

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Bob Brown, Chairman, on March 10, 1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Hager, Senator Norman, Senator Eck, Senator Bishop, Senator Halligan, Senator Walker, Senator Harp, Senator Gage, Senator Severson, Senator Mazurek

Members Excused: Senator Crippen, Senator Severson left at 9:00 a.m. Senators Eck and Halligan were late arriving

Members Absent: None

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 459

Presentation and Opening Statement by Sponsor:

Senator Walker, District 20, sponsor, said this is a new concept for tax reform. The bill repeals the existing state individual income tax and imposes a state income tax based on a percentage of the federal income tax payable on Montana taxable income. He noted the fiscal note needs to be amended as the bill is supposed to be revenue neutral. The Department of Revenue left out the deduction for state employees which amounts to a .6% difference in the formula. Senator Walker will propose an amendment to rectify that oversight and return the bill to revenue neutral status. He said the best part of the bill is the simplicity and the common sense approach it takes to taxation.

Senator Walker felt the return form could be condensed to one page. He noted the savings provisions in the fiscal note do not address the booklet cost savings that would occur as a result. There would also be a savings in revenue personnel needed to administer this tax as opposed to other taxes such as a sales tax or increased income tax. The bill eliminates nuisance taxes and would attract new businesses to the state by paralleling tax

costs across the nation. Senator Walker said the bill coincides with Governor Stephens campaign pledge to cut costs and simplify the processes of government.

List of Testifying Proponents and What Group they Represent:

Mike Holland, Legislative Chairman, Montana Society of CPA
Don Reed, Montana Alliance for Progressive Policy
Don Judge, Montana AFL-CIO
Jean Roll, taxpayer, Bozeman

List of Testifying Opponents and What Group They Represent:

Ken Nordtvedt, Director, Department of Revenue
Dennis Burr, Montana Taxpayers Association

Testimony:

Mike Holland, Legislative Chairman, Montana Society of CPAs, presented his testimony in support of the bill (Exhibit #1).

Don Reed, Montana Alliance for Progressive Policy, presented his testimony in support of the bill (Exhibit #2).

Don Judge, Montana AFL-CIO, presented his testimony in support of the bill (Exhibit #3).

Jean Roll, taxpayer, Bozeman, presented her testimony in support of the bill (Exhibit #4).

Opponents:

Ken Nordtvedt, Director, Department of Revenue, said the administration does not feel this is the wisest way to alter personal income taxes. He said a recent poll of the IRS offices around the nation showed that more than 50% of the answers given to taxpayers seeking information about filing their federal forms was incorrect. He said the only simplification that would occur if the state income tax was piggybacked on the federal would be that there would be only one tax calculation. He remarked even that would be additionally complicated by the calculation of the various tax credits the state has in place since no mention of repealing the tax credits has been made in reference to this bill. He felt this would be the beginning of a new and complicated tax calculation based on credits rather than tax liability itself.

Director Nordtvedt said the federal government cannot be counted on to be in the forefront of tax reform as several states, including Montana, adopted tax indexing before the federal government. He also cited the federal tax reform act of 1986 which created more problems than it solved for the states. He said we give up our sovereignty as a state if we do this and he warned the committee that even though this seems to be an easy and uncomplicated method of taxation, the federal tax act is not perfect and is not geared toward what is best for Montana.

Dennis Burr, Montana Taxpayers Association, said he is not terribly opposed to the bill. He said Alaska adopted this method of taxation and found their taxes were changing every year. They finally had to tie to one specific year and now they have to calculate their federal taxes based on the current year and their Alaska taxes on the base year. In effect, they just traded one set of complications for another. He asked how we would manage to keep Montana tax revenue even when the federal tax structure is everchanging.

Questions From Committee Members:

Senator Norman asked Director Nordtvedt to explain the major differences between Montana and federal tax calculations.

Director Nordtvedt replied Montana treats low income taxpayers poorly by comparison, the tax brackets are on different curves of progressivity, there is no exemption for retirement income, however, both are tied to income indexing.

Senator Mazurek noted Section 8 of the bill gives DOR the right to change the rate is a big fluctuation would occur in the federal tax rate. He felt there was a definite constitutionality issue involved in that provision.

Steve Bender, Deputy Director, DOR, said that provision is modeled after the Nebraska law. They said they were counting on a certain amount of revenue from their individual income tax. The Director of their Department of Revenue would certify a tax rate almost like a mill levy certification to generate that amount of money no matter what happened to the economy or what changes there were in the federal code.

Closing by Sponsor:

Senator Walker closed by asking why we should reinvent the wheel since we have to do federal tax calculations. Taxpayers can have simplification and set their financial portfolio based on one tax program. There always have been and will always continue to be a proliferation of bills to change the tax structure. It is the nature of the beast, however, the basic structure can be simplified and a mutual base from which to operate can be established through this bill. He felt the concerns voiced by Senator Mazurek regarding Section 8 are valid and should be addressed. Senator Walker said if we want the services, we have to have the taxes and the taxpayers want simplification. He noted the deduction provision for state employees should be honored as they were told the state did not have enough money to pay them more therefore they got a break on the deduction for retirement pay.

A brief discussion was held regarding the tax booklet and the necessity of maintaining one for the application of tax credits, military pay and retirement, Indian tax provisions, interest royalties, etc.

HEARING ON SENATE BILL 461

Presentation and Opening Statement by Sponsor:

Senator Mazurek, District 23, said this is the bill the committee requested on migratory personal property. It is based on SB 250 by Senator Eck and was requested by the Department of Revenue and reviewed by the Revenue Oversight Committee. Senator Mazurek presented the provisions of the bill as the are in current law, under SB 250, and under SB 461:

Under current law, the general assessment day is January 1. Property that is instate January 1 is subject to the full year property tax assessment. If it comes into the state after January 1, it is subject to a prorated tax based on eleven months. If the property leaves the state on or before June 1, a refund is given. There is provision for a front and back end proration.

Under SB 250 provisions, property that is instate January 1 is subject to the full year assessment. If the property is instate January 1 and leaves before the year is up, there is no proration. If the property comes in after January 1 and leaves during the year the proration comes into effect.

Under provisions of SB 461 if the property is here on

the tax assessment day, the whole year's tax is assessed. If the property comes into the state following the assessment date, it is assessed from that date for the rest of the year.

List of Testifying Proponents and What Group they Represent:

Marvin Barber, Montana Assessors Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Marvin Barber, Montana Assessors Association, said his organization has been concerned about this area for quite some time. He said the ambiguity has forced assessors to make their own judgement calls and most are using the provisions proposed in SB 461 at present.

Questions From Committee Members:

Senator Brown said he is still groping for the fundamental need for the bill.

Senator Gage said it is necessary to treat everyone the same way and this bill gives everyone the proration on the front end, not the back.

Senator Mazurek said the courts say if you have an assessment day you have to use it.

Closing by Sponsor:

Senator Mazurek closed.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 440

Discussion:

Steve Bender, Deputy Director, Department of Revenue, submitted the proposed amendments to the bill (Exhibit #5). He noted #4 is the substantive amendment.

Senator Harp said statistics show how many cigarettes are

being sold in the state, how many Indians are on the reservations, and what the per capita consumption is. He said once the cap is met, the credit should no longer be available. Beyond that constitutes tax evasion.

Amendments and Votes:

Senator Harp MOVED to adopt the proposed amendments (Exhibit #5). The motion CARRIED unanimously with Senators Severson and Crippen absent.

Senator Mazurek asked what happens if you go into a store on the reservation and they have no tribal license.

Tom Dowling replied if they don't have the license, the consumer pays the tax. The Indian retailer has to comply with the law and if he doesn't he will not get the benefits of the bill.

Recommendation and Vote:

Senator Harp MOVED SB 440 Do Pass As Amended. The motion CARRIED on a roll call vote (Exhibit #6).

ADJOURNMENT

Adjournment At: 10:00 a.m.



SENATOR BOB BROWN, Chairman

BB/jdr

MIN310.jdr

ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3/10/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN			X
SENATOR ECK	X <i>late</i>		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X <i>late</i>		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X <i>left at 9:00</i>		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 10, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 440 (first reading copy -- white), respectfully report that SB 440 be amended and as so amended do pass:

1. Title, line 8.

Following: "MEMBERS;"

Insert: "PROVIDING AUTHORITY FOR THE DEPARTMENT OF REVENUE TO INVESTIGATE AND AUDIT CERTAIN CIGARETTE WHOLESALERS AND RETAILERS;"

2. Page 3, line 9.

Strike: "a wholesaler to a"

Insert: "an Indian"

Strike: "solely for"

3. Page 3, line 10.

Strike: "royalty"

4. Page 3, line 11.

Strike: "an Indian"

Insert: "the tribe's"

5. Page 3.

Following: line 12

Insert: "(3) The tax imposed by this section must be precollected on all cigarettes entering Bandana Indian reservation subject to refund or credit as provided in subsection (4)."

Repeal or subsequent subsection

6. Page 3, line 15.

Strike: "paid"

Insert: "precollected"

7. Page 3, line 16.

Following: "tribe"

Insert: "on whose reservation the retail sale is made"

8. Page 3, line 21

Strike: "refund"

Insert: "refundr"

9. Page 3, line 23.

Strike: "(3)"

Insert: "(4)"

10. Page 4, line 9.

Strike: "Indian"

Insert: "tribal member"

11. Page 4, line 15.

Following: "reservation"

Insert: "in Montana"

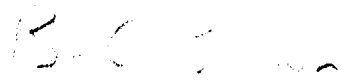
12. Page 4.

Following: line 15

Insert: "(7) The department may investigate the facts surrounding the certification and may audit the books and records of wholesalers and retailers to determine whether the economic benefit of the refunds or credits was passed on as required in subsection (6). If the department determines that the economic benefit was not passed on as required, it may not provide any further refunds or credits to the wholesaler unless the wholesaler presents substantial evidence in addition to the certification that the economic benefit was passed on. In addition, the wholesaler shall return any refunds or credits received during the preceding 3 years if the economic benefit was not passed on."

AND AS AMENDED DO PASS

Signed _____


Bob Brown, Chairman

MSCPA

TESTIMONY

SB459 - FLAT TAX

In the fall of 1986, the Montana Society of CPA's announced its support for a flat tax, a Montana income tax based on a flat percent of the taxpayer's federal income tax.

In the 1987 session, we debated the merits and drawbacks of the concept, and we've all had two years to think about those arguments. Listening to the debate over SB408, it occurred to several of us that the flat tax proposed in SB459 answered the needs of the proponents and the opponents alike.

Treatment of low-income taxpayers

- the flat tax would effectively adopt the federal standard deduction of \$3,000 for single taxpayers and \$5,000 for married couples, with another \$600 added for each taxpayer over age 65
- the flat tax would effectively increase the Montana exemption to \$2,000 per dependent
- SB459 retains the tax exempt status of PERS and Teachers Retirement benefits
- many lower-income taxpayers would be removed from the tax rolls

Progressivity

Though the federal code consists of three tax brackets, many of the deductions are phased out for taxpayers with very high incomes. Phase-out provisions include

- the deduction for personal exemptions
- the 15% tax rate
- the deduction of up to \$25,000 of loss from actively-managed rental properties

Alternative Minimum Tax

Many Montanans will be happy that Montana would share in the federal alternative minimum tax.

Simplification

- above all, it would simplify the Montana income tax system
- the vast majority of Montana taxpayers could file their returns on a post card
- those with adjustments, such as retirees, could file a one-page return on which they prorate their federal tax.

Why tie us so closely to the federal?

The bill provides a mechanism, with safeguards, to adjust the tax rate to respond to changes in the federal code.

Moreover, if Montana wants a unique income tax system,

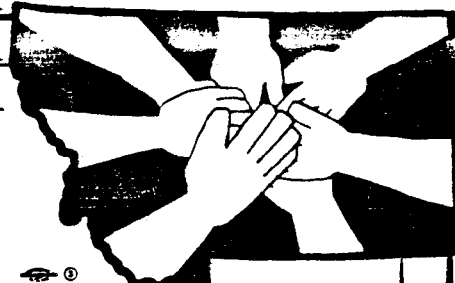
- it should accept the fact that it must have a tax code as complex as the Internal Revenue Code,
- the Department of Revenue should promulgate thousands of pages of regulations, and
- the Legislature should appropriate millions of dollars for the education of Montana taxpayers and preparers.

Much of the conflict between the Department of Revenue and the taxpayers or their preparers results from a serious lack of awareness of the Montana income tax laws and the administrative rules. We are in a constant battle with the Department over how statutes should be interpreted. Reducing this conflict has been our number one objective in this session.

The perception

The top tax rate, without considering the phase-out provisions, would be 31.6% of the top federal tax rate of 28%, or 8.85%.

More importantly, this Legislature would be recognized as the session that had the courage to tell the taxpayers what their income tax really is. No mirrors, no smoke, no added complications (that don't already exist because of the federal code).



The Montana Alliance for Progressive Policy

P.O. Box 961 Helena, MT 59624 (406) 443-7283

SB 459: Montana Income Tax as a Percent of Federal Income Tax

Mr. Chairman and members of the committee, for the record I'm Don Reed here on behalf of the Montana Alliance for Progressive Policy in support of SB 459.

This bill presents a unique opportunity to reform the Montana income tax in a dramatic way that retains -- and perhaps improves -- progressivity and simplifies the tax.

Other States

Only a few other states have used the "percent of federal taxes" approach. As of May 1988, Vermont and Rhode Island had used this approach for some time and Colorado had apparently just adopted a related approach of taxing a flat percent of federal taxable income. Nebraska used this approach until the 1986 federal tax reform.

Progressivity

Because only a few states use this approach, there is not a large base of data to analyze how this bill would effect who pays the income tax. I believe, however, that this bill would lead to greater progressivity than our current income tax. This is primarily due to three factors:

- 1) Under federal tax reform, the federal income tax is reasonably progressive;
- 2) This bill eliminates the current deduction system which primarily benefits those on the top end of the income scale; and
- 3) This bill "automatically" adopts the federal alternative minimum tax by using the federal tax as a starting point.

I have attached a simple line chart which compares the effective rates of the income taxes in Montana with those in Vermont and Rhode Island. I should caution that this analysis is not adjusted for different income and income tax levels in the three states. It does indicate, however, that this approach to income taxes is reasonably progressive.

Revenue

With the sponsor's amendments, this bill should be revenue neutral. Obviously, the rate could be amended to generate more revenue at the legislature's discretion. I figure that each percentage point in the rate raises approximately \$9 million per year.

Education

Senior Citizens

Women

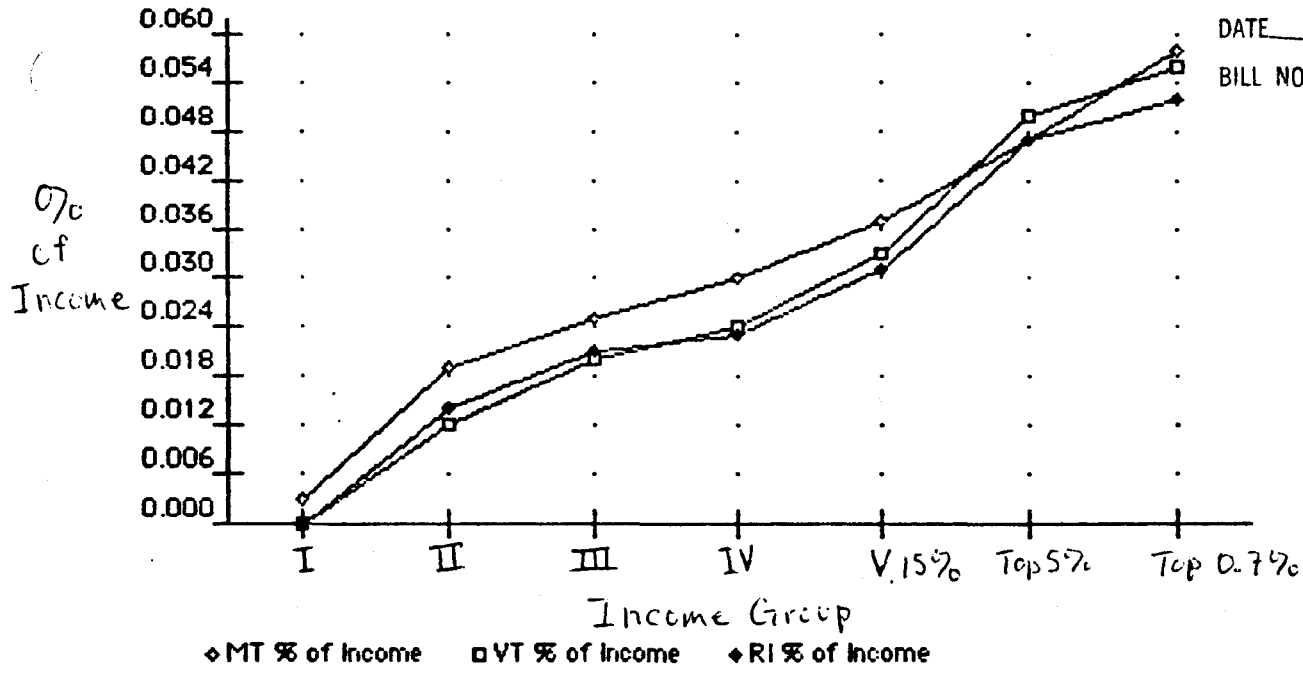
Conservation

Labor

Low Income

SENATE TAXATION

EXHIBIT NO. 2 P2
 DATE 3/10/89
 BILL NO. SB 459



	A	B	C	D	E	F	G	H
1								
2		I	II	III	IV	V, 15%	Top 5%	Top 0.7%
3	Montana							
4	85 Income	\$6,931	\$16,040	\$24,303	\$34,125	\$49,867	\$136,783	\$446,989
5	MT % of Income	0.30%	1.90%	2.50%	3.00%	3.70%	4.70%	5.80%
6	Vermont							
7	85 Income	\$8,116	\$17,637	\$26,189	\$36,921	\$54,553	\$153,274	\$500,878
8	VT % of Income	0.00%	1.20%	2.00%	2.40%	3.30%	5.00%	5.60%
9	Rhode Island							
10	85 Income	\$8,782	\$20,188	\$30,082	\$41,937	\$61,518	\$171,380	\$560,044
11	RI % of Income	0.00%	1.40%	2.10%	2.30%	3.10%	4.70%	5.20%
12								
13								
14								
15								
16								
17								

Source: *The Sorry State of State Taxes*, Citizens for Tax Justice, January 1987.



SENATE TAXATION

EXHIBIT NO. 3

DATE 3/10/89

BILL NO. SB 459

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

Testimony of Don Judge before the Senate Taxation Committee on Senate Bill 459, March 10, 1989

Mr. Chairman and members of the Committee, for the record, I am Don Judge representing the Montana State AFL-CIO in support of Senate Bill 459.

Senate Bill 459 would tie Montana's income tax rates to a percentage of the income tax paid to the federal government. This is a reasonable, rational approach to reform of Montana's income tax. Congress passed the federal tax reform act in 1986. This reform was badly needed and has been praised from nearly every sector of our country. It was developed and enacted in a truly bipartisan atmosphere of cooperation and dedication. While probably no one agreed with every part of this national effort, the end result was impressive in its scope and its commitment to fairness.

Tying Montana's income tax to the federal income tax makes sense for a number of reasons. The revision of the federal tax code has eliminated many of the unfair loopholes which existed previously. It would greatly simplify filing state returns and reduce the auditing functions of the Department of Revenue. This legislation would serve to make Montana's income more fair, it would streamline the income tax operations of state government and would ease tax computation for the taxpayers.

Finally, our organization appeared before your committee yesterday in opposition to a sales tax. Our testimony mentioned that there are viable alternatives to fund the necessary services of state government without the imposition of an unfair sales tax. Senate Bill 459 presents a vehicle for one of those alternatives. It is a tax system based on the ability to pay and that ability to pay was defined in the federal tax code by Republicans and Democrats alike. We strongly urge you to support Senate Bill 459.

Thank you.

Jean Roll, 721 South 6 Avenue, Bozeman, MT 59715, 406-587-1767.
March 10, 1989, remarks concerning SB459.

In the testimony before this committee on Wednesday, who would pay how much income tax was receiving more attention than the system under which it would be paid. I'm back because I think the system deserves equal time. I have yet to get an unfavorable response to the idea of one's State income tax being a percentage of the federal, and I've discussed it with a number of people.

I'm not one of the 600 Montanans with income in excess of \$120,000 a year. That means I'm part of a group numbering perhaps hundreds of thousands. A simplified system would benefit even the 600 if their tax preparers charged less because they spent less time on State returns. Every one of the rest of us would save either money or time.

We would all benefit by supporting a much smaller income tax division in the Montana Department of Revenue. Fewer regulations means fewer people writing instructions. Less to audit means fewer auditors. People often speak of the need to reduce the size of State government; here's a good place to start.

The Montana Department of Revenue should be restricted to auditing only the portions of a return unique to Montana. With a simplified system, understanding those unique regulations should be easier and competent auditing jobs should be more likely. Part of having a tax that is fair is having a tax that is simple enough for everyone to understand it and apply the rules consistently.

Under a complicated system, disputes are more likely. These cost the State and the taxpayer dearly. For a variety of reasons, my husband and I decided our experience with MDOR on a disputed tax item could not be allowed to happen to yet another person. Our expenses to contest what is probably by now \$900 in tax and interest are over \$1000. The State has been sending people from Billings to Bozeman and Helena to Billings and surely has even more invested than we do. A simple system could save money.

The cost of disputes is an unfair aspect of a complicated system. Even if MDOR is wrong, the taxpayer is going to have expenses. The lower income person is unlikely to be able to afford access to the appeals process.

If you want to get down to the smaller things, surely a reduction in the cost of printing and mailing (fewer pages of instructions and forms) would be noticeable.

The State needs the income tax to bring in a certain number of dollars. Decisions will be made about how payment of this tax should be distributed among the people. Once those basics have been established, you have the choice of making it simple or leaving it complex. SB459 is a chance to make it simple.

The "upkeep" of SB459 would be relatively easy. Since it does not have things specified in numbers of dollars, there is no need to make inflation adjustments at the State level.

If conditions change so the State needs more or less revenue from the income tax, only one thing needs to be changed--the percentage of the federal tax.

One convenient thing about laws is that they can be altered. The State is using a complex income tax system, and there seem to be many complaints about it. Why not try a simple income tax system? If it doesn't work, it can be changed back.

AMENDMENTS TO SB 440

Introduced (white) copy

1. Title, line 8.
Following: "MEMBERS;"
Insert: "PROVIDING AUTHORITY FOR THE DEPARTMENT OF REVENUE TO INVESTIGATE AND AUDIT WHOLESALERS AND RETAILERS;"
2. Page 3, line 9 and 10.
Following: "by" on line 9
Strike: "a wholesaler to a"
Insert: "an Indian"
Following: "retailer" on line 9
Strike: "solely for resale"
3. Page 3, line 11.
Following: "of"
Strike: "an Indian"
Insert: "the tribe's"
4. Page 3, line 12.
Following: "Montana."
Insert: "The tax imposed by this section shall be precollected on all cigarettes entering Montana Indian reservations subject to refund or credit as provided in subsection (3)."
5. Page 3, line 15.
Following: "taxes"
Strike: "paid"
Insert: "precollected"
6. Page 3, line 16.
Following: "tribe"
Insert: "on whose reservation the retail sale is made."
7. Page 3, line 21.
Following: "of"
Strike: "refund"
Insert: "refunds"
8. Page 4, line 1.
Following: "the"
Strike: "Indian"
Insert: "tribal member"
9. Page 4, line 15.
Following: "reservation"
Insert: "in Montana"

SENATE TAXATION

EXHIBIT NO. 5 p2

DATE 3/10/89

FILE NO. 30940

10. Page 4, line 16.

Following: line 15

Insert: "(6) The Department may investigate the facts surrounding the certification and audit the books and records of wholesalers and retailers to determine whether the economic benefit of the refunds or credits was passed on as required by subsection (5). If the Department determines that the economic benefit was not passed on as required, it shall not provide any further refunds or credits to the wholesaler, unless the wholesaler presents substantial evidence in addition to certification that the economic benefit was passed on. In addition the wholesaler shall return any refunds or credits received during the preceding three years where the economic benefit was not passed on."

ROLL CALL VOTE

SENATE COMMITTEE
EXHIBIT NO. 6
DATE 3/10/89
BILL NO. SB 440

SENATE COMMITTEE TAXATION

Date 3/11 SB Bill No. 440 Time _____

NAME	YES	NO
SENATOR BROWN	X	
SENATOR BISHOP		X
SENATOR CRIPPEN		
SENATOR ECK		X
SENATOR GAGE		X
SENATOR HAGER	X	
SENATOR HALLIGAN		X
SENATOR HARP	X	
SENATOR MAZUREK	X	
SENATOR NORMAN	X	
SENATOR SEVERSON		
SENATOR WALKER	X	

Bill Robinson
Secretary

SENATOR BOB BROWN
Chairman

Motion: By Sen. HARP SB 440 WITH

