

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on March 26, 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. Bill Yellowtail (D)

Members Excused: Sen. Fred Van Valkenburg (D)

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 434, SB 435
Executive Action: SB 257, SB 359, SB 376, SB 378, SB 410

EXECUTIVE SESSION ON SB 359

DISCUSSION:

Senator Halligan said the significant changes in SB 359 occur on Pages 8 and 9. He proposed that the Committee draft a letter to the Department of Transportation (DOT), particularly the Highway Commission, regarding the fact that they seem to ignore anything else other than strictly highways. Senator Harp said the DOT has rail authority, and they should be paying more attention to the railroad interests. Senator Harp said the Advisory Council is supposed to have people who are more involved with railroad interests and he believes there will be more interest in that area soon. Senator Halligan said the letter he would like to draft would essentially say that the Taxation

Committee would like to make sure the DOT looks at the issues as stated in Section 4, (2) (a), (b), and (c), and (3) and (4) of SB 359, regarding the impact on our highways if some of the rail transportation issues are not addressed, and in particular, the abandonment of rail spurs and isolation of local communities, and access to markets for products.

Senator Towe asked Senator Halligan to explain further the purpose of SB 359, and if it is to try to get more attention in terms of dollars. Senator Halligan said it is to allocate a new 1/2 cent tax to be deposited into the Special Railroad Facilities and Intermodal Transportation Facilities Account.

Senator Towe asked the purpose of the account, if it is an existing account, or a new account for a new purpose. Jeff Martin, Legislative Council Staff, explained that it is half new, half old. The old part is for revenue gain from state-owned railroads, and the new part is from intermodal transportation facilities. Intermodal means the interchange between trucks and rail transportation.

Senator Gage said he likes SB 359, but he thinks the 1/2 cent tax may doom the bill. He asked if there is a possibility of taking the 1/2 cent figure, and the dollar amounts allocated, out of SB 359, and leave the remainder of the bill intact.

Senator Doherty said he would support Senator Gage's plan, and thinks a letter would not carry as much weight as the bill with the tax and dollar amounts taken out.

Senator Towe asked Bill Salisbury, Administrator, Administration Department, DOT, to respond to the possibility of dropping the 1/2 cent tax and the allocation to the special intermodal account from SB 359, and leave the legislative findings in it. The Senator asked if the DOT could transfer any money from any other accounts to cover the special intermodal accounts. Mr. Salisbury said he did not believe so; all their funds are dedicated funds.

Senator Halligan said in Senator Grosfield's earmarking bill, there is a special revenue account called Rail Construction Loan Fund of which the 1992 balance was \$1.6 million, and there is a cash balance remaining of \$4,000. He asked what this fund is. Mr. Salisbury said it could be revenue left from the Department of Commerce (DOC) accounts.

Senator Eck asked Mr. Salisbury if the Highway Department has the authority to use the funds that the Legislature allocates from the gas tax, or other sources, for railroad improvements. Mr. Salisbury said they do not.

Senator Gage asked if the 3/5 vote applies to the state gas tax bill or does it apply to the Federal matched dollars. Mr. Salisbury replied that it applies just to the state gas tax.

Senator Stang asked if the Legislature were to pass SB 359 to create the authority and keep the fund available for railroad improvements, is there a possibility that the DOT could search for more Federal funds, or have they looked for Federal funds to increase the rail transportation services. Mr. Salisbury said he was not aware of any more funding available but they did not seek out any more Federal funding. He suggested that perhaps the Trust account could be used for the match of Federal funds.

Senator Towe asked about the state-owned railroad account. Senator Yellowtail said it seems to him that if Sections 3, 4, and 5 in their entirety, were left in SB 359, and Sections 6 and 7 were adjusted to remove the reference to the gas tax, he thinks the bill could stay the way it is, and would expand the special revenue account to address intermodal transportation facilities.

Jeff Martin said the Rail Construction Loan Fund was set up last legislative session. Senator Eck recalled there was a bill last session which was an effort to save a railroad.

MOTION/VOTE:

Senator Yellowtail moved to delete Section 1 in its entirety, delete Section 2 in its entirety, amend Section 4 to delete reference to the gasoline tax (lines 10 through 12, by ending after "state"), amend Section 6 to delete reference to the gasoline tax (on line 20), amend Section 7 to delete reference to the gasoline tax (on line 14), delete Section 8, and delete Section 11, from SB 359, as well as amend the title. The motion CARRIED UNANIMOUSLY on oral vote.

MOTION/VOTE:

Senator Gage moved SB 359 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY on oral vote. (691118SC.Sma)

EXECUTIVE ACTION OF SB 257

Senator Harp presented Exhibit No. 2 to these minutes which are amendments to SB 257. Senator Harp said these amendments will allocate \$2.7 million annually to cities in Montana, to be funded by the 4-cent/3-cent gas tax increases proposed in SB 257. He said 1983 was the last time the allocation to cities was increased.

MOTION:

Senator Harp moved for adoption of the amendments to SB 257 as shown on Exhibit No. 2. (sb025701.ajm)

DISCUSSION:

Senator Brown agrees with the amendments, but asked for the allocation formula as to what qualifies as a city. Senator Harp explained the ratio factor is based on miles in each city, and population; page 2 shows an allocation breakdown based on first, second, and third class cities. This is the same language Senator Eck used in SB 376, heard by this Committee on 2/19/93.

Senator Towe asked what the impact is of the \$2.7 million, and if it can be absorbed without any problem to the highway funding. Senator Harp explained it is just over 1/2 cent. He said that needs, other than the highway fund, should be recognized, and it can be absorbed without any problem to the highway funding.

Senator Gage asked Senator Eck if the Montana Rural Technical Assistance Transportation Program in Bozeman is still in existence, and if so, are we getting our money's worth with it. Senator Eck said it is still going. Senator Harp explained this is a sort of mini think-tank technical group that works out of the Montana State University System, and consists of a group of people who work with cities and counties with designing concerns, or conditions of roads, etc. Gary Gilmore, DOT, said this group has changed its name from Rural to Local, to better reflect what they are doing now. When it first started, it was basically rural and aimed at the counties; now they also work with the cities. The DOT has passed through Federal aid funds that go to this group. They are expanding within their organization and are now a technical transfer center for transfer of technical knowledge from different states. The local group in Bozeman is now a regional group which incorporates other states as well as Montana, and receives funding from other sources into their system. Mr. Gilmore said the group provides a lot of services, and the DOT works very closely with them. They provide training for DOT employees and local government employees, and presently are considering a training program for Reservation members so the Reservations can have planners to address their transportation planning needs.

Senator Stang asked if the Local Technical Assistance Transportation Program (LTAT) is getting Federal money, why does Montana need to pump \$54,000 into the program. Mr. Gilmore said there is some matching funding involved.

Senator Yellowtail noted that \$2.7 million goes to the cities, and is trying to interpret this per town. Senator Harp said there are charts available showing how much will be allocated to each city and town; he will get this information and make it available to the Committee. It would roughly be a 40% increase over what they are receiving now. Senator Harp said what needs to be remembered is that, because of the change in designation of highways in Montana, there are a lot of highways that were primary highways but are no longer called primary

highways, and the State is going to have to take a more active role in that construction, which is where the SOS program comes in. That is where the counties are being taken care of, and why this bill pertains only to city roads.

Senator Stang asked if the recipients have to be incorporated towns. Senator Harp replied, "Yes".

VOTE:

The motion to adopt the amendments to SB 257 CARRIED on oral vote with Senator Stang voting "NO". (sb025701.ajm)

MOTION:

Senator Harp moved SB 257 DO PASS AS AMENDED.

DISCUSSION:

Senator Harp said there is an additional \$29 million Federal funding available on the condition that Montana can authorize it and match it within 60 days after release from the Federal government. The RTF program would not be funded at all without additional matching funds. SB 257 funds a program that can go on for the next four years.

Senator Doherty said he realizes the Federal funds coming to the State in highway programs will turn over many times in Montana communities, and he is aware that labor and contractors like SB 257. However, he has a hard time reconciling the fact that Montana has lost many Federal dollars with drastic cuts being taken in social programs in the state.

Senator Gage said tourists will pay approximately 20% of this gas tax increase, and if there is no good infrastructure program, the social programs will be hurting worse than they are now.

Senator Eck said she echoes what Senator Doherty said; however, she would like to see the highways fully funded, as well as the university system fully funded, and that probably has more to do with the economic health of the state than the highways do. She also believes there needs to be a good deal of funding done for the social programs.

Senator Harp said that HB 2 will come to the Senate and changes can be made as far as being able to match some state dollars with Federal dollars on some social programs.

Senator Yellowtail said that to the Montana taxpayers, SB 257 will be a significant tax increase. He would like to see SB 257 stay in this Committee until the Senate has an opportunity to balance this kind of tax increase with some of the other issues and interests facing the total revenue needs of this state.

Senator Brown said the state and the Federal governments have developed an appetite beyond our means to produce the tax revenue to support it without significant tax increases. In the process of attempting to balance the budget, some priorities haven't been met, but when HB 2 comes to the Senate, it can be carefully looked at. He would like to see the two issues kept separate. He thinks purposes can be best served if SB 257 is moved on, and then deal with HB 2 when it reaches the Senate floor.

VOTE:

The motion to DO PASS SB 257 AS AMENDED CARRIED 7-4 on Roll Call Vote (#1). (681439SC.Sma)

EXECUTIVE ACTION ON SB 376

MOTION/VOTE:

Senator Towe moved to TABLE SB 376. The motion CARRIED UNANIMOUSLY on oral vote.

EXECUTIVE ACTION OF SB 410

DISCUSSION:

Senator Gage said he discussed with Linda King, Public Employee Retirement Division, the fact that the 1 1/2% funding needed for the Sheriffs and Peace Officers Association (SPOA) retirement plan could be funded through 3/4% from the employee and 3/4% from the employer (local governments), without going to the gaming industry for the funding. He asked if there is any interest in the Committee on that funding source.

Senator Halligan asked how I-105 would enter into this. Senator Gage said they would have to divert this from some other funding source.

Senator Halligan asked Linda King if City Police retirement is all self-funded. Linda King said the municipal police and firefighters both fund their retirements with equal shares between employee-employers and the insurance tax premium fund.

Senator Halligan said the letter from the Sheriffs and Peace Officers Association indicated, and his discussions with Mr. Fleiner indicated, that as far as they were concerned, their members could not absorb any increase in their contribution. Ms. King said as a point of information that the average salary of the Sheriffs and Peace Officers has gone up over \$2,000 for the average member the past two years.

Senator Eck asked Ms. King about Social Security pension benefits for Sheriffs. Ms. King said the SPOA currently does have both Social Security and a separate retirement system; police and firefighters and highway patrol only have their retirement systems, they do not have Social Security. In her previous testimony, she said if the level of benefits is increased, as is proposed in SB 410, to 2 1/2% per year of service, a leapfrog effect would be caused with the Sheriffs having the same retirement benefits as the other three groups, but also having Social Security. Her board's concern with the other three systems is that they will ask for an increase in order to make up for the fact that they do not have Social Security.

MOTION:

Senator Gage moved to substitute a tax on beer in place of an increase in the gaming tax to fund the 1 1/2% increase for the SPOA retirement system.

DISCUSSION:

Senator Doherty spoke in favor of that motion.

Senator Gage said beer currently is taxed as \$4.10/barrel; this would raise it to \$5.40/barrel. On a case of beer, there presently is 32 cents tax. This would raise it to approximately 43 cents tax on a case. Based on gross, beer is taxed just over 4%.

Senator Eck asked if Mark Staples has any comments on this amendment. Mr. Staples, representing the Montana Tavern Association, said this increase would amount to approximately 1/2 cent per can of beer, on top of the 2 cents per can currently taxed. He said the Federal government is already planning a significant increase on beer, so an adjustment is going to have to be done. His industry would prefer that the tax not be passed on to either the gaming industry or the beer industry, but of the two, the beer industry would be preferred.

VOTE:

The motion to amend the funding source for SB 410 from Video Gaming to Beer CARRIED 8-2 on Roll Call Vote (#2).

MOTION/VOTE:

Senator Gage moved SB 410 DO PASS AS AMENDED. The motion CARRIED on oral vote with Senator Stang voting "NO". (681121SC.Sma)

HEARING ON SB 435Opening Statement by Sponsor:

Senator Lorents Grosfield, Senate District #41, presented SB 435, which is a bill to revise the greenbelt appraisal definition of agricultural (ag) land for property tax purposes. SB 435 will require that land produce a certain amount in annual gross income in order to be eligible for taxation as ag land. Senator Aklestad's bill, SB 433, and Senator Doherty's bill, SB 182, both heard in this Committee, deal with this same subject, as well as three bills introduced on this same subject in the House, which have now been combined into one bill, HB 643.

Senator Grosfield said the problem is an equity issue, a subdivision issue, and a complex tax issue, that has been presented and worked on in previous legislatures. Senator Grosfield called it a frustrating issue because of the outlying affects. An extreme, albeit accurate, example of the problem would be some unimproved riverfront property consisting of 21.8 acres. This land is adjacent to a 16.4 acre parcel. The 21.8-acre parcel automatically qualifies to be classed as ag land because it is over 20 acres, and the taxes on that land in 1991 were \$7.04. The adjacent 16.4-acre parcel, which is identical unimproved land, was taxed at \$464.96 in 1991. The only difference in the two pieces of land is that one is over 20 acres, the other is under 20 acres.

Senator Grosfield explained SB 435 in detail. Under 20 acre parcels will remain the same as existing law. From 20 to 160 acres would need to meet the income test of \$1,500, plus \$2 per acre for each acre in excess of 20 acres, in order to qualify to be taxed as ag land.

Rural nonagricultural property would consist of more than 160 contiguous acres, located outside the limits of a city or town, that does not meet the income test of \$1,780 (and less than \$5 per acre for each acre in excess of 160 acres) in annual gross income from agricultural products. For instance, for a 10,160 acre ranch, the threshold is $10,000 \times \$5$, or \$50,000, plus \$1,780, for a total of \$51,780, the required amount of income in gross annual sales from agricultural products in order to qualify to be taxed as agricultural land.

Rural residential property would be land consisting of not less than 20, nor more than 160, contiguous acres located outside the limits of a city or town, and must produce less than \$1,500 in annual gross income from agricultural products, and the land is used for residential purposes.

Senator Grosfield said by setting the threshold reasonably low, he does not want to hit any land that is bona fide agricultural land. On the other hand, he does not want to let people off the hook if they are taking land out of production.

From the perspective of the county tax base, there is a huge hit when someone takes a large parcel of land off the tax rolls by taking all livestock off the land, discontinues farming the ground, and sells off all machinery, etc. The large parcels of land that are being purchased as hobby land has hurt the tax base in many areas in the state, according to Senator Grosfield.

Senator Grosfield said rural non-ag property, in excess of 160 acres that does not qualify as ag land, will be taxed as Class 3. Those parcels are taxed at 10 times what they would be taxed if they were agricultural-producing lands.

Lands from 20 to 160 acres will go to Class 4, and will be phased in, starting at 25% of the 3.86 of market value the first year, then to 50%, 75%, and 100%. These lands also would qualify for low-income adjustment already in Class 4 property.

SB 435 will also make it difficult for a landowner to change his land classification from ag land to forest land. The land must be actively managed for the production of forest products in order to be switched to forest land for taxation purposes.

Proponents' Testimony:

Carlo Cieri, County Commissioner of Park County, spoke in favor of SB 435. Mr. Cieri said his county is grossly affected by what is happening under the existing law. In 1989, they had approximately 1600 20-acre parcels being taxed at \$5 and \$6. Between February and March of this year, they jumped up another 500, and since March 1, 500 more 20-acre parcels were filed. Everybody seems to be worried about the subdivision review. What this means to Park County is that approximately \$11,000 or \$12,000 in taxes are collected at the ag rate. If those were taxed as suburban tracts, which Mr. Cieri says they should be, the County would be receiving \$383,000 in taxes. If they could collect the larger amount, it would mean a greater share to the State and schools and local governments. At present, Park County is still providing all services for these parcels of land, but they have no money to take care of the services adequately.

Allen F. Nelson, Rancher in Park and Carbon Counties, spoke in favor of SB 435. Mr. Nelson said he also serves on the County Tax Appeal Board. He was on the Board when SB 20, the existing law, was enacted, and he went to the Governor asking him to veto that bill. Mr. Nelson distributed Exhibit No. 3 to these minutes, which shows the drop in tax dollars because of SB 20. He said owners of 20 acres and over were given a tremendous tax break under SB 20. He asks Committee support of SB 435 in order that landowners in cities will no longer have to subsidize the 20-acre landowners. Mr. Allen said when the ag status of a 2,000 acre ranch is put into 20 acre parcels, this hurts cities, towns, and all small communities, because the tax base is not only taken away, the livestock, machinery, and money spent for fertilizer, seeds, fuel, veterinarian services, etc., is all taken away. Mr.

Allen said approximately \$3 of every \$4 spent in agriculture goes back into the community, but the \$6 tax collected on each 20-acre parcel doesn't go very far toward paying for snow removal costs, law enforcement costs, and better roads required by the owners of these small parcels of land.

John Bloomquist, representing the Montana Stockgrowers Association (MSA), said they are in agreement with the concept of SB 435 in classifying ag lands appropriately, and if the lands are used for agricultural purposes, classify them as such. Mr. Bloomquist said the MSA hasn't had a chance to look at the various dollar thresholds to see where they fit in with various-sized operations and how they may affect the market conditions. He said if market conditions are favorable or decent, the test shouldn't be difficult to apply. If there is a prolonged, depressed market, some of the tests may be difficult to meet. Another problem could develop in how the test will relate to an ag producer who leases out some ground. Mr. Bloomquist suggested looking at the need for reporting to the assessor on an annual basis in order to certify the land as ag use. In many cases, land is rested in off-years and does not raise agricultural products each year. This applies in grazing operations as well as farming operations, and can last one, two, or three years in certain instances. Mr. Bloomquist suggested that the MSA concerns might be addressed in the statement of intent, or some type of rule-making procedure, and they are willing to work with Senator Grosfield and this Committee on these concerns.

Ted Doney, representing the Montana Dairyman's Association, said they would like to concur in the remarks made by John Bloomquist. Mr. Doney said the Dairyman's primary interest in this issue is to insure that their producers meet the means tests. They don't want to get embroiled on what the tax should be on land that isn't agricultural-producing. On the surface, SB 435 looks okay, according to Mr. Doney, however, they would like more time to analyze the numbers involved in the means test. The Dairyman's Association supports the concept of SB 435.

Lorna Frank, representing the Montana Farm Bureau, said they have some of the same concerns mentioned by Mr. Bloomquist--crop rotation and leasing of property. She urged this Committee to take a look at the actual use of the lands in order to determine ag uses for tax purposes.

Opponents' Testimony:

Tom Hopgood, Montana Association of Realtors, spoke in opposition to SB 435. Mr. Hopgood predicted the problems which will be created by this greenbelt appraisal bill will be significant. He said the tax increase from approximately \$7 up to \$400 on some 20-acre parcels of land, would be a 5,700% increase in property taxes on a single tract of land. He believes this is a somewhat excessive tax increase to ask people to bear, even though it will be phased in over a period of years.

He is not aware of any other tax increase of this magnitude ever passed by the Legislature, and believes there will be a lot of repercussions over it if SB 435 passes. Mr. Hopgood said one of the effects of this bill may be to tax 20-acre tracts out of existence. He doesn't think the 20-acre parcels will be re-joined to make larger ag land parcels; instead, he thinks it will just be more difficult for people to maintain the 20-acre tracts and they will actually sell off many of the subdivided parcels, splitting the land into more owners.

Steve Mandeville, Legislative Chairman of the Montana Association of Realtors (MAR), spoke in opposition to SB 435, by reiterating the comments made by Mr. Hopgood. He also said many people who are holding 20-acre parcels of land may be forced into dumping their property on the market, and he does not believe this is good public policy. He thinks the annual certification involved in SB 435 will be a nightmare. Mr. Mandeville said he thought a compromise had been made through the combining of the three House bills into one greenbelt bill, HB 643, and the MAR could support the House compromise bill, but does not feel they can support SB 435.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Doherty asked Senator Grosfield if he knows how much the 21 acres he used as an example, currently taxed at \$7, will be taxed if SB 435 passes. Senator Grosfield said it will be phased in over four years, and when it is fully phased in, it will be taxed around the same price as the 16.4 acre parcel is taxed now, which is \$464.96.

Senator Grosfield distributed Exhibit No. 1 to these minutes, showing ag land in counties throughout the state, and Exhibit No. 4 to these minutes, which is a summary of forest land tracts in various counties in the state.

Senator Doherty asked if it is Senator Grosfield's intent to drive any Montanan off their land and their homes with oppressive tax burdens. Senator Grosfield said that is not his intention, although he does realize there will be a burden on some people, especially those who may happen to own the 20.1 acres and over. That is why he proposes the phase-in, and has looked for formulas that will not be a burden to anyone in agriculture. He is concerned about the issues raised by the Stockgrowers, and if the numbers need to be changed in the formulas in order to work, that is fine with him.

Senator Towe asked Senator Grosfield if he is intending to change the way in which the calculation of the monetary eligibility test is determined. Senator Grosfield said under

current law, if an owner can demonstrate \$1500 income off non-contiguous parcels totalling over 20 acres, that land can qualify as ag for tax purposes. Under SB 435, the ag land needs to be contiguous parcels in order to qualify.

Senator Brown said the effect of SB 435 might drive some people off their lands, since they may have purchased the 20.1 acre parcels because that was the way the land was sold. The rancher or farmer, in order to circumvent the Subdivision Act, sold the land in 20-acre parcels, or larger, and the person who ended up buying one of those parcels would end up with a draconian tax increase over four years under SB 435. These people will now probably try to sell all or part of their land, and the result could be either more subdivision of land, and, therefore, less open space and greenbelt, or it could be that only very wealthy people will be able to afford the 20-acre parcels for use other than agricultural.

Senator Brown said a great number of 20-acre of land in forest land classification is in Flathead County, and he does not feel it is fair that one needs to meet the \$1700 or \$1500 cut-off point, if they harvest the timber. He thinks some property owners will just log the land because of the tax consequences of SB 435. Randy Wilke, Bureau Chief of the Property Assessment Division, Department of Revenue (DOR), responded that one of the difficulties in greenbelt laws has always been the forest land where there might be an income from this land once every eight years or so. That is why a different definition was inserted into previous bills for forest land. That language has not been changed by SB 435. He sees SB 435 as making certain that people who may be falling out of agricultural land status would not be finding a quick haven in timber land. SB 435 says if the land is being taken from ag to some other classification, the land must meet the requirement of the timber management plan, and Mr. Wilke doesn't see it as much of a change from existing law. Senator Brown argued that if a person wants to use the value of the timber sold to meet the agricultural classification, SB 435 dictates that he must cut his timber down, or the consequences of not doing that is to move into the Class 4 taxing category in four years.

Senator Brown said if a property owner cannot meet the ag standard, he would take 10 times the taxable rate to figure the taxable value of his rural, non-agricultural property. For instance if one has 20 acres currently being taxed at \$7, his tax would become \$70. Senator Brown predicts the impact will be far greater than that in many cases, depending on the potential productivity of the land.

Senator Eck said the Gallatin County Planning Office has had 10,000 acres split into 20-acre plots in the very recent past. She asked if there is a mechanism for un-subdividing or re-combining those acres if the landowner decides that would be advantageous. Senator Grosfield said there is a means to re-

combine these parcels. For instance, if he owned 100 acres and wanted to purchase the neighboring 15 acres, he could add that land under the survey law, and just move the boundary so that the boundary includes the 115 acres.

Closing by Sponsor:

Senator Grosfield presented and explained his proposed amendments to SB 435, which are Exhibit No. 5 to these minutes. His intent is to not make the annual certification burdensome. Currently, anyone owning land has to fill out an assessment sheet every year, sign it, and send it to the assessor. He is hoping that most of the annual certification can be done this way.

Senator Grosfield addressed some of Senator Brown's concerns on forest land, by pointing out the language on Page 22 of SB 435, which defines "Forest land" as contiguous land of 15 acres or more in one ownership that is capable of producing timber that can be harvested....It does not say the timber has to be harvested in order to qualify.

Senator Grosfield said he does not buy the argument that SB 435 will lead to a lot more subdivisions being platted. First, there are a tremendous number of 20-acre parcels, and the market will not bear everybody subdividing. Second, a person who has a 100-acre parcel, or 21-acre parcel, with their home, built on that large a parcel because they wanted the privacy. These people will not destroy their privacy because of this bill. They will look at the question of whether that open space is worth the extra tax bill to them.

Senator Grosfield said counties cannot lower their budgets by the amounts of taxes lost when land is turned from agricultural-producing efforts. What will happen is that the remainder of the people in the counties will have to make up the difference. What is really happening, is that ordinary citizens in Montana are subsidizing the lifestyle of some people who are taking advantage of the tax break. He thinks it is appropriate for the Legislature to address that issue, and put an end to that problem, and SB 435 is his effort to do so.

EXECUTIVE ACTION ON SB 378

MOTION:

Senator Grosfield moved that SB 378 be pulled off the table for purposes of discussing substantive amendments.

DISCUSSION:

Senator Grosfield presented Exhibit No. 6 to these minutes, which are amendments prepared by Greg Petesch, Legislative Council staff. These amendments to SB 378 will reduce the number

of earmarked accounts, and basically, only the school equalization accounts will remain. Senator Grosfield said he decided to strike everything in the bill following the enacting clause. There are four remaining amendments, and they relate to school equalization. Corporate income tax, dedicated to the school equalization account, on Page 3, Section 7, is a de-earmarked account remaining in SB 378. Page 5, Section 8, is the coal tax going into the General Fund which ends up in the school equalization account. Page 8, Section 9, refers back to the previous two sections and distributes the revenue for state equalization. The last thing SB 378 does is listed in Section 10, regarding the State-sponsored credit card. Senator Grosfield said New Section 5, Page 2, calls for a legislative finance committee review each interim. That committee will submit a report to the Legislature, and if the review determines that the revenue is constitutionally mandated, is for debt service, funds emergency services, or is a user fee that is designed to provide direct benefits for those who pay the dedicated tax, fee, or assessment in an amount commensurate with the benefits provided, the revenue dedication does not need any future review. If it doesn't meet those tests, the Legislative Finance Committee has to review it each interim to be sure that it still meets the criteria.

VOTE:

The motion to take SB 378 off the table CARRIED UNANIMOUSLY on oral vote.

DISCUSSION:

By agreement among Committee members, language in Section 5, Line 2, will come out of the bill. That language states, "The review must be completed at least 6 months before the date set for termination".

Senator Towe asked if Section 8, which relates to the coal severance taxes, could be stricken from SB 378. Senator Grosfield replied that it could be omitted.

MOTION/VOTE:

Senator Grosfield moved for adoption of the amendments to SB 378, with the exception of Section 8 and the necessary changes that eliminating Section 8 has to Section 9, and the sentence to be omitted from Section 5. The motion CARRIED UNANIMOUSLY on oral vote. (sb037801.agp)

MOTION:

Senator Grosfield moved SB 378 DO PASS AS AMENDED.

DISCUSSION:

Senator Eck asked if SB 378 will de-earmark all of the school funds. Senator Grosfield said this is not the effect of the bill. Jeff Martin, Legislative Council Staff, said all this bill will do is eliminate the earmarking of the income tax and corporate license tax portions of the school equalization funds. Income from lotteries, surplus revenue collected from counties, etc., will remain intact. Senator Eck said there is a perception some people have about paying their income tax or their corporation tax and having it go towards supporting the schools, which that has some value.

VOTE:

The motion to DO PASS SB 378 AS AMENDED, CARRIED on oral vote with Senators Halligan, Eck, and Van Valkenburg voting "NO". (681930SC.Sma)

HEARING ON SB 434**Opening Statement by Sponsor:**

Senator Mike Halligan, Senate District No. 34, presented SB 434, which is a value added tax proposal. When talking of comprehensive tax reform in Montana, it usually includes income, property, excise, natural resource, and gambling taxes, along with a sales tax. Natural resource taxes made up about \$234 million of the state's annual base of income in 1985; those taxes now make up only \$136 million of the state's annual base of revenue. As the Legislature has allowed the natural resource taxes to be more competitive, it has reduced the amount of income. Other states and foreign countries have been looking at a tax called value added tax (VAT). Even the 46 states with sales taxes are looking at the value added tax concept to see if it can help their jurisdiction deal with stability in other issues. Senator Halligan said his presentation today is to have the Legislature begin to look at the concept of a value added tax, so businesses can be afforded the opportunity to react to the concept in black and white.

Senator Halligan presented Exhibit No. 7 to these minutes, which is a summary and description of how SB 434 works. He and Rep. Ream have been working closely with the DOR and the Revenue Oversight Committee on this issue. The Senator said as the state is looking at comprehensive tax reform, the administration of taxes, as far as collection, should be done more simply, and the tax base should be stable. All economic activity should be treated equally, whether goods or services, or income or property. The taxes should be as exportable as possible, meaning people from other states ought to pay as much of our taxes as the state can possibly pass on to them. The major component of any comprehensive tax reform should also be fairness and ability to

pursue or promote economic development. As various states look at, and adopt, the VAT, because of the ability to deduct capital expenditures in the first year of purchase, there is a major incentive for capital investment and economic development. Michigan has had a VAT for many years.

The Multi-state Task Commission first brought the VAT issue to the Revenue Oversight Committee's attention as a responsible means of tax collection; the sales tax may not be the only alternative for a broad-based tax in Montana. Senator Halligan believes the Legislature cannot responsibly address the issues unless the VAT concept is reviewed.

This is an informational hearing on the VAT, since is not widely understood. Every other state looking at this tax has no idea how this tax will impact its economy. There is an estimate of between \$250 million and \$320 million in revenue anticipated for Montana under a VAT, but the value added concept cannot be done unless other taxes are eliminated. SB 434 proposes to eliminate the corporate license tax, the contractor's gross receipts tax, the electrical energy tax, telephone license tax, cement producer's tax, and insurance tax. Senator Halligan said he would also like to look at not eliminating those taxes, but eliminate the business equipment tax, which is approximately a \$65 million item. The VAT concept would not be considered unless looking at eliminating other inefficient taxes, no matter what they might be.

Senator Halligan said SB 434 is the beginning of a long-term process. The VAT is a single, flat-rate tax applied to all business activity within a taxing jurisdiction, regardless of whether the ownership is a corporation, partnership, or sole proprietorship. All forms of business are taxed on the basis of the value they add. Attorneys, CPAs, and goods and services are all much-more broadly taxed than even in any sales tax, so the broad base allows for a lower tax rate, within the 2% range, which is much more acceptable to taxpayers. Value is measured as the difference between what a business receives in revenues when it sells a product or performs a service and what it costs the business to produce the product or perform the service. Obviously, there would be complicated formulas used, but the general concept is a relatively simple one.

SB 434 contains a small-business credit exemption to try to address the 65% of the businesses in Montana that are small businesses. It is labor-intensive because materials are allowed to be deducted, but there is nothing for labor costs. Labor-intensive businesses would be hit hard under the VAT, and they would need to have a separate formula, or at least an adjustment.

Senator Halligan said no matter whether the sales tax passes or fails, the discussion on a VAT needs to continue to determine whether it is appropriate for Montana. SB 434 is a vehicle for discussion purposes to allow the Legislature to study a VAT.

Proponents' Testimony:

Rep. Bob Ream, representing House District No. 54, spoke in favor of SB 434. Rep. Ream served on the Revenue Oversight Committee this past interim, along with Senators Halligan, Eck, Brown, Crippen, Hager, Van Valkenburg, and Towe. All of these members had their interest sparked last summer when Jeff Martin put together a panel discussing the VAT. Dan Butts from the Multi-State Tax Commission was present; Larry Finch, DOR, put together an excellent report which is included in Exhibit No. 7, and one or two other economists spoke on this tax concept. Rep. Ream said he has pursued the issue since that meeting.

Rep. Ream said some of the intriguing concepts of the value added tax are interesting. This bill is a consumption tax.

The tax rate is at 4%, and Larry Finch estimated the revenue will bring in between \$250 million and \$320 million. It was set at 4% partly because the sales tax was set at 4%, and in Michigan, the tax is 2.35% but Montana does not have the huge manufacturing base that Michigan has in Ford, Chrysler, and American Motors, etc. There is an apportionment for in-state/out-of-state, and capital assets are included in the cost of materials the first year. They can be written off the first year, and this promotes capital investment. One of the adjustments, though, is that if a major capital asset is sold, that becomes part of the gross receipts. A small business may choose a 6.8% income tax without going through the process of computing value added. That is virtually identical to the state's current corporation license tax. The 6.8% figure was not set because Montana has a 6.75% license tax, but this figure was adjusted from Michigan's tax where their value added is 2.35%, and that adjustment came out to 6.8%. That will assure that nobody would pay more than the current corporate income tax because they can choose the 6.8% option on adjusted business income, not value added.

Rep. Ream said SB 434 will repeal a number of Montana taxes, as shown on the memo from Jim Standaert, Office of Legislative Fiscal Analyst, which is part of Exhibit No. 7. The way SB 434 is written, it will also eliminate the insurance premiums tax in addition to those taxes shown on the memo. A total of \$100 million of those business taxes are repealed in SB 434 as it is now written.

Rep. Ream said the major drawback of SB 434 is the unknown situation with regard to revenues. He thinks the bill deserves a lot more study. Rep. Ream presented Exhibit No. 8, which is an amendment to SB 434 that will do two things. First, it would repeal SB 434 if the sales tax, SB 235, passes on the ballot in June, and secondly, would show an effective date of January, 1996. If the sales tax fails on the ballot, this would force the Legislature to look seriously at SB 434 in the interim. DOR would have to put work into refining the revenue estimate; the

Revenue Oversight Committee would have to spend a considerable amount of time going into the issue in depth to figure out exactly how it would apply in Montana, and then come back next session for fine-tuning.

Rep. Ream urged the Committee to study the information on the VAT concept, and remember that this is a consumption tax, as opposed to the European VAT which is transactional, meaning it is based on every transaction. This is more like a business income tax and resembles our corporate income tax, and it doesn't require any more information on the part of the taxpayer than they already put together to report their income tax.

Informational Testimony:

Mick Robinson, Director of the Department of Revenue, said when the value added tax concept surfaced, he encouraged this type of informational/educational session on the concept for a couple of reasons. First, he thinks that Montana, on a national basis and also in terms of state taxation, is going to see a lot of discussion and emphasis regarding a VAT over the next several years. Secondly, he thinks there is a lot of misunderstanding regarding what a VAT is. There is very limited exposure to a VAT in the United States.

Mr. Robinson thinks this type of tax has advantages and disadvantages that need to be weighed and discussed in order to understand what can be done with this concept. As he understands it, there is a base that provides flexibility and can be tailored in a number of different directions. SB 434 as written is a consumption type of approach, and there are other approaches.

Larry Finch, DOR, said he became interested in the VAT last August when the Revenue Oversight Committee sponsored a hearing on it. Since then, he has spent a good deal of time researching a VAT and talking with several experts in the area on a national level, as well as several people in the Michigan Department of Revenue. He prefaced this discussion that while the particulars of a VAT in Montana are still not known, what he has learned is included in his printout included in Exhibit No. 7, entitled, The Value-Added Tax: An Alternative Approach to Comprehensive Tax Reform in Montana.

Mr. Finch said the first point he would like to make is, is there a possibility in a VAT for truly comprehensive tax reform in Montana? From what he has been able to determine, he thinks there is. It is a tax that has an extremely broad tax base, depending on how it is constructed, that will produce a very large amount of revenue with a relatively low rate, in the area of 4%. A VAT is purely the difference in what a firm would sell its products for and what it paid for them in the way of inputs into those products. Another thing Mr. Finch thinks is important, is that in contrast to a retail sales tax, a VAT is what is called an origin-based tax, where a retail sales tax is

referred to as a destination-based tax. With an origin-based tax, the tax is levied on production in the state where production originates, not where the production is consumed, whereas with a retail sales tax, the tax is levied on where the consumption occurs. That is important in issues of exportability, and other issues on how it is administered.

Mr. Finch said there are three types of value added taxes:

(1) The gross product tax which allows for no deductions for capital equipment, or no depreciation, and it is never considered as a practical alternative; (2) The income approach which allows capital equipment to be depreciated; and (3) The consumption-type of VAT, contained in SB 434, which allows for a complete expensing of capital equipment in the year in which it was purchased. The VAT tends to be based on the benefits of the principal of taxation which says that a taxpayer should contribute in proportion to the benefits received from government services rather than the ability to pay principal, which is more geared to the profits-type of tax currently in the corporation income tax.

Mr. Finch clarified the fact that the VAT is not a tax on a tax on a tax, as has been rumored. Part of the confusion comes from looking at taxes in other states, i.e., Washington and Michigan, who each have a single business tax. In Washington, the single business tax is a tax of the gross receipts type, whereas in Michigan, the single business tax is a tax of a value added type. As the name of VAT connotes, this tax taxes only the value added, which is the incremental value added to a product at each stage of production, in contrast to a gross receipts tax which taxes the total sale at each level of production and results in a significant amount of cascading, or pyramiding, of taxes. The VAT was designed specifically to eliminate the tax on a tax on a tax. There is less tax pyramiding under a pure VAT scheme than there is under a retail sales tax as being considered in SB 235.

Mr. Finch said there is also confusion in the area of value in value added taxes and a problem rises with semantics. Montana has been told for years that instead of shipping trees out of state, we should convert the trees to timber, lumber and furniture, and export that; state minerals should be converted to refined minerals and sheet metals and exported; and, thus, add value. We've been told these value added industries are capital intensive industries, but a value added tax will be depressing for value added industries. Mr. Finch doesn't think that is the case at all. For one thing, not only manufacturing industries, the ones we would want to add value to the Montana economy, would be subject to the VAT. Every service industry, construction industry, retail and wholesale industry, would also be subject. The VAT is an extremely broad-based tax, which is what would provide for a low tax rate, and possibly a lower tax than the manufacturing industries are facing now. A consumption-type VAT provides for a full write-off in its first year of all

major capital purchases. That incentive, by itself, will provide the same incentive that the large investment credit, which was available several years ago, provided to capital formation. That, combined with the reduction in business personal property tax rates, would be about as far as the policy makers could go to provide the incentive for development and promotion of capital formation in the State of Montana.

What would the trade-off be? Mr. Finch said one of the trade-offs would be that when the firms and industries are brought into this tax base, the small, low-profit family-run operations, labor-intensive operations, would be picking up a larger share of the total tax than they would be picking up now, under the system where capital would be taxed in relatively larger degrees than is labor.

Mr. Finch said as far as revenue generation, using comparable figures in personal income between Michigan and Montana, he came up with a revenue impact of \$125 million. If the tax rate is raised to 4%, it would adjust that figure up to around \$214 million. Additional revenue could be raised in Montana if the particular VAT bill offered did not include all of the exempting provisions the Michigan bill includes.

Opponents' Testimony:

David Owen, employed by and representing the Montana Chamber of Commerce, shared some information the Chamber has gathered in opposition to a value added tax. The Chamber does not believe a VAT is a good tax for Montana. Michigan adopted their single business tax in 1975, but this was a return to a tax they used to call a business activity tax which they had from 1953 through 1967. There was an 8-year break to experiment with an income tax. When Michigan enacted the single business tax, they removed corporate income tax, corporate franchise fee (net worth tax), local inventory tax, and several revenue-specific taxes as well as an intangible tax. When looking at Montana's list of taxes to take off, there would be corporate income tax, and some taxes from what Mr. Owen called a specified list. In Michigan, 60% of the business community pays no taxes; 76% of the business community pays \$1,000 or less, including the 60% who are paying nothing, and this accounts for less than 2% of the state's revenue. There are 62 firms paying over \$1 million who are responsible for 32% of the collections. Michigan will start giving credits for labor-intensive businesses at 62%. SB 434 suggests it could be as high as 75%. Michigan makes the tax break as high as 37% reduction in the tax break; SB 434 limits it to 25%. 46,000 businesses in Michigan use that exemption, which are more businesses than in the whole state of Montana. Manufacturing is a large part of Michigan's tax base, as are utilities; retailers provide about 20% of the taxes.

Mr. Owen said there is an argument that the effective tax rate, at least on businesses, is fairly progressive; on the

smallest businesses, it is 1.13%. On businesses \$2-\$5 million, it moves up to 1.68%. When looking at the effect of the tax on the business, itself, in Michigan, with a tax rate of 2.35%, it is about 1/2% on sales. SB 434 calls for a 4% tax, and Mr. Owen suggested the burden against sales will be significantly higher, closer to 1%.

Mr. Owen said the Michigan tax also represents a 1.9% tax on payroll in its net effect. If there is a 4% tax under SB 434, it will be closer to 3% or 3.2% tax in Montana.

Observations from the Michigan State Chamber are as follows: The tax is described as a mixed blessing; it tends to divide small businesses against large businesses; several taxes were taken away when their single business tax was imposed; it is contentious because it includes as a major part of its tax base, compensation which includes payments of workers' compensation, unemployment tax, and other kinds of things withheld, which gives the perception, even more than pyramiding, that it is a tax on a tax. The Michigan Chamber called it a stable source of revenue, is fairly predictable for businesses because they do these types of projections; however, because wages are a major part of its tax base, it turns into an "endless money machine" that has produced, for Michigan, a tax base which has grown in spite of economic bad times, and in perception of the Michigan Chamber, has shielded Michigan from some of the economic harshness being faced by Montana legislators. Even though the tax was designed to be revenue-neutral, it created a horrendous one-time infusion of revenue for Michigan. The general consensus of the Michigan Chamber is that they would like to get rid of the tax there, and the only reason they haven't, is there isn't a consensus of what to put in its place. There is a theory that because everybody is included in the tax, it is an extremely difficult tax to increase.

Mr. Owen cautioned that the nature of the value added tax is regressive for the consumer because it can be passed on through the price of goods. From the Chamber's perspective, at worst, it is a tax the businesses end up "eating" because they can't pass it along. Looking at the tax breaks to certain businesses in Michigan, they have had to cater to some political pressure. Finally, Mr. Owen said Montana is trying to broaden its tax base by including businesses. With a 4% increase on everything, SB 434 would actually narrow the tax base to just the business community. Montana does not have the same trade-offs to offer businesses that Michigan has. He suggests that Montana should go back to broadening the tax base aimed at citizens, and could just as well stick with the sales tax proposal.

Charles Brooks, Executive Vice President of the Montana Retail Association and its affiliates, presented his written testimony as Exhibit No. 9 to these minutes. He said SB 434 is a tax they cannot support.

Jacqueline Lenmark, representing the American Insurance Association, spoke in opposition to SB 434. Ms. Lenmark said she is speaking only to the insurance premium tax included in SB 434. Presently, this tax assessed against insurance companies is a simple percentage applied to the gross premium. That is the same method used in all 50 states, with the exception of Michigan. It is a simple, easy way of calculating the tax. She does not know if the VAT would raise or lower that tax, but that is not the purpose of her opposition. It is the complexity of the calculation that is built into this particular calculation that is the problem. Insurance companies are also subject to a tax known as a retaliatory tax, which is if Montana taxes a company at a certain rate, but a company domesticated in Montana goes to another state and is taxed at some higher rate, Montana can collect that additional revenue from that state to be used here in Montana. Ms. Lenmark said insurance companies are taxed at the 4th highest rate in the U.S. The complexity of SB 434 raises questions about how the retaliatory tax might be collected.

John Youngberg, Montana Farm Bureau, spoke in opposition to SB 434, saying it seems that there are two groups of people who have no recourse in recouping any of the costs under a VAT. One of those is the extractive industries, and the other is consumers; the tax is passed on to them. Three of the top five industries in Montana are extractive industries, unlike Michigan who has a large manufacturing base. Those extractive industries are also among the top consumers in the state. Montana would be double-hitting those people without an opportunity to recoup any of the cost. Businesses add the price of the taxes on to their goods, and that is passed on to the consumer.

Bill Stevens, Montana Food Distributors Association, stood in opposition to SB 434.

Questions From Committee Members and Responses:

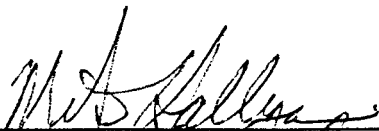
None.

Closing by Sponsor:

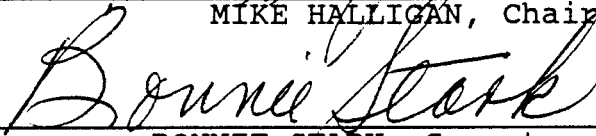
Senator Halligan said that this is just the beginning of the process in studying the possibility of a value added tax for Montana. He and Rep. Ream will be looking at the cost of a study on this tax. The issue is global competitiveness; is our existing tax structure going to get us there? Will a sales tax get us there? This will become clear in the next six months or so, and if not, then perhaps it is time to take a look at another alternative that will make Montana competitive and provide revenue for our social services, higher education, and others services. The VAT is an option for comprehensive tax reform and is a new and uncharted territory that deserves a good study.

ADJOURNMENT

Adjournment: The meeting adjourned at 10:02 a.m.



MIKE HALLIGAN, Chair



BONNIE STARK, Secretary

MH/bjs

ROLL CALL #1 - 7:00 A.M.

SENATE COMMITTEE TAXATION

DATE 3-26-93

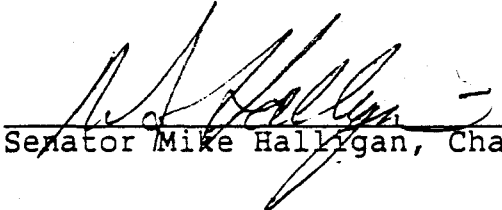
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SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 27, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 359 (first reading copy -- white), respectfully report that Senate Bill No. 359 be amended as follows and as so amended do pass.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, lines 11 through 14.

Strike: "INCREASING" on line 11 through "ACCOUNT;" on line 14

2. Title, line 15.

Strike: "USE THE TAX PROCEEDS TO"

3. Title, line 17.

Strike: "15-70-101, 15-70-204,"

4. Title, line 19.

Strike: "AND A TERMINATION DATE"

5. Page 1, line 22 through page 6, line 4.

Strike: sections 1 and 2 in their entirety

Renumber: subsequent sections

6. Page 6, line 19.

Strike: "7"

Insert: "5"

7. Page 8, line 2.

Strike: "7"

Insert: "5"

8. Page 9, line 4.

Following: "necessary"

Insert: "to enhance access to markets,"

Following: "mitigate"

Insert: "rural isolation and"

9. Page 9, line 5.

Following: "state"

Insert: ", "

10. Page 9, line 9.

Strike: "7"

Insert: "5"

11. Page 9, lines 10 through 12.

Strike: "and" on line 10 through "revenue" on line 12

12. Page 9, line 20.

Strike: "and revenue from gas tax"

13. Page 10, lines 4 and 9.

Strike: "7"

Insert: "5"

14. Page 10, lines 14 and 15.

Strike: "from" on line 14 through "(8)," on line 15

15. Page 11, lines 18 through 22.

Strike: section 8 in its entirety

Renumber: subsequent sections

16. Page 11, line 24 and page 12, line 1.

Strike: "7"

Insert: "5"

17. Page 12, lines 4 and 5.

Strike: section 11 in its entirety

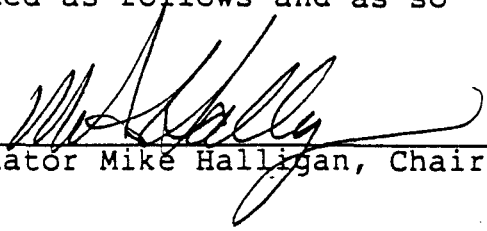
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SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 26, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 257 (first reading copy -- white), respectfully report that Senate Bill No. 257 be amended as follows and as so amended do pass.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 7.

Following: "1994;"

Insert: "PROVIDING AN INCREASED ALLOCATION OF FUEL TAXES TO
CITIES AND TOWNS;"

Following: "SECTIONS"

Insert: "15-70-101,"

Following: "15-70-204"

Insert: ", "

Strike: "AND"

Following: "15-70-321,"

Insert: "AND 17-7-502,"

2. Page 1, line 11.

Following: line 10

Insert: "Section 1. Section 15-70-101, MCA, is amended to read:

"15-70-101. Disposition of funds. All taxes, interest, and penalties collected under this chapter, except those collected by a justice's court, must be turned over promptly to the state treasurer, who shall place the money in the state special revenue fund to the credit of the department of transportation. Those funds allocated to cities, towns, and counties in this section must be paid by the department of transportation from the state special revenue fund to the cities, towns, and counties.

(1) ~~\$14,000,000~~ \$16,766,000 of the funds collected under this chapter, except those collected by a justice's court, ~~is statutorily appropriated, as provided in 17-7-502, to the department of transportation and~~ must be allocated each fiscal year on a monthly basis to the counties and incorporated cities and towns in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (1)(a) through (1)(c):

(a) \$54,000 must be designated for the purposes and functions of the Montana rural technical assistance transportation program in Bozeman;

(b) \$6,323,000 must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the federal-aid interstate system and the federal-aid primary system, bears to the total rural road mileage in the state, exclusive of the federal-aid interstate system and the federal-aid primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county bears to the total land area of the state;

(c) ~~\$7,623,000~~ \$10,389,000 must be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the federal-aid interstate system and the federal-aid primary system, within corporate limits bears to the total street and alley mileage, exclusive of the federal-aid interstate system and federal-aid primary system, within the corporate limits of all cities and towns in Montana.

(2) All funds allocated by this section to counties, cities, and towns must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or town streets and alleys or for the share that the city, town, or county might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets that are part of the federal-aid primary or secondary highway system or urban extensions to those systems, except that the governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be used for the maintenance and repair of town or third-class city streets and alleys.

(3) All funds allocated by this section to counties, cities, and towns must be disbursed to the lowest responsible bidder according to applicable bidding procedures followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of \$4,000.

(4) For the purposes of this section in which distribution of funds is made on a basis related to population, the population must be determined by the last preceding official federal census.

(5) For the purposes of this section in which determination of mileage is necessary for distribution of funds, it is the responsibility of the cities, towns, and counties to furnish to the department of transportation a yearly certified statement

indicating the total mileage within their respective areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of transportation.

(6) Except by a town or third-class city as provided in subsection (2), the funds authorized by this section may not be used for the purchase of capital equipment.

(7) Funds authorized by this section must be used for construction and maintenance programs only."

Renumber: subsequent sections

3. Page 3, line 3.

Following: line 2

Insert: "Section 4. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; ~~15-70-101~~; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state

treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.) ""

Renumber: subsequent section

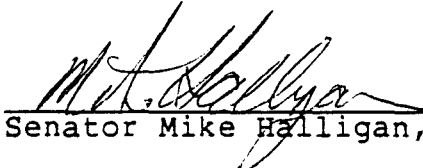
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SENATE STANDING COMMITTEE REPORT

Page 1 of 3
March 26, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 410 (first reading copy -- white), respectfully report that Senate Bill No. 410 be amended as follows and as so amended do pass.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 9.

Strike: "VIDEO GAMBLING MACHINE"

Following: "TAX"

Insert: "ON BEER"

2. Title, line 10.

Following: "SECTIONS"

Insert: "16-1-306, 16-1-406, 16-1-410,"

3. Title, line 11.

Following: "19-7-504,"

Insert: "AND"

Strike: "AND"

4. Title, line 12.

Strike: "23-5-610,"

5. Page 1, line 17.

Strike: "department of justice"

Insert: "state treasurer"

6. Page 1, lines 18 and 19.

Strike: "contribute" on line 18

Insert: "transfer"

Strike: "video" on line 18 through "machine" on line 19

Following: "tax" on line 19

Insert: "on beer"

Strike: "23-5-610" on line 19

Insert: "16-1-406"

7. Page 5, line 10 through page 8, line 15.

Strike: section 7 in its entirety

Insert: " Section 7. Section 16-1-306, MCA, is amended to read:

"16-1-306. Revenue to be paid to state treasurer. Except as provided in 16-1-404, 16-1-405, 16-1-406, 16-1-408, 16-1-410, and 16-1-411, all fees, charges, taxes, and revenues collected by or

under authority of the department shall be deposited with the state treasurer. ~~He~~ The state treasurer shall deposit the funds to the credit of the state general fund."

Section 8. Section 16-1-406, MCA, is amended to read:

"16-1-406. Tax on beer -- distribution. A tax of ~~\$3~~ \$4.15 per barrel of 31 gallons is ~~hereby~~ levied and imposed on each and every barrel of beer sold in Montana by any wholesaler, ~~which said~~ The tax shall be is due at the end of each month ~~from said the wholesaler upon any such beer so sold by him during that month.~~ As to any beer sold in containers other than barrels or in barrels of more or less capacity than 31 gallons, the quantity content shall be ascertained and computed by the department in determining the amount of tax due. The tax received under this section must be allocated as follows:

(1) an amount equal to 6.2% of the salaries of active members of the sheriffs' retirement system to the account established in 19-7-401; and

(2) the remainder to the general fund for further allocation as provided in 16-1-410."

Section 9. Section 16-1-410, MCA, is amended to read:

"16-1-410. (Temporary) Tax revenue allocation. Subject to 16-1-422 and the allocation provided for in 16-1-406, all revenue received from taxes on beer under 16-1-406 and 16-1-408 over and above \$1.50 per barrel of 31 gallons shall be deposited with the state treasurer to the credit of the incorporated cities and towns beer tax account in the state special revenue fund. The money in the account is statutorily appropriated, as provided in 17-7-502, to the state treasurer who shall, monthly, distribute this amount of money to the incorporated cities and towns in the direct proportion that the population of each city and town bears to the total population of all incorporated cities and towns as shown in the latest official federal census. For cities and towns incorporated after the latest official federal census, the census shall be determined as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or town. If a city or town disincorporates, it may not receive any funds under this section and the amount previously distributed to the city or town shall be distributed to the remaining incorporated cities and towns. All funds received by cities and towns under this section shall be expended for state purposes such as law enforcement, maintenance of the transportation system, and public health.

16-1-410. (Effective on receipt of taxes or fees for September 1993) Tax revenue allocation. All Except as provided in 16-1-406, all revenue received from taxes on beer under 16-1-406 and 16-1-408 over and above \$1.50 per barrel of 31 gallons

shall be deposited with the state treasurer to the credit of the incorporated cities and towns beer tax account in the state special revenue fund. The money in the account is statutorily appropriated, as provided in 17-7-502, to the state treasurer who shall, monthly, distribute this amount of money to the incorporated cities and towns in the direct proportion that the population of each city and town bears to the total population of all incorporated cities and towns as shown in the latest official federal census. For cities and towns incorporated after the latest official federal census, the census shall be determined as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or town. If a city or town disincorporates, it may not receive any funds under this section and the amount previously distributed to the city or town shall be distributed to the remaining incorporated cities and towns. All funds received by cities and towns under this section shall be expended for state purposes such as law enforcement, maintenance of the transportation system, and public health.""

Renumber: subsequent sections

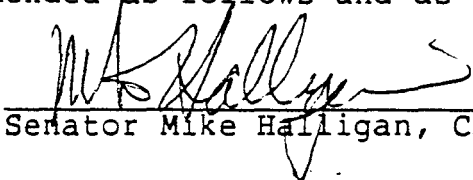
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SENATE STANDING COMMITTEE REPORT

Page 1 of 8
March 26, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 378 (first reading copy -- white), respectfully report that Senate Bill No. 378 be amended as follows and as so amended do pass.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 5.

Strike: "SPECIAL REVENUE ACCOUNTS"

Insert: "DEDICATIONS OF REVENUE"

2. Title, line 6.

Strike: "OTHER"

3. Title, lines 9 and 10.

Strike: line 9 through "7-21-2105," on line 10

Following: "15-1-501,"

Strike: "15-25-122, 15-35-108,"

4. Title, lines 11 through 13.

Strike: line 11 through "20-9-333," on line 12

Following: "20-9-343," on line 12

Strike: remainder of line 12 through "31-1-221," on line 13

Insert: "AND"

Following: "31-1-602,"

Strike: "32-1-213,"

5. Title, line 14 through page 2, line 3.

Strike: line 14 through "90-3-525," on page 2, line 3

6. Title, page 2, lines 3 through 5

Following: ";" on line 3

Strike: remainder of line 3 through ";" on line 5

7. Page 2, line 9 through page 158, line 13.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Legislative findings. (1) The legislature finds that provisions for dedicating state revenue have increased in number, reduce legislative control over state spending, complicate the state funding structure, and increase the effort required to budget, appropriate, and monitor public funds. The dedication of funds results in the inability of the legislature to practically and systematically conduct reasoned prioritization of programs or funds.

(2) It is the intent of the legislature, by establishing a system for the review and evaluation of revenue dedication provisions, to ensure that provisions for revenue dedication:

- (a) are based on sound principles of revenue dedication;
- (b) reflect present circumstances and legislative priorities for state spending; and
- (c) are terminated when they no longer are necessary or appropriate.

- NEW SECTION. Section 2. Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Dedicated revenue provision" means an administrative or legislative action that allocates the revenue from a tax, fee, assessment, or other source to an account in the state special revenue fund.

(2) "State special revenue fund" means a fund in the state treasury consisting of money from state sources that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government, as provided in 17-2-102.

NEW SECTION. Section 3. Transfer of fund balances to general fund. On [the effective date of this act], the balance remaining in each special revenue account designated in [sections 7 through 9] must be deposited in the general fund.

NEW SECTION. Section 4. Effect of termination. (1) If the legislature has appropriated the revenue from an account provided for in [sections 7 through 9], the appropriation is considered to have been made from the general fund.

(2) All assets, liabilities, and fund balances of accounts terminated by [sections 7 through 9] accrue to the general fund.

NEW SECTION. Section 5. Legislative review and report. (1) Each interim, the legislative finance committee shall review each dedicated revenue provision not exempted under subsection (3).

(2) The review conducted by the committee must include an evaluation of the dedicated revenue provision, based on whether it:

- (a) provides direct benefits for those who pay the dedicated tax, fee, or assessment;
- (b) provides special information or other advantages that could not be obtained if the revenue were allocated to the general fund;
- (c) provides program funding at a level equivalent to the expenditures established by the legislature;

(d) involves collection and allocation formulas that are appropriate to the present circumstances in state government;

(e) impairs the legislature's ability to scrutinize budgets, control expenditures, and establish priorities for state spending;

(f) results in an inappropriate ending fund balance;

(g) fulfills a continuing, legislatively recognized need; and

(h) results in accounting or auditing inefficiency.

- (3) The committee shall establish procedures to facilitate the review and evaluation required by this section. Each interim, the committee shall attempt to propose measures that will reduce dedicated revenue to an amount that is less than one-third of all state revenue. If the review determines that the revenue dedication is constitutionally mandated, is for debt service, funds emergency services, or is a user fee that is designed to provide direct benefits for those who pay the dedicated tax, fee, or assessment in an amount commensurate with the benefits provided, the revenue dedication does not need a future review.

(4) Upon completion of the review, the committee shall report a summary of its findings to the legislature, including its recommendation of termination or extension, with or without modification, of the dedicated revenue provision. The summary must include the purpose of the revenue dedication, the source of funding, the activity funded, the number of personnel associated with the activity, and any balance in the dedicated revenue fund. The summary must state the reason why the revenue dedication is exempt from future review.

NEW SECTION. Section 6. Review of legislation. The office of budget and program planning shall, consistent with the review provisions in [section 5], review each piece of legislation that proposes to dedicate revenue. The office shall submit its findings concerning the dedication of revenue on the fiscal notes accompanying that legislation.

Section 7. Section 15-1-501, MCA, is amended to read:

"15-1-501. (Temporary) Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone company license taxes under chapter 53; and
(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:

(a) ~~62.8%~~ 91.3% of the taxes to the credit of the state general fund;

(b) 8.7% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

~~(c) 28.5% of the taxes to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and~~

~~(d) all interest and penalties to the credit of the state general fund.~~

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

(a) ~~61%~~ 89.5% of the taxes to the credit of the state general fund;

(b) 10.5% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

~~(c) 28.5% of the taxes to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and~~

~~(d) all interest and penalties to the credit of the state general fund.~~

(4) The state treasurer shall also deposit to the credit of the state general fund all money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund.

(6) All refunds of taxes must be attributed to the funds in which the taxes are deposited. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are deposited.

15-1-501. (Effective July 1, 1993) Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone company license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:

(a) ~~59.5%~~ 91.3% of the taxes to the credit of the state general fund;

(b) 8.7% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

~~(c) 31.8% of the taxes to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and~~

~~(d) all interest and penalties to the credit of the state general fund.~~

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

(a) ~~61%~~ 89.5% of the taxes to the credit of the state general fund;

(b) 10.5% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

~~(c) 28.5% of the taxes to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and~~

~~(d) all interest and penalties to the credit of the state general fund.~~

(4) The state treasurer shall also deposit to the credit of the state general fund all money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund.

(6) All refunds of taxes must be attributed to the funds in which the taxes are deposited. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are deposited."

Section 8. Section 20-9-343, MCA, is amended to read:

"20-9-343. (Temporary) Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the money deposited in the state special

revenue fund as required in this section plus any legislative appropriation of money from other sources for:

(a) distribution to the public schools for the payment of guaranteed tax base aid and for equalization of the foundation program;

(b) the Montana educational telecommunications network as provided in 20-32-101; and

(c) filing fees for school district audits as required by 2-7-514(2).

- (2) The superintendent of public instruction may spend funds appropriated for state equalization aid, as required by subsections (1)(a) and (1)(b), throughout the biennium.

(3) The following must be paid into the state special revenue fund for state equalization aid to public schools of the state:

~~(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;~~

~~(b) except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;~~

~~(c)~~ money allocated to state equalization from the collection of the severance tax on coal;

~~(d)~~(b) money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

~~(e)~~(c) interest and income money described in 20-9-341 and 20-9-342;

~~(f)~~(d) money received from the state equalization aid levy under 20-9-360;

~~(g)~~(e) income from the lottery, as provided in 23-7-402;

~~(h)~~(f) the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333; and

~~(i)~~(g) investment income earned by investing money in the state equalization aid account in the state special revenue fund, and

~~(j) 15% of the income and earnings of all coal severance tax funds as provided in 17-5-704.~~

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce any appropriation required for the next succeeding biennium. (Terminates June 30, 1993--sec. 5, Ch. 729, L. 1991.)

20-9-343. (Effective July 1, 1993) Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purposes of payment of guaranteed tax base aid and equalization of the foundation program and for the Montana educational telecommunications network as provided in 20-32-101.

(2) The superintendent of public instruction may spend funds appropriated for state equalization aid as required for the purposes of guaranteed tax base aid, the foundation program, and the Montana educational telecommunications network, throughout the biennium.

(3) The following must be paid into the state special revenue fund for state equalization aid to public schools of the state:

~~(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;~~

~~(b) except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;~~

~~(c)~~ money allocated to state equalization from the collection of the severance tax on coal;

~~(d)~~(b) money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

~~(e)~~(c) interest and income money described in 20-9-341 and 20-9-342;

~~(f)~~(d) money received from the state equalization aid levy under 20-9-360;

~~(g)~~(e) income from the lottery, as provided in 23-7-402;

~~(h)~~(f) the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333; and

~~(i)~~(g) investment income earned by investing money in the state equalization aid account in the state special revenue fund; and

~~(j) 15% of the income and earnings of all coal severance tax funds as provided in 17-5-704.~~

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce any appropriation required for the next succeeding biennium."

Section 9. Section 31-1-602, MCA, is amended to read:

"31-1-602. State-sponsored credit card -- distribution of proceeds. (1) The department of revenue is authorized to participate in a financial institution credit card program for the benefit of the state. ~~Within 180 days of April 28, 1989, the~~ The department shall ~~contact each financial institution to~~ determine if:

- (a) ~~the~~ a financial institution or its holding company or affiliate currently administers a credit card program;
- (b) the credit card program provides a fee or commission on retail sales to the sponsoring entity for the issuance and use of the credit card; and
- (c) the credit card program would accept the state as a sponsoring entity.

(2) If the department determines that the state may be a sponsoring entity for a financial institution credit card, the department shall negotiate the most favorable rate for the state's fee by a credit card issuer. The state may not offer a more favorable rate to any credit card issuer. The rate must be expressed as a percentage of the gross sales from the use of the credit card. The proceeds of the fee must be deposited ~~one-half~~ in the general fund ~~and one-half in the state special revenue fund for state equalization aid to public schools.~~

NEW SECTION. Section 10. Effective date. [This act] is effective on passage and approval."

-END-

LAND PARCEL # in Counts	# in 20 to 39.9 ACRES	# in 40 to 59.9	# in 60 to 79.9	# in 80 to 99.9	# in 100 to 119.9	# in 120 to 139.9	# in 140 to 159.9	Total TRACTS
Everhead	144	64	22	33	10	29	20	322
Horn	72	91	38	91	34	60	38	424
Blaine	41	42	42	63	29	40	63	320
Broadwater	99	36	33	26	23	13	35	265
Carbon	182	115	55	82	47	73	69	623
Carter	29	34	10	46	8	16	20	163
Cascade	505	199	122	115	65	60	103	1169
Clouteau	41	78	28	105	19	51	61	383
Custer	92	108	24	54	22	28	30	358
Daniels	21	29	12	70	6	24	27	189
Dawson	77	39	23	27	22	21	44	253
Deer Lodge	60	16	11	5	1	6	8	107
Fallon	32	21	11	28	10	10	39	151
Fergus	141	120	40	109	38	56	47	551
Flthead	434	128	95	58	30	25	23	793
Gallatin	797	213	107	93	87	49	113	1459
Garfield	22	28	8	30	9	24	8	129
Grozier	71	123	45	140	24	33	69	505
Golden Valley	43	23	13	16	8	9	16	128
Granite	88	46	8	12	12	11	15	192
Hill	89	67	37	82	15	37	76	403
Jackson	535	170	112	60	40	30	22	969
Judith Basin	33	50	24	33	11	27	33	211
Lake	385	202	152	178	43	59	63	1082
Lewis And Clar	569	181	88	43	31	29	46	987
Liberty	26	47	15	45	4	29	24	190
Lincoln	82	16	8	5	2	2	3	118
Madison	613	128	68	76	41	40	48	1014
Macone	18	33	16	34	12	21	41	175
Meagher	91	30	15	10	9	6	9	170
Mineral	25	11	2	1	0	0	0	39
Mosula	360	100	43	16	9	15	12	555
Musselshell	405	162	35	56	16	22	37	733
Park	546	128	63	41	33	17	39	867
Petroleum	10	41	4	29	5	13	13	115
Phillips	43	40	25	58	11	31	47	255
Pondera	47	60	35	64	32	26	58	322
Powder River	25	43	8	25	12	24	14	151
Powell	176	137	25	33	14	16	18	419
Prairie -	12	15	12	11	4	4	12	70
Ravalli	747	266	141	94	52	44	29	1373
Rhland	100	85	60	77	41	48	63	474
Roosevelt	94	143	50	96	36	55	71	545
Rosebud	83	70	38	45	28	23	47	334
Sanders	172	56	14	35	7	12	19	315
Sheridan	37	33	16	58	10	37	51	242
Silver Bow	129	42	31	15	18	15	13	263
Stillwater	319	91	46	64	28	36	46	630
Street Grass	78	58	34	36	13	20	27	266
Teton	96	62	59	73	30	47	88	455
Toole	52	54	30	86	14	37	49	322
Treasure	4	11	7	20	6	5	22	75
Trey	92	88	34	120	19	37	53	443
Wheatland	124	38	11	20	6	7	21	227
Wibaux	13	1	3	6	2	4	21	50
Yellowstone	428	266	135	135	63	67	87	1181
	9,649	4,578	2,243	3,083	1,221	1,580	2,170	24,524

Ag Land Acres	Total acres in 20 to 39.9	Total acres in 40 to 59.9	Total acres in 60 to 79.9	Total acres in 80 to 99.9	Total acres in 100 to 119.9	Total acres in 120 to 139.9	Total acres in 140 to 159.9	Total
Beaverhead	3,539	2,901	1,537	2,860	1,109	3,739	3,016	18,701
Big Horn	2,039	3,994	2,710	7,537	3,700	7,462	5,834	33,276
Blaine	1,230	1,852	2,992	5,207	3,285	5,073	9,736	29,375
Broadwater	2,418	1,703	2,337	2,273	2,508	1,691	5,404	18,334
Carbon	4,837	5,119	3,807	6,885	5,204	9,109	10,545	45,506
Carter	843	1,407	747	3,708	861	1,970	3,053	12,589
Cascade	12,739	8,848	8,612	9,864	7,123	7,617	15,726	70,529
Chouteau	1,106	3,226	1,925	8,510	2,100	6,234	9,359	32,460
Custer	2,297	4,590	1,677	4,561	2,445	3,631	4,533	23,734
Daniels	528	1,258	894	5,660	626	2,943	4,103	16,012
Dawson	2,034	1,846	1,582	2,270	2,445	2,610	6,698	19,485
Deer Lodge	1,499	695	780	410	118	756	1,225	5,483
Fallon	757	912	783	2,323	1,091	1,232	5,953	13,051
Fergus	3,777	5,048	2,838	8,896	4,239	6,877	7,244	38,919
Flathead	11,176	5,847	6,683	4,906	3,326	3,209	3,515	38,662
Gallatin	19,387	10,002	7,610	8,097	9,587	6,338	17,155	78,176
Garfield	629	1,166	532	2,454	963	2,973	1,195	9,912
Glacier	2,015	5,166	3,072	11,372	2,625	4,055	10,618	38,923
Golden Valley	1,125	988	925	1,310	884	1,122	2,475	8,829
Granite	2,237	2,046	546	1,025	1,330	1,431	2,279	10,894
Hill	2,320	2,903	2,591	6,718	1,591	4,609	11,642	32,374
Jefferson	12,977	7,940	7,756	5,164	4,327	3,827	3,382	45,373
Judith Basin	940	2,149	1,766	2,720	1,233	3,329	5,059	17,196
Lake	9,723	8,907	10,854	14,574	4,744	7,321	9,491	65,614
Lewis And Clar	14,022	8,169	5,999	3,710	3,383	3,701	6,994	45,978
Liberty	645	1,985	1,131	3,631	428	3,539	3,683	15,042
Lincoln	2,100	712	602	427	225	247	460	4,773
Madison	14,034	5,678	4,673	6,463	4,366	5,008	7,268	47,490
McCone	510	1,392	1,153	2,758	1,347	2,588	6,276	16,024
Meagher	2,170	1,292	1,082	838	957	786	1,369	8,494
Mineral	577	500	126	82	0	0	0	1,285
Missoula	8,800	4,432	2,945	1,364	967	1,941	1,839	22,288
Musselshell	9,383	6,857	2,349	4,704	1,750	2,709	5,679	33,431
Park	12,615	5,665	4,429	3,522	3,548	2,199	5,961	37,939
Petroleum	296	1,730	292	2,354	570	1,599	1,940	8,781
Phillips	1,198	1,739	1,780	4,818	1,228	3,805	7,145	21,713
Pondera	1,389	2,501	2,525	5,199	3,602	3,218	8,957	27,391
Powder River	738	1,814	577	2,041	1,327	2,958	2,133	11,588
Powell	4,015	5,685	1,695	2,748	1,502	2,026	2,739	20,410
Prairie -	333	657	896	908	441	493	1,826	5,554
Ravalli	19,454	12,351	9,703	8,131	5,699	5,545	4,368	65,251
Richland	2,550	3,789	4,300	6,421	4,551	5,919	9,583	37,113
Roosevelt	2,311	5,958	3,616	7,834	3,909	6,713	10,767	41,108
Rosebud	2,256	3,133	2,637	3,739	3,007	2,895	7,222	24,889
Sanders	4,282	2,434	953	2,892	795	1,492	2,855	15,703
Sheridan	1,011	1,355	1,125	4,782	1,141	4,530	7,776	21,720
Silver Bow	3,251	1,877	2,113	1,286	1,983	1,900	1,981	14,391
Stillwater	7,478	4,014	3,230	5,384	3,132	4,483	6,987	34,708
Sweet Grass	2,027	2,703	2,382	3,031	1,383	2,502	4,101	18,129
Teton	2,645	2,699	4,393	5,941	3,358	5,872	13,631	38,539
Toole	1,378	2,228	2,207	7,023	1,542	4,642	7,533	26,553
Treasure	135	462	533	1,692	680	634	3,363	7,499
Valley	2,453	3,803	2,387	9,753	2,061	4,571	8,060	33,088
Wheatland	2,621	1,587	683	1,651	639	872	3,275	11,328
Wibaux	329	40	203	499	228	490	3,203	4,992
Yellowstone	10,863	12,064	9,468	11,337	6,910	8,501	13,286	72,429
	240,041	201,818	157,743	256,267	134,123	197,536	331,500	1,519,028

Location	Tot Value in 20 to 39.9	Tot Value in 40 to 59.9	Tot Value in 60 to 79.9	Tot Value in 80 to 99.9	Tot Value in 100 to 119.9	Tot Value in 120 to 139.9	Tot Value in 140 to 159.9	Total
Heavy Head	30,042	24,803	21,338	24,259	11,010	37,812	30,649	179,913
High	36,922	58,342	56,382	110,326	56,249	121,212	130,265	569,698
Line	10,078	12,267	39,227	39,385	44,690	54,345	128,314	328,306
Water	16,891	15,019	37,692	35,090	25,540	30,411	92,137	252,780
Bo	83,125	71,013	88,251	119,233	108,197	205,866	279,792	955,477
Water	4,033	7,867	3,838	15,762	4,147	7,778	17,755	61,180
Acade	740,177	316,888	646,071	439,443	472,075	231,762	603,574	3,449,990
ou au	19,430	58,817	34,954	184,653	51,195	140,562	238,423	728,034
Ste	28,427	32,590	21,874	59,867	46,985	42,086	68,651	300,480
hels	4,456	15,479	12,165	75,829	8,336	33,895	53,441	203,601
on	14,652	19,740	12,719	17,733	29,687	35,047	82,146	211,724
er Lodge	10,089	5,649	4,044	835	642	4,074	8,088	33,421
on	3,227	4,804	4,848	11,364	3,680	5,495	33,846	67,264
ergus	42,033	54,888	42,064	125,392	58,455	82,807	109,514	515,153
thrid	303,739	172,860	238,349	187,388	116,111	124,127	148,915	1,291,489
Alan	197,750	163,616	171,451	162,479	214,154	140,745	438,629	1,488,824
field	2,582	4,453	2,935	11,441	5,030	16,439	5,101	47,981
co	19,655	59,505	29,942	110,154	22,743	66,474	155,279	463,752
id Valley	9,312	6,304	8,733	8,551	4,359	7,636	16,592	61,487
granite	32,722	37,507	12,197	15,792	14,978	29,905	26,508	169,609
	17,385	26,138	33,907	100,825	21,644	52,816	189,144	441,859
Fe on	59,262	38,820	39,479	24,444	58,190	19,086	10,738	250,019
th Basin	13,443	29,353	21,768	39,722	22,814	49,634	130,662	307,396
le	391,546	271,134	254,518	245,668	81,941	118,881	159,722	1,523,410
vil And Clar	180,302	72,338	62,336	33,559	42,777	53,239	68,079	512,630
er	7,591	28,127	16,897	57,116	4,881	45,285	76,059	235,956
coln	19,739	3,749	9,607	4,912	1,286	1,920	4,635	45,848
adison	92,467	47,255	42,058	89,734	56,846	50,664	112,406	491,430
ole	2,466	8,879	11,109	25,309	16,864	21,509	81,293	167,429
agner	9,485	5,454	8,889	4,456	5,031	4,112	14,126	51,553
neral	6,135	4,491	1,739	749	0	0	0	13,114
ssula	102,831	69,016	39,523	17,248	9,229	29,021	19,253	286,121
uss shell	50,159	26,427	10,286	25,055	7,519	15,802	36,307	171,555
ark	159,041	40,871	39,377	19,591	27,961	19,134	67,821	373,796
reum	973	6,896	768	9,633	1,545	7,697	6,316	33,828
ills	9,312	9,973	15,660	45,494	10,582	22,143	69,246	182,410
ndera	23,913	46,243	48,072	112,607	72,727	67,147	227,655	598,364
owder River	2,479	7,090	1,958	8,532	6,984	17,828	10,560	55,431
W	20,926	30,253	9,439	19,559	10,918	16,786	28,504	136,385
	3,486	4,338	20,251	5,571	6,216	8,283	42,203	90,348
illi	341,947	217,652	232,285	148,890	126,187	138,780	90,863	1,296,604
nd	33,341	50,668	113,037	116,950	94,816	91,566	209,252	709,630
ovelt	16,774	50,922	41,214	93,245	47,337	79,168	150,922	479,582
ebud	14,526	22,072	49,360	24,410	26,424	35,320	89,620	261,732
nders	34,992	55,443	10,727	37,163	6,073	9,485	39,023	192,906
egan	9,829	12,005	13,392	62,400	8,225	42,920	119,290	268,061
er Bow	12,890	7,275	8,269	7,755	17,655	5,726	9,121	68,691
Water	58,543	37,958	47,087	70,327	40,482	60,206	120,269	434,872
ve Grass	19,247	22,091	23,195	19,874	15,971	15,571	41,289	157,238
o	25,668	39,725	75,104	98,582	55,009	92,164	302,045	688,297
ole	9,173	25,124	24,483	83,912	17,200	64,874	143,439	368,205
asure	2,032	4,362	13,741	18,494	17,792	5,218	64,958	126,597
	26,127	44,736	29,896	127,790	28,631	51,807	118,887	427,874
eatland	13,169	8,437	3,049	5,712	5,052	7,192	23,970	66,581
aux	2,267	101	1,182	5,497	3,040	4,187	46,671	62,945
ile stone	259,502	357,051	371,386	260,568	220,271	181,154	366,312	2,016,244
	3,662,310	2,874,878	3,234,122	3,826,329	2,494,383	2,924,803	5,958,279	24,975,104

Amendments to Senate Bill No. 257
First Reading CopyRequested by Senator Harp
For the Committee on TaxationPrepared by Jeff Martin
March 25, 1993

1. Title, line 7.

Following: "1994;"

Insert: "PROVIDING AN INCREASED ALLOCATION OF FUEL TAXES TO
CITIES AND TOWNS;"

Following: "SECTIONS"

Insert: "15-70-101,"

Following: "15-70-204"

Insert: ", "

Strike: "AND"

Following: "15-70-321,"

Insert: "AND 17-7-502,"

2. Page 1, line 11.

Following: line 10

Insert: "Section 1. Section 15-70-101, MCA, is amended to read:

"15-70-101. Disposition of funds. All taxes, interest, and penalties collected under this chapter, except those collected by a justice's court, must be turned over promptly to the state treasurer, who shall place the money in the state special revenue fund to the credit of the department of transportation. Those funds allocated to cities, towns, and counties in this section must be paid by the department of transportation from the state special revenue fund to the cities, towns, and counties.

(1) ~~\$14,000,000~~ \$16,766,000 of the funds collected under this chapter, except those collected by a justice's court, ~~is statutorily appropriated, as provided in 17-7-502, to the department of transportation and~~ must be allocated each fiscal year on a monthly basis to the counties and incorporated cities and towns in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (1)(a) through (1)(c):

(a) \$54,000 must be designated for the purposes and functions of the Montana rural technical assistance transportation program in Bozeman;

(b) \$6,323,000 must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the federal-aid interstate system and the federal-aid primary system, bears to the total rural road mileage in the state, exclusive of the federal-aid interstate system and the federal-aid primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county

bears to the total land area of the state;

(c) ~~\$7,623,000~~ \$10,389,000 must be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the federal-aid interstate system and the federal-aid primary system, within corporate limits bears to the total street and alley mileage, exclusive of the federal-aid interstate system and federal-aid primary system, within the corporate limits of all cities and towns in Montana.

(2) All funds allocated by this section to counties, cities, and towns must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or town streets and alleys or for the share that the city, town, or county might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets that are part of the federal-aid primary or secondary highway system or urban extensions to those systems, except that the governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be used for the maintenance and repair of town or third-class city streets and alleys.

(3) All funds allocated by this section to counties, cities, and towns must be disbursed to the lowest responsible bidder according to applicable bidding procedures followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of \$4,000.

(4) For the purposes of this section in which distribution of funds is made on a basis related to population, the population must be determined by the last preceding official federal census.

(5) For the purposes of this section in which determination of mileage is necessary for distribution of funds, it is the responsibility of the cities, towns, and counties to furnish to the department of transportation a yearly certified statement indicating the total mileage within their respective areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of transportation.

(6) Except by a town or third-class city as provided in subsection (2), the funds authorized by this section may not be used for the purchase of capital equipment.

(7) Funds authorized by this section must be used for construction and maintenance programs only."

Renumber: subsequent sections

3. Page 3, line 3.

Following: line 2

Insert: "Section 4. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a

2
DATE 3-26-93
SB-257

state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; ~~15-70-101~~; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.) ""

Renumber: subsequent section

SENATE TAXATION

EXHIBIT NO. 3DATE 3-26-93BILL NO. AB 435

FEBRUARY 11 1993

PLEASE REMEMBER THESE ARE COUNTY WIDE "ESTIMATES" AND GREATER ACCURACY MAY HAVE BEEN REACHED WITH MORE TIME TO PROPERLY RESEARCH THE INFORMATION REQUESTED.

THE NUMBER OF TRACTS SUBDIVIDED INTO PARCELS OF TWENTY ACRES OR MORE IS APPROXIMATELY 1,694 PARCELS, OF WHICH APPROXIMATELY 90% OF THE TRACTS ARE 20-40 ACRES IN SIZE AND APPROXIMATELY 10% ARE 40 PLUS ACRES IN SIZE, AND ENCOMPASS ROUGHLY 38,982 ACRES.

ASSESSMENT AND TAXES WHEN TREATED AS AG LAND WOULD BE AS FOLLOWS:

ACRES	MARKET VALUE	TAXABLE VALUE	MILL LEVY	TAX DOLLARS
38,982	145,013	43,504	255	11,093.52
	(3.72 @ ACRE*)	(30%)	(AVERAGE RURAL)	

* FOR THE PURPOSE OF THIS DEMONSTRATION IT WAS ASSUMED THAT THE LAND WOULD BE ASSESSED AT G-3 GRAZING. THE ACTUAL MARKET VALUE MAY VARY.

ASSESSMENT AND TAXES WHEN TREATED AS SUBURBAN TRACT LAND WOULD BE AS FOLLOWS:

ACRES	MARKET VALUE	TAXABLE VALUE	MILL LEVY	TAX DOLLARS
38,982	38,982,000	1,504,705	255	383,699.78
	(1,000 @ ACRE*)	(3.86%)	(AVERAGE RURAL)	

* FOR THE PURPOSES OF THIS DEMONSTRATION IT WAS ASSUMED THAT THE LAND WOULD BE ASSESSED AT A MINIMUM OF \$1,000 PER ACRE. THE ACTUAL MARKET VALUE MAY VARY.

FOR THE PURPOSES OF THIS DEMONSTRATION IT WAS ALSO ASSUMED THAT NONE OF THE PARCELS WOULD MEET THE CURRENT OR PURPOSED AG INCOME TESTS.

IN THIS DEMONSTRATION THE TAX DOLLARS TO THE VARIOUS TAXING DISTRICTS WOULD INCREASE BY AN ESTIMATED 372,606.26 DOLLARS.

ASSESSMENT AND TAXES OF AN "AVERAGE" LOT WITH NO IMPROVEMENTS IN LIVINGSTON WOULD BE AS FOLLOWS:

MARKET VALUE	TAXABLE VALUE	MILL LEVY	TAX DOLLARS
3,000	116	440.77	51.13
(25'X140')	(3.86%)		

Forest Land Count	# in 15 to 19.9	# in 20 to 39.9	# in 40 to 59.9	# in 60 to 79.9	# in 80 to 99.9	# in 100 to 119.9	# in 120 to 139.9	# in 140 to 159.9	Total
Beaverhead	1	8	2	2	0	0	0	0	13
Big Horn	1	4	3	0	0	0	0	0	8
Blaine	0	0	0	0	0	0	0	0	0
Broadwater	0	4	3	0	0	0	0	0	7
Carbon	4	4	1	1	0	0	0	0	10
Carter	0	1	0	0	0	0	0	0	1
Cascade	30	37	11	5	2	0	0	0	85
Chouteau	1	2	0	1	1	0	0	0	5
Custer	0	0	0	0	0	0	0	0	0
Daniels	0	0	0	0	0	0	0	0	0
Dawson	0	0	0	0	0	0	0	0	0
Deer Lodge	3	17	4	3	3	0	0	0	30
Fallon	0	0	0	0	0	0	0	0	0
Fergus	31	58	29	12	13	7	2	0	152
Flathead	344	641	267	141	99	55	41	36	1,624
Gallatin	19	46	18	10	2	5	1	2	103
Garfield	0	0	0	0	0	0	0	0	0
Glacier	0	0	0	0	0	0	0	0	0
Golden Valley	0	4	1	0	0	0	0	1	6
Granite	3	15	9	6	6	1	1	1	42
Hill	0	0	0	0	0	0	0	0	0
Jefferson	15	28	17	12	5	2	1	1	81
Judith Basin	2	0	0	1	0	0	0	0	3
Lake	46	147	50	30	19	8	9	1	310
Lewis And Clar	19	56	21	10	13	3	1	3	126
Liberty	0	0	0	0	0	0	0	0	0
Lincoln	175	396	193	105	58	47	26	21	1,021
Madison	6	24	5	5	2	0	3	0	45
McCone	0	0	0	0	0	0	0	0	0
Meagher	5	11	5	2	1	0	0	0	24
Mineral	34	92	54	21	22	13	12	5	253
Missoula	150	249	113	55	42	22	23	18	672
Musselshell	16	29	19	13	1	0	0	0	78
Park	4	19	8	3	0	3	0	0	37
Petroleum	0	0	0	0	0	0	0	0	0
Phillips	0	0	0	0	0	0	0	0	0
Pondera	0	0	0	0	0	0	0	0	0
Powder River	1	3	1	1	0	0	0	0	6
Powell	12	23	14	12	13	6	7	2	89
Prairie	0	0	0	0	0	0	0	0	0
Ravalli	143	205	94	44	22	11	9	3	531
Richland	0	0	0	0	0	0	0	0	0
Roosevelt	0	0	0	0	0	0	0	0	0
Rosebud	4	15	2	1	0	0	0	0	22
Sanders	147	233	123	45	29	19	12	8	616
Sheridan	0	0	0	0	0	0	0	0	0
Silver Bow	8	14	8	6	2	0	0	0	38
Stillwater	0	5	1	0	0	0	0	0	6
Sweet Grass	1	2	2	0	0	0	0	0	5
Teton	0	0	0	0	0	0	0	0	0
Toole	0	0	0	0	0	0	0	0	0
Treasure	0	0	0	0	0	0	0	0	0
Valley	0	0	0	0	0	0	0	0	0
Wheatland	2	1	0	0	0	1	0	0	4
Wibaux	0	0	0	0	0	0	0	0	0
Yellowstone	1	1	0	0	0	0	0	0	2
	1,228	2,394	1,078	547	355	203	148	102	6,055

SENATE TAXATION

EXHIBIT NO. 4

DATE 3-26-73

BILL NO. 10135

Amendments to Senate Bill No. 435
First Reading Copy

Requested by Senator Grosfield
For the Committee on Taxation

Prepared by Jeff Martin
March 25, 1993

SENATE TAXATION

EXHIBIT NO. 5

DATE 3-26-93

BILL NO. SB 435

1. Page 1, line 19.

Insert: " STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4], which amends 15-7-202, provides that the department of revenue adopt rules regarding the annual certification by owners of agricultural land that the land qualifies as agricultural land for property tax purposes. Because [this act] imposes an annual gross income requirement on parcels of land that total 20 acres or more, it is the intent of the legislature that the department of revenue establish procedures for determining whether parcels of land that total 20 acres or more initially qualify under the annual gross income requirement as provided in [this act]. It is further the intent of the legislature that the process for subsequent annual certification ensures ease of administration and compliance. To that end, the department should use existing forms on which a landowner may report annual gross income.

[Section 5], which amends 15-44-102, also provides that the department of revenue adopt rules regarding the annual certification by owners of forest land that the land qualifies as forest land for property tax purposes. It is the intent of the legislature that the department establish procedures for determining whether the land is actively managed for the production of forest products. It is further the intent of the legislature that the process for subsequent annual certification ensures ease of administration and compliance."

2. Page 18, line 6.

Strike: "(1)(b)"

Insert: "(1)(c)"

3. Page 19, line 4.

Following: line 3

Insert: "(b) The annual gross income requirements in subsection (1)(a) may include land rental payments made under the federal conservation reserve program of a successor to that program."

Renumber: subsequent subsection

4. Page 21, line 3.

Strike: "in a manner specified"

Insert: "under rules adopted"

5. Page 22, line 15.

Strike: "in a manner specified"

Insert: "under rules adopted"

Amendments to Senate Bill No. 378
First Reading Copy

Requested by Senator Grosfield
For the Committee on Taxation

Prepared by Greg Petesch
March 26, 1993

SENATE TAXATION

EXHIBIT NO. 6

DATE 3-26-93

BILL NO. SB 378

1. Title, line 5.

Strike: "SPECIAL REVENUE ACCOUNTS"

Insert: "DEDICATIONS OF REVENUE"

2. Title, line 6.

Strike: "OTHER"

3. Title, lines 9 and 10.

Strike: line 9 through "7-21-2105," on line 10

Following: "15-1-501,"

Strike: "15-25-122,"

4. Title, lines 11 through 13.

Strike: line 11 through "20-9-333," on line 12

Following: "20-9-343," on line 12

Strike: remainder of line 12 through "31-1-221," on line 13

Insert: "AND"

Following: "31-1-602,"

Strike: "32-1-213,"

5. Title, line 14 through page 2, line 3.

Strike: line 14 through "90-3-525," on page 2, line 3

6. Title, page 2, lines 3 through 5

Following: ";" on line 3

Strike: remainder of line 3 through ";" on line 5

7. Page 2, line 9 through page 158, line 13.

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. Legislative findings. (1) The legislature finds that provisions for dedicating state revenue have increased in number, reduce legislative control over state spending, complicate the state funding structure, and increase the effort required to budget, appropriate, and monitor public funds. The dedication of funds results in the inability of the legislature to practically and systematically conduct reasoned prioritization of programs or funds.

(2) It is the intent of the legislature, by establishing a system for the review and evaluation of revenue dedication provisions, to ensure that provisions for revenue dedication:

(a) are based on sound principles of revenue dedication;

(b) reflect present circumstances and legislative priorities for state spending; and

(c) are terminated when they no longer are necessary or appropriate.

NEW SECTION. Section 2. **Definitions.** As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Dedicated revenue provision" means an administrative or legislative action that allocates the revenue from a tax, fee, assessment, or other source to an account in the state special revenue fund.

(2) "State special revenue fund" means a fund in the state treasury consisting of money from state sources that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government, as provided in 17-2-102.

NEW SECTION. Section 3. **Transfer of fund balances to general fund.** On [the effective date of this act], the balance remaining in each special revenue account designated in [sections 7 through 10] must be deposited in the general fund.

NEW SECTION. Section 4. **Effect of termination.** (1) If the legislature has appropriated the revenue from an account provided for in [sections 7 through 10], the appropriation is considered to have been made from the general fund.

(2) All assets, liabilities, and fund balances of accounts terminated by [sections 7 through 10] accrue to the general fund.

NEW SECTION. Section 5. **Legislative review and report.** (1) Each interim, the legislative finance committee shall review each dedicated revenue provision not exempted under subsection (3). ~~The review must be completed at least 6 months before the date set for termination.~~

(2) The review conducted by the committee must include an evaluation of the dedicated revenue provision, based on whether it:

(a) provides direct benefits for those who pay the dedicated tax, fee, or assessment;

(b) provides special information or other advantages that could not be obtained if the revenue were allocated to the general fund;

(c) provides program funding at a level equivalent to the expenditures established by the legislature;

(d) involves collection and allocation formulas that are appropriate to the present circumstances in state government;

(e) impairs the legislature's ability to scrutinize budgets, control expenditures, and establish priorities for state spending;

(f) results in an inappropriate ending fund balance;

(g) fulfills a continuing, legislatively recognized need;

and
(h) results in accounting or auditing inefficiency.

(3) The committee shall establish procedures to facilitate the review and evaluation required by this section. Each interim, the committee shall attempt to propose measures that will reduce

dedicated revenue to an amount that is less than one-third of all state revenue. If the review determines that the revenue dedication is constitutionally mandated, is for debt service, funds emergency services, or is a user fee that is designed to provide direct benefits for those who pay the dedicated tax, fee, or assessment in an amount commensurate with the benefits provided, the revenue dedication does not need a future review.

(4) Upon completion of the review, the committee shall report a summary of its findings to the legislature, including its recommendation of termination or extension, with or without modification, of the dedicated revenue provision. The summary must include the purpose of the revenue dedication, the source of funding, the activity funded, the number of personnel associated with the activity, and any balance in the dedicated revenue fund. The summary must state the reason why the revenue dedication is exempt from future review.

NEW SECTION. Section 6. Review of legislation. The office of budget and program planning shall, consistent with the review provisions in [section 5], review each piece of legislation that proposes to dedicate revenue. The office shall submit its findings concerning the dedication of revenue on the fiscal notes accompanying that legislation.

Section 7. Section 15-1-501, MCA, is amended to read:

"15-1-501. (Temporary) Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone company license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:

(a) ~~62.8%~~ 91.3% of the taxes to the credit of the state general fund;

(b) 8.7% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

~~(c) 28.5% of the taxes to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and~~

~~(d) all interest and penalties to the credit of the state general fund.~~

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

(a) ~~61%~~ 89.5% of the taxes to the credit of the state

general fund;

(b) 10.5% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

~~(c) 28.5% of the taxes to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and~~

~~(d)~~ all interest and penalties to the credit of the state general fund.

(4) The state treasurer shall also deposit to the credit of the state general fund all money received ~~by him~~ from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund.

(6) All refunds of taxes must be attributed to the funds in which the taxes are deposited. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are deposited.

15-1-501. (Effective July 1, 1993) Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all money received ~~by him~~ from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone company license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All money received from the collection of income taxes under chapter 30 of this title must be deposited as follows:

(a) ~~59.5%~~ 91.3% of the taxes to the credit of the state general fund;

(b) 8.7% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

~~(c) 31.8% of the taxes to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and~~

~~(d)~~ all interest and penalties to the credit of the state general fund.

(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must be deposited as follows:

(a) ~~61%~~ 89.5% of the taxes to the credit of the state general fund;

(b) 10.5% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~28.5% of the taxes to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343, and~~

~~(d)~~ all interest and penalties to the credit of the state general fund.

(4) The state treasurer shall also deposit to the credit of the state general fund all money received ~~by him~~ from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections must be deposited in the general fund.

(6) All refunds of taxes must be attributed to the funds in which the taxes are deposited. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are deposited."

Section 8. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes.

Severance taxes collected under this chapter must be allocated according to the provisions in effect on the date the tax is due under 15-35-104. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 50% of total coal severance tax collections. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Starting July 1, 1992, and ending June 30, 1993, 12% of coal severance tax collections are allocated to the general fund.

(3) Coal severance tax collections remaining after the allocations provided by subsections (1) and (2) are allocated in the following percentages of the remaining balance:

(a) 17½% to the credit of the local impact account. Unencumbered funds remaining in the local impact account at the end of each biennium are allocated to the ~~state special revenue general fund for state equalization aid to public schools of the state.~~

~~(b) 30% to the state special revenue fund for state equalization aid to public schools of the state;~~

~~(c)~~ 1% to the state special revenue fund to the credit of the county land planning account;

~~(d)~~ ~~(c)~~ 1½% to the credit of the renewable resource development bond fund;

~~(e)~~ ~~(d)~~ 0% to a nonexpendable trust fund for the purpose of parks management. Income from this trust fund must be appropriated for the development, operation, and maintenance of any sites and areas described in 23-1-102.

~~(f)~~ ~~(e)~~ 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating

in regional and national networking;

~~(g)~~(f) 1/2 of 1% to the state special revenue fund for conservation districts;

~~(h)~~(g) 1¼% to the debt service fund type to the credit of the water development debt service fund;

~~(i)~~(h) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;

~~(j)~~(i) 1 2/3% to the Montana arts council, to be allocated as follows:

(i) 42¼% for operating costs; and

(ii) 57¼% to a nonexpendable trust fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Income from this trust fund shall be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

~~(k)~~(j) beginning July 1, 1991, and ending June 30, 1993, 3 1/3% to a special revenue account to be used by the department of fish, wildlife, and parks for the development, operation, and maintenance of state parks and the stabilization and preservation of historic sites within the state park system;

~~(l)~~(k) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state. (Terminates June 30, 1993--sec. 3, Ch. 615, L. 1991, and sec. 3, Ch. 8, Sp. L. January 1992.)

15-35-108. (Effective July 1, 1993) Disposal of severance taxes. Severance taxes collected under this chapter must be allocated according to the provisions in effect on the date the tax is due under 15-35-104. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 50% of total coal severance tax collections. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Starting July 1, ~~1987~~ 1993, and ending June 30, 2003, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after allocation ~~to the trust fund~~ under subsection subsections (1) and (2) are allocated in the following percentages of the remaining balance:

(a) 17¼% to the credit of the local impact account. Unencumbered funds remaining in the local impact account at the end of each biennium are allocated to the ~~state special revenue general fund for state equalization aid to public schools of the state.~~

(b) ~~30% to the state special revenue fund for state equalization aid to public schools of the state;~~

~~(c)~~ 1% to the state special revenue fund to the credit of the county land planning account;

~~(d)~~(c) 1¼% to the credit of the renewable resource development bond fund;

~~(e)~~(d) 3 1/3% to a nonexpendable trust fund for the purpose of parks acquisition or management. Income from this trust fund

must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

~~(f)~~(e) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

~~(g)~~(f) 1/2 of 1% to the state special revenue fund for conservation districts;

~~(h)~~(g) 1½% to the debt service fund type to the credit of the water development debt service fund;

~~(i)~~(h) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;

~~(j)~~(i) 1 2/3% to a nonexpendable trust fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Income from this trust fund shall be appropriated for protection of works of art in the state capitol and other cultural and aesthetic projects.

~~(k)~~(j) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state. (Terminates July 1, 2003--sec. 4, Ch. 191, L. 1991.)

15-35-108. (Effective July 1, 2003) Disposal of severance taxes. Severance taxes collected under this chapter must be allocated according to the provisions in effect on the date the tax is due under 15-35-104. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 50% of total coal severance tax collections. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Coal severance tax collections remaining after allocation to the trust fund under subsection (1) are allocated in the following percentages of the remaining balance:

(a) 17½% to the credit of the local impact account. Unencumbered funds remaining in the local impact account at the end of each biennium are allocated to the ~~state special revenue general fund for state equalization aid to public schools of the state.~~

(b) ~~30% to the state special revenue fund for state equalization aid to public schools of the state;~~

~~(e)~~ 1% to the state special revenue fund to the credit of the county land planning account;

~~(d)~~(c) 1½% to the credit of the renewable resource development bond fund;

~~(e)~~(d) 3 1/3% to a nonexpendable trust fund for the purpose of parks acquisition or management. Income from this trust fund must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

~~(f)~~(e) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

~~(g)~~(f) 1/2 of 1% to the state special revenue fund for conservation districts;

~~(h)~~(g) 1% to the debt service fund type to the credit of the water development debt service fund;

~~(i)~~(h) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;

~~(j)~~(i) 1 2/3% to a nonexpendable trust fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Income from this trust fund shall be appropriated for protection of works of art in the state capitol and other cultural and aesthetic projects.

~~(k)~~(j) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state."

Section 9. Section 20-9-343, MCA, is amended to read:

"20-9-343. (Temporary) Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for:

(a) distribution to the public schools for the payment of guaranteed tax base aid and for equalization of the foundation program;

(b) the Montana educational telecommunications network as provided in 20-32-101; and

(c) filing fees for school district audits as required by 2-7-514(2).

(2) The superintendent of public instruction may spend funds appropriated for state equalization aid, as required by subsections (1)(a) and (1)(b), throughout the biennium.

(3) The following must be paid into the state special revenue fund for state equalization aid to public schools of the state:

~~(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;~~

~~(b) except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;~~

~~(c) money allocated to state equalization from the collection of the severance tax on coal;~~

~~(d) money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;~~

~~(e)~~(b) interest and income money described in 20-9-341 and 20-9-342;

~~(f)~~(c) money received from the state equalization aid levy under 20-9-360;

~~(g)~~(d) income from the lottery, as provided in 23-7-402;

~~(h)~~(e) the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333; and

~~(i)~~(f) investment income earned by investing money in the state equalization aid account in the state special revenue fund; and

~~(j) 15% of the income and earnings of all coal severance tax funds as provided in 17-5-704.~~

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce any appropriation required for the next succeeding biennium.

(Terminates June 30, 1993--sec. 5, Ch. 729, L. 1991.)

20-9-343. (Effective July 1, 1993) Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purposes of payment of guaranteed tax base aid and equalization of the foundation program and for the Montana educational telecommunications network as provided in 20-32-101.

(2) The superintendent of public instruction may spend funds appropriated for state equalization aid as required for the purposes of guaranteed tax base aid, the foundation program, and the Montana educational telecommunications network, throughout the biennium.

(3) The following must be paid into the state special revenue fund for state equalization aid to public schools of the state:

~~(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;~~

~~(b) except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;~~

~~(c) money allocated to state equalization from the collection of the severance tax on coal;~~

~~(d) money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;~~

~~(e)(b) interest and income money described in 20-9-341 and 20-9-342;~~

~~(f)(c) money received from the state equalization aid levy under 20-9-360;~~

~~(g)(d) income from the lottery, as provided in 23-7-402;~~

~~(h)(e) the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333;~~
and

~~(i)(f) investment income earned by investing money in the state equalization aid account in the state special revenue fund;~~
and

~~(j) 15% of the income and earnings of all coal severance tax funds as provided in 17-5-704.~~

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid

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account in the second year of a biennium may be used to reduce any appropriation required for the next succeeding biennium."

Section 10. Section 31-1-602, MCA, is amended to read:

"31-1-602. **State-sponsored credit card -- distribution of proceeds.** (1) The department of revenue is authorized to participate in a financial institution credit card program for the benefit of the state. ~~Within 180 days of April 28, 1989, the~~ The department shall ~~contact each financial institution to~~ determine if:

(a) ~~the~~ a financial institution or its holding company or affiliate currently administers a credit card program;

(b) the credit card program provides a fee or commission on retail sales to the sponsoring entity for the issuance and use of the credit card; and

(c) the credit card program would accept the state as a sponsoring entity.

(2) If the department determines that the state may be a sponsoring entity for a financial institution credit card, the department shall negotiate the most favorable rate for the state's fee by a credit card issuer. The state may not offer a more favorable rate to any credit card issuer. The rate must be expressed as a percentage of the gross sales from the use of the credit card. The proceeds of the fee must be deposited ~~one-half~~ in the general fund ~~and one-half in the state special revenue fund for state equalization aid to public schools.~~"

NEW SECTION. Section 11. **Effective date.** [This act] is effective on passage and approval."

Montana Single Business Tax
Description of how S.B. 434 works

A. Value Added (Section 3)

Value Added = Gross Receipts - Cost of Materials and Rent
Cost of Materials = All goods and services used in production
BUT Capital cost acquired included in cost of materials for
that year.
Taxes, dividends, compensation NOT cost of materials.

B. Tax Rate (Section 4)

Tax 4% on tax base of each person with business activity in
this state.

C. Tax Base (Section 5)

Tax Base = Value added adjusted:

1. Apportioned in state/out-of-state (Section 5-1-a)
2. Sale of capital assets included in gross receipts (5-1-b)
3. Exemptions:
 - a. Small Business- First \$45,000 exempt but phased out at \$2 for each \$1 over \$45,000. (Section 6)
 - b. Labor intensive business adjustment (Section 5-2)
If compensation/tax base(after 3a) is greater than 75%
then tax base = 75%

D. Small Business Tax Credit (Section 9)

If tax imposed is greater than 6.8% of adjusted business
income, credit is given for amount greater than 6.8%.

1. Businesses must have less than \$1 million gross receipts
have less than \$100,000 adjusted business income, and
principals must have received less than \$45,000 income.
2. May choose 6.8% income tax without computing value added.

E. Repeals corporation license tax, insurance premiums tax,
telephone company tax, electrical energy producer's tax,
public contractors tax, cement producer's tax.
Repeals \$100 million annually in these business taxes.

F. Total revenues from this tax difficult to estimate at this
time, but probably in range of \$250-300 million per year.

SENATE TAXATION

EXHIBIT NO. 7

DATE 3-26-93

BILL NO. SB 434

Summary of SB 434
Single Tax Bill

Section 1. Short title. "Single Business Tax" same name used by Michigan Act. Replaces all income-based taxes on business.

Section 2. Definitions. The significant definitions are:

(2) "Adjusted Business Income" and (5) "Business income" are used to define the income used for the small business credit -- the 6.8% tax on adjusted business income as set forth in section 9.

(4) "Business activity". Details the scope of the tax. There is no mention of the type of entity, i.e. C-corporation, S-corporation, partnership, sole proprietor. All entities conducting business activities are covered.

(7) "Compensation". Used as a major part of "value added". Note that taxes, unemployment insurance payments, workers' compensation payments, pension and retirement payments, and health insurance are included as a part of compensation.

(20) "Tax base". This definition provides a thumbnail idea of the value added tax.

Section 3. Value Added. Gives textbook definition of what constitutes "value-added". Business gross receipts less cost of materials and rent.

Section 4. Tax rate on tax base. A privilege tax of 4% of the tax base is levied.

Section 5. Determination of tax base. How the tax base against which the tax rate is imposed is determined.

First, the value added is allocated or apportioned to the state to take into account the value added within the state and in other states or countries.

Second, adjustments to cost of capital must be made. Capital is a cost of production and is eliminated from gross receipts to determine the value added, but money from the sale of capital items that are later sold by the company must added back into the tax base, after any allocation or apportionment.

Third, any receipts that are exempt from taxation must be subtracted from the value added amount.

Finally, because labor intensive business will have a larger tax base in relation to the value added than capital intensive businesses, their tax base may be adjusted downwards if compensation exceeds 75% of the adjusted tax base.

Section 6. Exemptions. Contains most of the standard exemptions for government and charitable operations plus a special exemption for small businesses. The small business exemption provides that:

the first \$45,000 of tax base of all business (even huge businesses) is exempt.

an additional \$48,000 may be exempted, with \$12,000 for each working partner or shareholder of an S-Corporation or professional corporation.

the combination of the first two exemptions is reduced \$2 for each \$1 that business income exceeds the total amount of the exemption.

Section 7. Treatment of capital. Provides that capital be expensed, not depreciated, to determine value added. This encourages capital acquisition. Capital costs not used in one year may be carried forward into future years, not to exceed 10 years. This allows total expensing of capital for small business when the capital expense exceeds gross receipts in the year the capital good was acquired.

The receipts from capital that is sold must be added into the tax base to recapture the applicable part of the earlier expensing of its purchase.

Section 8. Tax base of an insurance company. Because of the difficulty of determining the value added by conventional means, the tax base of an insurance company is considered to be 35% of its gross receipts from most sales (i.e. premiums).

Section 9. Small business credit. An alternative tax for businesses with gross receipts less than \$1 million. Provides a "credit" for taxes in excess of 6.8% of their adjusted business income. In effect an income tax of 6.8% that can be used in lieu of the value added tax. The business must have less than \$1 million in gross receipts, have less than \$100,000 adjusted business income, and principals in the business must not have received more than \$45,000 income from the business.

Section 10. Credit -- subchapter S. or unincorporated taxpayer. An adjustment for tax payments for those business that are not a C-corporation. Corporate taxes have been eliminated, but income taxes have not. This is to adjust for individual taxpayer having another tax to pay whereas the C-corp does not.

Sections 11 through 22. Apportionment and allocation. For business that operate interstate or internationally, provides a method for apportioning income to Montana for taxation. Very similar to present law. Based upon Uniform Law except the formula in section 14 -- generally each factor is given equal weight for a corporate license tax. This method is probably fairer under a VAT. Michigan has adopted these factor weights.

Sections 24 through 31 provide for administration of the tax. The tax is to be codified in Title 15, chapter 31, where the corporate license tax is codified. Some administrative provisions applicable to both taxes were not repealed.

Section 23. Allows simple return for small business with no property transactions.

Section 24. Requires estimated returns and quarterly payments for larger businesses.

Section 25. First tax year computation.

Section 26. Filing return, extension, payment.

Section 27. Federal return available if needed by DOR.
Section 28. Information returns by untaxed entities.
Section 29. Consolidated or combined returns.
Section 30. Apportionment of consolidated or combined returns.
Section 31. Administration by DOR.

Amended MCA sections: These change references to repealed laws or sections to be consistent with single business tax.

Section 32. Distribution of tax money replaces repealed taxes with the single business tax.

Section 33. Replaces direct definitions on page 42 for definitions that are in 15-32-102, (see line 11) which is repealed as part of the business license tax.

Section 34. Deletes provisions from individual income tax adjusted gross income that apply to sections that were repealed. Changes reference from "small business corporation" to fuller "subchapter S." corporation because the definition of "small business corporation" is repealed.

Section 35. Changes internal reference on page 48, line 14.

Section 36. Section relating to individual income taxes previously just referenced 15-31-132, which, because it is part of the corporation license tax law, is repealed. Moved the substance of the repealed section over into this section.

Section 37. "Small business corporation" change again.

Section 38. "Small business corporation" change again.

Section 39. Section relating to individual income taxes previously just referenced 15-31-131, which, because it is part of the corporation license tax law, is repealed. Moved the substance of the repealed section over into this section.

Section 40. Deleted reference to repealed section on page 59, line 4.

Section 41. Section to be retained from corporate license tax. Changed terminology to fit the single business tax.

Section 42. Section to be retained from corporate license tax. Changed terminology to fit the single business tax.

Section 43. Inserted definition in (4) to replace the definition referred to by internal reference on page 60, line 18.

Section 44. Inserted definition in (4) to replace the definition referred to by internal reference on page 62, line 2. Changed internal reference on page 62, lines 20 and 21, and page 63, line 5.

Section 45. Deleted references to corporate license tax.

Section 46. "Small business corporation" change again.

Section 47. Deleted references to repealed sections.

Section 48. "Small business corporation" change again.

Section 49. Deleted references to corporate license tax.

Section 50. Deleted provisions relating to the deposit of the insurance premium tax.

Section 51. Changed reference from corporate license tax to single business tax.

Section 52. Deleted reference to a statutory appropriation that was repealed.

Section 53. Deleted references to corporate license tax.

Section 54. Changed reference from corporate license tax to single

business tax.

- Section 55. Substituted cite to a new section for a repealed section relating to tax exempt entities.
- Section 56. In insurance law deleted references to repealed sections.
- Section 57. Deleted provisions relating to premium tax offset because of repeal of premium tax.
- Section 58. Deleted references to repealed sections.
- Section 59. Deleted references to repealed sections.
- Section 60. Deleted references to repealed sections.
- Section 61. Deleted reference to rate charged on unpaid corporate license tax and replaced with "9%" rate.
- Section 62. Deleted reference to repealed section.
- Section 63. Replaced internal references from repealed sections to sections with definitions taken from the repealed sections (see Section 33).
- Section 64. Codifies the new sections of single business tax where the corporate license tax was codified.
- Section 65. Transition. Subsection (1) allows business to expense off undepreciated capital purchased within the last five years to provide a transition on the way capital is handled from the corporate tax to single business tax.
- Subsection (2) requires that uncompleted tax transactions under the repealed taxes be completed under the law in existence at that time the transaction commenced.
- Section 66. Repeals the taxes listed in the catchline.
- Section 67. Effective on January 1, 1994.
- Section 68. Applies to tax years after December 31, 1993. Allows the department to commence rulemaking prior to the effective date of the act.



TERESA OLCOTT COHEA
LEGISLATIVE FISCAL ANALYST

STATE OF MONTANA
Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

January 28, 1993

Representative Bob Ream
Seat No. 90
Montana House of Representatives

Dear Representative Ream:

The table below shows the amount of total and general fund revenue that would be lost if the following taxes were repealed, effective July 1, 1993. The proposed legislation repeals the corporation license tax, the public contractors tax, the electric energy license tax, the telephone company license tax, and the cement dealers and producers taxes.

Revenue Loss Associated With Repeal of Various Tax Sources FY95 (Millions)		
Tax Source	Total Collections	General Fund Collections
Corporation License	\$ 66.804	36.285
Public Contractors	1.230	1.230
Electric Energy	4.021	4.021
Telephone Company	4.091	4.091
Cement Dealers/Producers *	<u>0.132</u>	<u>0.132</u>
Total Revenue Loss	76.278	45.759
* Estimate is based on fiscal 1992 actual receipts, since Revenue Oversight Committee revenue estimates included cement taxes in its "all other revenue" estimate.		

Please let me know if I can provide you with further information.

Sincerely

James E. Standaert
James E. Standaert
Associate Fiscal Analyst

JS3C:lt:rr1-29.ltr

Insurance Premiums Tax (FY95)

23.5

From: Robert J. Cline

"Should States Adopt
A Value-Added Tax?"

EXHIBIT 7
DATE 3-26-93
SB-434

Conclusion

According to Henry Aaron in a recent discussion of a national VAT, "The value added tax belongs to a class of issues sufficiently interesting and attractive never quite to die, but not sufficiently appealing ever to be adopted."²² In contrast, Michigan's experience has demonstrated that a state VAT is a practical and viable option. Compared with a state corporate profits tax, a value-added tax is relatively attractive if judged on the basis of economic efficiency, revenue stability, long-run growth potential, and horizontal equity across firms and industries. A consumption-type VAT offers states an opportunity to replace a business tax system that discriminates against capital investment with one that favors capital spending.

Compared with a retail sales tax, the value-added tax has two attractive advantages: It does not tax intermediate goods purchased by firms, and it can be extended effectively to cover a significant portion of consumer spending on services. This second advantage will grow in importance as the structural shift from goods to service industries continues.

Whether viewed as a consumption tax or a general business tax, the adoption of a VAT offers states an opportunity to implement the basic principles underlying the Tax Reform Act of 1986 at the state level. The VAT is a broad-based, low-rate general business tax that achieves a remarkable degree of horizontal equity in the distribution of tax burdens across industries and firms. For this reason, the VAT is ideally suited to a state business tax policy aimed at reducing overall tax rates and removing specific, targeted subsidies from the tax code. While it probably will take a significant fiscal crisis to prod states into taking a serious look at the value-added tax, the longer-run advantages of this low-rate, broad-based, procapital approach to business taxation eventually may lead additional states to join Michigan in the value-added tax arena.

Multistate Tax Commission



November 19, 1992

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MONTANA
COUNCIL

Jeff Martin, Staff Researcher
Revenue Oversight Committee
52nd Montana Legislature
Room 138 State Capitol
Helena, MT 59620-1708

Dear Jeff:

This letter is in response to your request for further information on the subject of value-added taxes.

I need to emphasize that the Commission does not recommend or advocate to an individual state whether or not they should adopt one particular tax as opposed to another. We do assist our member states with respect to the interstate commerce aspects of any taxes that the states choose to implement, and we generally provide technical assistance when requested on topics where we have relevant expertise.

Before discussing features of a value-added tax, you should also know that the Commission is prepared to assist Montana, within our resources, with the development and implementation of a sales tax. We have expertise to offer on how best to make a sales tax mesh in the interstate commerce context. We also audit major corporations for sales and use taxes for other States, and we have valuable experience to offer in that area.

In terms of additional information on value-added taxes, I would best refer you to two articles (both are enclosed) that represent the best surveys, to my knowledge of the issues involved in applying value-added taxes at the state level. They include:

Cline, Robert J., "Should States Adopt a Value-Added Tax?," in The Unfinished Agenda for State Tax Reform, ed. by Steven D. Gold, National Conference of State Legislatures, November, 1988, and

Wieferman, John, "The Value Added Tax," in Rethinking Texas Taxes, Chapter 17, Select Committee on Tax Equity, State of Texas, 1989.

These articles are generally very complete. However, they treat less well some of the constitutional issues involved in considering a value-added tax. These articles predate the U.S. Supreme Court decision in *Trinova v. Michigan*. Michigan is a member of the Multistate Tax Commission, and we assisted them with that case.

In *Trinova*, the U.S. Supreme Court approved Michigan's use of traditional apportionment methods, generally associated with corporate income taxes, for assigning a share of the total value-added of a multistate firm to Michigan. That case, in effect, gave constitutional blessing to state **operational** value-added taxes.

Operational value-added taxes are administered in a manner similar to a corporation income tax. A business

- 1) calculates its value added, by either adding up its components—the additive method—or subtracting from its gross receipts its purchases from other firms—the subtraction method;
- 2) apportions a share of its value added to the state if it operates in more than one state (using the standard three-factor sales, property and payroll formula or some variant of that), and
- 3) applies the tax rate to determine the tax.

The U.S. Supreme Court has given its approval to this type of tax as it applies to firms operating in interstate commerce.

The other form of value-added tax—the **transactional or credit-invoice VAT**—has not been reviewed by the U.S. Supreme Court and would likely encounter some constitutional difficulties. Under a transactional VAT, an enterprise collects the VAT on all of its sales. The enterprise also pays the VAT on all of its purchases. At the end of a tax reporting period—a month or quarter, for example—the enterprise totals up the amount of tax it collected on its sales, subtracts the amount of tax it paid on its purchases, and remits the difference to the tax authorities. The difference represents the amount of tax on the value that the enterprise added to society's goods and services in that tax period. Export sales are typically exempt from the tax.

The potential constitutional problems with a transactional VAT arise in the context of interstate commerce. Under a transactional VAT, a state would allow a credit for the intermediate tax on any goods purchased by a firm within the state. If it did not grant a credit for sales or similar transactional taxes for goods purchased outside the state, the tax would likely run afoul of the interstate commerce clause. But the cure for the constitutional problem is worse than the disease. Granting and then verifying credits for various sales or other transactional taxes levied by other states on goods and services imported into a state would be a very complex task. For these reasons, an operational VAT is the most feasible form of a VAT for an individual state to enact.

Mr. Jeff Martin
November 19, 1992
Page 3

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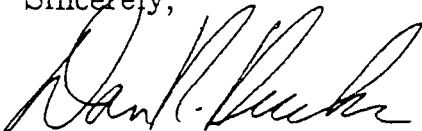
The articles I have referred you to deal with a number of the general economic effects of a value-added tax. Of particular interest are pages 254-258 of the Wieferman article.

Beyond the discussion in those articles, the economic effect of a state VAT would depend considerably on the specific features of a proposal. For example, if a VAT is designed to allow a full deduction for capital investment and if its revenues were used, at least in part, to replace personal property taxes on business equipment, then the tax proposal would significantly favor new investment. That effect would occur because under this form of VAT, taxes would decrease for a business when it purchased new equipment, whereas in the same case, taxes rise under the personal property tax. However, if the specific proposal were not designed in the manner described, this economic effect would not occur or at least not to the same degree.

To illustrate the same point further, a VAT is sometimes criticized because a tax may be due even if a profit is not made (which is also true of property taxes, social security and medicare taxes, excise taxes and other common levies). That issue is generally raised in the context of concerns about the impact of the tax on small businesses. For that reason, Michigan has introduced special provisions for small businesses to allow them to be taxed on a net income basis. In addition, if a VAT is used, at least in part, to replace another tax that does not vary with profit levels (again the tax on business personal property comes to mind), the issue tends to be less important. Again, the point is simply that it is difficult to evaluate the economic effects of a tax absent the specific features of the proposal.

I hope this information is helpful. Again, the Commission is prepared to assist Montana with whatever form of taxation it chooses to employ.

Sincerely,



Dan R. Bucks
Executive Director

cc: Denis Adams, Director of Revenue
Larry Finch, Research Bureau Chief

policies quash opportunity of all citizens. These considerations matter as well.

NOTES

1. Of course, tax policy is only part of the answer. A host of other considerations matter as well.
2. Keith Marsden, "Links Between Taxes and Economic Growth: Some Empirical Evidence," *World Bank Staff Working Papers*, Number 605, 1983.
3. *Journal of Economic Growth*, Richard W. Rahn, Editor-in-Chief, National Chamber Foundation; 1615 H Street, N.W., Washington, D.C. 20062.
4. Telephone conversation with Joanne May, U.S. Department of Labor, Bureau of Labor Statistics, January 1988.
5. Robert Genetski, "Taxes and Economic Growth," *Barometer of Business* (Chicago: Harris Bank, January 1983).
6. For further information, see "Statement of U.S. Chamber of Commerce" on Tax Reform before the House Committee on Ways and Means, June 26, 1985.

XIV

part of 7
EXHIBIT

DATE 3-26-93
SL 58-434

Virtues of a State Value-Added Tax

by
Gerald H. Miller

The value-added tax (VAT) frequently has been discussed as a means of supplementing federal revenues or replacing current federal revenue sources. Most often, the VAT has been mentioned as a replacement for the Social Security payroll tax, the corporate income tax, or a portion of the personal income tax.

This chapter does not deal with the federal revenue issue but addresses the topic of whether states should rely on a state VAT as a replacement for other state business taxes. The VAT has been advocated as a revenue source for state governments—most often as a replacement for the corporate income tax—by prominent state-local finance experts such as Harvey Brazer, Richard Lindstrom, and James Papke. The author joins that chorus and encourages states to seriously consider replacing their existing business taxes with a statewide VAT.

This conclusion can be attributed to five important factors: 1) stability, 2) equity, 3) simplicity, 4) capital investment, and

Amendments to Senate Bill No. 434
First Reading Copy

Requested by Rep. Ream
For the Committee on Taxation

Prepared by Lee Heiman
March 25, 1993

SENATE TAXATION

EXHIBIT NO. 8

DATE 3-26-93

BILL NO. SB434

1. Page 93.

Following: line 12

Insert: "NEW SECTION. Section 67. Coordination instruction. If
Senate Bill No. 235 is approved by the electorate in June
1993, then [this act] is void."

Renumber: subsequent sections

2. Page 93, line 14.

Strike: "1994"

Insert: "1996"

3. Page 93, line 17.

Strike: "1993"

Insert: "1995"

4. Page 93, line 20.

Page 93, line 21.

Strike: "October"

Insert: "January"

Strike: "1993"

Insert: "1996"



Executive Office
318 N. Last Chance Gulch
P.O. Box 440
Helena, MT 59624
Phone (406) 442-3388

SENATE TAXATION

EXHIBIT NO. 9

DATE 3-26-93

BILL NO. SB 434

TESTIMONY
MARCH 26, 1993
SB 434
7:00 A.M.
ROOM 413/415

SENATE TAXATION COMMITTEE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

FOR THE RECORD, I AM CHARLES BROOKS EXECUTIVE VICE PRESIDENT OF THE MONTANA RETAIL ASSOCIATION AND ITS AFFILIATES.

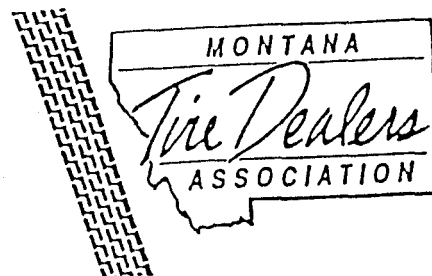
WE RISE IN OPPOSITION TO SENATE BILL 434. THE VAT IS A HIDDEN OR INDIRECT TAX. THE ULTIMATE CONSUMER PAYS THESE TAXES IN THE COST OF THE PRODUCT AND, BECAUSE IT IS INCORPORATED INTO THE PRICE OF THE PRODUCT OR SERVICE, IT IS NOT STATED OPENLY LIKE A SALES TAX. CONSUMERS WOULD NOT HAVE TO FILL OUT ANY FORMS, THEY WOULDN'T HAVE TO WRITE ANY CHECKS, AND THEY WON'T HAVE ANY RECEIPTS WHICH INDICATE AMOUNTS PAID FOR THE TAXES. AS A RESULTS, THIS DISTANCE BETWEEN LEGISLATORS WHO ENACT THE TAX AND THEIR CONSTITUENTS WHO PAY THE TAX TENDS TO LESSEN FISCAL ACCOUNTABILITY WHICH PAVES THE WAY TO EASILY INCREASING THE TAX RATE TO PAY FOR EVEN MORE STATE SPENDING.

A VAT WOULD MAKE THE TAX SYSTEM SIGNIFICANTLY MORE BURDENSOME AND COMPLEX. A VAT WOULD ADD SIGNIFICANTLY TO THE RECORDKEEPING AND COMPLIANCE COSTS FOR BUSINESSES. ACCORDINGLY, A VAT, IN ADDITION TO INCREASING THE ADMINISTRATIVE BURDEN AND COMPLEXITY ASSOCIATED WITH THE TAX SYSTEM, WOULD BE COSTLY TO ADMINISTER.

I WOULD LIKE TO REFER YOU TO THE ARTICLE FROM THE WALL STREET JOURNAL OF MARCH 25, 1993, WHICH IS ATTACHED FOR YOUR REVIEW.

WE URGE YOU TO OPPOSE THIS FORM OF TAXATION AND GIVE SB 434 A DO NOT PASS VOTE.

THANK YOU FOR THIS OPPORTUNITY TO SPEAK.



The Black Monster

OCTOBER 28, 1992

EDITORIAL BY:

Charles R. Brooks

There is a very BLACK MONSTER hanging over the Montana business community!!! The BLACK MONSTER is lurking in the legislative halls of the capitol. The BLACK MONSTER is not a Halloween spook. It's more trick than treat. I am referring to a move underway to introduce a value-added-tax (VAT) during the 1993 session. Some of you, I am sure, are asking what is a VAT tax. The tax can be defined as a flat-rate tax that is applied to all business activity regardless of ownership (corporation, partnership, or sole proprietorship) on the basis of value added to the economy. Business would pay this tax regardless of profits. If you had a bad year and lost money, you would still pay the tax. Rates being considered are - 1.77% to 4%. Tax revenue raised by this tax is estimated at \$158 million to \$358 million. This will be promoted as a tax on business and not a sales tax on the consumer????? Economics 101 tells me that the consumer will pay the tax. I do not know a business today in Montana, big or small, that can absorb this amount of tax without passing it along to their customers. This type of tax is a legislators way of not facing the voters with a 4% sales tax. It can be promoted as a tax on business not a tax on the consumer. Keep in mind this is a tax on a tax on a tax, depending on how many economic enterprises that the merchandise or service passed through. One of our directors, Jere Manning, quite accurately described this tax like a chain letter with no options to refuse or respond. Those of us in the business community, know that the downside of a VAT is overwhelming.

A VAT WOULD BE INFLATIONARY: However it is designed, ultimately, there is little doubt this tax will be passed along to the consumer through price increases.

A VAT WOULD REDUCE CONSUMER SPENDING: The obvious impact of higher prices is lower sales. It is low-income consumers who would be hit the hardest since they spend a higher percentage of their income on consumption. Therefore, a VAT is the most regressive form of taxation.

A VAT WOULD INCREASE ADMINISTRATIVE BURDEN AND COMPLEXITY: While retailers have consistently supported fundamental tax reform on the premise that reform would make the tax system fairer and simpler, the VAT would do just the opposite.

The bottom line on the VAT is, not here in Montana, not now, not ever. The allure of the VAT, its alleged simplicity and its fairness, is quite simply a dream and is illusionary. In this election year, when chanting "change" has become the politicians' anthem, it is time to let candidates and elected officials know that changing to a VAT would be disastrous for the people of Montana and the economy. PLEASE, without fail, talk to your candidates and voice your opposition to the VAT.

REVIEW & OUTLOOK

Beware the VAT

Remember Al Ullman?

Al Ullman was the "powerful" Chairman of the House Ways and Means Committee, until in 1980 he decided to hitch his career to the promotion of a national sales tax. He was voted out of office.

Most politicians know this story, but they figure the voters have forgotten. And so this week Senator Ernest Hollings will offer an amendment to substitute a Value Added Tax for Bill Clinton's energy tax. Clinton advisers Roger Altman and Ira Magaziner have strongly suggested that a VAT, which would tax businesses on the value they add to a product, might be needed to finance national health care. Deputy OMB Director Alice Rivlin has written that each state should have its own VAT. And President Clinton has said that a VAT may be desirable "not too long in the future."

Well, is it really true that voters no longer think of this tax as a toxic substance? For a refresher course in the subject, please consult John Hewson, the Australian conservative leader who just went down in flames in that country's national elections.

This month, his Liberal Party lost to the Labor Party for the fifth straight time. Mr. Hewson knows exactly how his party blew a 12-point lead. "If anything this election was a referendum on the General Sales Tax" his party proposed, he said.

Mr. Hewson, an economist, wanted to impose a 15% nationwide sales tax in exchange for a reduction in other taxes. There is a theoretical case for replacing taxes on savings and investment with taxes on consumption, such as a VAT. Australians, however, reacted with disbelief and disgust.

Not only did they hate the idea of adding 15% to every bill, but they soon learned that in the 36 countries that have either a VAT or a national sales tax, it almost always has been added to already existing taxes.

Mr. Hewson joins a long list of politicians around the world who've seen their careers go south after they pushed consumption taxes. Brian Mulroney, who resigned last month as Canada's leader, plunged in the polls after imposing a sales tax in 1991. Many Japanese officials lost their jobs after the 1989 public outcry over a 3% VAT. Given this record, why are politicians, like moths to a flame, attracted to the VAT?

The VAT is a giant revenue machine. Its huge administrative costs mean it isn't worth implementing at

less than a 7% rate. In the U.S. that would bring in some \$210 billion a year in new money. Senator Hollings, Congress's VAT Man, is upfront about this. "The VAT would generate much higher revenues than provided for in the budget resolution," he says. He notes that the tax hikes in the Clinton plan "are all but canceled out by proposed spending increases. We have no choice but to move more aggressively on taxes."

Bureaucrats love a VAT. Since it's built into the price of a product, consumers are less aware they're paying it. That makes it easy to jack up the VAT a percentage point or two. Sweden introduced an 11% VAT in 1969; it is now 25%. Britain's basic VAT has grown to 17.5% today from 10% in 1973. In almost every country, government spending and taxation have increased faster after the introduction of a VAT than before. The vast sums generated by a VAT bring temptations that few politicians, including conservatives, can resist.

Some U.S. business groups are on-board. The American Council for Capital Formation, once a hero in the fight for capital gains reform, now claims that a VAT would stimulate savings, assuming that it actually replaced other taxes. Ken Militzer, the chief economist for AT&T, has studied 23 OECD countries and found no link between the existence of a VAT and savings rates.

Energy companies socked by the Clinton tax proposals like a VAT because they think it would be a neutral tax with few exemptions and one rate. But almost no nation has such a VAT. On average, they have three rates. And many nations add a tax on "luxury goods," a category that keeps expanding. Car buyers in France must pay a total tax of between 25% and 33.3%. Belgium taxes records and tapes as luxury goods. Ireland slaps a 40% tax on some electronic goods. The result, says Mr. Militzer, is that a VAT is probably "even more discriminatory among different industries than the corporate income tax."

Bill Clinton's incentive-killing tax increases no doubt make a VAT look appealing. But insiders shouldn't underestimate the political dynamite they're playing with. Americans for Tax Reform, the group whose anti-tax pledge almost sank the 1990 budget accord, has persuaded nearly one-fourth of all House Members to sign its anti-VAT pledge. Fundamentally, the VAT, like the politicians who promise its benefits, lacks credibility with the world's voters.

Executive Power:
A First Lesson
For Bill & Hillary

By ROBERT L. BARTLEY

Before choosing a new Supreme Court justice, President Clinton should take a good look at his first constitutional confrontation. With his first major policy initiative, he's already sprung a legal tripwire called separation of powers.

The administration's health care task force is ensnarled in *Association of American Physicians and Surgeons Inc., et al. v. Hillary Rodham Clinton, et al.* The issue involves whether Mrs. Clinton's task force must comply with the Federal Advisory Committee Act, which promulgates procedures for public committees named by the president. On March 10, Judge Royce Lamberth ruled that on its face FACA indeed does apply, but that many particulars of the act are unconstitutional infringements on the president's powers. Congress, in short, should shove off on telling the president how he should go about gathering advice.

"The judge really gave a stamp of approval to the work that's already gone on and is planned to go on," Mrs. Clinton celebrated. This seems to have been a bit of an overstatement; the task force certainly did have the option of filing some paperwork and going about its work, but now it's decided it has to appeal.

While throwing out FACA requirements on most matters, the judge held they did apply to formal public sessions, and enjoined such meetings pending full compliance. One requirement is a 15-day advance notice, an inconvenience for a meeting apparently planned for next Monday. It will be interesting to see if Mrs. Clinton's task force defies the court's injunction.

The appeal repeats separation-of-powers arguments but, perhaps more pertinently, stresses the contention that Mrs. Clinton is "the functional equivalent of a government employee." FACA does not apply to intragovernment groups, and except for Mrs. Clinton the top members of the Task Force hold executive-branch positions. But while ruling on constitutional grounds, Judge Lamberth scoffed at the notion she's a federal official, let alone co-president.

The appeal will be heard by a three-judge panel of the D.C. Circuit Court, potentially including Supreme Court prospects Pat Wald and Abner Mikva. Conceivably the case may reach the Supreme Court itself, as Mr. Clinton might ponder in naming his new justice.

Judge Lamberth cites a concurring opinion in *Public Citizen v. U.S. Dept. of Justice*. Justice Kennedy, joined by Justices Rehnquist and O'Connor, declared FACA unconstitutional. Judge Lamberth adds, "Justice Scalia took no part in the case, and Justice Souter and Thomas have since replaced two of the members of the *Public Citizen* majority." It would be fascinating to see if this company would be joined by the new Clinton justice.

At the very least, the Clinton administration ought to draw a lesson from the alacrity with which it stumbled into congressional restrictions on the executive. Unless you are schooled in the historic power struggle between the legislative and executive branches, you would never conceive that FACA requires a president to jump through hoops to take advice on formulating a health proposal, on which Congress will in any event have the final say.

As he assumed the executive power,

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On Oregon's Trail

The Clinton model of scientific sta- has issued a report by Peter Ferrara

DATE 3-26-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 434, 435

Name	Representing	Bill No.	Check One Support Oppose	
Carlo Cieri	Park Co	435	<input checked="" type="checkbox"/>	
Allen J. Nelson	Park Co	435	<input checked="" type="checkbox"/>	
Tom Hodgson	MT Assoc Realtors	435	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <i>for</i>
Steve Manderville	" - -	435	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <i>for</i>
Angeline Denmark	Am. Ins. Assoc	434		<input checked="" type="checkbox"/>
Danette Fallon	MT Petroleum	434		<input checked="" type="checkbox"/>
Lynna Frank	MT. Farm Bureau	435	<input checked="" type="checkbox"/>	
Don Allen	MT. Wood Products	435		<input checked="" type="checkbox"/> <i>Mountain</i>
Don Youngberg	MT Farm Bureau	434		<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY