MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on March 9, 1993, at 7:00 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)

Sen. Dorothy Eck, Vice Chair (D)

Sen. Bob Brown (R)

Sen. Steve Doherty (D)

Sen. Delwyn Gage (R)

Sen. Lorents Grosfield (R)

Sen. John Harp (R)

Sen. Spook Stang (D)

Sen. Tom Towe (D)

Sen. Fred Van Valkenburg (D)

Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council

Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and

discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 396, SB 402, SB 412

Executive Action: SB 235, SB 283, SB 396, SB 412

EXECUTIVE ACTION ON SB 235 and SB 283

DISCUSSION:

Senator Halligan said there are further amendments to discuss regarding these two sales tax bills. A letter from Ward Shanahan, dated March 4, 1993, requesting a proposed amendment, was distributed for the Committee's consideration; a copy is attached to these minutes.

Senator Doherty explained the Amendments to Senate Bill No. 235, dated March 4, 1993, a copy of which are attached to these minutes as Exhibit No. 1. He asked the committee to consider these amendments, along with another one he wants to add regarding an exemption for printed material and advertising services. These amendments would tax newspaper and magazine sales and advertising; would impose a tax on the fee charged to an individual who requires services to purchase stocks and bonds; and would make the homeowner credit available to only Montana individual income tax filers. His proposed Amendment No. 10 states that if the \$10,000 credit is applicable, one has to be a Montana individual or a Montana corporation.

Senator Doherty said his proposed Amendment No. 11 would approve an appropriation to fund the special election for the sales tax.

Senator Halligan asked Senator Doherty if his proposed Amendment No. 10 applies to the \$20,000 exemption for an individual residence. Senator Doherty said no, that he believes SB 235 already requires that someone filing for that exemption must be a Montana individual income tax filer. He is applying that issue to the \$10,000 commercial deduction in No. 10. In order to receive the \$10,000 exemption, one must be a filer on either Montana individual income tax or Montana corporation taxes.

Senator Doherty explained that instead of Amendments No. 6 through 8 on this Exhibit, Section 23 would be stricken from SB 235, taking out the exemption for printed material or advertising services.

MOTION:

Senator Doherty moved for adoption of Amendments numbered 1 through 11, on Exhibit No. 1, and strike Section 23 from SB 235.

DISCUSSION:

Senator Brown asked what Amendments 1 through 5 would do. Jeff Martin, Legislative Council Staff, said those amendments would impose a tax on the fee charged to an individual who requires services to purchase stocks and bonds; it is not intended to be a tax on the actual commissions received by stockbrokers in the course of their business.

Senator Brown commented that neither SB 235, nor SB 283, taxed advertising or stocks and bonds, and these amendments are a new concept being added to the sales tax bills. Senator Doherty said the material that was presented, regarding the newspaper and advertising sales, was that these should be exempted from the sales tax; he doesn't think they should be exempt because they involve the sale of goods and services.

Senator Eck said these issues have been discussed every time there has been discussion on a sales tax bill. However, she believes the sale of stocks and bonds is not included in any other state's sales tax. Taxing some commissions might be appropriate, but may already be considered if they are counted as services. She thinks there are only three states that tax advertising services, possibly six states have tried to tax newspapers, and most states tax books.

Chairman Halligan entertained a motion to divide the amendments.

Senator Doherty withdrew his previous motion.

MOTION:

Senator Doherty moved to adopt Amendments 1 through 5, dated March 4, 1993.

DISCUSSION:

Senator Towe asked, regarding Amendment No. 6, why "derived from the business of" is stricken. Mr. Martin explained that he was trying to clarify that the tax is not on the commission received by the stockbroker for his fees, and that the legal liability is on the purchaser.

Senator Brown said he thinks this issue should be subject to some kind of a public hearing; he has no idea what the sponsor of the bill thinks about this amendment, and he is not ready to support the amendment.

VOTE:

The motion CARRIED 8-3 on Roll Call Vote (#1).

MOTION:

Senator Doherty moved to adopt Amendments 6 through 8, and strike Section 23 from SB 235.

DISCUSSION:

Senator Towe asked Senator Doherty to respond to the experience in Florida where a similar action was tried and they had to repeal it because the Interstate Commerce Clause states out-of-state advertising firms could not be prohibited from advertising and the state could not collect the tax on the out-of-state advertising firms. In-state firms were not able to sell competitive advertising because they had to charge the sales tax. Senator Doherty replied that this is a learning experience which may not be acceptable, but advertising is a services/goods product that needs to be taxed if this is to be a fair, broadbased sales tax.

Senator Grosfield asked why the motion is now to strike all of Section 23, when the first intent was to strike books. Senator Doherty said he is trying to tax those services, since everything else is being taxed.

Senator Van Valkenburg asked Mick Robinson, Director, Department of Revenue (DOR), why the exemption in Section 23 was in SB 235, and if there is some general language that would put Montana businesses on a level playing field with out-of-state advertisers in interstate advertising competition. Mr. Robinson said there is no such language in the bill, that it is a wide-ranging discretionary administrative rule and responsibility that he believes would go beyond the power of the DOR. The DOR has tried to identify problem areas that might adversely affect Montana businesses competitively, and that is one reason advertising has always been exempted; the interstate commerce element of the advertising dollars flow to the larger newspapers. There is some good logic in not taxing publications and subscriptions because of the ability to tax over-the-counter sales but lack of ability to tax mail-order subscriptions.

Senator Van Valkenburg asked if the sale or use of items in Montana that have been purchased elsewhere is going to be subject to this tax. Director Robinson responded, "yes". The Senator asked if the DOR could find a way that says if advertising services are purchased elsewhere, for use in Montana, they would be subject to the tax. Mr. Robinson said there is language in SB 235 that will allow the State of Montana to tax interstate commerce items if these items become allowable in light of the national litigation occurring. Mr. Robinson said there is a very small percentage of advertising that is not interstate, and they did not feel it worth the administrative time lost trying to tax the small percentage that can legally be taxed at this point. When the national question on taxing interstate advertising is resolved, then he sees no problem at that time in putting that service back into taxability under the sales tax.

Senator Harp asked if the DOR could find an alternative to this amendment on the interstate commerce question on how advertising can be taxed. Director Robinson said they can try and deal with any ideas offered by this Committee. One of the other issues to be considered is television advertising revenue and how this could be allocated. Mr. Robinson said they can possibly craft an amendment to deal with these problems.

Senator Towe suggested the exemption included in SB 235 regarding architects and engineers who do work outside the state might be considered as the approach to advertising companies who sell advertising out of state, so they would not be taxed and lose their competitive advantage. However, any advertising that comes into the state would be taxed, no matter who sold the advertising, and it is considered a sale that is used or intended for consumption in the state of Montana. Director Robinson said the flow of work that comes into the state for work by engineers

and architects, i.e., if the work is done within the state, it would be taxed under SB 235. The issue becomes more difficult when dealing with advertising that comes from outside the state, in that it becomes an interstate commerce problem regarding the ability to tax.

Senator Towe asked about a tax on an ad placed in the Billings Gazette by a Chicago advertising firm. Dave Woodgerd, Chief Legal Counsel, DOR, said the question arises not in taxing the Billings Gazette, but in taxing the Chicago advertising firm that put together the ad, in determining whether value of that advertising service lies in Chicago or in Montana. The Senator suggested that if the Billings Gazette ends up with some money as a result of running that ad, can't that service be taxed. Mr. Woodgerd thought that is possible.

Senator Brown asked Senator Doherty how <u>USA Today</u> would be taxed, since it is published out-of-state but sold in Montana. Senator Doherty said it would be taxed when sold on the news stand.

Charles Walk, Executive Director of the Montana Newspaper Association, said this amendment would affect a much broader scope than just newspapers. If the amendment is being placed to penalize newspapers, this is a basic tax on knowledge and information which is a bad premise. The commerce clause would prohibit the taxing of <u>USA Today</u>, which is printed elsewhere, brought in by common carrier, and sold here. It would also prohibit the taxing of subscriptions, but not across-the-counter sales. Senator Brown asked Mr. Walk if this amendment is adopted, could the state tax a subscription to The Montana Magazine of Western History, and tax a subscription to Montana Outdoors, but not tax The National Enquirer or Playboy. Mr. Walk said this is correct, as long as these magazines are purchased as a subscription, because the commerce clause enters into the The same problem occurred in Florida where The National Advertiser refused to advertise in the state, and it cost the State of Florida millions of dollars in tax revenue and revenues off the goods. Mr. Walk said the taxation of advertising and its subscriptions will reduce the use of those facilities and the state will end up collecting less tax.

Senator Doherty said if the whole purpose behind the sales tax is to promote a stable business climate, it is not right for the advertising businesses to be exempt.

VOTE:

The motion CARRIED 8-3 on Roll Call Vote (#2).

MOTION:

Senator Doherty moved to adopt Amendments 9 and 10 shown on Exhibit #1.

DISCUSSION:

Senator Gage asked for clarification of the language, "corporation organized within Montana", in Amendment No. 10, and if this means that a corporation which has its charter issued in Delaware, but which qualifies to do business in Montana, would not qualify under this amendment. Senator Doherty said this is what he is trying to accomplish; if those businesses want to receive the \$10,000 reduction for their commercial buildings, they ought to be Montana corporations. If they are not a corporation filed in Montana, they will not receive this exemption.

VOTE:

The motion CARRIED on oral vote with Senator Gage voting "NO".

MOTION/VOTE:

Senator Doherty moved for adoption of Amendment No. 11 on Exhibit No. 1. The motion CARRIED UNANIMOUSLY on oral vote.

DISCUSSION:

Senator Eck explained the Amendments she requested, dated March 4, 1993, shown on Exhibit No. 2 to these minutes. She said Amendment No. 4 would remove the exemption for gambling and amusement services from SB 235.

MOTION:

Senator Eck moved for adoption of Amendment No. 4, which would strike amusement and gaming from the exemptions in Section 15, of SB 235.

DISCUSSION:

Senator Van Valkenburg said he opposes the amendment for the reason that the gaming industry is already subject to a high selective sales tax of 15% of gross sales.

Senator Stang asked Senator Eck if there would a tax placed on every quarter that would go into a machine. Senator Eck said this amendment would not exempt the gaming machine, and the DOR would decide how the tax would be collected, like they decide how the tax is collected on cigarettes sold in a vending machine. Senator Stang said when money is placed in a cigarette vending machine, the owner knows the costs of the goods sold from that machine. The owner doesn't know the cost of the goods sold in the poker machine because the player may put a quarter in and win \$50, or he may put 50 more quarters in and not win anything. Senator Stang thinks it will be hard for the DOR to determine how to tax each one of the quarters going into a gaming machine. He

also said the gaming industry pays a \$200 fee per year for each machine to license it; they pay personal property taxes on every machine they have; they pay a 15% tax on their net out of that machine; and they pay income tax on top of that. Now we are asking for a 4% sales tax on every quarter that goes into the machine.

Senator Towe said it is his understanding that 111 casinos in the State of Montana, in spite of all the taxes, make in excess of \$350,000 a year on the 20 machines they place in each business. Senator Stang said the people in his district who have gaming machines are barely keeping their doors open with the taxes on the machines now. This tax would not just affect the 111 casinos; it would affect every small operation, too.

Senator Harp said the House has just passed a \$99 million tax increase and one on the areas targeted to be increased is the gaming industry which will have a tax increase of \$7.7 million over the next two years.

Senator Towe said he presumes it is the intent of Senator Eck to tax the gross, which means taxing every quarter that goes into the machine, and the prizes would be included in the cost of doing business, which would not be a deductible item. He said he also thinks that the services and goods of the gaming industry should be included in the sales tax.

Senator Grosfield asked the DOR how they intend to collect this tax. Director Robinson said they interpret the amendment to mean that the gross revenue on each machine would be taxed. The language in Section 4 of SB 235 would be the manner in which the DOR would collect the tax, and it would be treated more as a gross receipts tax than a sales tax.

Senator Stang asked if the Administration supports this concept. Director Robinson said he believes the Governor has some concerns about government reliance on additional taxation of gambling revenues.

Senator Gage asked if it is Senator Eck's intention to tax the little rocking horses in grocery stores, and the amusements at the fairs, etc. Senator Eck said she struck the whole Section 15, and there is no proper definition of what amusement is. Jeff Martin said the section in SB 235 that specifies the amusements to be taxed is under Title 23, Chapter 4, 5, and 7.

Senator Towe asked if this includes carnival amusement rides. Senator Eck said it doesn't state what it includes. She said she suggested to the DOR that if this exemption was to remain in SB 235, there should be a definition of what is meant by amusement services.

Mr. Martin said he understands that the only amusement services included would be just those conducted or licensed pursuant to Chapters 4, 5, and 7, Title 23.

Dave Boyer, Legislative Council, said Title 23, Chapter 4 is horse racing, Chapter 5 is gambling, and Chapter 7 is the state lottery. Mr. Martin said that under the way the bill is written, the carnival rides would be taxed.

VOTE:

The motion FAILED 7-4 on Roll Call Vote (#3).

Further executive action on SB 235 starts on page 15 of these minutes.

HEARING ON SB 396

Opening Statement by Sponsor:

Senator Gary Forrester, Senate District No. 49, presented SB 396, which is an attempt to alleviate a problem in Yellowstone County that I-105 is causing.

Proponents' Testimony:

Daniel Schwarz, Chief Deputy County Attorney from Yellowstone County, spoke in support of SB 396. He said when I-105 was passed, he requested an Attorney General's Opinion from the then-Attorney General, Mike Greely, on the impact of SB 71, which was the 1987 Legislature's answer to trying to undue some of the problems created by I-105 which had a provision that if there was a 5% decrease in valuation, the taxing jurisdictions could increase their mills from the 1986 "freeze" level, not to exceed the amount of dollars raised in 1986. This worked well until the Attorney General said that 5% had to be weighed against the prior year's valuation rather than the 1986 level. caused a 20% drop in a lot of counties and the following year, they dropped 3% when they had to go back to 1986 mills. In 1989, the Legislature addressed that problem by saying if the 5% drop occurred, it could be weighed against 1986 property valuations rather than the prior year. Some of the counties now have rebounded back to the 95% to 100% valuation level of 1986. this basically means is that Yellowstone County would have a drop in revenues next year of \$500,000 unless this amendment is passed. Additionally, if SB 396 is passed, property taxes in Yellowstone County for each taxing jurisdiction will actually decrease next year, the amount of revenue will remain constant, and there will be no extra spending and no tax increases on the individual jurisdictions. What will occur is a mechanism to prevent the mills from going all the way back down into the valuation window.

Mike Mathew, Yellowstone County Commissioner, distributed Exhibit No. 3 to these minutes, which is a graph showing the impact of 5% taxable valuation limits on Yellowstone County. Matthew said SB 396 will address problems specific to Yellowstone County, but next year there could be as many as nine counties in this same situation because of the lost property valuations, and many counties are still below their 1986 level and could eventually be caught in the same situation. SB 396 is offering one more revision to the law which will protect the integrity of I-105 while allowing it to continue to work and stay in place without being punitive for city or county governments. By doing that, the same amount of revenue can continue to be collected that was collected in 1986 and in 1992. In FY 87, 48.65 mills raised \$10.3 million on \$211 million taxable valuations; 93, 53.57 mills raised the same amount with \$192 million taxable valuations. There was no new or additional tax dollars. year, in FY 94, Yellowstone County is anticipating taxable valuations of \$202 million, which is about 95% of the \$211 million taxable valuation of 1986. Under the current statute, this would now force the county back to the mill cap of 48.65 They are asking, in SB 396, that once they have gone to the dollar cap, they could stay on it, they would not have to go back to the millage cap, and will collect the same tax dollars they were collecting last year. Because property valuation is going up, their millage will drop next year below what it is now. Taxes for individual taxpayers will lower, the county will collect the same dollar revenue, and it will not allow the county to be caught in the bind between the 95% and 100% valuations. Mr. Mathew asked that SB 396 be passed.

Gordon Morris, Director of the Montana Association of Counties (MACO), spoke in favor of SB 396. Mr. Morris said the dilemma is that if the individual taxpayer liability is measured, and if the mill levy drops below 95% in terms of 1986 dollars, what would be done under SB 396 is to move the dollar limitation up to 100% of the assessed values. Anything above the 100% is the measurement that protects taxpayer liability maximums to the number of mills levied in 1986.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe asked Mr. Mathew if the dollar cap does not stay on, would a new determination be made each year with regard to the 95% rule. Mr. Mathew said the dollar cap currently being used in Yellowstone County, since 1987, is specifically allowed by legislation on the 5% drop. They obtained the 5% drop the

first year I-105 was in effect. With the exception of 1986, Yellowstone County has been on the dollar cap every year of I-105. Under current law, they can't stay on the dollar cap after they come back up above 95%.

Senator Towe asked if Yellowstone County has to go to the full 100% level before they can go back to the 95% level, and is the 95% measured by the \$211 million of taxable valuation before they can go back to the 95%, or can they go 5% below where they are today. Mr. Mathew said the 95% has always been in effect and will continue in effect, so he thinks they will continue to be able to use the dollar amount. The 95% level is based on the 1986 level.

Closing by Sponsor:

Senator Forrester said this is a big problem for Yellowstone County and he asks the Committee's support of SB 396.

EXECUTIVE ACTION ON SB 396

MOTION/VOTE:

Senator Towe moved SB 396 DO PASS. The motion CARRIED UNANIMOUSLY on oral vote. (541047SC.Sma)

HEARING ON SB 402

Opening Statement by Sponsor:

Senator Tom Towe, Senate District No. 46, presented SB 402, referred to as the jump start bond bill. This bill will provide for issuance of Treasure State Endowment (TSE) bonds to provide financial assistance to local government infrastructure projects approved by the Legislature. Senator Towe distributed Exhibits 4 and 5 to these minutes. He said when the TSE was being presented to the public, one of the ways to accentuate or increase the effectiveness of the current law being imposed at that time was to have a jump start bond program. One of the key points of the TSE is that the fund for the money set aside for the TSE is permanently invested in the constitutional trust fund, and only the interest is available for loans and grants. By borrowing from the Board of Investors, more funds could be made available in the trust fund, and by borrowing from the future revenues and have the future revenues pay it back, there can be more programs funded early on and it isn't going to affect the amount of programs to be funded later.

Exhibit No. 5 shows 29 applications and recommended project priorities and funding for the 1993 TSE program. There were requests for grants totalling \$11.5 million to assist in total projects worth \$45.6 million, plus \$153,000 in engineering loan

grant applications. The Department of Commerce (DOC) has recommended approval of grants totalling \$4.234 million. The process is that the DOC makes an initial recommendation which goes to the Governor for his approval; each individual project must then be approved by the Legislature.

Senator Towe said there is presently \$2.6 million available for grants through FY 95. There have been applications for \$4.234 million worth of programs. This leaves a funding shortage of \$1.6 million for the entire amount of recommended, approved grants. It may be easier to go to the Board of Investments and borrow the \$1.6 million for a year or two instead of initiating a bond sale; or, in order to keep the bond program in place and available, it might be determined that the cost effectiveness is better with the bond program than with the Board of Investments; or, the Board of Investments may not be willing to loan the money. In the next biennium, the jump start bond program may be needed because there may be more worthwhile fundable applicants.

Senator Towe said bond counsel helped draft this bill. Each project must be separately approved by a 2/3 vote of each house of the Legislature.

Proponents' Testimony:

Richard Nisbet, Director of Public Works, City of Helena, represented the City Commission at this hearing, and said the Commission is in support of SB 402. One of their projects would not get funded for three or four years if jump start bonds were not available.

George Bennett, representing the Montana Bankers
Association, said he has a concern with the taxability or nontaxability of the bonds. Section 16, Page 11, makes it clear
that the endowment bonds are tax exempt, but Section 8, Page 7,
Line 6, allows the Board of Examiners to decide on a case-by-case
basis whether the bonds will be tax exempt or not. Mr. Bennett
said bond counsel might prefer to have the Legislature make this
determination.

Carl Schweitzer, Montana Contractors Association, said they are happy to see this bill before the Legislature because it will create more jobs. The small communities around the state, who will be receiving funding through this program, will receive a good economic stimulus.

Alec Hansen, Montana League of Cities and Towns, thinks the TSE program is very valuable and essential to the state, and many areas would not be able to make public utility improvements without assistance from these bonds.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked if there is a reason why these bond proceeds are only allowed for grants as opposed to loans. Senator Towe said there are funds already available with which to make loans, and the whole effort is to make more money available for grants. Loans are set forth separately in SB 402, and they come from coal severance tax bonds.

Senator Yellowtail asked if the 2/3 required vote by each house of the Legislature means there would have to be a separate bill for each project. Senator Towe said that is not necessary; there would be one bill for all projects being funded by the bond program. However, each project must be separately spelled out in the bill and there must be a 2/3 vote for that bill.

Senator Yellowtail asked why it is necessary for the 2/3 vote. Senator Towe said bond counsel feels it is necessary to have that specific authority. SB 402 would not require a 2/3 vote, but the individual projects bill would require the 2/3 vote. Anna Miller, Department of Natural Resources and Conservation (DNRC), said if the Legislature decides to fund these projects with the bonds, the Legislature is indebting the state and an indebtedness of the state requires the Legislature to approve that indebtedness with a 2/3 vote.

Senator Halligan said SB 402 is very specific stating each project must be approved by a 2/3 vote. Ms. Miller said this would work the same way as with the water development grants; they are all put into one bill and they are all approved as one bill. If there is one specific project the Legislature does not approve or support, that project would be amended in or out of the bill.

Senator Gage asked if Ms. Miller would anticipate that the bonds would have been sold prior to the time these projects are authorized. She replied that the projects should be authorized first before selling bonds.

Closing by Sponsor:

Senator Towe presented Exhibit No. 6 to these minutes, which shows the TSE program cash anticipation spread for FY 94 and FY 95. He said he would contact bond counsel for an answer to Mr. Bennett's question on taxable and non-taxable bonds.

HEARING ON SB 412

Opening Statement by Sponsor:

Senator Gary Aklestad, Senate District #6, presented SB 412, a port authority bill which will exempt property tax on most public facilities located on public airports and other public lands. He emphasized that the port authorities are providing services for everyone in the state, not just for that isolated area. More goods and commodities are brought into our state through these ports, and the whole state benefits.

Proponents' Testimony:

Merle Raph, representing Toole County, spoke as a proponent of SB 412. Mr. Raph said this bill will resolve a conflict between the port authority statutes created in 1985. The port authority is exempt from taxation under those statutes, but the DOR has applied a beneficial use tax to anybody who uses a port authority. Typically, a port authority has an operator who moves the product, trans-loading it off and on railroad cars and trucks. The operator does a lot of the work for them but does not utilize the entire facility. The DOR has taxed the operator for the entire value of the facility. SB 412 seeks to remedy this problem. Mr. Raph presented Exhibits No. 7 and 8 to these minutes.

Bill Fogarty, the Marketing and Traffic Manager for the Port of Montana, at Butte, spoke in favor of SB 412. He also represented Jack Lynch, Chief Executive of Butte-Silver Bow. Mr. Fogarty presented Exhibit No. 9 to these minutes.

Rep. Dave Brown, House District No. 72, spoke in support of SB 412 on behalf of the Butte-Silver Bow delegation and in cooperation with the North-Central delegation. Rep. Brown said there is a lot of trading just beginning at these ports and he believes it will grow rapidly. He urged the Committee's strong support of this bill.

Opponents' Testimony:

None.

Informational Testimony:

Dave Woodgerd, DOR, presented Exhibit No. 10 to these minutes, an amendment to SB 412, which will extend the exemption from the beneficial use tax to federally owned port authorities. The DOR recommends this amendment be adopted.

Questions From Committee Members and Responses:

Senator Towe asked for clarification of the term "exclusive use" on Line 17, Page 2. Mr. Raph responded that there is a certain capacity in trans-loading that can be reached, measured in tons and cubic feet. If someone has the exclusive-user control of the facilities to the exclusion of everybody else, they will be taxed. If this facility is under lease, they will be taxed. Mr. Fogarty said the grain terminal at the Butte Port is leased to, and operated by, a private company. This private lease operation would continue to be taxed under the beneficial use tax. Senator Towe asked if someone else asked for the same privileges, would that be granted. Mr. Fogarty said there is a 20-year lease on this facility, and the facility is separate and apart from the other facilities the Port operates.

Senator Towe asked Dave Woodgerd if it is his understanding that the private grain business would be taxed under the beneficial use tax, but the other Port facilities would be tax exempt. Mr. Woodgerd said he has no problem with this, but the DOR would look closely at what is and what is not exclusive use. Mr. Woodgerd said language in the bill would allow a split in the taxing at the Port facilities.

Senator Gage commented that inasmuch as the private trucking firm does not utilize 100% of the Toole County port facility and the facility is available to everyone else, the port authority has taken the position there should not be a beneficial use tax imposed on the private trucking firm utilizing the facility. The Senator asked Mr. Raph to explain this. Mr. Raph said the idea is to encourage other trucking firms to use the facilities.

Senator Grosfield asked if this is an all-or-nothing issue. Mr. Raph said it is, and their position is that if there were 9 trucking firms using the facilities, they would each pay 11% of the beneficial use tax. With only one trucking firm, it is difficult to determine the percentage of use for tax purposes.

Closing by Sponsor:

Senator Aklestad said he has no problem with the amendment offered by the DOR and encouraged the Committee to adopt the amendment. He said passage of SB 412 would encourage more economic development within the state, and these two facilities can provide assistance in that development because of their locations.

EXECUTIVE ACTION ON SB 412

MOTION/VOTE:

Senator Towe moved for adoption of the amendment to SB 412. (sb041202.ajm) The motion CARRIED UNANIMOUSLY on oral vote.

MOTION/VOTE:

Senator Towe moved SB 412 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY on oral vote. (531110SC.Sma)

EXECUTIVE ACTION ON SB 235

DISCUSSION:

Jeff Martin explained that Amendment 6 on Exhibit No. 2, would provide 10.5% of the sales tax revenue for the operation of the University System, and Amendment 10 would set up a special revenue account to receive the sales tax revenue. Amendment 7 would proportionately reduce the amount of revenue going into the general fund from the sales tax. Amendments 8, 9, and 17 would restrict a claimant from claiming both a homeowner's credit, and a renter's credit, in one year. Amendment 11 would provide a taxpayer the option of itemizing deductions, limited to contributions and medical expenses; this is tied to Federal law. Amendments 12 through 16 state that if itemized deductions are taken, a taxpayer is not entitled to the standard deduction. Amendment 18 is a technical amendment.

MOTION:

Senator Eck moved for adoption of Amendments 8, 9, and 17.

DISCUSSION:

Senator Towe asked Director Robinson his thoughts on this matter. Mr. Robinson said this concept is valid, and needed, so a double renters credit is not provided. Presently, the DOR does not have a breakdown on renters credit versus homeowners credit, and they do not have a total tax relief figure, but he estimates it to be less than \$4 million.

Upon further questioning by Senators Gage and Towe, Jeff Martin explained that these amendments pertain to the income tax code. The tax credit allowed in the property tax code would allow a person to exempt a certain portion of the market value of their home, depending on income, and that exemption is unrelated to these amendments.

VOTE:

The motion CARRIED UNANIMOUSLY on oral vote.

MOTION:

Senator Eck moved for adoption of Amendments numbered 5, 6, 7, and 10.

DISCUSSION:

Senator Eck said the legislators need to be sure that some of the sales tax revenue will be available for some of the state's critical needs, of which the university funding is one.

Senator Harp asked Senator Eck if it would be her intent that some of the bottom line money that is not specifically designated would be earmarked for the university system. Senator Eck said "yes", even though she knows the appropriation process may not see that the university system gets that funding. However, she believes that one reason most people who support a sales tax do so is because it may fund this kind of project.

Senator Harp asked for the dollar figure of the 10.5% to be earmarked for the universities. Mr. Robinson said this would be connected with Section 62, and that section would take the net revenue of approximately \$120 million, of which 25% goes into the cash reserve fund and 75% goes into the General Fund. He thinks this amendment would be 10.5% of the 75%, which would work out to approximately \$9 million. (Mr. Robinson later said this amount could be substantially higher, possibly up to \$22.64 million, because the net revenue figure he quoted could be greater than \$120 million.)

Senator Grosfield asked Senator Eck why she picked the 10.5% figure. Senator Eck replied that amount was in SB 283, and the dollar figure in that bill was close to \$30 million. She said the figures keep changing in SB 235.

Senator Harp asked if someone from the university system has had an involvement in this amendment. Senator Eck said no one has been directly involved in this effort to provide funding for the university system.

Senator Grosfield asked Director Robinson if the Administration is in favor of amendments such as this one. Mr. Robinson said it would be more prudent if this Committee did not make appropriation decisions for the Legislature in terms of earmarking any additional revenue that would flow from the comprehensive tax reform bill. The Governor recognizes there is additional revenue in SB 235 to meet the deficit needs of the state and some of that revenue will be needed to mitigate some of the spending reductions that are taking place during this Legislative Session.

Senator Grosfield said he realizes the importance of the university system, but he thinks this money should not be earmarked, and instead, the appropriations committee ought to have the ability to use the 75% money to satisfy the needs of the state and the budget of the state in any manner they see fit.

VOTE:

The motion FAILED on oral vote, with Senators Eck, Brown, and Towe voting "YES" and the remainder of the Committee voting "NO".

DISCUSSION:

Senator Eck explained that Amendments 11, 12, 13, 14, 15, and 16, address the issue of creating a new itemized deduction. The Governor's standard deduction of \$10,000 disallows all other deductions. Senator Eck said she has talked with people who feel it would be a disincentive to not allow contributions as a special deduction. This same thing is true with those people who have very high medical costs. These amendments would allow a taxpayer to take charitable contributions and medical costs as deductions in lieu of the \$10,000 standard deduction. She said there would probably not be a lot of people who would take the special deduction, but for those who would take it, it would make a big difference and would be a matter of fairness.

MOTION:

Senator Eck moved for adoption of Amendments numbered 11, 12, 13, 14, 15, and 16.

DISCUSSION:

Senator Gage asked about the sections affected by this amendment. Jeff Martin said Section 170, referring to contributions, and Section 213, referring to medical deductions, of the Internal Revenue Code, are affected.

Senator Gage asked if there is any impact from this amendment. Director Robinson said there are no figures available.

Senator Eck said many people will be without present services under the tax reform, and anything that can be done to encourage charitable contributions should be done.

VOTE:

The motion FAILED 6-5 on Roll Call Vote (#4).

DISCUSSION:

Jeff Martin said Amendment No. 18 is a technical correction because Section 15-30-121 is repealed.

MOTION/VOTE:

Senator Eck moved for adoption of Amendment No. 18. The motion CARRIED UNANIMOUSLY on oral vote.

DISCUSSION:

Jeff Martin said Amendment No. 19 is not necessary. No action was taken on this proposed amendment.

Senator Eck said she had another amendment to consider which would reduce the Retirement Exemption to \$8,000. However, the list of proposed amendments by the Governor would reduce this amount to \$7,500. (This is Amendment "H" in the Governor's proposed amendments dated March 4, 1993, Exhibit No. 3 to 3/5/93 minutes; a copy is attached hereto.)

MOTION/VOTE:

Senator Eck moved that we reduce the Retirement Exemption from \$15,000 to \$7,500. The motion CARRIED UNANIMOUSLY on oral vote.

DISCUSSION:

Senator Gage asked if anything needs to be done with Amendment No. 2 regarding the title changes. Senator Eck suggested Jeff Martin make the necessary changes to the title which would apply to the amendments passed.

Senator Towe presented Exhibit No. 11 to these minutes, which would insert "to include handling, temporary storage, drayage, packaging, and repackaging" in the "transportation services" definition of SB 235.

Dennis Burr, Montana Taxpayers Association, said this suggested amendment came from a Billings warehouse firm because of the owner's concern that handling be covered as an exemption in SB 235. Director Robinson said the DOR looked at this situation and when the first amendment was presented regarding intrastate transportation, the DOR felt this issue was covered in the language, "along with any reasonably necessary associated services". The DOR understands this particular situation to be the intrastate transportation coming in and flowing into a holding warehouse for later distribution within the state, and the DOR saw it as part of the intrastate/interstate transportation service. Mr. Robinson thinks this service is already exempted as part of interstate transportation.

Senator Eck said these services that would now be exempt if this amendment passes, could be contracted services. Other types of services are being taxed; why would this type of business be tax exempt. Mr. Burr said this amendment refers only to the intrastate transportation services; the handling is only those involved with intrastate transportation, and does not involve any other handling charges.

Senator Towe asked if this amendment needs to be limited to the person who performs the transportation services. Mr. Burr said he did not think this was necessary.

MOTION:

Senator Towe moved for adoption of the amendment to include handling, temporary storage, drayage, packaging and repacking to intrastate transportation services.

DISCUSSION:

Senator Stang said the DOR thinks this is already covered in SB 235 and previously-adopted amendments, and if lists are started on what is covered or not covered, there is a danger of omitting some necessary service, and the DOR may have to go back and tax that service.

VOTE:

The motion FAILED 9-1 on Roll Call Vote (#5).

DISCUSSION:

Senator Van Valkenburg believes SB 235 needs an I-105 repealer. The bill's sponsor, Senator Crippen, said he didn't put a repealer into the bill because he thought that is what the bill accomplished, however, he did not indicate he objected to a repealer being placed as an amendment. Senator Van Valkenburg said the people who put I-105 together believed if they were able to force the Legislature to adopt a general sales tax that would substantially reduce property taxes, I-105 would be repealed. Senator Van Valkenburg doesn't think a future Legislature should have to argue about whether I-105 is repealed if the sales tax measure is adopted. The Senator asked for input from a representative of the sponsor.

Senator Harp said they are open to all amendments, he thinks Senator Crippen would support this amendment, and he will work with Senator Van Valkenburg on this amendment.

Senator Van Valkenburg asked Jeff Martin if there is standard language for repealing I-105. Mr. Martin said the language is included in SB 283.

MOTION/VOTE:

Senator Van Valkenburg moved to include the I-105 repealer language from SB 283, as a new section in SB 235. The motion CARRIED UNANIMOUSLY on oral vote.

DISCUSSION:

Senator Van Valkenburg said Section 175 in SB 235 contains the ballot language and he thinks it should contain language which would allow as little confusion as possible about the sales tax. He thinks it should say people would be voting for imposing a 4% sales tax and use tax as part of a comprehensive tax reform. It is not a matter of being for or against a comprehensive tax reform; the essential ingredient is because there is a 4% sales tax there.

MOTION:

Senator Van Valkenburg moved to strike Lines 12 through 15, from Section 175, and insert, "FOR imposing a 4% sales tax and use tax as part of comprehensive tax reform"; and, "AGAINST imposing a 4% sales tax and use tax as part of comprehensive tax reform".

DISCUSSION:

Director Robinson said he has no problem with the wording being changed in the bill, and thinks it best relates the intention.

Senator Grosfield said SB 235 is seen as a comprehensive tax reform package. If the people vote yes and pass it, and then a session or two down the road the Legislature starts chipping away at the tax reform in the property tax area, or income tax area, might someone be able to make a case that that is contrary to the intent of this ballot initiative. Senator Van Valkenburg replied "yes".

Senator Harp asked Senator Van Valkenburg if he had talked to Senator Crippen about this issue. Senator Van Valkenburg said he had not discussed it with Senator Crippen.

VOTE:

The motion CARRIED UNANIMOUSLY on oral vote.

DISCUSSION:

Senator Harp said he would like to re-offer the Governor's amendments proposed at the March 8th meeting (see Exhibit No. 3 to 3/5/93 minutes; a copy is attached to these minutes). Number "H" of these amendments was already passed earlier in this meeting (see Page 18 of these minutes).

MOTION:

Senator Harp moved for adoption of these amendments.

DISCUSSION:

Senator Van Valkenburg said he doesn't think these amendments are a good idea because the educational system support is being taken away. The 95-mill school equalization fund and the 6-mill university levy are being taken out of the bill. He said he would not be able to support the sales tax bill if these amendments were added to it. He said if the Governor and the House want to take this educational support out of the bill, that can be done in the House.

Senator Stang said he has a tough time supporting these amendments because of how they will affect the counties he represents. Although he is willing to support having the sales tax on the ballot, his main objection to it is that the rural counties will be harmed. He thinks the Senate needs to pass SB 235 as it is so the House will have time to review it properly and pass whatever amendments they deem necessary.

The motion to adjourn was made and passed, which extinguished the motion to amend.

ADJOURNMENT

Adjournment: The meeting adjourned at 10:00 a.m.

IKE HALLIGAN, Chair

BONNIE STARK, Secretary

MH/bjs

. M:00 A.M. ROLL CALL Meeting

SENATE COMMITTEE TAXATION DATE 3 - 9-93 PRESENT ABSENT EXCUSED NAME Sen. Halligan, Chair Sen. Eck, Vice Chair Sen. Brown Sen. Doherty Sen. Gage Sen. Grosfield Sen. Harp Sen. Stang Sen. Towe Sen. Van Valkenburg Sen. Yellowtail

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 10, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 396 (first reading copy -- white), respectfully report that Senate Bill No. 396 do pass.

Signed:

Senator Mike Halligan, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 9, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 412 (first reading copy -- white), respectfully report that Senate Bill No. 412 be amended as follows and as so amended do pass.

Signed:

That such amendments read:

1. Page 2, line 16.
Following: "11,"

Insert: "or by a port authority owned by the United States or an agency of the United States,"

-END-

ROLL CALL VOTE #/

SENATE COMMITTEE	TAXATION	BILL NO.	235
DATE 3-9-93	TIME 7:00	(A.M.,	P.M.
NAME	•	YES	NO
Sen. Brown			V.
Sen. Doherty		V	
Sen. Eck		V	
Sen. Gage		.	
Sen. Grosfield			
Sen. Halligan			V
Sen. Harp			ν
Sen. Stang		V	
Sen. Towe		V	
Sen. Van Valkenburg		V	
Sen. Yellowtail			
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SECRETARY		CHAIR	
MOTION: Adopt a	mendments	1-5,	
Exhibit 1	Carried 8-	3,	

ROLL CALL VOTE #2

SENATE COMMITTEET	AXATION	BILL NO.	235
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NAME		YES	NO
Sen. Brown			~
Sen. Doherty		V	
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Sen. Grosfield			
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Sen. Van Valkenburg			
Sen. Yellowtail		V	
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Dowie Stark SECRETARY	mike	Lalliga	W
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ROLL CALL VOTE ♯ᢃ

SENATE COMMITTEE	TAXATION	BILL	NO.	235
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Sen. Brown			V	
Sen. Doherty				
Sen. Eck			/	
Sen. Gage				ν
Sen. Grosfield				V
Sen. Halligan				
Sen. Harp				V
Sen. Stang				V
Sen. Towe			1	
Sen. Van Valkenburg				
Sen. Yellowtail			V	
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MOTION: Adoptio	n of Arm	endment	#4	OK
Exhibit lo.	2. 7 a	led 7- 4.		

ROLL CALL VOTE #4

SENATE COMMITTEE TAXATION	BILL NO.	235
DATE 3-9-93 TIME 7:00	E A.M	Р.М.
NAME	YES	NO
Sen. Brown		
Sen. Doherty		
Sen. Eck	V	ı
Sen. Gage		ν
Sen. Grosfield		
Sen. Halligan		
Sen. Harp		~
Sen. Stang		
Sen. Towe		
Sen. Van Valkenburg		V
Sen. Yellowtail		
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MOTION: Adoption of Amend		
11, 12, 13, 14, 15, 416, Ephil	bit #2)

ROLL CALL VOTE #5

SENATE COMMITTEE TAXATION	BILL NO.	235
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NAME	YES	NO
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Sen. Eck		
Sen. Gage		
Sen. Grosfield		
Sen. Halligan		
Sen. Harp		ν
Sen. Stang		
Sen. Towe	V	
Sen. Van Valkenburg		V
Sen. Yellowtail		
Bonnie Sterk Mike SECRETARY	A A / I 'g	ran
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MOTION: Adopt amendment to pa	ge 8, 1	ine 7
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SENATE TAXATION

EXHIBIT NO.

EXHIBIT	NU	
DATE	3-9	-93

BILL NO. 5 B 2 35

Amendments to Senate Bill No. 235 First Reading Copy

Requested by Senator Doherty For the Committee on Taxation

Prepared by Jeff Martin March 4, 1993

1. Page 20, line 18. Following: "interest." Insert: "(1)" Strike: "The" Insert: "Except as provided in subsection (2), the" 2. Page 20, line 19. Strike: "(1)" Insert: "(a)" 3. Page 20, line 20. Strike: "(2)" Insert: "(b)" 4. Page 20, line 22. Strike: "(3)" Insert: "(c)" 5. Page 20, line 24. Strike: "(4)" Insert: "(2) The exemption in subsection (1) does not apply to" Strike: ", derived from the business of" Insert: "charged for" 6. Page 22, line 14. Strike: "printed material" Insert: "newspaper and magazine subscriptions" 7. Page 22, line 15. Strike: "," Insert: "and" 8. Page 22, line 16. Strike: ", and books" Insert: "sold by subscription" 9. Page 108, line 23. Following: "(4)" Insert: "(a)" 10. Page 109. Following: line 3

subsection (4)(a), the owner must be a Montana resident for individual income tax purposes or a corporation organized

Insert: "(b) To qualify for the reduction in market value in

within Montana."

11. Page 190. Following: line 3

Insert: "NEW SECTION. Section 171. Coordination instruction. If
House Bill No. 2 is passed and approved without an
appropriation to fund the special election held pursuant to
[section 176], then [this act] is void."

SENATE TAXATION

EXHIBIT	NO	2_

Amendments to Senate Bill No. 235 First Reading Copy DATE 3 - 9 - 93BILL NO. 5B235

Requested by Senator Eck For the Committee on Taxation

Prepared by Jeff Martin March 4, 1993

1. Title, page 1, line 22. Following: "15-30-117," Insert: "15-30-121,"

2. Title, page 1, line 23. Following: "15-30-142,"
Insert: "15-30-177,"
Following: "15-30-323"
Insert: "15-31-131,"

3. Title, page 2, line 5. Strike: "15-30-121,"

4. Page 20, lines 6 through 11. Strike: section 15 in its entirety Renumber: subsequent sections

5. Page 51, line 16. Strike: "and"

6. Page 51.

Following: line 16

Insert: "(ii) 10.5% to the state special revenue fund for the support, maintenance, and improvement of the Montana university system, vocational-technical centers, and community college districts, subject to the board of regents' supervision, as provided in [section 63]; and"

7. Page 51, line 17. Strike: "74.1%"

Insert: "63.6%"

8. Page 55.

Following: line 25

Insert: "(4) A claimant who receives a residential property tax
 credit under 15-30-171 through 15-30-179 is not entitled to
 receive the renters' property tax credit under [sections 63
 through 70] for the same tax year."

9. Page 59.

Following: line 13

Insert: "(3) A claimant who receives a residential property tax credit for the elderly under 15-30-171 through 15-30-179 is not entitled to receive the homeowners' tax credit under [sections 71 through 78] for the same tax year."

10. Page 65.

Following: line 15

Insert: "New Section. Section 86. University system funding.

There is allocated from the money collected from the sales tax and use tax to the state special revenue fund 10.5% of the sales tax and use tax, as allocated in [section 62(1)(b)(ii)], for the support, maintenance, and improvement of the Montana university system, vocational technical centers, and community college districts, subject to the board of regents' supervision."

Renumber: subsequent sections

11. Page 165.

Following: line 23

Insert: "Section 144. Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. In computing net income, there are allowed as deductions:

- (1) the items referred to in sections 161 170, including the contributions referred to in 33-15-201(5)(b), and 211 213 of the Internal Revenue Code of 1954, or as sections 161 170 and 211 213 shall be labeled or amended. , subject to the following exceptions which are not deductible:
 - (a) items provided for in 15-30-123;
 - (b) state income tax paid;
 - (2) federal income tax paid within the taxable year;
- (3) expenses of household and dependent care services as outlined in subsections (3)(a) through (3)(c) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f) as follows:
- (a) expenses for household and dependent care services necessary for gainful employment incurred for:
- (i) a dependent under 15 years of age for whom an exemption can be claimed;
- (ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to care for himself because of physical or mental illness; and
- (iii) a spouse who is unable to care for himself because of physical or mental illness;
- (b) employment-related expenses incurred for the following services, but only if such expenses are incurred to enable the taxpayer to be gainfully employed:
- (i) household services which are attributable to the care of the qualifying individual; and
- (ii) care of an individual who qualifies under subsection (3)(a);
- (c) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and his spouse;
- (d) the amounts deductible in subsection (3) (a) through (3) (c) are subject to the following limitations:
 - (i) a deduction is allowed under subsection (3) (a) for

EXHIBIT & DATE 3-9-93

employment-related expenses incurred during the year only to the extent such expenses do not exceed \$4,800;

- (ii) expenses for services in the household are deductible under subsection (3) (a) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent such expenses incurred during the year do not exceed:
 - (A) \$2,400 in the case of one qualifying individual;
- (B) \$3,600 in the case of two qualifying individuals; and (C) \$4,800 in the case of three or more qualifying individuals:
- (e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the taxable year during which the expenses are incurred, the amount of the employment-related expenses incurred must be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
 - (f) for purposes of this subsection (3):
- (i) married couples shall file a joint return or file separately on the same form;
- (ii) if the taxpayer is married during any period of the taxable year, employment-related expenses incurred are deductible only if:
- (A) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or
- (B) the spouse is a qualifying individual described in subsection (3) (a) (iii);
- (iii) an individual legally separated from his spouse under a decree of divorce or of separate maintenance may not be considered as married;
- (iv) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;
- (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the taxable year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;
- (4) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code that were in effect for the taxable year-ended December 31, 1978;
- (5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 which was not otherwise deducted in computing taxable income;
- (6) contributions to the child abuse and neglect prevention program provided for in 41-3-701, subject to the conditions set forth in 15-30-156;
- (7) premium payments for long-term care insurance with benefits that meet or exceed the minimum standards as established by the state insurance commissioner; and
 - (8) contributions to the Montana drug abuse resistance

education program provided for in 44-2-702, subject to the conditions set forth in 15-30-159. (Subsection (8) terminates on occurrence of contingency-sec. 12, Ch. 808, L. 1991.) "Renumber: subsequent sections

12. Page 166, line 3.

Following: "his"

Insert: "if elected by the taxpayer"

13. Page 166, line 5. Following: "maximum"

Insert: "The standard deduction is in lieu of all deductions
 allowed under 15-30-121."

14. Page 168, line 3.

Strike: "and"

15. Page 168, line 8.

Following: "and"
Insert: "; and"

16. Page 168, line 11.

Following: "contributions"

17. Page 174.

Following: line 8

Insert: "Section 150. Section 15-30-177, MCA, is amended to read:

"15-30-177. Residential property tax credit for elderly -- limitations. (1) Only one claimant per household in a claim period under the provisions of 15-30-171 through 15-30-179 is entitled to relief.

- (2) Except as provided in subsection (3), no claim for relief may be allowed for any portion of property taxes paid or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.
- (3) Except for dwellings rented from a county or municipal housing authority, no claim for relief may be allowed on rented lands or rented dwellings that are not subject to ad valorem taxation in Montana during the claim period.
- (4) A claimant who receives the renters' property tax credit under [sections 63 through 70] or who receives a homeowners' tax credit under [sections 71 through 78] is not entitled to receive the residential property tax credit for the elderly under 15-30-171 through 15-30-179 for the same tax year.""

Renumber: subsequent sections

18. Page 175.

Following: line 3

Insert: "Section 152. Section 15-31-131, MCA, is amended to read:

- "15-31-131. Credit for dependent care assistance. (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the taxable year by the employer for dependent care assistance actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the requirements of section 89(k) and 129(d)(2) through (6) of the Internal Revenue Code.
- (2) (a) The amount of the credit allowed under subsection (1) is 20% of the amount paid or incurred by the employer during the taxable year, but the credit may not exceed \$1,250 of daycare assistance actually provided to or on behalf of the employee.
- (b) For the purposes of this subsection, marital status must be determined under the rules of section 21(e)(3) and (4) of the Internal Revenue Code.
- (c) In the case of an onsite facility, the amount upon which the credit allowed under subsection (1) is based, with respect to any dependent, must be based upon utilization and the value of the services provided.
- (3) An amount paid or incurred during the taxable year of an employer in providing dependent care assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code.
- (4) An amount paid or incurred by an employer to provide dependent care assistance to or on behalf of an employee does not qualify for the credit allowed under subsection (1):
- (a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or
- (b) if the amount is paid or incurred for services not performed within this state.
- (5) If the credit allowed under subsection (1) is claimed, the amount of any deduction allowed or allowable under this chapter for the amount that qualifies for the credit (or upon which the credit is based) must be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section must be made at the time of filing the tax return.
- (6) The amount upon which the credit allowed under subsection (1) is based may not be included in the gross income of the employee to whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section may not exceed the limitations provided in section 129(b) of the Internal Revenue Code. For purposes of Title 15, chapter 30, part 2, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection.

 Amounts excluded under this subsection do not qualify as expenses for which a deduction is allowed to the employee under 15-30-121.
- (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability

for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise through the fifth year succeeding the tax year in which the credit was first allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

- (8) If the taxpayer is an S corporation, as defined in section 1361 of the Internal Revenue Code, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro rata share of the corporation's costs that qualify for the credit. In all other respects, the effect of the tax credit applies to the corporation as otherwise provided by law.
- (9) For purposes of the credit allowed under subsection (1):
- (a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code apply to the extent applicable.
- (b) "Employer" means an employer carrying on a business, trade, occupation, or profession in this state.
- (c) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on January 1, 1989.""

19. Page 189, line 5. Strike: "15-30-121,"

DATE 3-9-93 [1 SB-235 Y-llowstone County

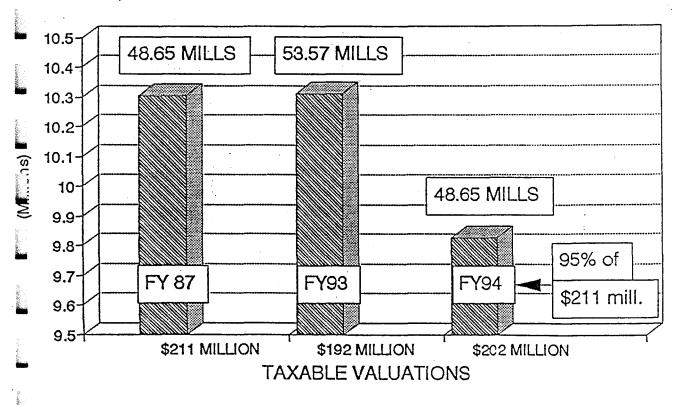
Tice of Management & Budget

Tuary 26, 1993

SENATE T	AXATION	
EXHIBIT NO)3_	
DATE	3-9	-93
BILL NO.	SB	396

IMPACT OF MOVING INTO 5% TAXABLE VALUATION LIMITS ON YELLOWSTONE COUNTY

YELLOWSTONE COUNTY COUNTY-WIDE MILL LEVY





When Montana State Statute 15-10-412 was enacted in 1986, the taxable value in Yellowstone county was \$211,949,000 and the County-wide mill levy was 48.65 mills. When the taxable valuation decreased by 5%, Yellowstone County was allowed to levy additional mills to compensate for the decreased taxable valuation. If the taxable valuation increases to \$202,000,000 in FY 94, which will reduce property tax revenues by over \$500,000 in next year's budget.

SENATE BILL 396

INITIATIVE NO. 105 FISCAL NOTE

THIS MEASURE WOULD REDUCE STATEWIDE PROPERTY TAX COLLECTIONS BY APPROXIMATELY \$30 MILLION DURING THE 1988-89 BIENNIUM FOR PROPERTY IN PROTECTED CLASSES. ALTERNATELY, UNPROTECTED PROPERTY MAY PAY INCREASED TAXES AND/OR GOVERNMENT SERVICES MAY BE REDUCED.

- FOR limiting certain property taxes to 1986 levels unless the Legislature reduces property taxes prior to July 1, 1987, and establish alternative revenue sources.
- AGAINST limiting certain property taxes to 1986 levels unless the Legislature reduces property taxes prior to July 1, 1987, and establishes alternative revenue sources.

In the General Election of November 4, 1986, the people of Montana voted that no further property tax increases be imposed on property classes three, four, six, nine, twelve and fourteen. Montana Statute 15-10-402 states, with a few exceptions, the amount of taxes levied on property may not exceed the amount levied for the taxable year 1986. When the Legislature enacted Section 15-10-401 through Section 15-10-412, the intent was to keep the mill levies capped to the amount that were imposed or in place at the time of election.

However, when structuring this law, the Legislators were concerned that if the taxable valuations dropped, cities and counties would lose revenue if they were forced to have the maximum mill levy in place. Consequently, in Section 15-10-412, the Legislature allowed cities and counties to raise their mill levies, if their taxable valuation decreased by 5% from the 1986 tax year. In no case, however, may the mills exceed the total amount of revenue that was being generated in the 1986 tax year.

The statute does not give the cities and counties the authorization to adjust the mill levies when the taxable valuation climbs back to within the 95% limitation. Senate Bill 396 would give Montana cities and counties, who have experienced decreases of 5% or more, the discretion to adjust their mill levies as the taxable valuation increases into the 95% - 100% range of 1986 taxable valuation.

Senate Bill 396 does not give cities and counties the authority to increase total revenues over the amount that were being generated in 1986.

TREASURE STATE ENDOWMENT PROGRAM (TSEP)

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earmarked programs alance T Sev. Tax Bonds SenATE TAXATION EXHIBIT NO. # 3 - 9 - 9 3 BILL NO. 5 5 403	st. Bond Special n <u>Coal</u>	Est. Annual Interest Available for Distrib.	\$ 1,013,136	\$ 1,653,748 \$ 2,395,000	, ד , פ	4 n	6,295,	7,855,	\$ 8,635,000 \$ 9,415,000	10, 195,	11,	\$ 12,535,000	14,095,	14,875,	15,655,	\$180,791,884
Annual Coal Tax Revenue \$ 40,000,000 \$-20,000,000 earmark \$ 20,000,000 Balance	\$ -0- /yr. for School Const. \$ 5,000,000/yr.for 3 yrs. Clean C \$14,500,000*	Annual Deposits to TSEP Fund Principal	\$ 7,2 \$ 10,0	\$ 7,250,000	7,6		9,750,	9,750,	\$ 9,750,000	9,750,	000,007,6 \$	\$ 9,750,000	9,750,	9,750,	6,7	\$197,500,000
minus	minus minus	Annual Deposits to Perm. Fund Principal	,250,000	\$ 7,250,000 \$ 7,250,000		. 👟	750,	9,750,	\$ 9,750,000 \$ 9,750,000	9,750,	9,750,000 \$ 9,750,000	\$ 9,750,000	9,750,	9,750,	9,750,	\$207,000,000
	A ,	Operating Year	1 FY '94	2 FY '95 3 FY '96	FY .	FY V		K K	11 FY '04 12 FY '05	FY	H F	16 FY '09	FY	FY '	FY '1	Z1 FY 14 TOTALS

^{*} Changes to \$ 19,500,000 in year 1997.
& '95 projected at 8.26% & 8.56% interest earning rate, respectively.
Years '96 & on, projected at 8% interest earnings rate. Years '94

EXHIBIT NO. 5

DATE 3 - 9-93

BILL NO. 5 B 402

APPLICATIONS FOR THE 1993

TREASURE STATE ENDOWMENT PROGRAM (TSEP)

	AMOUNT REQUESTED	TOTAL PROJECT
PUBLIC FACILITY (29 Applications)		
Anaconda/Deer Lodge County (water) Beaverhead County (solid waste) Butte/Silver Bow County (water) Carbon County (bridge) Chester (water) Circle (water) Custer County (solid waste) Dutton (water) Ennis (water) Froid (water) Gallatin Co. for Rae Subdivision (water) Harlem (water) Helena (water) Lewistown (storm drainage) Livingston (storm drainage) Madison County (solid waste) Missoula Co. for Sunset West (water) Neihart (water) Ronan (sewer) Richland County (solid waste) Sanders County/Heron Bridge (bridge) Sanders County/Noxon Bridge (bridge) Shelby (storm drainage/sewer) Stillwater Co. for Reedpoint (sewer) Toole Co. for Sweetgrass (water) Toole Co. for Sweetgrass (sewer) Wolf Point (sewer) Yellowstone County (bridge) Yellowstone Co. for Huntley (water)	\$350,000 160,000 300,000 25,000 196,235 370,000 18,900 68,780 400,000 117,000 49,870 217,300 677,265 60,000 100,000 66,850 154,107 616,213 309,107 570,500 2,735,000 2,735,000 2,156,000 732,000 250,000 366,040 162,925 50,000 95,500 100,000	\$ 4,425,000 320,000 120,000 394,470 370,000 18,900 693,280 1,060,000 576,600 66,490 434,600 1,354,531 165,264 200,000 79,100 309,107 726,231 618,215 1,141,000 2,735,000 2,156,000 980,300 1,312,645 366,040 162,925 564,900 193,110 745,300
TOTAL	\$11,474,592	\$45,622,218
ENGINEERING LOANS (3 applications)		
Circle (water) Wheatland County (solid waste) Yellowstone Co. for Shepherd (water)	\$ 20,000 33,000 100,000	\$ 20,000 35,000 118,210
TOTAL	\$ 153,000	\$ 173,210

RECOMMENDED PROJECT PRIORITIES AND FUNDING FOR THE 1993 TREASURE STATE ENDOWMENT PROGRAM

APPLICANT	PRIORITY SCORE	AMOUNT REQUESTED	AMOUNT RECOMMENDED
1. BUTTE-SILVER BOW (WATER) 2. ANACONDA/DEER LODGE (WATER) 3. CARBON CO. (BRIDGE) 4. NEIHART (WATER) 5. MISSOULA CO./SUNSET WEST (WATER) 6. YELLOWSTONE CO. (BRIDGE) 7. CIRCLE (WATER) 8. CIRCLE (ENG. LOAN) 9. STILLWATER CO./REEDPOINT (SEWER) 10. BEAVERHEAD CO. (SLD WASTE) 11. RONAN (SEWER) 12. SHELBY (SD/SEWER) 13. WHEATLAND CO. (ENG. LOAN) 14. HARLEM (WATER) 15. YELLOWSTONE CO./HUNTLEY (WATER) 16. RICHLAND CO. (SLD WASTE) 17. WOLF POINT (SEWER) 18. LEWISTOWN (STR. DRAIN) 19. HELENA (WATER) 20. LIVINGSTON (STR. DRAIN) 21. TOOLE CO./SWEETGRASS (ENG. LOAN) 22. FROID (WATER) 23. ENNIS (WATER) 24. CHESTER (WATER) 25. GALLATIN CO./RAE SUBDIV. (WATER) 26. YELLOWSTONE CO./SHEPHARD (EN LO 27. DUTTON (WATER) 28. SANDERS CO./NOXON (BRIDGE) 29. TOOLE CO./SWEETGRASS (ENG. LOAN) 30. CUSTER CO. (SLD WASTE) 31. MADISON CO. (SLD WASTE) 32. SANDERS CO./HERON (BRIDGE)	3075 3000 3000 2900 2825 2825 2775 2750 2600 2500 2300 2075 1925 1775 (W) 1650 1625 1450 1450 1450 AN) 1425 1325	\$ 300,000 \$ 350,000 \$ 25,000 \$ 616,213 \$ 154,107 \$ 95,500 \$ 370,000 \$ 250,000 \$ 160,000 \$ 33,000 \$ 217,300 \$ 100,000 \$ 570,500 \$ 570,500 \$ 60,000 \$ 677,265 \$ 100,000 \$ 196,235 \$ 196,235 \$ 49,870 \$ 100,000 \$ 196,235 \$ 49,870 \$ 100,000 \$ 196,235 \$ 49,870 \$ 100,000 \$ 196,235 \$ 49,870 \$ 100,000 \$ 196,235 \$ 18,900 \$ 162,925 \$ 18,900 \$ 66,850 \$ 2,735,000	\$ 300,000 \$ 350,000 \$ 25,000 \$ 544,673 \$ 154,107 \$ 95,500 \$ 370,000 \$ 160,000 \$ 160,000 \$ 160,000 \$ 33,000 \$ 217,300 \$ 100,000 \$ 338,633 \$ 100,000 \$ 338,633 \$ 100,000 \$ 338,633 \$ 100,000 \$ 25,000 \$ 117,000 \$ 100,000 \$ 25,000 \$ 100,000 \$
	TOTAL	\$ 11,627,592	\$ 4,234,458

S EXHIBIT NO. BILL NO. DATE

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TREASURE STATE ENDOWMENT PROGRAM CASH ANTICIPATION

Fiscal Year 1994

<u>\$6/9</u>		Ť	\$1,013,13 <u>6</u>
5/94	\$15,437,500	\$ 106,261	\$ 906,875
4/94		Ť	\$800,614
3/94		t	
2/94	\$13,625,000	\$ 93,785	\$437,950 \$519,259 \$ 613,044 \$706,829
1/94		1	\$519,259
12/93		Ť	\$437,950
11/93	\$11,812,500	\$ 81,309	\$ 356,641
10/93		7	68,833 \$137,666 \$206,499 \$275,332 \$ 356,641
9/93		1	\$206,499
8/93		1	\$137,666
7/93 Principal Deposits: \$10,000,000	Cumulative Principal <u>Deposits: \$10,000,000</u>	68,833	
Principal Deposits: \$	Cumulative Principal <u>Deposits:</u> \$	Interest Earnings: \$ (by month)	Cumulative Interest Earnings: \$ (by month)

NOTES:

- Assumes no interest earned on interest
 Interest calculated at Long Term ROC Interest Rate: 8.26% (adopted 11/20/92)

\$ 2,666,884

TREASURE STATE ENDOWMENT PROGRAM CASH ANTICIPATION

Fiscal Year 1995

	7/94	8/94	86/6	10/94	11/94	12/94	1/95	2/95	3/95	4/95	26/5	6/95
Principal Deposits:		\$1,812,500			\$ 1,812,500			\$ 1,812,500			\$1,812,500	
Cumulative Principal Deposits:	\$	\$17,250,000			\$19,062,500			\$20,875,000			\$22,687,500	
Interest Earnings: (by month)	v,	\$ 123,050	1	7	\$ 135,979	1	1	\$ 148,908	†	1	\$ 161,838	1

Cumulative Interest

Earnings:\$1,119,397 \$1,242,447 \$1,365,497 \$1,488,547 \$ 1,624,526 \$1,760,505 \$1,896,484 \$2,045,392 \$2,194,300 \$2,343,208 \$2,505,046 (by month)

NOTES:

1. Assumes no interest earned on interest

2. Interest calculated at Long Term ROC Interest Rate: 8.56% (adopted 11/20/92)

JOHN ALSTAD, Chairman

DENIS FREELAND, Commissioner

ALLAN UNDERDAL, Commissioner

MERLE RAPH, County Attorney

MELODEE A. ROBINS, Clerk and Recorder

VERN L. ANDERSON, Sheriff

SANDRA PEDERSEN, Justice of the Peace

COMMISSIONERS, 406-434-5121



PENNY UNDERDAHL, Clerk of Court
DIANA L. FELTON, Treasurer
CORRINE MERHAR, Assessor
MARIA HARRISON, Supt. of Schools
MYRON FRYDENLUND Coroner
MYRNA WOLLAN, Public Administrator
CLERK AND RECORDER, 406-434-2232

COUNTY OF TOOLE

226 1st South - Toole County Courthouse SHELBY, MONTANA 59474

March 4th, 1993

Senator Mike Halligan Montanan State Legislature Taxation Committee Helena, MT 59601 SENATE TAXATION

EXHIBIT NO. 7

DATE 3 - 9 - 9 3

BILL NO. SB 4/12

Dear Senator Halligan:

Toole County would like to urge you and your committee's support in the passage of SB-412 regarding beneficial use assessment in port facilities.

This county has been dedicated in supporting the Port Facility - NORTHERN EXPRESS TRANSPORTATION AUTHORITY (NETA) - since its creation. Toole County has given NETA the statutory maximum of two (2) mills almost every year since NETA was created.

Since the operating agreement between NETA and a private party clearly makes NETA responsible for paying for major repairs, property insurance and property taxes, it makes no sense to collect property taxes on ourselves because this tax will be paid for with taxes generated from the 2 mills.

We respectfully urge you to pass SB-412 and make the beneficial use assessment equal between airport authorities and port authorities.

John A. Alstad, Chairman

Denis Freeland, Commissioner

Allan Underdal, Commissioner

JAA/mr

cc: Toole County Delegation

Senator Aklestad & Rep. Feland

SENATE TAXATION

EXHIBIT NO._

TO:

Senate Appropriations Committee

FROM:

Toole County, Montana

DATE:

March 8, 1993

RE:

SENATE BILL NUMBER 412

DATE 3-9-93

PILL NO. S.B 4/2

A BILL TO EXEMPT FROM TAXATION THE BENEFICIAL USE OF PROPERTY HELD BY A STATUTORY PORT AUTHORITY.

INTRODUCTION

This bill has been introduced to provide for the tax exempt status of property held by statutory port authorities that allow public use of its facilities. The following is a question and answer format to provide you with information and address the issues.

1. What is a statutory port authority?

Port authorities are creatures of statute. The 1985 Montana legislature enacted Title 7, Chapter 14, Part 11 which provides that any county or municipality may create a public body, corporate and politic, to be known as a port authority. Additionally, two or more local governments may create a regional port authority.

The statutes specifically provide that the purpose of a port authority is to promote, stimulate, develop, and advance the general welfare, commerce, economic development, and prosperity of its jurisdiction and of the state and its citizens. The legislature also provided these authorities with other powers to generate business.

Several communities such as Billings and Butte, as well as Toole County, have created port authorities.

2. As corporate and politic public bodies, aren't they already exempt from taxation?

No. While the 1985 legislature specifically provided in Montana Code Annotated §7-14-1137 for tax exempt status of port authorities, the Department of Revenue has taken the position that any private use of these facilities is subject to the beneficial use tax located at Montana Code Annotated §15-24-1203. Thus, the port, as long as it is inactive will not be taxed; however, when a private company uses the facility it is taxed for the entire value of the facility. For instance, the Toole County Port Authority (known as the Northern Express Transportation Authority) has an operating agreement that provides a share of the use of its facility to a private trucking firm. This firm does not utilize the facility to capacity and the port authority is attempting to market the remaining capacity to other users. The Department of

market the remaining capacity to other users. The Department of Revenue has levied a tax against the private trucking company for the full value of the facility. This bill would exempt partial users of the property but if a private user leased the entire facility to the exclusion of the public, then the beneficial tax would apply.

3. If a private user benefits from the facility why shouldn't they be taxed for that use?

The answer is quite simple; if the private user has exclusive control over the facility they should pay the tax. However, if the facility remains open to the public to use, no taxation is proper. The 1985 legislature provided for tax exempt status to create new business and boost local economies. This bill simply "cleans up" the beneficial use tax and brings it in line with the original intent of the authors of the original bill to create port authorities.

4. Are there other exemptions to the beneficial use tax?

Yes. Port authorities were created with tax exempt status and yet the legislature did not add it to the list of other exemptions from the beneficial use tax which include:

- A. airport buildings owned by public entities; and
- B. farm, timber, mineral or grazing leases of public land; and
- C. electric lines of less than 500 kilovolts; and
- D. certain railroad rights of way.

Each of these exemptions were created for a purpose but it appears that none of the exemptions were intended to create jobs in communities with declining industry. The port authority statutes were enacted to assist communities in creating more commerce and thus, more jobs and an expanded tax base, at the slight expense of the property taxation.

5. What about the loss of taxation of this property?

The loss of beneficial use taxation is minimal when the increased taxation of employees and business are considered. It is well known that in Montana, you have to spend money on the feed for the ewes in the fall to have wool and lambs in the spring. The users of port authority property will pay their share of Montana taxes. They pay employee taxes, their own property taxes, and business taxes. Montana needs the jobs. Montana needs new business.

CONCLUSION

This bill simply clarifies the tax exempt status of public port authorities.

SENATE TAXATION

EXHIBIT NO ...

DATE 3-9-93

11 NO 50



P.O. Box 3641 Butte, Montana - 59702 Phone: 406-723-4321 Fax: 406-782-8510

Testimony SB 412

March 9, 1993

Mr. Chairman. Members of the Committee, my name is <u>Bill</u> Fogarty. I am the Marketing and Traffic Manager for the Port of Montana at Butte. I am also representing Jack Lynch, Chief Executive, Butte-Silver Bow who is in Washington D.C. this week. We are in support of SB 412.

As you are aware, the Port of Montana and the Port of Shelby were both established as public port authorities under Chapter 14. Title 7 of the Montana code. The Port of Montana is governed by a five member board who are appointed by the Chief Executive of Butte-Silver Bow. The board hires and supervises the General Manager and the Marketing Manager. other office staff and yard personnel are hired by either of the two managers named above. The Port of Montana leases the grain terminal operation to a private company. This company has the exclusive use and management responsibility for this facility and pay taxes accordingly. The remainder of the Port of Montana facilities are operated by the Port of Montana as a public port authority. The services and facilities operated by the port management include warehousing. distribution and transloading services, primarily for bulk commodities such as forest products, minerals, ores and fertilizer.

The Ports were created to enhance Montana's Transportation system and aid in economic development. The port's have enhanced the ability of Montana's shippers and producers to compete more effectively in the market place by offering intermodal services access to new markets and competitive rates.

Even though Dick Irvin Inc. is the operator for the Port of Shelby, the trucking firm hauls commodities regularly from and to the Port of Montana. The two ports are working actively on joint efforts particularly in the marketing area. This will be a plus for all Montana businesses. Dick Irvin Inc. is the Port of Shelby operator, but must service all customers whether they are competitors or not.

Adding unnecessary cost burdens to the ports makes it more difficult to attain the goals they were created for: to offer cost effective transportation services and enhance economic development.

SENATE TAXATION EXHIBIT NO__ BILL NO.

Amendments to Senate Bill 412 First Reading Copy

Prepared by Department of Revenue 3/8/93

1. Page 2, line 16.
Following: "11,"
Insert: "or a port authority owned the United States or an agency of the United States,"

REASON FOR AMENDMENT: This amendment extends the exemption from the beneficial use tax to federally owned port authorities.

This amendment is designed to prevent possible discrimination against persons who do business with the United States government or an agency of the United States government.

SENATE TAXATION	
EXHIBIT NO//	
DATE 3 - 9-93	
BILL NO. 582 35	

Page 8 line 7

insert: "(15) "transportation services" means the transportation of persons or property by air, ground or water from a point within this state to another point within this state or a point without this state, along with any reasonably necessary associated services. to include handling, temporary storage, drayage, packaging and repackaging.

Amendments to Senate Bill No. 412 First Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin March 9, 1993

1. Page 2, line 16.
Following: "11,"
Insert: "or by a port authority owned by the United States or an agency of the United States,"

SENATE TA	XATION	
EXHIBIT NO.	3_	
DATE	3-5	-93
BILL NO	SB	235

SB 235

Property Tax Related Amendments
Proposed by Department of Revenue
Prepared by Bruce McGinnis and Dave Woodgerd
Introduced Version
March 4, 1993

- A. The Department is drafting amendments which will repeal the county equalization levies of 33 mills for elementary (20-9-331), and 22 mills for high school (20-9-333), the state equalization levy of 40 mills (20-9-360) and the 6 mill levy for the university system (20-25-423). Non-levy revenue currently going to the county equalization account will be split among the county taxing jurisdictions based on relative mills.
- B. The purpose of this amendment is to change the tax rate for classes 3,5,7,8,9, and 11 to 4.0%
- 1. Page 189, line 7.
- Insert: "NEW SECTION. Section 170. Coordination instruction. (1) If Senate Bill No. 168 [LC] is passed and approved and if it includes a section that amends 15-6-133 then [section 115 of this act], amending 15-6-133, is void.
- (2) If Senate Bill No. 168 [LC] is passed and approved and if it includes a section the repeals 15-6-144 then [section 117 of this act], amending 15-6-144, is void.

Renumber: subsequent sections

- 2. Page 109, line 4
- Insert: "Section 117. Section 15-6-135, MCA, is amended to read:
- "15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:
- (a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in subsection (1)(b) of 15-6-137;
- (b) air and water pollution control equipment as defined in this section;
 - (c) new industrial property as defined in this section;
- (d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation;
- (e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;
- (f) machinery and equipment used in electrolytic reduction facilities.
- (2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or

atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

- (b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.
- (3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.
- (4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.
 - (b) New industry includes only those industries that:
- (i) manufacture, mill, mine, produce, process, or fabricate materials;
- (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;
- (iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1987 Standard Industrial Classification Manual prepared by the United States office of management and budget;
- (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry's gross sales or receipts are earned from outside the state; or
- (v) earn 50% or more of their annual gross income from outof-state sales.
 - (5) New industrial property does not include:
- (a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);
- (b) a plant that will create adverse impact on existing state, county, or municipal services; or
- (c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.
- (6) Class five property is taxed at 4% 3% of its market value. "

Section 118. Section 15-6-137, MCA, is amended to read: "15-6-137. Class seven property -- description -- taxable

percentage. (1) Class seven property includes:

- (a) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less:
- (b) all property owned by cooperative rural electrical and cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town;
- (c) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.
- (2) To qualify for this classification, the average circuit miles for each station on the telephone communication system described in subsection (1)(b) must be more than 1 mile.
- (3) Class seven property is taxed at $\frac{4%}{2}$ 8% of its market value."

Renumber: subsequent sections

3. Page 110, line 19.

Following: "is taxed at"

Strike: "3.86%" Insert: "4%"

4. Page 110, line 21

Insert: "Section 118. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class nine property -- description -- taxable percentage. (1) Class nine property includes:

- (a) centrally assessed electric power companies' allocations, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);
- (b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and
 - (c) centrally assessed companies' allocations except:
 - (i) electric power and natural gas companies' property;
- (ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five:
- (iii) property owned by organizations providing telephone communications to rural areas and classified in class seven;
- (iv) railroad transportation property included in class twelve; and
 - (v) airline transportation property included in class twelve.

(2) Class nine property is taxed at 4% 12% of market value."

Renumber: subsequent sections.

Sections 89 through 113 amending the classification of counties or their bonding and levying capacities need to be amended to reflect the changes made to the property tax base.

- D. The purpose of this amendment is to increase the rate of the electrical energy producer's tax and the telephone company license tax.
- 1. Page 175, line 15
 Insert: " Section 150. Section 15-51-101, MCA, is amended
 to read:

"15-51-101. Rate of tax -- electrical energy producers. In addition to the license tax now provided by law, each person or other organization now engaged in the generation, manufacture, or production of electricity and electrical energy in the state of Montana, either through waterpower or by any other means, for barter, sale, or exchange (and hereinafter referred to as the "producer") shall on or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30, and December 31, render a statement to the department of revenue showing the gross amount, except for actual and necessary plant use, required to produce the energy of electricity and electrical energy produced, manufactured, or generated during the preceding calendar quarter without any deduction and shall pay a license tax thereon in the sum of \$.002775 .0002 per kilowatt hour on all such electricity and electrical energy generated, manufactured, or produced, measured at the place of production and as shown on the statement required in the manner and within the time hereinafter provided."

- 2. Section 151. Section 15-53-101, MCA, is amended to read:
 "15-53-101. Definitions -- rate of license tax on telephone companies. (1) As used in this section:
- (a) "carrier access service" means the service a local exchange company, as defined in 53-19-302, provides to an interexchange carrier for the origination or termination of telecommunications; and
- (b) "telephone business" means the access and transport, for hire, of two-way communications from point of access to point of termination, both of which are within Montana.
- (2) A license tax of 10.27 % 1.8% is imposed upon the gross revenue in excess of \$250 each quarter received by a person in Montana from telephone business in Montana. As used in this section, "gross revenue" does not include:
 - (a) carrier access service revenue;
 - (b) revenue from the sale of telephone services to another

telephone service provider who uses the services to provide telephone service to the ultimate retail consumer who originates or terminates the transmission;

- (c) revenue from the sale, lease, repair, installation, or maintenance of equipment or from the provision of nontransmission-related services or activities; or
- (d) customer access line charges assessed under federal communications commission orders or rules.
- (3) A bill or statement may itemize the tax imposed by subsection (2).
- (4) The tax imposed by subsection (2) is due in quarterly installments for the quarters ending, respectively, March 31, June 30, September 30, and December 31 in each year."

Renumber: subsequent sections

E. The purpose of this amendment is to delete the personal property reimbursement adopted in 1989 in § 15-1-111, MCA, and amend the section to provide a formula for reimbursing taxing jurisdictions for the rate reduction for utility property contained in class 9.

Pages 100 through 103

Strike: Subsections 5 through 9 of Section 114.

Insert: "(5) Prior to December 31, 1993, for each county the department shall determine the following information for each taxing jurisdiction that was in existence in tax year 1993:

(a) the number of mills levied in each taxing jurisdiction

for tax year 1993;

- (b) the total taxable valuation for tax year 1993 of all property described in 15-6-141.
- (6)(a)(i) Based on the information determined in section 5, the department shall calculate the revenue loss for each taxing jurisdiction due to the change in the tax rate provided for in [section (reduction of rate for utility property in class nine, 15-6-141)].
- (ii) For purposes of this section revenue loss for each taxing
 jurisdiction is:
- (A) the taxable value of all property described in 15-6-141 computed at the statutory tax rate in effect for tax year 1993 less the taxable value of such property computed at the tax rate provided for in [section (reduction of rate for utility property in class nine, 15-6-141)];
- (B) multiplied by the number of mills levied in the taxing jurisdiction for tax year 1993.
- (b) The total revenue loss within each county is the sum of the revenue loss computed for each taxing jurisdiction in the county.
- (7)(a) The amount of reimbursement due from the state to each county for tax years 1994, 1995, and 1996 is the total revenue loss calculated under subsections 5 and 6. The county treasurer shall

distribute the total revenue loss to each taxing jurisdiction as calculated by the department.

- (c) The total reimbursement for each county for tax year 1997 and for each tax year thereafter is determined by using the formula $R = A \times (B/C)$, where:
- (A) "R" is the amount of reimbursement to be received by the county during the current tax year;
- (B) "A" is the total amount of revenue collected by [Section through Section ___ (sales and use tax)] for the preceding tax year.
- (C) "B" is the total taxable value of all property described in 15-6-141 within the county during the tax year immediately preceding the current tax year;
- (D) "C" is the total taxable value of all property described in 15-6-145 in the state during the tax year immediately preceding the current tax year.
- (8) Reimbursements calculated under subsections 5 through 7 for tax year 1994 and subsequent tax years shall be remitted to the county treasurer as follows:
- (a) on or before November 30, 1994, and on or before each November 30 thereafter, the department shall remit 50% of the amount of the revenue reimbursable to the county; and
- (b) on or before May 31, 1995, and on or before each May 31 thereafter, the department shall remit 50% of the amount of the revenue reimbursable to the county.
- (9) For tax years 1991 and after, the county treasurer of each county shall distribute the reimbursement to each taxing jurisdiction in the relative proportions determined under the calculations provided by the department for tax year 1996.
- (10) For the purposes of this section, "taxing jurisdiction" means the state of Montana, local governments including counties and incorporated cities and towns, school districts, tax increment financing districts, and miscellaneous taxing jurisdictions levying mills against property being reimbursed under this section.
- (11) The creation and dissolution of taxing jurisdictions after tax year 1993 is treated as follows:
- (a) Taxing jurisdictions that existed in tax year 1993 that no longer exist in subsequent tax years, and are not combined with another taxing jurisdiction are no longer entitled to reimbursement. The reimbursement for the taxing jurisdiction which no longer exists must be apportioned to the remaining taxing jurisdictions in the proportions that would have existed in tax year 1993 had the jurisdiction not been in existence in that year.
- (b) Taxing jurisdictions that are combined into a single taxing jurisdiction are entitled to reimbursement based on the combined proportion of those jurisdictions in tax year 1993.
- (c) Taxing jurisdictions created as a result of splitting an existing jurisdictions are entitled to a share of the original reimbursement based on the relative proportion of class 8 property within each of the newly created jurisdictions in within the tax year that the new jurisdictions are created.
 - (d) Taxing jurisdictions that did not exist in tax year 1993

are not entitled to reimbursement unless created as defined in subsection ll(c)."

Renumber: subsequent subsections.

- F. The purpose of this amendment is to delete the income tax credit for homeowners'.
- Pages 56 through 60
 Strike: Sections 71 though 78 in their entirety.
 Renumber: subsequent sections.
- G. The purpose of this amendment is to delete the \$10,000 reduction in the market value of commercial improvements, in class 4 and to increase the tax rate for class 4 from 3.86% to 4.0%.
- 1. Page 107, line 3.
 Following: "at"
 Strike: "3.86"
 Insert: "4.0"
 Line 5.
 Following: "taxed at"
 Strike: "3.86"
 Insert: "4.0"
- Pages 108, line 23. Strike: Subsection (4) in its entirety.
- H. The purpose of this amendment is to reduce the current exclusion for retirement income form \$15,00 to \$7,500.
- 1. Page 157, line 16. Following: "the first" Strike: "\$15,000" Insert: "\$7,500"
- 2. Page 180, line 18
 Page 181, line 10
 Page 182, line 4 and line 15
 Page 183, line 7 and line 24
 Page 184, line 14
 Page 185, line 2 and line 15
 Page 186, line 2, line 12, and line 24
 Strike: "15,000"
 Insert: "7,500"
- I. The purpose of this amendment is to modify the renters' credit by adding an income test.

of the household.

Renumber: subsequent subsections

Page 53, line 6.

Insert: "(6) "Household income" means \$0 or the amount obtained by subtracting the greater of \$4,000 or 50% of total retirement benefits from gross household income, whichever is greater.

- "Income" means federal adjusted gross income, without (7)regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:
- the gross amount of any pension or annuity (including Railroad Retirement Act benefits and veterans' disability benefits);
- the amount of capital gains excluded from adjusted gross (b) income;
 - (c) alimony;
 - (d) support money;
 - (e) nontaxable strike benefits;
 - (f) cash public assistance and relief;
- (g) payments and interest on federal, state, county, and municipal bonds; and
- (h) all payments received under federal social security except social security income paid directly to a nursing home. Renumber: subsequent subsections.
- 3. Page 54, line 24

Following: "of [sections 63 through 70] is"

Strike: "the amount of gross rent paid during the claim period or \$200, whichever is less"

Insert: "computed as follows: (a) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent paid during the claim period less the deduction specified in subsection (2).

- (b) In the case of a claimant who owned and rented the homestead during the claim period, the credit is the amount of rent paid during the claim period less the deduction specified in subsection (2) prorated by dividing the amount of time the homestead was rented by the claimant by the number of months in the period for which a claim is made and then multiplying the quotient by the amount of credit allowed to the claimant.
- (2) Gross rent paid is reduced according to the following schedule:

Household income Amount of reduction

0-999 S₀ 1,000-1,999 \$0

2,000-2,999 the product of .006 times the household income

3,000-3,999 the product of .016 times the household income

4,000-4,999 the product of .024 times the household income 5,000-5,999 the product of .028 times the household income

6,000-6,999 the product of .032 times the household income

7,000-7,999 the product of .035 times the household income 8,000-8,999 the product of .039 times the household income 9,000-9,999 the product of .042 times the household income 10,000-10,999 the product of .045 times the household income 11,000-11,999 the product of .048 times the household income 12,000 & over the product of .050 times the household income

4. Page 55, line 2
Strike: Subsection (2) in its entirety
Insert: "(3) In no case may the credit granted exceed \$200."
Renumber: subsequent subsections

- J. The purpose of the amendment is to delete the security cash reserve account.
- 1. Title, lines 12 and 13.
 Following: "USE TAX REVENUE;"
 Strike: "PROVIDING FOR A SECURITY CASH RESERVE ACCOUNT AND ITS
 USE;"

Line 24
Following: "16-2-301,"
Strike: "17-7-102, 17-7-140,"

- Page 51, lines 14 through 17.
 Strike: Beginning on line 14, strike "distributed as follows:
 (i) 25.9% to the security cash reserve account established in [section 79]; and (ii) 74.1% that must be further"
- 3. Pages 60 through 61.
 Strike: Sections 79 and 80 in their entirety.
 Renumber: subsequent sections
- 4. Pages 65 through 73
 Strike: Sections 86 and 87 in their entirety.
 Renumber: subsequent sections

DATE 3-9-93			·
SENATE COMMITTEE ON	a vation		
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Name	Representing	Bill No.	Check One Support Oppose
Gordon Morris	MAG	396	
Richard Nisbet	aty of Helen	402	
Ken Heipes	Yellawstere Court	396	
Daniel J. Ach	1	ı l	~
Me Mathew	1.	396	
Carl Solveitzer	Mt Cont Assoc	402	
MARK Cole	NETA	412	V
John Kavanagh	NETA	412	4
JOHN ALSTAD	TOOLE CTY COMMISSION	1412	
TENNETH M. WOIF	NETA	412	2
William J Lyuta	Part of Mont 165B	412	
Anna M. Mull	DNRC	402	NoBREE
Nowell Andorson	Doc	400	
DAVE Brown	HO#12	412	
MORIE RAPH	TOOLE CO.	412	V

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

To: Governor Racicot Senator Crippen

March 4, 1993

Rhone-Poulenc Proposed Amendment to SB235

This amendment is proposed to the Department of Revenue Amendments prepared by Bruce McGinnis and David Woodgerd February 18, 1993 to SB235, specifically to Amendment #6

"6. The purpose of this amendment is to clarify that electricity used in the reduction or refinement of ores shall be considered a component part of the product. (Emphasis added)

Page 25, line 5.
Following: "(2)"
Insert: "(a)"

Page 25 Line 8

Insert: subsection "(b)" Electrical energy or electricity used or consumed by electrolytic deposition used in the reduction or refinement of ores shall be considered a component part of the product for the purposes of this section."

(NOTE: the words "by electronic deposition" are more restrictive than the "purpose" expressed in the DOR amendment).

Rhone-Poulenc Basic Chemicals Co. produces elemental phosphorous at its Silver Bow plant. The ore is refined by roasting in a rotary kiln and then is electrically converted in an electric arc furnace. This electricity used in this process is every bit as much a "component" as the electricity used for "electrolytic deposition" at Columbia Falls in the aluminum plant.

A fact sheet on the Rhone-Poulenc Silver Bow Plant is enclosed for your information.

Ward Shanahan Registered Lobbyist Rhone-Poulenc