is invalid in one or more of its
20 applications, that part remains in effect in all valid
21 applications severable from the invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 3-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 7, 19 77, there is hereby submitted a Fiscal Note for House Bill 3 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for a replacement tax for the property tax on habitable property and providing for calculating and collecting the replacement tax.

ASSUMPTIONS:

1. The proposed legislation will replace local property taxes (for county, city, and school purposes) with funds from a local income tax on a dollar for dollar basis.
2. The process of appraising all real property will have to be continued at the same level as it now is.
3. There will be approximately 400,000 individuals who will be subject to the tax proposed in this bill.
4. Automated systems:
 - a) A reliable computerized system for processing reports of total personal income can be designed.
 - b) A reliable computerized system for processing reports of estimated "Replacement Tax" can be designed.
 - c) A reliable computerized system for processing reports of "Replacement Tax" withheld can be designed.
 - d) A reliable computerized system for generating "Replacement Tax" bills can be designed.
5. Every person who is subject to the "Replacement Tax" will conscientiously submit his total personal income report on or before April 15 of each year. All reports will be complete with all required information. All data entry will be accomplished with minimum error.
6. No provision is made for an audit program during the 1979 biennium.

FISCAL IMPACT:

Total state expenditures would be increased by ~~\$849,100~~ ^{\$899,100} in FY 78 and by \$549,400 in FY 79 as follows:

	FY 78	FY 79
Create and maintain habitable property listing	\$300,000	\$ 50,000
Automated system development cost	150,000	50,000
System operating cost	350,000	350,000
Additional operating costs	99,100	99,400
TOTAL ESTIMATED INCREASED COST	<u>\$899,100</u>	<u>\$549,400</u>

LOCAL IMPACT:

None.

LONG RANGE EFFECT:

Greater costs will be incurred in subsequent biennia when a comprehensive audit program designed to enforce compliance is implemented. No estimate of the cost can be made at this time.

TECHNICAL NOTES:

The process for determining the rate at which personal income will be taxed appears to be confused.

- a) Section 3(5) states that the Department of Revenue will determine the "mill-equivalent".
- b) Section 4(7) also states that determination of the "mill-equivalent" is a duty of the Department of Revenue.
- c) Section 4(8) states that the Department of Revenue will provide a formula which "local officials will use in calculating . . . the mill-equivalents to be applied to total personal income".
- d) Section 5(4) states that "they shall calculate . . . the mill-equivalents". The antecedent of "they" is apparently "the county commissioners" who appear in the preceding sentence. Later in this section the "mill-equivalents" are required to be forwarded to the Department.
- e) Section 8(1) requires the Department of Revenue to calculate a "rate to be used against each taxpayer's total personal income".

(continued on page 2)

Richard L. Drayton
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 1-11-77

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FISCAL NOTE (Continued)
REQUEST NO. 3-77

TECHNICAL NOTES: (continued)

The treatment of nonresidents found in Section 12 may be discriminatory since the base for their tax would be monthly rent paid while the base for residents is total personal income. In addition the tax rate for nonresidents is fixed at 10% of monthly rent while the tax rate for residents may vary depending on the needs of local government and the personal income in each jurisdiction.

According to section 8(2) all tax statements prepared by the Department are to be mailed on or before 20 June with payment due on or before 5 July. However, section 11 calls for the tax statements for those whose incomes are not subject to withholding to be mailed on or before 15 May with payment due on or before 10 June. There seems to be a disparity not only as to the date when statements are to be sent but also in regard to the length of the period between the time of billing and the time payment is due.

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. 3-77

REVISED

Form BD-15

In compliance with a written request received March 29, 19 77, there is hereby submitted a Fiscal Note for House Bill 3 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

THIS IS A REVISED FISCAL NOTE

DESCRIPTION

An act providing for a replacement tax for the property tax on habitable property and providing for calculating and collecting the replacement tax.

ASSUMPTIONS

The assumptions governing the fiscal impact are the same as those on the original note. The principle change brought about by amendment is the alteration in the definition of "total personal income". The new definition is clearly more limited. However, the cost of administering this program is directly related to the number of taxpayers and the sophistication of procedures which will be required and, thus, has nothing to do with the tax base.

1. The proposed legislation will replace local property taxes (for state, county, city, and school purposes) with funds from a local income tax on a dollar for dollar basis.
2. The process of appraising all real property will have to be continued at the same level as it now is.
3. There will be approximately 400,000 individuals who will be subject to the tax proposed in this bill.
4. Automated systems:
 - a) A reliable computerized system for processing reports of total personal income can be designed.
 - b) A reliable computerized system for processing reports of estimated "Replacement Tax" can be designed.
 - c) A reliable computerized system for processing reports of "Replacement Tax" withheld can be designed.
 - d) A reliable computerized system for generating "Replacement Tax" bills can be designed.
5. Every person who is subject to the "Replacement Tax" will conscientiously submit his total personal income report on or before April 15 of each year. All reports will be complete with all required information. All data entry will be accomplished with minimum error.
6. No provision is made for an audit program during the 1979 biennium.

(Continued on page 2)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4-1-77

STATE OF MONTANA

REQUEST NO. 3-77

FISCAL NOTE

REVISED

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Page 2

FISCAL IMPACT

Total state expenditures would be increased by \$899,100 in FY 78 and by \$549,400 in FY 79 as follows:

	<u>FY 78</u>	<u>FY 79</u>
Create and maintain habitable property listing	\$300,000	\$ 50,000
Automated system development cost	150,000	50,000
System operating cost	350,000	350,000
Additional operating costs	<u>99,100</u>	<u>99,400</u>
TOTAL ESTIMATED INCREASED COST	<u>\$899,100</u>	<u>\$549,400</u>

LOCAL IMPACT

None.

LONG RANGE EFFECT

Greater costs will be incurred in subsequent biennia when a comprehensive audit program designed to enforce compliance is implemented. No estimate of the cost can be made at this time.

TECHNICAL NOTES

- 1) It was pointed out in the original fiscal note on this bill that there apparently is some confusion over who is to calculate the local income tax rates. A careful reading reveals that the amendments have not cured this problem. The following sections deal with the notion of "mill-equivalents"; in particular section 5(4) is not at all clear.

Section 3(5) Department determines the "mill-equivalent"

Section 4(7) Department determines "mill-equivalent"

Section 4(8) Department will "provide a formula which local officials will use in calculating ... the mill-equivalents to be applied to total personal income".

(Continued on page 3)

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 3-77
REVISED

FISCAL NOTE

Form BD-15

In compliance with a written request received March 29, 19 77, there is hereby submitted a Fiscal Note for House Bill 3 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Page 3

Section 5(4) states that those "who calculate mill levies shall apply the mill-equivalent which has been established by the department ... (emphasis added) to the official estimates of total personal income". However, later in the same section it is stated that "the responsible officials shall calculate ... the mill-equivalents which will be applied against all the total personal income of the governmental units. The formula (probably referring to 4(8)) for this will have been provided." Still later in this section: "The mill-equivalents ... shall now be corrected ... It is these corrected mill-equivalents which shall be forwarded to the department". The obvious implication here is that local officials determine the mill-equivalent.

Section 3(5) defines the "mill-equivalent" and its use in determining the amount of "replacement tax" liability. Section 8(1) defines a "rate" to be used in determining "replacement tax" liability. Evidently the two concepts are equivalent. Note that the "rate" is to be determined by the department.

- 2) Since each taxpayer will pay tax on every dollar of his adjusted gross income, (including the first \$600) the limitation for filing reports of personal income to those whose incomes exceed \$600 (section 5(1)) appears to be discriminatory. For example, if an individual has \$650 income he must pay tax on the entire \$650. However, if an individual has \$590 income, he will not pay tax.
- 3) In connection with the stipulation in section 6(9) that a "taxpayer subject to withholding under this section shall use throughout the remainder of the calendar year his domicile as of his first employment of that year" it should be noted that: (1) during the first employment of the year the individual need not have been subject to withholding (he may have been self-employed) and (2) the larger question of which governmental units are to be credited with the replacement tax of those who are not subject to withholding (section 11) and who change domicile one or more times during a given year is left unanswered.
- 4) Section 13(5) should be clarified. Are the "variable tax penalties" to be in the form of a property tax or are they, in some way, to be incorporated in the income tax envisioned by this bill?

(Continued on page 4)

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: _____

STATE OF MONTANA

REQUEST NO. 3-77

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Page 4

- 5) It may be inferred from section 3(1a) (lines 16 through 19 of page 2) that an individual may choose his domicile from among the residences which he occupies during a given year. The language of this section is such that it appears that rejected dwelling units are no longer to be considered as habitable property and thus would be subject to ad valorem tax. In view of the mobility of the urban population, it appears that it would be an insurmountable problem for county assessors to keep the dwelling units which were to be considered habitable segregated from that which is to be subject to property tax.

PREPARED BY DEPARTMENT OF REVENUE

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: _____

Approved by Committee
on Taxation

HOUSE BILL NO. 3

INTRODUCED BY DUSSAULT, W. BAETH, BARDANOUVE, BRADLEY,
BRAND, COONEY, COURTNEY, ELLIS, ESTENSON, EUDAILY, FRATES,
GILLIGAN, GOULD, E. GUNDERSON, HANSEN, HUENNEKENS,
HARRINGTON, HOLMES, KANDUCH, KENNY, KIMBLE, MENAHAN,
METCALF, O'CONNELL, PALMER, ROBBINS, SHELDEN, HARPER,
STAIGHILLER, SCULLY, VINCENT, WALDRON, J. GUNDERSON,

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A
REPLACEMENT TAX FOR THE PROPERTY TAX NOW LEVIED ON HABITABLE
PROPERTY AND PROVIDING A METHOD FOR CALCULATING AND
COLLECTING THE REPLACEMENT TAX; DEFINING HABITABLE PROPERTY
AND PROVIDING FOR ITS SEPARATE LISTING; AND PROVIDING FOR
WITHHOLDING."

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

Section 1. Short title. This act may be cited as the
"Property Tax Replacement Act".

Section 2. Declaration of purpose. The purpose of this
act is to provide an alternative method of assessing and
collecting property taxes on housing. Basic to this act is
the presumption that all persons use housing and that all
should therefore pay taxes thereon in accordance with their
ability. To accomplish this, the replacement tax, although
not an income tax, will depend upon each person's total

personal income as do "circuit breaker" laws but, calculated
in a proportional manner, will vary according to taxing
jurisdictions and revenue needs. Since all now vote on bond
issues, this act requires all to participate in their
retirement. It will encourage more and better housing and
will often prevent persons from losing their homes due to
inability to pay high property taxes.

Section 3. Definitions. For the purpose of this act
the following definitions apply:

(1) (a) "Habitable property" means all urban and rural
buildings, houses, dwellings, duplexes, apartments, rest
homes, or mobile homes used or intended for human habitation
as domiciles and such supplementary buildings as a garage or
small storage building normally associated with a residence
and not income-producing. Every person is presumed to have a
domicile but each head of household shall be entitled to
only one unit qualifying as habitable property in any year,
and all other buildings he may occupy will not be considered
habitable property for purposes of this act. This does not
preclude the ownership of rental or other habitable property
in which other persons are domiciled. IT QUALIFY AS
HABITABLE PROPERTY, THE UNIT MUST BE THE PRIMARY RESIDENCE
OF THE TAXPAYER. RECREATIONAL PROPERTY THAT IS NOT THE
PRIMARY RESIDENCE OF THE OCCUPANT DOES NOT QUALIFY AS
HABITABLE PROPERTY.

1 (b) Habitable property also means the land occupied by
 2 the building not exceeding a typical town or city lot in
 3 area for duplexes or single family dwellings and for
 4 multiple family buildings not exceeding that normally used
 5 for such construction, considering the number of units and
 6 type of construction. Somewhat larger lots may be allowed
 7 providing such yards complement the building, are not
 8 income-producing, and do not lend themselves to separation
 9 and development. An agent of the department of revenue shall
 10 make this determination subject to the appeals procedure.
 11 When habitable property is located on units of land larger
 12 than indicated above and on which additional development may
 13 be expected in the future or which may be income-producing,
 14 separate listing and taxing of this additional land is
 15 required. An agent of the department of revenue shall make
 16 the determination subject to the appeals procedure. All farm
 17 or ranch homes and the land on which they sit shall be
 18 assessed as comparable city lots and residences, and this
 19 value shall be subtracted from the assessed value of the
 20 farm or ranch. Habitable property does not mean mobile
 21 homes used for recreational purposes or stock in trade of a
 22 distributor or dealer.

23 (2)-(a) "total personal income" means income from
 24 whatever source, including but not limited to compensation
 25 for services, income derived from dealings in property

1 income derived from business, interest, rent, royalties,
 2 dividends, alimony, and separate maintenance payments,
 3 annuities, income from life insurance, and endowment
 4 contracts, pensions, social security payments, railroad
 5 retirement, income from discharge of indebtedness,
 6 partnership income, income in respect of a decedent, income
 7 from an interest in an estate or trust, and income otherwise
 8 classified as "capital gains" for federal income tax
 9 purposes. Reference may be made to the federal internal
 10 revenue code for the determination of the scope of the
 11 foregoing terms.

12 (b) In determining "total personal income" no
 13 deduction may be allowed for:

14 (i) depreciation of any habitable property;
 15 (ii) costs of maintenance, repair, or upkeep of any
 16 habitable property;

17 (iii) payment of one-half of real property taxes paid
 18 on any habitable property located within the state of
 19 Montana;

20 (iv) federal or state income taxes paid on income
 21 earned or accrued in Montana;

22 (v) gasoline taxes or sales taxes for items of
 23 personal use;

24 (vi) any other item unless listed in subsection (2)-(c)
 25 of this section.

1 ~~(c) In determining "total personal income" deduction~~
 2 ~~shall be allowed for:~~
 3 ~~(i) alimony payments by the payer;~~
 4 ~~(ii) extraordinary medical expenses on the same basis~~
 5 ~~as in the federal or state income tax returns;~~
 6 ~~(iii) actual costs of conducting a business or~~
 7 ~~profession, not expressly disallowed under subsection (2)~~
 8 ~~(b) of this section provided such costs are actually~~
 9 ~~incurred and are payable (even if not paid) during the~~
 10 ~~taxpayer's taxable year.~~

11 (2) (A) TOTAL PERSONAL INCOME MEANS ADJUSTED GROSS
 12 INCOME AS DEFINED IN 84-4905.

13 (3) "Governmental unit" means school districts,
 14 incorporated cities and towns, counties, and state.

15 (4) "Department" means the department of revenue,
 16 state of Montana.

17 (5) "Mill-equivalent" means that fraction of a mill
 18 that total personal income will be multiplied by to
 19 determine the replacement tax at the same time a mill is
 20 assessed against taxable valuation. This fraction will be
 21 determined by the department.

22 Section 4. Duties of the department. The department
 23 shall:

24 (1) in order to administer the property tax
 25 replacement act more professionally and to guarantee

1 confidentiality, establish a centralized, computerized
 2 system;

3 (2) provide forms and instructions to the county
 4 treasurers;

5 (3) interpret this act for county officials to secure
 6 uniformity of application and act as arbiter between
 7 counties;

8 (4) hear appeals taken from decisions of county
 9 officials regarding legal residence, taxing districts, and
 10 taxpayers' complaints. Decisions may be further appealed to
 11 the county tax appeal board and to the state tax appeal
 12 board.

13 (5) establish and maintain a separate listing of all
 14 habitable property. In all structures used or designed
 15 partially for human habitation and partially for other uses,
 16 the appraisers shall make the proper division and make two
 17 assessments. Although hotels, rooming houses, and motels
 18 serving transient or nonpermanent tenants are not included,
 19 the appraisers shall determine if portions of these
 20 establishments are used by a family or head of household for
 21 long-term occupancy; and if they so determine they shall
 22 also determine the proper division and make two assessments.

23 (6) in 1978 and thereafter prepare property tax
 24 statements for habitable property and process them
 25 separately from other tax statements, except as applies to

1 special taxing districts as explained in [section 13 (3)].
 2 Then in each governmental unit the department shall
 3 determine the ratio which the total taxable value of the
 4 habitable property against which millage is not assessed
 5 bears to the grand total taxable value in the respective
 6 governmental units. The ratios so arrived at shall be used
 7 to determine the dollar amounts of the approved budgets of
 8 the respective governmental units which are to be replaced
 9 by the property replacement tax.

10 (7) no later than August 1, 1979, determine the
 11 mill-equivalent which shall be determined by analyzing the
 12 total personal income reported in April, 1979, and other
 13 pertinent data;

14 (8) provide the formula which local officials will use
 15 in calculating the millage to be applied to taxable
 16 valuations and the mill-equivalents to be applied to total
 17 personal income to determine the replacement tax to meet the
 18 budgets;

19 (9) after the first year of this law's operation, if
 20 in its judgment sufficient data is not yet available to
 21 proceed to the final implementation of the law or if
 22 unanticipated problems have arisen, direct a second year of
 23 operation according to the provisions for the first year's
 24 operation. If this decision is made, the department may also
 25 delay for 1 year the requirement of subsections (7) and (8)

1 of this section.

2 Section 5. Duties of county officials. (1) The county
 3 assessor shall mail on or before February 20, 1979, and each
 4 year thereafter to every person in the county required to
 5 file a return under this act and who may not be on the list
 6 to receive a state income tax form from the department of
 7 revenue a brief form which he shall also have available in
 8 his office for the general public, together with printed
 9 instructions and a strong, opaque return envelope addressed
 10 to the proper section of the department in Helena. The
 11 department shall also enclose this form with the state
 12 income tax form. On this form the taxpayer shall provide
 13 name, address, social security numbers of himself and
 14 spouse, school district, city or town, and total personal
 15 income. He shall also indicate in the space provided for
 16 that purpose whether or not his income was subject to
 17 withholding for the previous taxable year. ~~The total~~
 18 ~~personal income shall be itemized according to the~~
 19 ~~categories listed in section 3-(2).~~ Failure to receive the
 20 necessary form by mail does not excuse an individual from
 21 securing a form and making a report. ~~The forms and~~
 22 ~~instructions shall explain that the total personal income~~
 23 ~~requires the inclusion of several items not included in~~
 24 ~~federal or state returns, and every resident EVERY TAXPAYER~~
 25 with a yearly income in excess of \$600 must file a return.

1 The reports shall be completed and mailed to the department
2 no later than April 15 of each year. As these reports are
3 received by the department it shall sort and record the
4 total personal income of the taxpayer in each governmental
5 unit in which the taxpayer is a resident.

6 (2) On the second Monday of July, 1979, unless
7 postponed for 1 year by the department, and each year
8 thereafter, the county commissioners, with the advice of the
9 department, shall furnish to all officials who set millages
10 the official estimates of the total personal income for each
11 governmental unit. To arrive at these estimates the
12 commissioners shall take into account the total personal
13 income of the previous year as well as any other information
14 or studies which are available.

15 (3) The county tax appeal board shall hear and
16 determine questions as to legal residence of taxpayers,
17 questions between taxing districts, and complaints of
18 taxpayers. Appeals may be taken to the state tax appeal
19 board.

20 (4) After the first year of operation those officials
21 who set CALCULATE mill levies shall apply the
22 mill-equivalent which has been established by the department
23 for all millages determined by law to the official estimates
24 of total personal income provided by the county
25 commissioners. To meet all legally determined budgets they

1 ~~THE RESPONSIBLE OFFICIALS~~ shall calculate the millages to be
2 assessed against all taxable valuations of the governmental
3 units and the mill-equivalents which will be applied against
4 all the total personal income of the governmental units.
5 The formula for this will have been provided. However, when
6 the total personal income forms are received by the
7 department in April, 1980, and thereafter, the department
8 shall as promptly as possible notify the county treasurers
9 as to the total personal income of the county and of each
10 taxing jurisdiction therein, and the county treasurer shall
11 promptly furnish to all officials who set CALCULATE mill
12 levies the corrected total personal income for each
13 governmental unit. The mill-equivalents which were
14 previously calculated on the basis of the official estimates
15 shall now be corrected to provide the exact anticipated
16 revenue. It is these corrected mill-equivalents which shall
17 be forwarded to the department and applied to each person's
18 total personal income.

19 Section 6. Withholding. (1) In order to insure
20 collection in the manner and to the extent provided by this
21 act, each employer (as defined in 84-4942) making payment of
22 wages (as defined in 84-4942) shall deduct and withhold
23 beginning January 1, 1978, upon such wages 1% thereof, and
24 after full implementation, 2% thereof.

25 (2) Each employer shall be liable for the amounts

1 required to be deducted and withheld and such amounts shall
2 be considered as a tax; with respect thereto the employee
3 (as defined in 84-4942) shall be considered a taxpayer.

4 (3) On or before the last day of the months of April,
5 July, October, and January of each calendar year beginning
6 January 1, 1978, each employer subject to the provisions of
7 this section shall file a return in such form and containing
8 such information as required by the department and shall pay
9 therewith the amount required by this section to be deducted
10 and withheld by the employer from the wages paid during the
11 preceding quarterly period of 3 months. However, when the
12 total amount of tax withheld on account of all employees is
13 less than \$10 in each quarterly period of any year, one
14 yearly report shall be filed and amounts withheld paid
15 therewith on or before February 15, 1979, and each year
16 thereafter.

17 (4) All amounts deducted and withheld shall be
18 considered as a tax collected, and no employee has any right
19 of action against any employer to any money deducted and
20 withheld from his wages and paid to the state of Montana in
21 compliance with this section.

22 (5) Each employer shall, prior to February 15 in each
23 year, beginning in 1979, furnish to each employee a written
24 statement showing the total wages paid by the employer to
25 the employee during the preceding calendar year, the amount

1 of the federal income tax withheld, the amount of state
2 income tax withheld, and the tax withheld under the
3 provisions of this act. The statement shall contain such
4 additional information and be in such form as the department
5 prescribes, and a duplicate thereof shall be filed by the
6 employee with his report to the department.

7 (6) Each employer shall file with the department on or
8 before February 15 each year a statement in such form and
9 containing such information as the department requires,
10 including the total wages paid to each employee during the
11 preceding calendar year or any part thereof, and showing the
12 total amount of the federal income tax deducted and
13 withheld, the amount of state income tax deducted and
14 withheld, and the total amount of the tax deducted and
15 withheld under the provisions of this section.

16 (7) Each employer who deducts and withholds any
17 amounts under this section shall hold the same in trust for
18 the state of Montana and if any tax imposed by this act or
19 any portion thereof is not paid within 60 days after the
20 same becomes due, the department shall issue a warrant under
21 its official seal which shall have the same force and effect
22 and shall be enforced and carried into execution in the same
23 manner as that specified in 84-4928 with respect to warrants
24 relating to unpaid income taxes.

25 (8) If an employer fails to pay over to the state the

1 tax deducted and withheld or fails to furnish any statement
 2 provided for, additions to the amount of such tax shall be
 3 imposed and added as those specified in 84-4924 with respect
 4 to failure to make a return of income or to pay any income
 5 tax; and an individual, corporation, or partnership or any
 6 officer or employee thereof who, with the intent to evade
 7 any tax or any requirement of this act or with the intent to
 8 evade tax, files or supplies any false or fraudulent
 9 statement or information, is liable to the same penalties as
 10 those imposed by 84-4924 with respect to filing or supplying
 11 false statements or information with respect to income
 12 taxes.

13 (9) Each taxpayer subject to withholding under this
 14 section shall use throughout the remainder of the calendar
 15 year his domicile as of his first employment of that year,
 16 and he shall file the report required by [section 5 (1)] to
 17 the credit of that county regardless of whether or not his
 18 domicile is changed during the year. Each taxpayer subject
 19 to withholding shall provide each of his employers with the
 20 address to be used on the withholding forms. If a later
 21 mailing address of the employee is different from that used
 22 for withholding, the W2 form provided to the employee shall
 23 be sent to this later mailing address. No taxpayer may pay a
 24 property tax replacement tax based on his total personal
 25 income to more than one county during any one taxable year.

1 Should a taxpayer change his domicile, he shall notify all
 2 his employers and the county treasurers concerned of his new
 3 residence, and such change shall become effective as of
 4 January 1 of the following year.

5 (10) The department may adopt rules for carrying out
 6 the provisions of this act and the enforcement thereof. All
 7 of the remedies available to the state of Montana for the
 8 administration, enforcement, and collection of income taxes
 9 shall be available and shall apply to the tax required to be
 10 deducted and withheld under the provisions of this section.

11 Section 7. Nature of fund -- disbursement to counties.

12 (1) Amounts collected by the department under the provisions
 13 of this act are county funds and shall be held in trust for
 14 the counties of this state. Such funds shall be deposited
 15 upon receipt to a separate account provided for that purpose
 16 and invested so as to obtain the most favorable rate of
 17 interest consistent with approved practices.

18 (2) In May of 1979, and periodically thereafter, the
 19 revenue collected for each county by withholding shall be
 20 forwarded to that county by the department. The department
 21 shall also notify the county treasurer as to the amount of
 22 the revenue to be credited to each governmental unit.

23 Section 8. Introductory period. In the year beginning
 24 January 1, 1978, property will be assessed and levies
 25 applied and tax bills sent as in previous years except as

1 noted in [section 4 (6)]. However, only the first half
 2 payment, except as applies to special taxing districts as
 3 explained in [section 13 (3)], will be collected on
 4 habitable property. The second half payment will be replaced
 5 by the property replacement tax in the following manner:

6 (1) As the reports received by the department are
 7 sorted, the total personal income of the residents of each
 8 governmental unit shall be determined. For each of the
 9 governmental units the total of the revenue to be replaced
 10 shall be divided by the total personal income of the
 11 residents of that governmental unit. The quotient so arrived
 12 at shall be the rate to be used against each taxpayer's
 13 total personal income to produce the replacement revenue for
 14 that unit.

15 (2) Each taxpayer's total personal income shall then
 16 be multiplied by the total of the rates for the units for
 17 which he is liable and he shall receive his tax statement by
 18 mail in a strong, opaque, sealed envelope, together with
 19 such an explanation of the method by which it was determined
 20 as to enable him to check its accuracy. The statement shall
 21 be mailed on or before June 20, 1979, and each year
 22 thereafter. For each taxpayer who submitted a withholding
 23 statement, the amount withheld shall be subtracted from his
 24 tax liability, and in the event the amount withheld exceeds
 25 the tax liability of the taxpayer, the balance, if \$1 or

1 more, shall be refunded. The taxpayer shall pay the amount
 2 due on or before July 5, 1979, and on or before July 5 each
 3 year thereafter. If the tax due is less than \$1 it shall be
 4 forgiven.

5 (3) All the above transactions shall be handled by the
 6 department, and all county funds, interest, and penalties
 7 collected by the department shall be periodically forwarded
 8 to the counties for distribution to the taxing
 9 jurisdictions.

10 Section 9. Penalty. All replacement taxes which are
 11 due but not paid when due each year shall be delinquent and
 12 shall draw interest at the rate of 2/3 of 1% per month until
 13 paid and a penalty of 5% shall be added thereto.

14 Section 10. Collection of delinquent taxes. ON OR
 15 BEFORE AUGUST 1, 1979, AND EACH YEAR THEREAFTER, THE
 16 DEPARTMENT SHALL FURNISH TO EACH COUNTY A LIST OF ITS
 17 DELINQUENT TAXPAYERS. Action may be brought by the county
 18 attorney at any time at the request of the county treasurer
 19 in the name of the state to recover the amount of any taxes,
 20 penalties, and interest due. When a taxpayer becomes
 21 delinquent, the confidentiality which the department is
 22 required by law to maintain does not apply after the matter
 23 is placed in the hands of the county attorney. Judgments
 24 secured under this section shall have priority over all
 25 other judgments.

1 Section 11. Taxpayers not subject to withholding. On
 2 or before September 30 after full implementation of this act
 3 and each year thereafter, each taxpayer who must file a
 4 report and who is not subject to withholding shall pay to
 5 the department, as an advance partial payment of his
 6 replacement tax, 2% of his total personal income for the
 7 first 6 months of that year. A person entering or leaving
 8 the state on a permanent basis within this period shall pay
 9 on that portion of his total personal income which he earned
 10 or received while a resident of Montana. This one-half year
 11 payment shall be credited to the person making it and shall
 12 be subtracted from the amount the taxpayer owes for the
 13 entire year when his next tax statement is presented
 14 following the reports due each April 15. When the total
 15 personal income reports are received, the corrected
 16 mill-equivalents which have been set shall be applied
 17 against each taxpayer's total personal income. The
 18 replacement tax payment previously received for the first
 19 half year shall be subtracted from his total tax and a
 20 statement sent to him for the remainder. With this statement
 21 shall be a simple explanation of how the figures were
 22 arrived at. ~~These statements shall be mailed on or before~~
 23 ~~May 15 of each year, and the taxpayer shall pay the amount~~
 24 ~~due on or before June 15 of each year.~~

25 Section 12. Nonresidents. A nonresident for purposes

1 ~~of this act is a person who is not domiciled in Montana for~~
 2 ~~at least 6 months of the calendar year preceding the April~~
 3 ~~15 reporting date and who does not report at least one-half~~
 4 ~~of his income to Montana for income tax purposes, whether or~~
 5 ~~not one-half of the income was earned in Montana. Habitable~~
 6 ~~property occupied either regularly or part time by~~
 7 ~~nonresidents of Montana, whether self-owned or rented, shall~~
 8 ~~continue to be assessed and taxed as nonhabitable property.~~
 9 ~~However, landlords of multiple housing and operators of~~
 10 ~~mobile home courts shall, beginning July 1, 1978, require~~
 11 ~~each tenant to fill out in duplicate and sign a short form~~
 12 ~~stating that he is or is not a resident of Montana as~~
 13 ~~determined by the above definitions. The landlord shall then~~
 14 ~~add 10% to the rent of nonresident tenants. This is a~~
 15 ~~nonresident property replacement tax which shall be~~
 16 ~~transmitted quarterly to the county treasurer. This money~~
 17 ~~shall be deposited to the credit of the county general fund~~
 18 ~~and used to reduce the mill levy the following year. The~~
 19 ~~landlord shall also transmit to the county treasurer one~~
 20 ~~copy of each tenant form, both resident and nonresident, and~~
 21 ~~shall retain the duplicate for his files. INFORMATION TO~~
 22 ~~TENANTS. WHEN A LANDLORD RECEIVES HIS 1978 TAX BILL HE SHALL~~
 23 ~~INFORM EACH TENANT IN WRITING OF HIS REMISSION OF TAXES ON~~
 24 ~~THE RENTAL AND HIS INTENTIONS CONCERNING ANY REDUCTION IN~~
 25 ~~RENT.~~

1 Section 13. Applicability to existing law. (1) Nothing
 2 in this act shall be construed to affect in any way property
 3 tax laws or practices except on habitable property as herein
 4 defined and as such property supports schools, cities or
 5 towns, counties, and the state. THE TAXES REQUIRED BY THIS
 6 ACT SHALL COMPLY WITH THE MANDATORY TAX LEVIES UPON PROPERTY
 7 REQUIRED ELSEWHERE IN THE REVISED CODE OF MONTANA.

8 (2) This act contemplates no change in the manner in
 9 which special improvement districts' assessments are
 10 handled. Such payments may be billed and collected with the
 11 first half of the regular taxes or independently.

12 (3) This act contemplates no change in the manner of
 13 collection of taxes on special taxing districts, except that
 14 such taxes may be collected in November instead of
 15 collecting only one-half at that time.

16 (4) Notwithstanding any of the provisions of this act,
 17 all general obligation bonds now outstanding or which may be
 18 issued in the future will continue to be an obligation of
 19 all property pledged to their redemption because the
 20 replacement tax herein authorized shall be considered as an
 21 alternative method of tax assessment and collection on
 22 habitable property.

23 (5) WHEN TAX ADVANTAGES OR PENALTIES ARE USED AS
 24 INCENTIVES FOR PROPER USE OF LAND UNDER THE MONTANA ECONOMIC
 25 LAND DEVELOPMENT ACT, SELECTED HABITABLE PROPERTY THAT IS

1 EXCUSED BY THIS CHAPTER FROM HAVING MILLAGE LEVIED AGAINST
 2 IT MAY HAVE VARIABLE TAX PENALTIES REAPPLIED AGAINST IT AS
 3 PROVIDED BY LAW.

4 (5)(6) Whenever this act refers to another section of
 5 the laws of Montana, it refers to that law as presently and
 6 subsequently amended.

7 Section 14. Divulging information unlawful --
 8 exceptions -- penalties. Except as provided in 84-4931 and
 9 in [section 10 of this act], it is unlawful for any person
 10 to divulge any information contained in reports filed by
 11 taxpayers under the terms of this act. A violation of this
 12 provision is punishable by a fine not exceeding \$1,000 or
 13 imprisonment in the county jail not exceeding 1 year, or
 14 both, and if such offender be an officer or employee of the
 15 state or county, he shall be dismissed from office and be
 16 ineligible to hold any public office in this state for 1
 17 year thereafter.

18 Section 15. Severability. It is the intent of the
 19 legislature that if a part of this act is invalid all valid
 20 parts that are severable therefrom remain in effect. If a
 21 part of this act is invalid in one or more of its
 22 applications, that part remains in effect in all valid
 23 applications severable from the invalid applications.

-End-

HOUSE BILL NO. 3

INTRODUCED BY DUSSAULT, W. BAETH, BARDANOUVE, BRADLEY,
 BRAND, COONEY, COURTNEY, ELLIS, ESTENSON, EUDAILY, FRATES,
 GILLIGAN, GOULD, E. GUNDERSON, HANSEN, HUENNEKENS,
 HARRINGTON, HOLMES, KANDUCH, KENNY, KIMBLE, MENAHAN,
 METCALF, O'CONNELL, PALMER, ROBBINS, SHELDEN, HARPER,
 STAIGHILLER, SCULLY, VINCENT, WALDRON, J. GUNDERSON,

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A
 REPLACEMENT TAX FOR THE PROPERTY TAX NOW LEVIED ON HABITABLE
 PROPERTY AND PROVIDING A METHOD FOR CALCULATING AND
 COLLECTING THE REPLACEMENT TAX; DEFINING HABITABLE PROPERTY
 AND PROVIDING FOR ITS SEPARATE LISTING; AND PROVIDING FOR
 WITHHOLDING."

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

Section 1. Short title. This act may be cited as the
 "Property Tax Replacement Act".

Section 2. Declaration of purpose. The purpose of this
 act is to provide an alternative method of assessing and
 collecting property taxes on housing. Basic to this act is
 the presumption that all persons use housing and that all
 should therefore pay taxes thereon in accordance with their
 ability. To accomplish this, the replacement tax, although
 not an income tax, will depend upon each person's total

personal income as do "circuit breaker" laws but, calculated
 in a proportional manner, will vary according to taxing
 jurisdictions and revenue needs. Since all now vote on bond
 issues, this act requires all to participate in their
 retirement. It will encourage more and better housing and
 will often prevent persons from losing their homes due to
 inability to pay high property taxes.

Section 3. Definitions. For the purpose of this act
 the following definitions apply:

(1) (a) "Habitable property" means all urban and rural
 buildings, houses, dwellings, duplexes, apartments, rest
 homes, or mobile homes used or intended for human habitation
 as domiciles and such supplementary buildings as a garage or
 small storage building normally associated with a residence
 and not income-producing. Every person is presumed to have a
 domicile but each head of household shall be entitled to
 only one unit qualifying as habitable property in any year,
 and all other buildings he may occupy will not be considered
 habitable property for purposes of this act. This does not
 preclude the ownership of rental or other habitable property
 in which other persons are domiciled. TO QUALIFY AS
HABITABLE PROPERTY, THE UNIT MUST BE THE PRIMARY RESIDENCE
OF THE TAXPAYER. RECREATIONAL PROPERTY THAT IS NOT THE
PRIMARY RESIDENCE OF THE OCCUPANT DOES NOT QUALIFY AS
HABITABLE PROPERTY.

1 (b) Habitable property also means the land occupied by
 2 the building not exceeding a typical town or city lot in
 3 area for duplexes or single family dwellings and for
 4 multiple family buildings not exceeding that normally used
 5 for such construction, considering the number of units and
 6 type of construction. Somewhat larger lots may be allowed
 7 providing such yards complement the building, are not
 8 income-producing, and do not lend themselves to separation
 9 and development. An agent of the department of revenue shall
 10 make this determination subject to the appeals procedure.
 11 When habitable property is located on units of land larger
 12 than indicated above and on which additional development may
 13 be expected in the future or which may be income-producing,
 14 separate listing and taxing of this additional land is
 15 required. An agent of the department of revenue shall make
 16 the determination subject to the appeals procedure. All farm
 17 or ranch homes and the land on which they sit shall be
 18 assessed as comparable city lots and residences, and this
 19 value shall be subtracted from the assessed value of the
 20 farm or ranch. Habitable property does not mean mobile
 21 homes used for recreational purposes or stock in trade of a
 22 distributor or dealer.

23 ~~(2) (a) "Total personal income" means income from~~
 24 ~~whatever source, including but not limited to, compensation~~
 25 ~~for services, income derived from dealings in property,~~

1 ~~income derived from business, interest, rent, royalties,~~
 2 ~~dividends, alimony, and separate maintenance payments,~~
 3 ~~annuities, income from life insurance, and endowment~~
 4 ~~contracts, pensions, social security payments, railroad~~
 5 ~~retirement, income from discharge of indebtedness,~~
 6 ~~partnership income, income in respect of a decedent, income~~
 7 ~~from an interest in an estate or trust, and income otherwise~~
 8 ~~classified as "capital gains" for federal income tax~~
 9 ~~purposes. Reference may be made to the federal internal~~
 10 ~~revenue code for the determination of the scope of the~~
 11 ~~foregoing terms.~~

12 ~~(b) In determining "total personal income" no~~
 13 ~~deduction may be allowed for:~~

14 ~~(i) depreciation of any habitable property;~~
 15 ~~(ii) costs of maintenance, repair, or upkeep of any~~
 16 ~~habitable property;~~

17 ~~(iii) payment of one-half of real property taxes paid~~
 18 ~~on any habitable property located within the state of~~
 19 ~~Montana;~~

20 ~~(iv) federal or state income taxes paid on income~~
 21 ~~earned or accrued in Montana;~~

22 ~~(v) gasoline taxes or sales taxes for items of~~
 23 ~~personal use;~~

24 ~~(vi) any other item unless listed in subsection (2) (c)~~
 25 ~~of this section.~~

1 ~~(c) in determining "total personal income" deduction~~
 2 ~~shall be allowed for~~
 3 ~~(i) alimony payments by the payor~~
 4 ~~(ii) extraordinary medical expenses on the same basis~~
 5 ~~as in the federal or state income tax return~~
 6 ~~(iii) actual costs of conducting a business or~~
 7 ~~professionary not expressly disallowed under subsection (2)~~
 8 ~~(b) of this section provided such costs are actually~~
 9 ~~incurred and are payable (even if not paid) during the~~
 10 ~~taxpayer's taxable year~~

11 (2) (A) TOTAL PERSONAL INCOME MEANS ADJUSTED GROSS
 12 INCOME AS DEFINED IN 84-4905.

13 (3) "Governmental unit" means school districts,
 14 incorporated cities and towns, counties, and state.

15 (4) "Department" means the department of revenue,
 16 state of Montana.

17 (5) "Mill-equivalent" means that fraction of a mill
 18 that total personal income will be multiplied by to
 19 determine the replacement tax at the same time a mill is
 20 assessed against taxable valuation. This fraction will be
 21 determined by the department.

22 Section 4. Duties of the department. The department
 23 shall:

24 (1) in order to administer the property tax
 25 replacement act more professionally and to guarantee

1 confidentiality, establish a centralized, computerized
 2 system;

3 (2) provide forms and instructions to the county
 4 treasurers;

5 (3) interpret this act for county officials to secure
 6 uniformity of application and act as arbiter between
 7 counties;

8 (4) hear appeals taken from decisions of county
 9 officials regarding legal residence, taxing districts, and
 10 taxpayers' complaints. Decisions may be further appealed to
 11 the county tax appeal board and to the state tax appeal
 12 board.

13 (5) establish and maintain a separate listing of all
 14 habitable property. In all structures used or designed
 15 partially for human habitation and partially for other uses,
 16 the appraisers shall make the proper division and make two
 17 assessments. Although hotels, rooming houses, and motels
 18 serving transient or nonpermanent tenants are not included,
 19 the appraisers shall determine if portions of these
 20 establishments are used by a family or head of household for
 21 long-term occupancy; and if they so determine they shall
 22 also determine the proper division and make two assessments.

23 (6) in 1978 and thereafter prepare property tax
 24 statements for habitable property and process them
 25 separately from other tax statements, except as applies to

1 special taxing districts as explained in [section 13 (3)].
 2 Then in each governmental unit the department shall
 3 determine the ratio which the total taxable value of the
 4 habitable property against which millage is not assessed
 5 bears to the grand total taxable value in the respective
 6 governmental units. The ratios so arrived at shall be used
 7 to determine the dollar amounts of the approved budgets of
 8 the respective governmental units which are to be replaced
 9 by the property replacement tax.

10 (7) no later than August 1, 1979, determine the
 11 mill-equivalent which shall be determined by analyzing the
 12 total personal income reported in April, 1979, and other
 13 pertinent data;

14 (8) provide the formula which local officials will use
 15 in calculating the millage to be applied to taxable
 16 valuations and the mill-equivalents to be applied to total
 17 personal income to determine the replacement tax to meet the
 18 budgets;

19 (9) after the first year of this law's operation, if
 20 in its judgment sufficient data is not yet available to
 21 proceed to the final implementation of the law or if
 22 unanticipated problems have arisen, direct a second year of
 23 operation according to the provisions for the first year's
 24 operation. If this decision is made, the department may also
 25 delay for 1 year the requirement of subsections (7) and (8)

1 of this section.

2 Section 5. Duties of county officials. (1) The county
 3 assessor shall mail on or before February 20, 1979, and each
 4 year thereafter to every person in the county required to
 5 file a return under this act and who may not be on the list
 6 to receive a state income tax form from the department of
 7 revenue a brief form which he shall also have available in
 8 his office for the general public, together with printed
 9 instructions and a strong, opaque return envelope addressed
 10 to the proper section of the department in Helena. The
 11 department shall also enclose this form with the state
 12 income tax form. On this form the taxpayer shall provide
 13 name, address, social security numbers of himself and
 14 spouse, school district, city or town, and total personal
 15 income. He shall also indicate in the space provided for
 16 that purpose whether or not his income was subject to
 17 withholding for the previous taxable year. ~~The total~~
 18 ~~personal income shall be itemized according to the~~
 19 ~~categories listed in section 3 (2).~~ Failure to receive the
 20 necessary form by mail does not excuse an individual from
 21 securing a form and making a report. ~~the forms and~~
 22 ~~instructions shall explain that the total personal income~~
 23 ~~requires the inclusion of several items not included in~~
 24 ~~federal or state returns, and every resident~~ EVERY TAXPAYER
 25 with a yearly income in excess of \$600 must file a return.

1 The reports shall be completed and mailed to the department
 2 no later than April 15 of each year. As these reports are
 3 received by the department it shall sort and record the
 4 total personal income of the taxpayer in each governmental
 5 unit in which the taxpayer is a resident.

6 (2) On the second Monday of July, 1979, unless
 7 postponed for 1 year by the department, and each year
 8 thereafter, the county commissioners, with the advice of the
 9 department, shall furnish to all officials who set millages
 10 the official estimates of the total personal income for each
 11 governmental unit. To arrive at these estimates the
 12 commissioners shall take into account the total personal
 13 income of the previous year as well as any other information
 14 or studies which are available.

15 (3) The county tax appeal board shall hear and
 16 determine questions as to legal residence of taxpayers,
 17 questions between taxing districts, and complaints of
 18 taxpayers. Appeals may be taken to the state tax appeal
 19 board.

20 (4) After the first year of operation those officials
 21 who set CALCULATE mill levies shall apply the
 22 mill-equivalent which has been established by the department
 23 for all millages determined by law to the official estimates
 24 of total personal income provided by the county
 25 commissioners. To meet all legally determined budgets they

1 THE RESPONSIBLE OFFICIALS shall calculate the millages to be
 2 assessed against all taxable valuations of the governmental
 3 units and the mill-equivalents which will be applied against
 4 all the total personal income of the governmental units.
 5 The formula for this will have been provided. However, when
 6 the total personal income forms are received by the
 7 department in April, 1980, and thereafter, the department
 8 shall as promptly as possible notify the county treasurers
 9 as to the total personal income of the county and of each
 10 taxing jurisdiction therein, and the county treasurer shall
 11 promptly furnish to all officials who set CALCULATE mill
 12 levies the corrected total personal income for each
 13 governmental unit. The mill-equivalents which were
 14 previously calculated on the basis of the official estimates
 15 shall now be corrected to provide the exact anticipated
 16 revenue. It is these corrected mill-equivalents which shall
 17 be forwarded to the department and applied to each person's
 18 total personal income.

19 Section 6. Withholding. (1) In order to insure
 20 collection in the manner and to the extent provided by this
 21 act, each employer (as defined in 84-4942) making payment of
 22 wages (as defined in 84-4942) shall deduct and withhold
 23 beginning January 1, 1978, upon such wages 1% thereof, and
 24 after full implementation, 2% thereof.

25 (2) Each employer shall be liable for the amounts

1 required to be deducted and withheld and such amounts shall
2 be considered as a tax; with respect thereto the employee
3 (as defined in 84-4942) shall be considered a taxpayer.

4 (3) On or before the last day of the months of April,
5 July, October, and January of each calendar year beginning
6 January 1, 1978, each employer subject to the provisions of
7 this section shall file a return in such form and containing
8 such information as required by the department and shall pay
9 therewith the amount required by this section to be deducted
10 and withheld by the employer from the wages paid during the
11 preceding quarterly period of 3 months. However, when the
12 total amount of tax withheld on account of all employees is
13 less than \$10 in each quarterly period of any year, one
14 yearly report shall be filed and amounts withheld paid
15 therewith on or before February 15, 1979, and each year
16 thereafter.

17 (4) All amounts deducted and withheld shall be
18 considered as a tax collected, and no employee has any right
19 of action against any employer to any money deducted and
20 withheld from his wages and paid to the state of Montana in
21 compliance with this section.

22 (5) Each employer shall, prior to February 15 in each
23 year, beginning in 1979, furnish to each employee a written
24 statement showing the total wages paid by the employer to
25 the employee during the preceding calendar year, the amount

1 of the federal income tax withheld, the amount of state
2 income tax withheld, and the tax withheld under the
3 provisions of this act. The statement shall contain such
4 additional information and be in such form as the department
5 prescribes, and a duplicate thereof shall be filed by the
6 employee with his report to the department.

7 (6) Each employer shall file with the department on or
8 before February 15 each year a statement in such form and
9 containing such information as the department requires,
10 including the total wages paid to each employee during the
11 preceding calendar year or any part thereof, and showing the
12 total amount of the federal income tax deducted and
13 withheld, the amount of state income tax deducted and
14 withheld, and the total amount of the tax deducted and
15 withheld under the provisions of this section.

16 (7) Each employer who deducts and withholds any
17 amounts under this section shall hold the same in trust for
18 the state of Montana and if any tax imposed by this act or
19 any portion thereof is not paid within 60 days after the
20 same becomes due, the department shall issue a warrant under
21 its official seal which shall have the same force and effect
22 and shall be enforced and carried into execution in the same
23 manner as that specified in 84-4928 with respect to warrants
24 relating to unpaid income taxes.

25 (8) If an employer fails to pay over to the state the

1 tax deducted and withheld or fails to furnish any statement
 2 provided for, additions to the amount of such tax shall be
 3 imposed and added as those specified in 84-4924 with respect
 4 to failure to make a return of income or to pay any income
 5 tax; and an individual, corporation, or partnership or any
 6 officer or employee thereof who, with the intent to evade
 7 any tax or any requirement of this act or with the intent to
 8 evade tax, files or supplies any false or fraudulent
 9 statement or information, is liable to the same penalties as
 10 those imposed by 84-4924 with respect to filing or supplying
 11 false statements or information with respect to income
 12 taxes.

13 (9) Each taxpayer subject to withholding under this
 14 section shall use throughout the remainder of the calendar
 15 year his domicile as of his first employment of that year,
 16 and he shall file the report required by [section 5 (1)] to
 17 the credit of that county regardless of whether or not his
 18 domicile is changed during the year. Each taxpayer subject
 19 to withholding shall provide each of his employers with the
 20 address to be used on the withholding forms. If a later
 21 mailing address of the employee is different from that used
 22 for withholding, the W2 form provided to the employee shall
 23 be sent to this later mailing address. No taxpayer may pay a
 24 property tax replacement tax based on his total personal
 25 income to more than one county during any one taxable year.

1 Should a taxpayer change his domicile, he shall notify all
 2 his employers and the county treasurers concerned of his new
 3 residence, and such change shall become effective as of
 4 January 1 of the following year.

5 (10) The department may adopt rules for carrying out
 6 the provisions of this act and the enforcement thereof. All
 7 of the remedies available to the state of Montana for the
 8 administration, enforcement, and collection of income taxes
 9 shall be available and shall apply to the tax required to be
 10 deducted and withheld under the provisions of this section.

11 Section 7. Nature of fund -- disbursement to counties.
 12 (1) Amounts collected by the department under the provisions
 13 of this act are county funds and shall be held in trust for
 14 the counties of this state. Such funds shall be deposited
 15 upon receipt to a separate account provided for that purpose
 16 and invested so as to obtain the most favorable rate of
 17 interest consistent with approved practices.

18 (2) In May of 1979, and periodically thereafter, the
 19 revenue collected for each county by withholding shall be
 20 forwarded to that county by the department. The department
 21 shall also notify the county treasurer as to the amount of
 22 the revenue to be credited to each governmental unit.

23 Section 8. Introductory period. In the year beginning
 24 January 1, 1978, property will be assessed and levies
 25 applied and tax bills sent as in previous years except as

1 noted in [section 4 (6)]. However, only the first half
 2 payment, except as applies to special taxing districts as
 3 explained in [section 13 (3)], will be collected on
 4 habitable property. The second half payment will be replaced
 5 by the property replacement tax in the following manner:

6 (1) As the reports received by the department are
 7 sorted, the total personal income of the residents of each
 8 governmental unit shall be determined. For each of the
 9 governmental units the total of the revenue to be replaced
 10 shall be divided by the total personal income of the
 11 residents of that governmental unit. The quotient so arrived
 12 at shall be the rate to be used against each taxpayer's
 13 total personal income to produce the replacement revenue for
 14 that unit.

15 (2) Each taxpayer's total personal income shall then
 16 be multiplied by the total of the rates for the units for
 17 which he is liable and he shall receive his tax statement by
 18 mail in a strong, opaque, sealed envelope, together with
 19 such an explanation of the method by which it was determined
 20 as to enable him to check its accuracy. The statement shall
 21 be mailed on or before June 20, 1979, and each year
 22 thereafter. For each taxpayer who submitted a withholding
 23 statement, the amount withheld shall be subtracted from his
 24 tax liability, and in the event the amount withheld exceeds
 25 the tax liability of the taxpayer, the balance, if \$1 or

1 more, shall be refunded. The taxpayer shall pay the amount
 2 due on or before July 5, 1979, and on or before July 5 each
 3 year thereafter. If the tax due is less than \$1 it shall be
 4 forgiven.

5 (3) All the above transactions shall be handled by the
 6 department, and all county funds, interest, and penalties
 7 collected by the department shall be periodically forwarded
 8 to the counties for distribution to the taxing
 9 jurisdictions.

10 Section 9. Penalty. All replacement taxes which are
 11 due but not paid when due each year shall be delinquent and
 12 shall draw interest at the rate of 2/3 of 1% per month until
 13 paid and a penalty of 5% shall be added thereto.

14 Section 10. Collection of delinquent taxes. ON OR
 15 BEFORE AUGUST 1, 1979, AND EACH YEAR THEREAFTER, THE
 16 DEPARTMENT SHALL FURNISH TO EACH COUNTY A LIST OF ITS
 17 DELINQUENT TAXPAYERS. Action may be brought by the county
 18 attorney at any time at the request of the county treasurer
 19 in the name of the state to recover the amount of any taxes,
 20 penalties, and interest due. When a taxpayer becomes
 21 delinquent, the confidentiality which the department is
 22 required by law to maintain does not apply after the matter
 23 is placed in the hands of the county attorney. Judgments
 24 secured under this section shall have priority over all
 25 other judgments.

1 Section 11. Taxpayers not subject to withholding. On
 2 or before September 30 after full implementation of this act
 3 and each year thereafter, each taxpayer who must file a
 4 report and who is not subject to withholding shall pay to
 5 the department, as an advance partial payment of his
 6 replacement tax, 2% of his total personal income for the
 7 first 6 months of that year. A person entering or leaving
 8 the state on a permanent basis within this period shall pay
 9 on that portion of his total personal income which he earned
 10 or received while a resident of Montana. This one-half year
 11 payment shall be credited to the person making it and shall
 12 be subtracted from the amount the taxpayer owes for the
 13 entire year when his next tax statement is presented
 14 following the reports due each April 15. When the total
 15 personal income reports are received, the corrected
 16 mill-equivalents which have been set shall be applied
 17 against each taxpayer's total personal income. The
 18 replacement tax payment previously received for the first
 19 half year shall be subtracted from his total tax and a
 20 statement sent to him for the remainder. With this statement
 21 shall be a simple explanation of how the figures were
 22 arrived at. ~~These statements shall be mailed on or before~~
 23 ~~May 15 of each year and the taxpayer shall pay the amount~~
 24 ~~due on or before June 10 of each year.~~

25 Section 12. Nonresidents. A nonresident for purposes

1 ~~of this act is a person who is not domiciled in Montana for~~
 2 ~~at least 6 months of the calendar year preceding the April~~
 3 ~~15 reporting date and who does not report at least one-half~~
 4 ~~of his income to Montana for income tax purposes, whether or~~
 5 ~~not one-half of the income was earned in Montana. Habitable~~
 6 ~~property occupied either regularly or part-time by~~
 7 ~~nonresidents of Montana, whether self-owned or rented, shall~~
 8 ~~continue to be assessed and taxed as nonhabitable property.~~
 9 ~~However, landlords of multiple housing and operators of~~
 10 ~~mobile home courts shall, beginning July 1, 1978, require~~
 11 ~~each tenant to fill out in duplicate and sign a short form~~
 12 ~~stating that he is or is not a resident of Montana as~~
 13 ~~determined by the above definitions. The landlord shall then~~
 14 ~~add 10% to the rent of nonresident tenants. This is a~~
 15 ~~nonresident property replacement tax which shall be~~
 16 ~~transmitted quarterly to the county treasurer. This money~~
 17 ~~shall be deposited to the credit of the county general fund~~
 18 ~~and used to reduce the mill levy the following year. The~~
 19 ~~landlord shall also transmit to the county treasurer one~~
 20 ~~copy of each tenant form, both resident and nonresident, and~~
 21 ~~shall retain the duplicate for his files. INFORMATION TO~~
 22 ~~TENANTS. WHEN A LANDLORD RECEIVES HIS 1978 TAX BILL HE SHALL~~
 23 ~~INFORM EACH TENANT IN WRITING OF HIS REMISSION OF TAXES ON~~
 24 ~~THE RENTAL AND HIS INTENTIONS CONCERNING ANY REDUCTION IN~~
 25 ~~RENT.~~

1 Section 13. Applicability to existing law. (1) Nothing
 2 in this act shall be construed to affect in any way property
 3 tax laws or practices except on habitable property as herein
 4 defined and as such property supports schools, cities or
 5 towns, counties, and the state. THE TAXES REQUIRED BY THIS
 6 ACT SHALL COMPLY WITH THE MANDATORY TAX LEVIES UPON PROPERTY
 7 REQUIRED ELSEWHERE IN THE REVISED CODE OF MONTANA.

8 (2) This act contemplates no change in the manner in
 9 which special improvement districts' assessments are
 10 handled. Such payments may be billed and collected with the
 11 first half of the regular taxes or independently.

12 (3) This act contemplates no change in the manner of
 13 collection of taxes on special taxing districts, except that
 14 such taxes may be collected in November instead of
 15 collecting only one-half at that time.

16 (4) Notwithstanding any of the provisions of this act,
 17 all general obligation bonds now outstanding or which may be
 18 issued in the future will continue to be an obligation of
 19 all property pledged to their redemption because the
 20 replacement tax herein authorized shall be considered as an
 21 alternative method of tax assessment and collection on
 22 habitable property.

23 (5) WHEN TAX ADVANTAGES OR PENALTIES ARE USED AS
 24 INCENTIVES FOR PROPER USE OF LAND UNDER THE MONTANA ECONOMIC
 25 LAND DEVELOPMENT ACT, SELECTED HABITABLE PROPERTY THAT IS

1 EXCUSED BY THIS CHAPTER FROM HAVING MILLAGE LEVIED AGAINST
 2 IT MAY HAVE VARIABLE TAX PENALTIES REAPPLIED AGAINST IT AS
 3 PROVIDED BY LAW.

4 ~~(5)~~(6) Whenever this act refers to another section of
 5 the laws of Montana, it refers to that law as presently and
 6 subsequently amended.

7 Section 14. Divulging information unlawful --
 8 exceptions -- penalties. Except as provided in 84-4931 and
 9 in [section 10 of this act], it is unlawful for any person
 10 to divulge any information contained in reports filed by
 11 taxpayers under the terms of this act. A violation of this
 12 provision is punishable by a fine not exceeding \$1,000 or
 13 imprisonment in the county jail not exceeding 1 year, or
 14 both, and if such offender be an officer or employee of the
 15 state or county, he shall be dismissed from office and be
 16 ineligible to hold any public office in this state for 1
 17 year thereafter.

18 Section 15. Severability. It is the intent of the
 19 legislature that if a part of this act is invalid all valid
 20 parts that are severable therefrom remain in effect. If a
 21 part of this act is invalid in one or more of its
 22 applications, that part remains in effect in all valid
 23 applications severable from the invalid applications.

-End-

April 11, 1977

STANDING COMMITTEE REPORT
Senate Committee on Taxation

That House Bill No. 3 be amended as follows:

1. Amend page 2, section 3, line 17.

Following: "property"

Strike: "in any year"

Insert: "at any time"

2. Amend page 5, section 3, line 11.

Following: "INCOME"

Insert: "of a taxpayer, or a taxpayer and spouse filing jointly,"

3. Amend page 5, section 4, line 21.

Following: line 21

Insert: "Section 4. Deductible on income tax return. The tax paid under this act is deductible, when reported, against income for purposes of Title 84, chapter 49, in the same manner taxes on personal and other real property are deductible."

Renumber: following sections.

4. Amend page 6, section 4, line 12.

Following: "board"

Insert: ", except that decisions of the department on legal residence may be appealed directly to the state tax appeal board only"

5. Amend page 8, section 4, line 1.

Following: line 1

Insert: "(10) The department shall revise state income tax return forms to require identification of a taxpayer's elementary school district of residence and whether his primary source of income was subject to withholding during the previous taxable year. The department shall utilize the information so furnished for the purpose of administering this act."

6. Amend page 8, section 5, lines 2 through 24.

Following: "(1)"

Strike: "The county assessor shall mail on or before February 20, 1979, and each year thereafter to every person in the county required to file a return under this act and who may not be on the list to receive a state income tax form from the department of revenue a brief form which he shall also have available to his office for the general public, together with printed instructions and a strong, opaque return envelope addressed to the proper section of the department in Helena. The department shall also enclose this form with the state income tax form. On this form the taxpayer shall provide name, address, social security numbers of himself and spouse, school district, city or town, and total personal income. He shall also indicate in the space provided for that purpose whether or not his income was subject to withholding for the previous taxable year. ~~The total personal income shall be itemized according to the categories listed in section 3-(2).~~ Failure to receive the necessary form by mail does not

excuse an individual from securing a form and making a report. ~~The forms and instructions shall explain that the total personal income requires the inclusion of several items not included in federal or state returns, and every resident.~~"

7. Amend page 9, section 5, line 5.

Following: "resident."

Insert: "The department may extend this filing deadline for good cause shown, for up to three months, with payment of a late filing fee equal to three-fourths of 1% of the tax due added for each month the return is late."

8. Amend page 9, section 5, line 16.

Following: "determine"

Strike: "questions as to legal residence of taxpayers,"

9. Amend page 16, section 10, lines 20 through 23.

Following: "due."

Strike: "When a taxpayer becomes delinquent, the confidentiality which the department is required by law to maintain does not apply after the matter is placed in the hands of the county attorney."

10. Amend page 20, section 14, lines 8 and 9.

Following: "84-4931"

Strike: "and in [section 10 of this act]"