

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 16, 1985

The seventy-second meeting of the Senate Taxation Committee was called to order by Chairman Thomas E. Towe at 8:07 in Room 413-415 of the State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HB 651: Representative Cal Winslow, House District 89, was recognized as chief sponsor of the bill. He said that the bill needs considerable amendment. He said originally the bill had included three things: 1) a funding mechanism to upgrade Montana jails. He said that 52 of 53 jails in Montana do not meet federal standards. Because this required bonding, however, two-thirds vote was needed and not received in the House. Therefore, all bonding language needed to be removed. 2) The \$750,000 necessary to assist local drug and alcohol programs to achieve current budget level was in this bill as well as in HB 374. 3) an alcoholic treatment program for indigent youth. He said that this is a real problem in the state and that it needs to be addressed. He said the only portion of the bill remaining was the last one that would increase the tax on a barrel of beer to provide \$3 million over the biennium. He said that this is not a well accepted funding process, but as chair of the human services subcommittee he knew it was a choice of spending \$3 million now or \$10 million later. He said the increase would amount to a penny on a can of beer. He said that alcohol use impacts us all. He noted that 90 percent of the police calls were alcohol related. He said that there is an extreme need that cannot be ignored.

PROPOSERS

Mr. Gordon Morris, Montana Association of Counties, said that the work on HB 651 began two years ago. He called it one of the best reasoned bills before the Legislature. He compared Montana tax on alcohol to other states in Exhibit 1. He said the tax increase on beer does not pose a hardship to anyone. He noted that the Governor's task force on infrastructure said that \$56 million would be needed for jails. He said that money would benefit communities as well. He then submitted to the committee a bill that would take out the bonding arrangement required in the original bill (Exhibit 2). He discussed that the 1983 civil rights code called for reasonable beginnings on jail construction and felt that without this bill many jurisdictions could be in line for litigation. He said that the model bill came from Kentucky. He hoped that the committee would give time and consideration to this issue.

Mr. John Breke, Director of the Adolescent Treatment Center in Flathead Valley, said there is no inhouse treatment for youth. He said the Wilderness Program provides two free beds, but that they turn away at least one youth a week. He said that teachers and others able to identify the problems became frustrated by three

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month waits for treatment and became less willing to take the risk of intervention and referral.

Ms. Ann Scott, Vice President of the chemical dependency programs of Montana and manager of the Rocky Mountain Treatment Center in Great Falls, said that she is concerned that funding is not available for kids in trouble. She said the programs are efficient and that consolidation is not realistic in a state that is geographically so large. She said alcohol problems are not limited to the population centers. She said that very efficient programs are run in small towns, and noted one program being run entirely by one part-time counselor. She said that they get many requests from adolescent indigents for treatment and there is no money. She said in one year alone her organization had donated over \$50,000 and that only addressed the tip of the need. "For every one we treated, we could have done five," she said. She said the committee must realize that these kids have a disease and that they are flushing their lives away. She said that Hilltop in Havre had free adolescent beds and that they have a months long waiting list. She said that being wait listed is not being helped. She said that the dollars in HB 374 are imperative and that these dollars are also needed.

Ms. Judy Griffith, Director of Community Resources at Shodair Hospital in Helena, said that in 1984 the Shodair adolescent chemical dependency program gave \$94,000 of free care. She said they have a waiting list of 34 now. She said that alcoholism is a chronic, fatal, and progressive disease and that every week waited decreases the chance of recovery. She said that inpatient treatment cannot be denied and that intense outpatient support is also necessary.

Mr. Mike Murray said that he appeared neither as a proponent nor an opponent. He said that treatment for indigent youth is not funded anywhere in state government. He said that Montana has two programs that enjoy national and regional status, the Wilderness Program and Shodair. He said they are unique and successful prevention programs and that it is unfortunate that our own poor youth cannot be helped.

Mr. Steve Nelson, Montana Board of Crime Control, said that the jail program addressed by the bill is a large and severe problem. He said that effective ways of developing treatment for substance abusing children have been found. He said if the youth are not helped then they are handled by the justice system.

Mr. Bill Olson of the Montana Contractors Association said that they understand that the jails will not be built with this bill. He urged the committee, however, to look at that problem.

Mr. Carroll Jenkins, a therapist and former director of a chemical outpatient treatment center, said that Montana children are in need of care.

Mr. Greg Jackson, Urban Coalition, said that the bill was originally a way of enhancing the infrastructure needs.

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OPPONENTS

Mr. Steve Browning, Anhauser Busch, said that he questioned the legal status of HB 651. He said the legal issues surrounding the bill were noted in Exhibit 3.

Mr. Roger Tippy, Beer and Wine Wholesalers, said that he was speaking against the gray bill as submitted by the Montana Association of Counties. He said that the committee should focus on the jail construction programs. He acknowledged the need for the adolescent programs but felt that the beer industry alone should not be taxed. He said that Montanans were growing the barley that made the beer and contrasted that with the illegality of drug traffic. He gave the committee Exhibit 4 which showed beer taxes over the years and contrasted it with revenue from that source. He noted that here in Lewis and Clark County a new jail was almost finished and that this kind of legislation was not necessary to address the jail problems. He said that the bill delegated spending of money without adequate instruction. He said there are no guidelines in the bill.

Mr. Tucker Hill, Miller Brewing, said that they oppose the bill for three reasons: 1) It is a one percent increase in price and will result in a one percent decrease in sales, 2) Montana is already at the top of beer tax in a comparison by states (Exhibit 5), 3) It penalizes the light and moderate drinker.

Mr. Phil Strobe, Montana Tavern Association, said that they adopted the legal analysis done by Mr. Browning. He said that information from studies shows an unfair distribution of costs. He said that the bill makes the Montana industry responsible for problems created by Columbian drug dealers.

Questions from the committee were called for.

Senator Towe asked the Department of Revenue to discuss tax rates on alcohol. Mr. Dan Bucks, Deputy Director of the Department, explained Exhibit 6.

Senator Neuman asked if the appropriations process had addressed the problem of indigent youth. Representative Winslow said that none of those programs had been funded. Senator Neuman suggested that the money should go through the general fund. Representative Winslow gave the committee a copy of HB 935 which was in Finance and Claims.

Representative Winslow addressed the nature of necessary amendment to the bill which would basically lower the proposed tax from \$5 to \$3 per barrel of beer, raising \$3 million for the biennium.

Senator Brown asked if HB 935 appropriated dollars for care of indigent kids. Representative Winslow said that the additional dollars would go to the general fund.

Senator Towe asked if Representative Winslow supported the suggestions made by the Montana Association of Counties. He said that he did not because it would make available only \$3 million for a \$60 million

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need. Representative Winslow went on to say that he did not oppose HB 374 and that is why wine was taken out of HB 651.

Senator Towe asked if beer and wine was taxed less than other distilled spirits. Mr. Tippy said that in the history of the way the products were handled it was not easy to compare as spirits were more controlled. Senator Towe asked if the figures in Exhibit 1 included a retail sales tax. Mr. Morris said, yes.

Senator Halligan asked Representative Winslow about the rules issues. Representative Winslow said that only the bonding required a two-thirds vote and that the remaining portions of the bill were not affected by that.

Senator Mazurek asked Mr. Browning if he would support the bill if the rules problems were addressed. Mr. Browning said, no.

Senator Towe said that if the state debt provisions were removed from the bill there was no rules argument. Mr. Browning said that he disagreed because the bill was still improperly transmitted from the House to the Senate. He said the provisions should have been drafted separately.

Representative Winslow closed saying that the bill is properly before the committee. He said that it is the consumer and not the industry who pays the tax and that people are willing to pay an additional half cent per can of beer. He said the product causing the impact should bear the burden. He said that early intervention is important and that it would not be a wise policy on the part of the state to ignore the need.

Chairman Towe closed the hearing on HB 651.

MOTION: Senator McCallum moved that HB 636 be concurred in.

Senator Towe gave the committee proposed amendments to the bill in Exhibit 8. He said that the price of oil and the market, not the tax rate is the problem. He said that the price of carbon dioxide could change less than two percent and that would have greater impact than the tax incentive. He said there are already substantial tax incentives in federal tax law.

Senator Goodover asked if these amendments had been offered in the House. Representative Abrams said, no. Senator Goodover asked if the Department of Revenue were opposing the bill. Senator Towe said the amendments work had been done at his request.

Senator McCallum asked for a vote on the motion without amendment to the bill.

Senator Hirsch noted that the amendments did not have all the cost information. Senator Towe said that administrative costs were not included. Senator Hirsch said that it would be asking the oil companies to take all the risk and then ask for a part of the action

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if they made money. Senator Towe said the additional incentive was not necessary if they were making more money. Senator Hirsch said that if we take a part of the profit then we have to take part of the risk.

Senator Neuman asked Mr. Tucker Hill what would prevent the companies from going automatically to tertiary recovery if the bill passed. Mr. George Keys said that the secondary recovery is a proven process and that it contrasts with tertiary which is risky and unproven. He said they want production and will not throw away what is working. Mr. Keys described that in secondary recovery the well is flooded with water which drives the oil ahead. He said tertiary would involve following the water with carbon dioxide. He said in lab they can get 100 percent of the oil from rock, but it has to be proven in the field. Mr. Jerome Anderson pointed out that there would be no benefit in tertiary recovery alone as only the incremental production increase is eligible for the incentive tax reduction.

Senator Towe suggested that the Department of Revenue rather than the Oil and Gas Conservation Board should be making the decisions. Mr. Keys said that the determination would be based on matters requiring the technical expertise of the oil and gas people. Mr. Anderson said the Department of Revenue can testify at the hearing but that he did not have confidence in the Department of Revenue to handle this function.

Senator Eck said the committee was being asked to buy a pig in a poke. She noted the language on page 4, line 4 that says methods "includes but are not limited to". She said the definition section should be more limited. Mr. Anderson said the language was taken from the federal windfall profits tax.

MOTION: Senator Lybeck moved as a substitute motion to adopt the amendments in Exhibit 8.

Senator Towe noted that the amendments include a sliding scale of expenses upward. Senator McCallum opposed the amendments saying that the people planning the expenditure should be given a green light.

Senator Halligan asked the amendments to include the striking of "iii". Senator Lybeck so amended his motion.

Senator Towe said the price of oil was likely to go up dramatically in 1993 to 1995, and increase steadily until then.

Senator Hirsch said that the amendments suggest that Montana is unwilling to do its part to proceed with oil recovery. He encouraged defeat of the amendments.

Question was called. Senators Brown, Goodover, Hager, Hirsch, Mazurek, McCallum and Severson voted no. Senators Eck, Halligan, Lybeck, Neuman and Towe voted yes. The motion failed.

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In response to a question from Senator Towe, Mr. Anderson said that on page 3, lines 18 and 19 the exclusion of all carbon dioxide was ambiguous and suggested that portion of the language be stricken.

MOTION: Senator Hirsch moved that HB 636 be amended by striking lines 18 and 19 on page 3. The motion carried unanimously.

MOTION: Senator Eck moved that HB 636 be amended on page 4, line 14, by striking everything after "methods" through line 1 on page 5. Inserted should be "is limited to carbon dioxide water flooding and admissible carbon dioxide displacement."

Mr. Anderson said that the problem is that there are one or two polymer process steam injection operations in Montana. He said that is the other recognized methodology within the industry. Senator Eck agreed that it might be best to wait and look at what is happening. She withdrew the motion.

MOTION: Senator Eck moved that HB 636 be amended by giving the Department of Revenue rather than the Oil and Gas Conservation Commission oversight responsibility.

Senator Towe supported the motion saying that revenue oversight cannot be turned over to the Oil and Gas Commission.

Senator Brown asked what assurance there would be without this amendment that nonindustry interest would be protected. Mr. Darwin Vandegraff said that the oil and gas people have the expertise in the industry to do the best job. Mr. Anderson said they have sound engineering judgment and that they would have nothing to gain by giving additional incentives.

Senator Halligan said that the Legislature cannot ask the Oil and Gas Conservation Commission to do the job of revenue policy.

Senator Hirsch said that he would not quibble, but that he was concerned about Department expertise. He said that the Oil and Gas Commission has three public members and that it is a responsible and balanced board.

Senator Towe disagreed saying that they were very proindustry. He said that tertiary is not defined in the bill because even the feds have not been able to define it. He said that decision cannot be left in industry hands.

Senator Goodover asked Mr. John LaFaver, Director of the Department of Revenue, if they have the necessary expertise to administer the bill. Mr. LaFaver said that it would be handled as are a number of technical areas by using professional hearings officers. He noted that alcohol is a very technical area that the Department was required to handle.

Question was called. Senators Goodover, Hager, McCallum and Severson voted no. All others voted yes. The motion carried.

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Senator Towe inquired about the termination date. Senator Hirsch said there should not be one as it is a forty year project. He said that guaranteed incentive would allow them to make a calculated decision.

MOTION: Senator Eck moved that HB 636 be amended by adding a new Section 5 to include a termination date, using the language from the bottom of Exhibit 8.

Senator Brown echoed the comments of Senator Hirsch and opposed the motion saying that tax policy is capricious enough as is.

Senator Eck withdrew the motion.

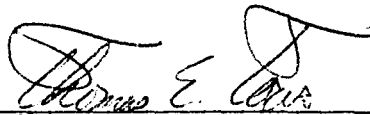
MOTION: Senator McCallum moved that HB 636 be concurred in as amended. Senators Eck, Lybeck and Towe voted no. All other committee members voted yes. The motion carried. Senator Hirsch agreed to carry the bill.

CONSIDERATION OF HB 374: Senator Mazurek moved that HB 374 be concurred in. He noted that the unaccounted for .01 percent had not been disposed of. He said it amounted to about \$5800 per year.

MOTION: Senator Hirsch moved that HB 374 be amended per Exhibit 9. The motion carried unanimously.

Question was called on the original motion. Senators Goodover and Hager voted no. Other committee members voted yes. The motion carried and Senator Brown was assigned to carry the bill.

Chairman Towe adjourned the meeting at 11:00 am.



Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date April 16, 1985 first meeting

Location -- Room 413-415

| Name | Present | Absent | Excused |
|------|---------|--------|---------|
|------|---------|--------|---------|

| | | | |
|------------------|---|--|--|
| Senator Brown | ✓ | | |
| Senator Eck | ✓ | | |
| Senator Goodover | ✓ | | |
| Senator Hager | ✓ | | |
| Senator Halligan | ✓ | | |
| Senator Hirsch | ✓ | | |
| Senator Lybeck | ✓ | | |
| Senator Mazurek | ✓ | | |
| Senator McCallum | ✓ | | |
| Senator Neuman | ✓ | | |
| Senator Severson | ✓ | | |
| Senator Towe | ✓ | | |

DATE April 16, 1985

COMMITTEE ON TAXATION

VISITORS' REGISTER

| NAME (PLEASE PRINT) | REPRESENTING | BILL # | Check One | |
|---------------------|-----------------------------|--------|-----------|--------|
| | | | Support | Oppose |
| Judy H Griffith | SHODAIR ADOLESCENT CDR | 651 | ✓ | |
| A Morris | MACO | 651 | ✓ | |
| R V Tilman | Anaconda Minerals Co | 122 | ✓ | |
| CARROLL JENKINS | Counseling Consortium | 651 | ✓ | |
| Bill Olson | Mt. Contractors Assn | 651 | ✓ | |
| John Breck | Wilderness Tr. Center | 651 | ✓ | |
| DOUGLAS L. MARTIN | Western Adventures | 651 | | X |
| Karen L. Bellumini | Eng Mahons - Poling | 651 | | X |
| Mike Murray | Chemical Dependency Program | 651 | | |
| Greg Jackson | Urban Coalition | 651 | ✓ | |
| Ann Scott | Rocky Mt Treatment Center | 651 | ✓ | |
| Roger Tippy | Ben Wine Wholesaling | 651 | | ✓ |
| Steve Browning | Anheuser Busch | 651 | | ✓ |

(Please leave prepared statement with Secretariat)

TABLE 54--STATE ALCOHOL BEVERAGE EXCISE TAX RATES, MARKUP AND METHOD OF CONTROL¹
CONTROL STATES
As of November 1983

| State | Beer | Wine | Spirits | Other Taxes | Method of Control |
|-------------------|---|--|--|--|--|
| Alabama | \$.5333/g | 48% tax 25-30% markup | 48% tax 25-30% markup | * | Monopoly at wholesale. State also owns some retail stores. |
| Idaho | \$.15/g | \$.45/g--private outlet or 80% markup state store | 45% markup | 15% surcharge on goods sold at state stores | State-owned retail stores sell spirits & wine. Li- censed retailers may sell wine and beer. |
| Iowa | \$.14/g | 80% markup for still wines 70% markup for sparkling wine | 66% markup | 15% on alco- holic bever- ages | State-owned retail stores sell spirits & wine. Li- censed retailers may sell beer. |
| Maine | \$.30/g | \$.45/g for wine--private outlet or 75% markup-- state store | \$.625/g 75% markup | | State-owned retail stores sell spirits & wine over 14%. Licensed retailers may sell wine under 14% & beer. |
| Michigan | \$.203226/g | \$.51/g for wine 16% or less. \$.758/g for wine over 16%--pri- vate outlet or 50% markup-- state store. | 8% tax 57% markup | Additional tax of 1.85% of retail price of liquor for off-premise consumption | State-owned retail stores & private "specially designated distributors" sell spirits & wine over 21%. Licensed retailers may sell wine under 21% & beer. |
| Mississippi | \$.4268/g | \$.35/g for still wines \$1.00/g for sparkling 22% markup | \$2.50 tax 17% markup | 5% alcohol abuse tax 1% warehouse surcharge | State monopoly of whole- sale sales of alcoholic beverages over 4% by weight. |
| Montana | \$.129/g | \$.758/g--private outlet or 40%-60% markup-- state store | 26% tax 40% markup | | State-owned retail stores sell spirits & wine. Li- censed retailers may sell table wine & beer. |
| New Hampshire | \$.30/g | 55%-63% markup | 40%-46% markup | | State-owned retail stores sell alcoholic beverages. Licensed retailers may sell wine under 14% & beer. |
| North Carolina | \$.484/g | \$.796/g for wine 14% or less-- private outlet \$.91/g for wine 14% to 21% + varied markup for state stores | 22.5% of retail price 64.3% markup | Additional alcoholic re- hab. tax of \$.01-.05/ bottle; & mixed bever- age tax of \$10.00/g | County-operated liquor stores in counties allow- ing sale. Licensed re- tailers may sell wine & beer. |
| Ohio | \$.081/g \$.00124/oz for bottled & canned beer containing 12 oz or more \$.0075/6 oz for bottled & canned beer containing more than 12 oz | \$.26/g for wine 14% or less \$.62/g for wine over 14% to 21% \$1.27/g for sparkling wine | \$2.25/g 42.86% markup +5% markup | | State-owned retail or agency stores sell al- coholic beverages over 21%. Licensed retailers may sell wine under 21% & beer. |

(continued on next page)

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TABLE 54—STATE ALCOHOL BEVERAGE EXCISE TAX RATES, MARKUP AND METHOD OF CONTROL¹
CONTROL STATES
As of November 1983
(continued)

| State | Beer | Wine | Spirits | Other Taxes | Method of Control |
|------------------|---|--|---|--|--|
| Oregon | \$.0839/g | \$.65/g for wine 14% or less \$.75/g for wine over 14% to 21%--private outlet or 99% markup-- state store | 99% markup | | State-owned retail stores sell spirits & some wine. Licensed retailers sell wine & beer. |
| Pennsylvania | \$.08/g | 25% markup | 25% markup | Additional tax of 18% of net price; \$.85/ bottle handling charge for spirits & wine. | State-owned retail stores sell spirits & wine. Li- censed retailers sell beer. |
| Utah | \$.3548/g--pri- vate outlet & state store 59.5% markup-- state store | 18% tax 59.5% markup | 18% tax 59.5% markup | Additional school lunch tax of 13%. | State monopoly of sales of alcoholic beverages. Licensed retailers may sell beer under 3.2%. |
| Vermont | \$.265/g | \$.55/g for wine less than 14%-- private outlet or 25% tax & 36.5% markup--state store | 25% tax + 36.5% markup | | State-owned retail stores sell spirits, wine over 14%, & beer over 6%. Li- censed retailers may sell wine under 14%, & beer 6% & under. |
| Virginia | \$.25645/g for bulk \$.02/bottle of not more than 7 oz \$.0265/bottle of beer over 7 oz but not more than 12 oz \$.0222/oz for each oz over 12 oz | \$1.52/g--private outlet & state stores 50% markup-- state stores | 20% tax 37.5% markup | \$.80/case hand- ling charge for wine & spirits | State-owned retail stores sell spirits & wine. Li- censed retailers may sell wine & beer. |
| Washington | \$.08974/g--pri- vate outlet 70% markup--state stores | \$.82/g--private outlet & state store 60% markup-- state store | \$7.43/g 17.1% sales tax 45.9% markup | | State-owned retail & agency stores sell spirits, wine & beer in excess of 8%. Li- censed retailers may sell wine & beer. |
| West Virginia | \$.17742/g | \$1.00/g--private outlet or 75% markup + per bottle tax--state store | 72% markup \$.25/750m/bottle | 10% sales tax | State-owned retail stores sell spirits & wine. Licensed retailers may sell wine under 14% & beer. |
| Wyoming | \$.1895/g | \$.284/g--pri- vate outlet 17.6% markup | \$.948/g | * 17¢/case hand- ling charge & \$3.00/case freight out for wine & spirits | State monopoly at wholesale level. |

¹ In 18 control states, retail or wholesale sales of spirits are mainly performed by state-owned outlets. In 16 of these states, off-premise retail sales are made by state-owned stores or agencies. In two states, wholesale sales are a state monopoly with sales at retail conducted by private outlets. Revenues in control states are derived from markups that yield profits for state governments. In addition to state profits, excise, sales, and other taxes also contribute revenues.

* Local government taxes are additional.

Source: ACIR staff compilations from Public Revenues From Alcohol Beverages, 1981-1982, Distilled Spirits Council of the United States, Inc.; Commerce Clearing House, State Tax Reporter, Sales Taxation: State and Local Structure and Administration, John F. Due and John L. Mikesell, Johns Hopkins University Press, 1983.

U.S. Advisory Commission on Intergovernmental Relations

GRAY BILL -- GRANTS BY MBCC (April 10, 1985)

HOUSE BILL NO. 651

INTRODUCED BY WINSLOW ADDY WALDRON KITSELMAN MERCER

SCHYE NELSON CONNELLY YELLOWTAIL THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
ISSUANCE--OF--BONDS AWARDING OF GRANTS TO FINANCE COUNTY
JAIL CONSTRUCTION OR RENOVATION; RAISING ALCOHOLIC
BEVERAGE TAXES TO ~~PAY-OFF-THE-BONDS~~ FUND THE GRANTS AND
INCREASE GENERAL FUND REVENUE; ~~ALLEGATING--BOND--PROCEEDS~~
~~TO~~ PROVIDING THAT THE BOARD OF CRIME CONTROL FOR
ADMINISTER SUCH GRANTS TO COUNTIES; AMENDING SECTIONS
16-1-401, 16-1-408, AND 16-1-411, ~~AND-17-5-401;~~ MCA;
PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

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

NEW SECTION. Section 1. ~~Authorization-of-bonds~~ Jail
construction account to finance county jails. (1)-~~The-board~~
~~of-examiners-is-authorized-to-issue-and-sell-long-range~~
~~building-program-bonds-in-an-amount-not-exceeding~~
~~\$34,000,000,-over-and-above-the-amount-of-long-range~~
~~building-program-bonds-outstanding-January-1,-1985,-to-be~~
~~issued-in-accordance-with-the-terms-and-in-the-manner~~
~~required-by-Title-17,-chapter-5,-part-8.-The-board-of~~
~~examiners-is-also-authorized-to-refund-such-bonds-in~~
~~accordance-with-Title-17,-chapter-5,-part-8,-if-it-is~~
~~considered-that-such-refunding-would-be-in-the-best~~
~~interest-of-the-state.-The-authority-granted-to-the~~
~~board-by-this-section-is-in-addition-to-any-other~~
~~authorization-to-the-board-to-issue-and-sell-long-range~~
~~building-program-bonds-or-refunding-bonds:-~~
~~-----~~(2)-~~The-proceeds-from-the-issuance-of-the-bonds-are~~
~~allocated-to-the-board-of-crime-control-for-issuance~~

~~to counties as grants for county jail construction or renovation, as provided in Section 23.~~

~~----- (3) The principal and interest on the bonds must be paid as provided in 16-1-401, 16-1-408, and 16-1-411.~~

There is an account in the special revenue fund consisting of funds derived from 16-1-401, 16-1-408, and 16-1-411, established for the purpose of providing grants to counties by the Montana board of crime control for the construction and renovation of jails as provided in [Section 2].

NEW SECTION. Section 2. Grants of for construction or renovation of county jail ~~bonds proceeds to counties~~ jails. (1) The bond ~~proceeds allocated to the board of crime control by~~ funds in the account established in [Section 1] may be granted by the board of crime control to counties for the construction or renovation of jails or for paying costs incurred in the construction or renovation of a jail that was begun on or after January 1, 1980.

(2) A grant under this section may not exceed 75% of the cost of a completed construction or renovation or 75% of the estimated cost of an uncompleted construction or renovation.

(3) A grant may not be made until the county has submitted to the board and the board has approved a county jail facility plan developed by a board of residents of the county appointed by the county commissioners. The plan must include:

(a) the estimated construction or renovation cost or, if construction or renovation has been completed on a project begun on or after January 1, 1980, the actual completed cost;

(b) past and projected county jail inmate populations;

(c) an assessment of the condition and suitability of the present jail;

(d) alternatives to incarceration that the county and its judicial system are considering as a means of preventing crime and reforming criminals; and

(e) a showing that the county will be able to finance the operation of the jail and the portion of the construction or renovation cost that will be borne by the county.

(4) The board shall by rule:

(a) establish criteria and a procedure for setting priorities for the approval of grant requests when bond--proceeds the funds available in the account established in [section 11] will not fund all grant requests;

(b) establish criteria and a procedure for submission, review, and approval or disapproval of plans and grant requests, including a procedure for appeal of an adverse determination;

(c) set minimum standards relating to structure and design of jails for which grants may be made, including but not limited to size of cells and other rooms, fixtures, equipment, utilities, and kitchen and recreational facilities; and

(d) adopt a procedure for encouraging feasible consolidation of jail facilities by contiguous local government units.

Section 3. Section 16-1-401, MCA, is amended to read:

"16-1-401. Liquor excise tax. The department is hereby authorized and directed to charge, receive, and collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the state of Montana an excise tax at the rate of ~~16%~~ 18% of the retail selling price on all liquor sold and delivered. The department shall retain the amount of such excise tax received in a separate account and shall deposit with the state treasurer, to the credit of the general fund, 90.27% of such sums collected and received not later than

the 10th day of each and every month. The remaining 9.73% must be paid to the state treasurer for deposit in the debt--service account established under-17-5-405-and used-to-pay-the-principal-of--and-interest-on-bonds-issued under in [section 1] and-to-accumulate-and--maintain--the required-reserve-attributable-to-these-bonds."

Section 4. Section 16-1-408, MCA, is amended to read:

"16-1-408. Additional tax. An additional tax of ~~1~~ 5 per barrel is levied and imposed as provided by 16-1-406, and such additional tax is also to be levied and imposed at the same rate upon beer manufactured within the state. The additional tax of ~~1~~ is to be deposited, notwithstanding 16-1-306 and 16-1-410 or any other provision, with the state treasurer as follows:

(1) \$1 to the credit of the department of institutions each quarter for programs for the treatment, rehabilitation, and prevention of alcoholism as approved by the state;

(2) \$1 to the general fund; and

(3) \$3 to the credit of the debt--service account established under--17-5-405--to--be--used--to--pay--the principal-of-and-interest-on-bonds-issued--under in [section 1] and--to--accumulate--and--maintain--the required--reserve--attributable-to-these-bonds."

Section 5. Section 16-1-411, MCA, is amended to read:

"16-1-411. Tax on wine. (1) A tax of 20 30 cents per liter is hereby levied and imposed on table wine imported by any table wine distributor or the department.

(2) (a) The tax on table wine imported by a table wine distributor shall be paid by the table wine distributor by the 15th day of the month following sale of the table wine from the table wine distributor's warehouse. Failure to file a table wine tax return or failure to pay the tax required by this section subjects the table wine distributor to the penalties and interest provided for in 16-1-409.

(b) The tax on table wine imported by the department shall be collected at the time of sale.

(3) The tax paid by a table wine distributor in accordance with subsection (2)(a) and the tax collected by the department in accordance with subsection (2)(b) shall be distributed as follows:

(a) 16 1/2 cents to the state general fund; and

(b) 7 1/2 cents to the credit of the debt--service account established under--17-5-405,--to--be--used--to pay--the--principal--of--and--interest--on--bonds--issued--under in [section 1] and--to--accumulate--and--maintain--the--required reserve--attributable--to--those--bonds; and

(b)(c) of the remaining 4 cents, one-third to the state special revenue fund to the credit of the department of institutions for the treatment, rehabilitation, and prevention of alcoholism, one-third to the counties, based on population, for the purpose established in 16-1-404, and one-third to the cities and towns, based on population, for the purpose established in 16-1-405.

(4) The tax computed and paid in accordance with this section shall be the only tax imposed by the state or any of its subdivisions, including cities and towns."

~~Section 6. Section 17-5-401, MCA, is amended to read:~~
~~-----"17-5-401. Definitions. (1) "Board", "department", and "treasurer" mean the board of examiners, department of administration, and state treasurer, respectively.~~
~~----- (2) "Capital projects fund" means a separate long-range building program fund which is created within the capital projects fund type established in 17-2-102.~~
~~----- (3) "Long-range building program" means and includes all buildings, structures, and facilities to be constructed, repaired, used, equipped, or furnished and land to be acquired therefor with the consent of the legislature in accordance with:~~
~~----- (a) Sections 1 and 23; or~~

~~----- (b) --- 17-7-202 and 18-2-101 through 18-2-105 ---~~

~~----- (4) --- "Long-range-building-program-bonds" means and includes all series of bonds issued to finance any portion of the long-range-building-program or to refund outstanding bonds, as authorized in this part. ---~~

~~----- (5) --- "Debt-service-account" means a separate long-range building-program fund which is created within the debt-service-fund-type established in 17-2-102. ---~~

~~----- NEW SECTION. --- Section 7. --- Codification instruction. Section 1 is intended to be codified as an integral part of Title 17, chapter 5, part 4, and the provisions of Title 17, chapter 5, part 4, apply to section 1. ---~~

NEW SECTION. Section 6. Appropriation. There is appropriated to the Montana board of crime control, for the biennium ending June 30, 1987, all the funds in the account established in section 1, to be used for grants to counties as provided in section 2.

NEW SECTION. Section 7. Effective date. This act is effective on passage and approval.

-End-

1. HB 651 authorizes state debt

1 HOUSE BILL NO. 651
2 INTRODUCED BY Walter Allen Walker Ritzelmann
3 Marcus LeRoy Nelson Connolly Yellowtail Yellowtail
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
5 ISSUANCE OF BONDS TO FINANCE COUNTY JAIL CONSTRUCTION OR
6 RENOVATION; RAISING ALCOHOLIC BEVERAGE TAXES TO PAY OFF THE
7 BONDS AND INCREASE GENERAL FUND REVENUE; ALLOCATING BOND
8 PROCEEDS TO THE BOARD OF CRIME CONTROL FOR GRANTS TO
9 COUNTIES; AMENDING SECTIONS 16-1-401, 16-1-408, 16-1-411,
10 AND 17-5-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
11 DATE."

2. The Montana Constitution requires a two thirds vote of each house to create debt.

CONSTITUTION

Art. VIII. § 8

public highways, streets, roads, and bridges.

(b) Payment of county, city, and town obligations on streets, roads, and bridges.

(c) Enforcement of highway safety, driver education, tourist promotion, and administrative collection costs.

(2) Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature.

Section 7. Tax appeals. The legislature shall provide independent appeal procedures for taxpayer grievances about appraisals, assessments, equalization, and taxes. The legislature shall include a review procedure at the local government unit level.

Section 8. State debt. No state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature or a majority of the electors voting thereon. No state debt shall be created to cover deficits incurred because appropriations exceeded anticipated revenue.

3. On April 2, 1985 the House failed to reach the Constitutionally required 2-3 vote on HB 651 when it approved the bill on 3rd reading 57 to 41. The Montana Legislative Rules do not specify the status of bills that fail to satisfy the constitutionally required 2-3 vote on 3rd reading, so in cases where the rules do not address the question, Mason's applies.

JOINT RULES

house suspending it.

(3) Any rules committee report recommending a change in joint rules shall be referred to the other house for concurrent action. Any new rule or any change in the rules of either house shall be transmitted to the other house for informational purposes.

8-6. Mason's Manual of Legislative Procedure governs the proceedings of the Senate and House of Representatives in all cases not covered by these rules.

4. Mason's provides that the House vote on HB 651 was not effective:

bership or of all members present or any other number or proportion to take a particular action, that vote must be obtained, and a vote of less than that number, although a majority of those present and voting, a quorum being present, is not sufficient.

2. The constitutions of many of the states require an affirmative vote of a majority of the members elected to each house of the legislature for the passage of bills.

3. Constitutional provisions as to the number of votes required for the final passage of bills are mandatory.

4. In deliberative bodies a majority of a quorum is often required by constitution, charter, or controlling provision of law.

5. Ordinarily municipal charters specify the number of votes required to constitute a legal action in any given case.

6. A majority vote is the normal vote of a house of the legislature and a greater numerical vote is necessary solely where the constitution expressly requires it.

Sec. 512. Two-thirds Vote

1. When a two-thirds vote is required for any purpose by a constitution or charter or controlling provision of law that vote must be obtained for the vote to be effective.

5. Thus, the House did not have the authority to transmit HB 651. This conclusion is further supported by Mason's principles numbers one and ten. (see also detailed discussion of §§18 & §§2-4).

INTRODUCTION

Principles of Parliamentary Law

An understanding of parliamentary principles will simplify the learning and application of parliamentary rules. Parliamentary procedure is based primarily on a group of principles which underlie the whole scheme of parliamentary rules. Some of these principles are set out below. Thought of in terms of principles instead of rigid detailed technical rules, parliamentary law is essentially logical and simple.

Parliamentary Rules

Every deliberative body is bound to comply with all applicable rules laid down for it by the Constitution (See in this book Secs. 6, 7) and laws (Secs. 10, 11) both statutes and court decisions (Secs. 71-74) and with basic legal principles. These rules and principles govern whether adopted by it or not, and they apply whenever group decisions are being made and failure to conform to them invalidates any action taken or decision made (Sec. 21).

Unless restricted by the Constitution (Secs. 19, 22) Statutes (Sec. 21) or other superior authority an organization can adopt its own rules of parliamentary procedure by a majority vote (Secs. 19, 22) and can change (Sec. 22), suspend (Sec. 24) or repeal the rules at any time it chooses, also by a majority vote (Sec. 22). Failure to comply with own adopted rules does not invalidate actions of the organization (Secs. 24, 25).

Every member of an organization is presumed to be the equal of each other member and each has rights that must be respected. The rights of the minority and the majority must both be protected.

Ten Principles that Govern Procedure in Group Decision Making

There are a group of ten principles that govern procedure in group decision making.

1. The group must have the authority to take the actions it purports to take (Sec. 518). Jurisdiction must be given, it cannot be assumed. Groups sometimes assume powers that they do not have.
2. There must be a meeting of the decision making group (Sec. 785). When authority to make a decision is vested in any group it is vested in the group collectively and not merely in the individual members of the group. To make a decision the group must meet and make up its collective mind.
3. A proper notice of the meeting must be given to all members of the group (Sec. 789). Every member of the group is entitled to such a notice of the time, place and purpose of the meeting

as will enable him to attend and participate. Failure to give such a notice will invalidate actions taken at the meeting.

4. There must be a quorum present at the meeting (Sec. 500). A quorum is a sufficient number or proportion of the members as will qualify those present to act for the entire membership. A quorum is a majority of the members qualified to act, unless a lesser number is given that authority by proper authority or a higher number is especially required. A member who is not entitled to vote on a particular question cannot be counted to make a quorum for voting on that question.
5. There must be a question before the group upon which it can make a decision (Sec. 100, 140). The question may be a motion, resolution or other proper form and may be oral or in writing and should in most cases be capable of being answered by an affirmative or negative vote. A member has the right to know what the question is and what its effect will be before he votes on the question.
6. There must be an opportunity to debate the question (Sec. 90). An opportunity to debate is necessary to enable the members of a group to reach a collective judgment. A member has the right to express his own opinions and hear the opinions of the other members.
7. The question must be decided by taking a vote (Sec. 520). It is not enough to presume how a member will vote. A vote must actually be taken. It may be taken by any authorized and fair method.
8. There must be a majority vote to take an action or decide a question (Sec. 510). In order to take any action or decide any question there must be an expression of the will of the majority. This is usually a majority of the legal votes but sometimes is a majority of the entire membership or a $\frac{2}{3}$ vote is required. A minority vote or a tie vote will not take any action.
9. There must be no fraud, trickery or deception resulting in injury to any member (Sec. 26). A person is entitled to the protection of the courts from injury in injustice by a body making a group decision as in any other situation involving injury.
10. To be valid any action or decision of a body must not violate any applicable law or constitutional provision (Secs. 2-4). The decision making procedures of any body must comply with the applicable provisions of any local, state or Federal law. It is governed by any statutory or court made law including provisions of constitutions and charters.

6. Masons rule 73(s) provides that since the House failed to comply with its procedures on legislation governed by a constitutional provision, our courts are authorized to void either the attempt by the House to transmit HB 651 or the action of the Senate to receive and seek to act upon this unlawfully transmitted bill.

which it cannot do directly.

4. Where an alleged illegal ministerial official act has relation to legislative action such action may be considered by the court in determining the validity or invalidity of the ministerial act. This is not an interference by the courts with the legislative department of the government.

5. An amendment to a state constitution otherwise validly proposed and adopted by the people is valid notwithstanding the fact the legislature may have failed to have the proposed amendment entered at length upon its journals as required by the constitution.

6. The courts have jurisdiction to decide whether the organization of a house of a legislature has been made in violation of the constitution. No warrant will lie to determine the title of the presiding officer to his office.

7. Illegality will not be presumed, but on the contrary legality will be presumed until illegality is established.

8. The courts cannot declare an act of a legislature void on account of noncompliance with rules of procedure made by itself to govern its own deliberations and not involving any constitutional provision.

7. Since the language of Masons in 73(s) is stated in the negative, it may be helpful to see a restatement of the rule as provided in the American Jurisprudence on the following page.

such a provision by the state senate is not binding on the court, it is very persuasive as to its correctness, and should not be departed from unless manifestly wrong.⁶¹

Constitutional power in each house of the legislature to determine its rules confers authority on either house to adopt the same rules as the other, and to make joint rules not inconsistent with the constitution.⁶² The power of the legislature to make rules cannot overturn rules relating to the same subject embodied in a constitution.⁶³ But this appears to be the only limitation on this power.⁶⁴

§ 44. Determination of qualifications, election, and term of members.

The constitutions of most, if not all, of the states contain provisions to the effect that each house in the state legislature shall be the judge of the election and qualifications of its own members.⁶⁵ Such a declaration is a grant of power and constitutes each house the ultimate tribunal as to the qualifications of its own members. The two houses acting conjointly do not decide, but each house acts for itself and by itself, and from its decision there is no appeal, not even to the two houses. This power is not exhausted when once it has been exercised and a member admitted to his seat; it is, on the contrary, a continuous power, and runs through the entire term. At any time, and at all times during the term of office, each house is empowered to pass on the present qualifications of its own members.⁶⁶ The power extends to determining the absence of disqualifications, as well as the presence of qualifications.⁶⁷ It does not necessarily follow, however, that a house of the legislature, in the event of its declaring a member disqualified, has power to proceed and fill the vacancy.⁶⁸ It has been suggested that a constitutional provision requiring a legislator who has a personal interest in any proposed or pending bill to disclose it, and stating that he shall not vote thereon without the consent of the house of which he is a member, can be enforced under the power of each house to judge the qualifications of its own members.⁶⁹ The power to enforce the attendance and testimony of witnesses and the production of papers is indispensable to the efficient exercise by either house of the power to judge the election and qualification of its members.⁷⁰

It is well settled that a constitutional provision of this kind vests the legislature with sole and exclusive power over the matters covered and deprives the courts of jurisdiction.⁷¹ And any action or decision taken by a

61. *Witherspoon v. State*, 138 Miss 310, 103 So 134.
62. As to whether the legislature's violation of its own rules affects the validity of a statute, see *STATUTES* (1st ed § 65).
63. *Taylor v. Davis*, 212 Ala 282, 102 So 433, 40 ALR 1052.
64. *Annotation*: 76 L Ed 967, 968.
65. See 26 Am Jur 2d, *Elections* § 340.
66. As to the effect of the parallel provision in the Federal Constitution, see *UNITED STATES* (1st ed § 17).
67. *State v. Gilmore*, 20 Kan 551.
68. *State v. Stovall* (Ky) 361 SW2d 518.
69. *Annotation*: 107 ALR 205, 209.
70. *Ex parte Dalton*, 44 Ohio St 143, 5 NE 136.
71. *Kilbourn v. Thompson*, 103 US 168, 26 L Ed 577; *Re Opinion of Justices*, 254 Ala 160, 47 So 2d 586; *State ex rel. Biggs v. Corley*, 36 Del 5, 172 A 415; *English v. Bryant (Fla)*, 152 So 2d 167; *State v. Gilmore*, 20 Kan 551; *Covington v. Buffett*, 90 Md 569, 45 A 204; *Hiss v. Bartlett*, 3 Gray (Mass) 468; *Sherrill v. O'Brien*, 188 NY 185, 81 NE 124; *People ex rel. Sherwood v. State Canvassers*, 129 NY 560, 29 NE 345; *People ex rel. McDonald v. Keeler*, 99 NY 463, 2 NE 615; *Barker v. People*, 3 Cow (NY) 686.

directly.⁷² The states can be required to tailor carefully the means of satisfying a legitimate state interest, when fundamental liberties and rights are threatened.⁷³ But the possibility of the abuse of legislative power does not disprove its existence.⁷⁴

Among these subjects which have been declared within the scope of legislative power are the control of civil institutions created by the legislature;⁷⁵ certain municipal affairs;⁷⁶ the curing of irregularities and confirming of proceedings;⁷⁷ the forms of procedure;⁷⁸ the appropriation of money;⁷⁹ and the providing of a particular fund out of which public debts are to be paid.⁸⁰

§ 42. Power to act by resolution.

Although the state constitution provides, generally, that laws shall be enacted otherwise than by resolution, it may also sanction the performance of particular acts by the legislature which may be carried into effect by a joint resolution. Thus, where a state constitution provided that a proposed city charter should be submitted to the legislature for its approval or rejection as a whole, without power of alteration or amendment, and, if approved by a majority vote of the members elected to each house, it should become the charter of such city, it was held that a joint resolution approving the charter was sufficient to render it valid.⁸¹ Even though a joint resolution may not have the force and effect of law, it is nevertheless an effective means of expressing the will of the legislature for administrative purposes, and as such it may be enforced.⁸² But it has been held that a resolution of the legislature in conflict with an existing law is invalid and of no effect.⁸³

§ 43. Power of each house to determine own rules.

State constitutions usually give each house of the legislature the power to determine the rules of its own proceedings. While the interpretation put upon

57. *United States v. County of*, 96 US 211, 24 L Ed 628.
58. *Brooks v. Fischer*, 79 Cal 173, 21 P 652.
59. Where there is no limitation in the constitution upon the power of the legislature to act by resolution, it may do so, since a state constitution is not a grant, but is a restriction upon the powers of the legislature, and hence, an express enumeration of legislative powers is not an exclusion of others not named, unless accompanied by negative terms. *State ex rel. Robinson v. Fluen*, 30 Wash 2d 194, 191 P2d 241, cert den *Washington Pension Union v. Washington*, 335 US 844, 93 L Ed 994, 69 S Ct 66.
60. A resolution which is not legislative in character but merely relates to matters of formal procedure, of which the senate and house have exclusive control, need not be presented to the governor. *Richardson v. Young*, 122 Tenn 471, 125 SW 664.
61. Generally, as to the distinction between resolution and statute, see *STATUTES* (1st ed § 4).
62. *State ex rel. Brown v. Bailey*, 16 Ind 46; *State ex rel. Crammer v. Thorson*, 9 SD 149, 68 NW 202.
63. *Re Doyle*, 257 NY 244, 177 NE 489, 87 ALR 418.
64. *Doublenton, D. & Co. v. R. H. Macy & Co.*, 299 NY 272, 199 NE 409, 105 ALR 1325 (which was overruled in *Bourgeois Sales Corp. v. Dorfman*, 273 NY 107, 172, 7 NE2d 30, 110 ALR 1411, upon the ground that in the particular case the legislative power was not restricted or limited). *Purdum v. Wells*, 154 Or 286, 59 P2d 228, 106 ALR 1188; *McClintock v. Richards Bank Corp*, 152 Va 1, 145 SE 425, 61 ALR 1033.
65. *Kauffman v. Morgan*, 384 US 641, 16 L Ed 828, 86 S Ct 1717.
66. *Powell v. Pennsylvania*, 127 US 678, 32 L Ed 253, 8 S Ct 992, 1257.
67. *Dartmouth College v. Woodward*, 4 Wheat (US) 518, 4 L Ed 629.
68. *Queensbury v. Culver*, 19 Wall (US) 83, 22 L Ed 100, holding that the legislature has power to determine by what agents a municipal corporation shall exert its powers.
69. *Matingly v. District of Columbia*, 97 US 647, 24 L Ed 1098.
70. *Hodgson v. Vermont*, 168 US 262, 42 L Ed 461, 18 S Ct 80.
71. *Board of Education v. Board of Public Works*, 144 W Va 598, 109 SF2d 552.

8. Even if the Committee were convinced that HB 651 was lawfully transmitted, the bill is void under Article V, §11 of the Montana Constitution:

Art. V, §11

CONSTITUTION

whole, all committee meetings, and all hearings shall be open to the public.

(4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

(5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting.

Section 11. Bills. (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.

(2) Every vote of each member of the legislature on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.

CONSTITUTION

Art. V, §12

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.

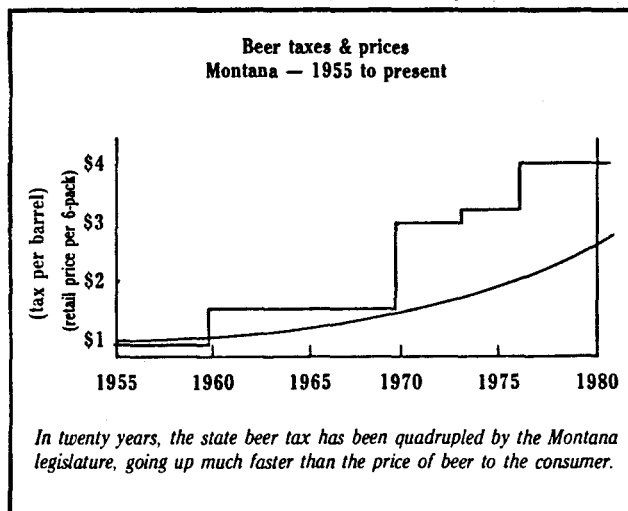
(6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.

Section 12. Local and special legislation. The legislature shall not

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The proponents will doubtless have pointed to the general inflation rate since 1977 and 1979 and what the beer and wine taxes would be if they tracked that rate. This takes a very selective slice out of history and ignores longer trends. As the chart shows, the legislature has been quite capable of adjusting the beer tax to keep pace with the price of beer.



Why not joint city-county jails?

Cities now get $37\frac{1}{2}\%$ of all beer tax for law enforcement.

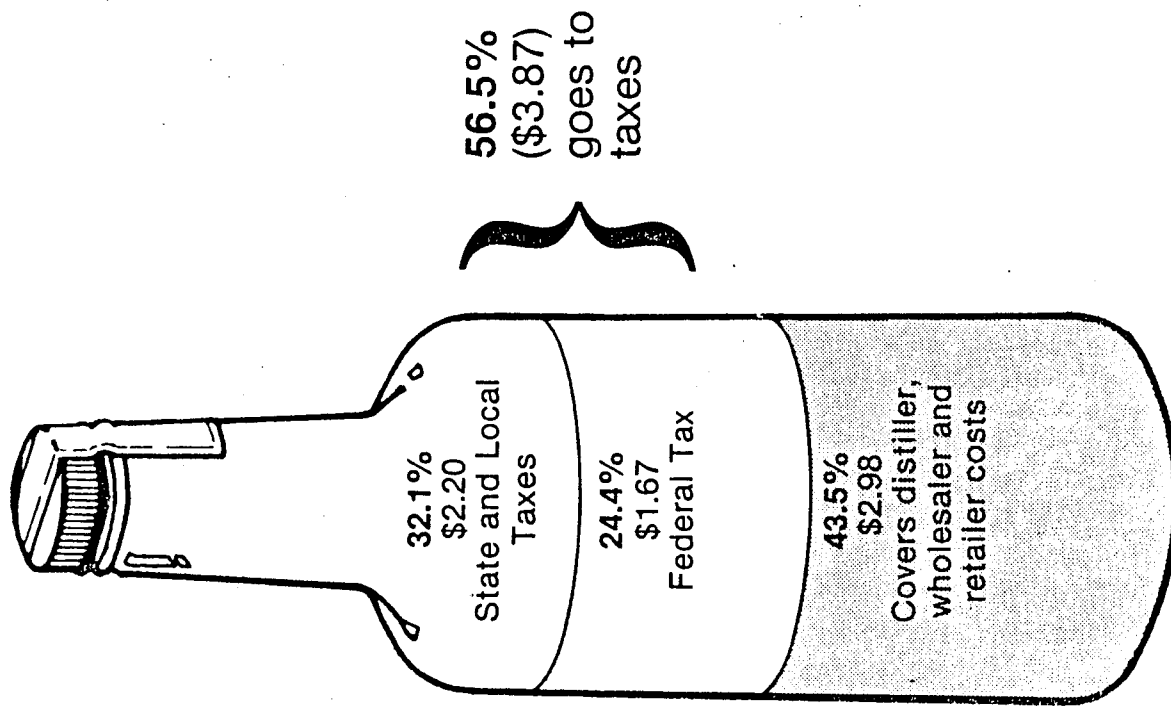
Cities also collect the lion's share of DUI fines.

Would the Board of Crime Control have the power to tell counties they had to consolidate with cities to qualify for grants? If so, much power has been delegated without legislative guidelines. Is this Constitutional?

Excessive Tax Burden

Montana

Out of the typical 1982 retail price of \$6.85 for a bottle of distilled spirits in Montana . . .



750 ml. bottle, 80 proof

TABLE 11

State Excise Tax Rates on Wine and Beer, July 1983

Percentage of Wholesale/Retail Value or Dollars per Gallon, as Indicated

| State | Table Wine Under 14% Alcohol | Dessert Wine 14-21% Alcohol | Champagne, Sparkling Wine | Carbonated Wine | Vermouth | Beer |
|---------------------------|---------------------------------------|--------------------------------------|---------------------------------|--------------------|-------------------|---------------------|
| | Percent of Value or Dollar* | | | | | |
| Alabama | 35% | 48% | 35% | 35% | 48% | 0.53 ^a |
| Alaska | 0.60 | 0.60 | 0.60 | 0.60 | 0.60 | 0.25 |
| Arizona | 0.42 | 0.42 | 0.42 | 0.42 | 0.42 | 0.08 |
| Arkansas | 0.75 | 0.75 | 0.75 | 0.75 | 0.75 | 0.27 ^b |
| California | 0.01 | 0.02 | 0.30 | 0.30 | 0.02 | 0.04 |
| Colorado | 0.277 | 0.277 | 0.277 | 0.277 | 0.277 | 0.08 |
| Connecticut | 0.25 | 0.25 | 0.625 | 0.625 | 0.25 | 0.08 |
| Delaware | 0.40 | 0.40 | 0.40 | 0.40 | 0.40 | 0.06 |
| Dist. of Col. | 0.15 | 0.33 | 0.45 | 0.45 | 0.33 | 0.07 |
| Florida | 1.75 | 2.43 | 3.50 | 1.75 | 2.43 | 0.40 |
| Georgia | 1.51 | 2.54 | 1.51 | 1.51 | 2.54 | 0.48 ^{a,c} |
| Hawaii | 20% | 20% | 20% | 20% | 20% | 20% |
| Idaho | 0.45 | — | 0.45 | 0.45 | — | 0.15 |
| Illinois | 0.23 ^d | 0.60 ^d | 0.23 | 0.23 | 0.60 | 0.07 ^d |
| Indiana | 0.47 | 0.47 | 0.47 | 0.47 | 0.47 | 0.12 |
| Iowa | — | — | — | — | — | 0.14 |
| Kansas | 0.30 | 0.75 | 0.30 | 0.30 | 0.75 | 0.18 |
| Kentucky | 0.50 | 0.50 | 0.50 | 0.50 | 0.50 | 0.08 |
| Louisiana | 0.11 | 0.23 | 1.59 | 1.59 | 0.23 | 0.32 ^a |
| Maine | 0.45 | 0.75 ^a | 1.12 | 1.12 | 0.75 ^a | 0.30 |
| Maryland | 0.40 | 0.40 | 0.40 | 0.40 | 0.40 | 0.09 |
| Massachusetts | 0.55 | 0.55 | 0.70 | 0.70 | 0.55 | 0.11 |
| Michigan | 0.51 | 0.76 | 0.51 | 0.51 | 0.76 | 0.20 |
| Minnesota | 0.27 | 0.79 | 1.50 | 1.50 | 0.79 | 0.13 ^b |
| Mississippi | 0.35 | 0.35 | 1.00 | 1.00 | 0.35 | 0.43 |
| Missouri | 0.30 | 0.30 | 0.30 | 0.30 | 0.30 | 0.06 |
| Montana | 0.76 | 26% | 0.76 | 0.76 | 26% | 0.13 |
| Nebraska | 0.65 | 1.25 | 0.65 | 0.65 | 1.25 | 0.14 |
| Nevada | 0.40 | 0.75 | 0.40 | 0.40 | 0.75 | 0.09 |
| New Hampshire | — | — | — | — | — | 0.18 |
| New Jersey | 0.30 | 0.30 | 0.30 | 0.30 | 0.30 | 0.03 |
| New Mexico | 0.95 | 0.95 | 0.95 | 0.95 | 0.95 | 0.18 |
| New York | 0.12 | 0.12 | 0.66 | 0.33 | 0.12 | 0.055 ^a |
| North Carolina | 0.79 | 0.91 | 0.79 | 0.79 | 0.91 | 0.48 ^f |
| North Dakota ^a | 0.50 | 0.60 | 1.00 | 1.00 | 0.60 | 0.16 ^c |
| Ohio | 0.26 | 0.62 | 1.27 | 1.27 | 0.77 | 0.08 |
| Oklahoma | 0.50 | 1.00 | 1.50 | 1.50 | 1.00 | 0.32 |
| Oregon ^b | 0.65 | 0.75 | 0.65 | 0.65 | 0.75 | 0.08 |
| Pennsylvania | 18% | 18% | 18% | 18% | 18% | 0.08 |
| Rhode Island | 0.40 | 0.40 | 0.50 | 0.50 | 0.40 | 0.06 |
| South Carolina | 1.08 | 1.08 | 1.08 | 1.08 | 1.08 | 0.77 |
| South Dakota | 0.90 | 1.40 | 2.00 | 2.00 | 1.40 | 0.27 ^b |
| Tennessee | 1.10 | 1.10 | 1.10 | 1.10 | 1.10 | 0.13 |
| Texas | 0.17 | 0.34 | 0.43 | 0.43 | 0.34 | 0.17 ^b |
| Utah | 13% | 13% | 13% | 13% | 13% | 0.35 |
| Vermont | 0.55 | 25% | 0.55 | 0.55 | 25% | 0.27 |
| Virginia | 1.51 | 1.51 | 1.51 | 1.51 | 1.51 | 0.26 |
| Washington | 0.82 | 0.82 | 0.82 | 0.82 | 0.82 | 0.09 |
| West Virginia | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 0.18 |
| Wisconsin | 0.25 | 0.45 | 0.25 | 0.25 | 0.45 | 0.06 |
| Wyoming | 0.28 | 0.28 | 0.28 | 0.28 | 0.28 | 0.02 |
| Federal | 0.17 | 0.67 | 3.40 | 2.40 | 0.67 | 0.29 |

*Where percentage shown, tax is percentage of wholesale/retail value. Where percentage is not shown taxes are in dollars or fraction of dollars. Tax rates per liter converted to gallon tax rates where applicable. Certain wines sold only by state stores in control states are taxed on ad valorem basis.

^aLocal taxes are additional, i.e., Alabama, \$0.52; Georgia, \$0.53; Louisiana, \$0.05; New York City, \$0.12 per gallon.

^bBeer 3.2% or less is taxed at different rate (Texas 4%), i.e., Arkansas, \$0.16; Minnesota, \$0.06; South Dakota, \$0.16; Texas, \$0.16 per gallon.

^cBulk beer, Georgia, \$0.32 (plus local \$0.39); North Dakota, \$0.08/gallon.

^dIn Cook County, additional county tax of \$0.12 on table wine, \$0.30 on dessert wine, and \$0.04 on beer per gallon.

^eAdditional tax of \$0.625/proof gallon on state store sales.

^f\$0.48 per gallon tax on containers 7½ gals. and more; tax on smaller containers \$0.53/gallon.

^gWine less than 17% alcohol by volume \$0.50; 17-24%, \$0.60 per gallon.

^hNo tax on first 25,000 gallons shipped from wineries producing less than 100,000 gallons annually.

DEPARTMENT OF REVENUE



TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

April 16, 1985

TO: Dan Bucks, Deputy Director

FROM: Mike Walsh, Administrative Officer
Research and Information Division

SUBJECT: Montana Tax Rates on Alcoholic Beverages

BEER

Tax - \$4.00 per barrel of 31 gallons,
72 ounces per 6 pack, 3968 ounces per 31 gallons
Tax per 6-pack

$$\frac{\$4.00}{3,968 \text{ OZ.}} = \frac{X}{72 \text{ oz.}}$$

$$X = \$.0726/6\text{-Pack}$$

Average retail prices per 6-pack

| | |
|-----------------|--|
| Burgie - \$2.00 | Budweiser, Rainier, Miller Lite - \$3.00 |
| 3.6% | 2.42% |

| | | |
|-------------------|------------------|----------------------------|
| Michelob - \$3.50 | Kessler - \$4.00 | Beck's (Imported) - \$6.00 |
| 2.07% | 1.81% | 1.21% |

Budweiser, Rainier and Miller Lite are probably the leading sellers
- the average tax on beer would be in the 2.5% range.

WINE

Tax - \$.20/liter (\$.15/750 milliliters, \$.30/1.5 liters)

Montana Liquor Division Prices

| | | |
|-------------------------|--------------------|--------------------|
| Boones Farm | Gallo | Riunite |
| Strawberry Hill (750ml) | Rhine (1.5 liter) | Lambrusco (750 ml) |
| \$1.75 | \$4.70 | \$2.95 |
| 8.5% | 6.38% | 5.08% |
| Mateus | Korbel Natural | |
| Rose (750 ml) | Champagne (750 ml) | |
| \$3.95 | \$9.50 | |
| 3.8% | 1.58% | |

6

The average tax on wine would probably be in the 5% range.

HOUSE BILL NO. 935

INTRODUCED BY

Alvin

1

Fiscal year 1987

374507000

-End-

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY FOR ALCOHOL ABUSE PROGRAMS AND THE PAYMENT OF PRINCIPAL OF AND INTEREST ON COUNTY JAIL CONSTRUCTION AND RENOVATION BONDS."

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

Section 1. Appropriation. The following money is appropriated from:

(1) the general fund to the Department of Institutions for programs for the treatment, rehabilitation, and prevention of alcoholism:

| | |
|------------------|-----------|
| Fiscal year 1986 | \$250,000 |
| Fiscal year 1987 | 750,000 |

(2) the general fund to the Department of Social and Rehabilitation Services for residential alcohol abuse treatment for indigent youths:

| | |
|------------------|-----------|
| Fiscal year 1986 | \$250,000 |
| Fiscal year 1987 | 250,000 |

(3) the debt service account established by 17-5-405 to the Board of Examiners to pay the principal of and interest on bonds issued to fund county jail construction or renovation:

| | |
|------------------|-------------|
| Fiscal year 1986 | \$2,450,000 |
|------------------|-------------|

Be Amended As Follows:

- 1) Page 3, Line 20
Following: "(c)"
Strike: "2.5%"
Insert: "a percentage"
- 2) Page 3, Line 23
Following: "ACT]"
Strike: "."
Insert: "Determined as follows:

| (1) <u>Gross Value Per Barrel</u> | <u>Tax Rate</u> |
|-----------------------------------|-----------------|
| Under \$28 | 2.5% |
| \$28 to \$29 | 3.0% |
| \$29 to \$30 | 3.5% |
| \$30 to \$31 | 4.0% |
| \$31 to \$32 | 4.5% |
| \$32 and above | 5.0% |

- (ii) The values per barrel in subsection (i) are to be adjusted for each subsequent fiscal year to reflect 40% of the growth in a composite price index for the most recent calendar year relative to its calendar year 1984 average. The index is to be a weighted average of the percentage changes in the producer price index for oil and gas machinery; the producer price index for commercial electric power for the mountain region; the average hourly earnings in the mining industry, and the average level of windfall profits tax paid as determined by the department. The following weights are assigned to each series:

| <u>Series</u> | <u>Weight</u> |
|---------------------|---------------|
| Oil & Gas Machinery | 15% |
| Electric Power | 19% |
| Mining Earnings | 19% |
| Windfall Profit Tax | 47% |

- (iii) Five years from the date the first tertiary petroleum is recovered the rate of tax for incremental petroleum and other mineral or crude oil will be the rate stated in (a) of this section.

3) Page 4, Line 1

Strike: (i)

Insert: (iv)

4) Page 4, Line 5

Strike: (ii)

Insert: (v)

5) Page 4, line 8

Strike: (vi)

Insert: (iii)

ROLL CALL VOTE

SENATE TAXATION COMMITTEE 49 th Legislative Session -- 1985

Time 10:16 Date April 16, 1985 Room 413-415

Motion: to amend HB 636 per Exhibit 8
Lybeck. motion amended by
deletion of 3 small iii.

| Name | Yes | No | Excused |
|------------------|-----|----|---------|
| Senator Brown | | ✓ | |
| Senator Eck | ✓ | | |
| Senator Goodover | | ✓ | |
| Senator Hager | | ✓ | |
| Senator Halligan | ✓ | | |
| Senator Hirsch | | ✓ | |
| Senator Lybeck | ✓ | | |
| Senator Mazurek | | ✓ | |
| Senator McCallum | | ✓ | |
| Senator Neuman | ✓ | | |
| Senator Severson | | ✓ | |
| Senator Towe | ✓ | | |

ROLL CALL VOTE

SENATE TAXATION COMMITTEE 49 th Legislative Session -- 1985

Time 10:43 am Date April 16, 1985 Room 413-415

Motion: to replace Bd of Oil & Gas Conservation
with Dept. of Revenue in bill. Motion
by Eck

to amend HB 636

| Name | Yes | No | Excused |
|------------------|-----|----|---------|
| Senator Brown | ✓ | | |
| Senator Eck | ✓ | | |
| Senator Goodover | | ✓ | |
| Senator Hager | | ✓ | |
| Senator Halligan | ✓ | | |
| Senator Hirsch | ✓ | | |
| Senator Lybeck | ✓ | | |
| Senator Mazurek | ✓ | | |
| Senator McCallum | | ✓ | |
| Senator Neuman | ✓ | | |
| Senator Severson | | ✓ | |
| Senator Towe | ✓ | | |

ROLL CALL VOTE

SENATE TAXATION COMMITTEE
49 th Legislative Session -- 1985

Time 11:47 Date April Room 413-415

Motion: McCallum moves that HB636
be amended.

| Name | Yes | No | Excused |
|------------------|-----|----|---------|
| Senator Brown | ✓ | | |
| Senator Eck | | ✓ | |
| Senator Goodover | ✓ | | |
| Senator Hager | ✓ | | |
| Senator Halligan | ✓ | | |
| Senator Hirsch | ✓ | | |
| Senator Lybeck | | ✓ | |
| Senator Mazurek | ✓ | | |
| Senator McCallum | ✓ | | |
| Senator Neuman | ✓ | | |
| Senator Severson | ✓ | | |
| Senator Towe | | ✓ | |

Proposed Amendments HB 374, Third Reading



1. Page 2, line 23.
Following: "~~one-third~~ 5"
Strike: "7.33"
Insert: "7 1/3"

2. Page 3, line 2.
Following: line
Strike: "~~1.33~~"
Insert: "1 1/3"

3. Page 3, line 3.
Following: "~~one-third~~ 5"
Strike: "1.33"
Insert: "1 1/3"

STANDING COMMITTEE REPORT

April 16, 1935

MR. PRESIDENT

Taxation

We, your committee on

House Bill

having had under consideration

No. 636

third reading copy (blue color)

(Senator Hirsch)

REDUCE TAX RATE ON PETROLEUM PRODUCED BY TERTIARY RECOVERY METHODS.

House Bill

Respectfully report as follows: That

No. 636

be amended as follows:

1. Page 3, line 17.

Following: "gas"

Insert: ", including carbon dioxide gas,"

2. Page 3, lines 18 and 19.

Following: "ground" on line 18

Strike: remainder of line 18 through "PROJECT" on line 19

3. Page 4, line 2.

Following: "the"

Strike: "board of oil and gas conservation"

Insert: "department of revenue"

4. Page 4, line 4.

Following: line 3

Strike: "as provided in 82-11-141"

Insert: "in accordance with Title 2, chapter 4"

5. Page 4, line 7.

Following: "the"

Strike: "board of oil and gas conservation"

Insert: "department"

6. Page 4, lines 10 and 11.

Following: "the" on line 10

Strike: "board of oil and gas conservation"

Insert: "department"

XXXXX

XXXXXXX

continued

Chairman.

April 16, 1985

7. Page 4, line 25 through line 1, page 5.
Following: "the" on line 25
Strike: "board of oil and gas conservation"
Insert: "department"

8. Page 5, lines 4 and 5.
Following: "by the" on line 4
Strike: "board of oil and gas conservation"
Insert: "department of revenue"

9. Page 5, line 7.
Following: "the"
Strike: BOARD
Insert: "department"

10. Page 9, lines 3 and 4
Following: "authority of" on line 3
Strike: "the board of oil and gas conservation or"

AND AS AMENDED
BE CONCURRED IN

STANDING COMMITTEE REPORT

April 15, 1985

MR. PRESIDENT

We, your committee on Taxation
Senate Taxation Committee HB
having had under consideration Standing Committee Report of April 15 on No. 625

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
reading copy ()
color

Senator Hager

INCREASED ASSESSMENT OPTIONS FOR STREET MAINTENANCE DISTRICTS.

Senate Taxation Committee on HB
Respectfully report as follows: That Standing Committee Report of April 15 No. 625

Amendment No. 2

Strike: All inserted material in its entirety

Insert: "Section 5. Section 7-12-4407, MCA is amended to read:

"7-12-4407. Protest against ordinance for improvements. If ~~400 or more of the abutting property owners protest in writing to said city or town council against the passage of said proposed ordinance, then no further action shall be taken upon the proposed district for 1 year.~~ No further action shall be taken upon the proposed district for 1 year if a written protest against passage of the proposed ordinance is filed by:

(1) owners of property within the proposed maintenance district having a taxable valuation, when aggregated, representing not less than 50% of the total taxable valuation of property within the district;

(2) not less than 50% of the owners of property within the district; or

(3) owners of property within the proposed maintenance district having projected assessments, when aggregated, representing not less than 50% of the total projected assessments for property within the district."

AND AS AMENDED
BE CONCURRED IN

XXXXXX

XXXXXXXXXX

Senator Thomas E. Towe, Chairman.

STANDING COMMITTEE REPORT

April 16, 19 85

MR. PRESIDENT

We, your committee on Taxation
having had under consideration House Bill No. 374
third reading copy (blue)
color

(Senator Brown)

RAISE BEER AND WINE TAX TO DOUBLE MONEY FOR ALCOHOLISM PROGRAMS.

Respectfully report as follows: That House Bill No. 374

be amended as follows:

1. Page 2, line 23.
Following: "~~one-third-5~~"
Strike: "7.33"
Insert: "7 1/3"

2. Page 3, line 2.
Following: line 1
Strike: "1.33"
Insert: "1 1/3"

3. Page 3, line 3.
Following: "~~one-third-5~~"
Strike: "1.33"
Insert: "1 1/3"

AND AS AMENDED
BE CONCURRED IN

XXXXX
DO PASS

XXXXXXX
DO NOT PASS

Senator Thomas E. Towe, Chairman.