

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on April 5, 1993, at
9:00 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: SB 235 Be Concurred In As Amended,
SB 289 Be Concurred In, SB 257 Be
Concurred In As Amended, SB 436 Tabled

EXECUTIVE ACTION ON SENATE BILL 235

Motion: REP. MARIAN HANSON MOVED SB 235 BE CONCURRED IN.

Discussion: CHAIRMAN GILBERT said there are 39 sets of amendments to be considered in executive action. The bill is very complex and the amendments are extensive; therefore, the Committee procedure will differ somewhat from normal executive sessions. It will be important to have technical advice from the Department of Revenue (DOR) and from the sponsor as various amendments are considered.

Motion: REP. HANSON MOVED THE ADOPTION OF THE DOR TECHNICAL AMENDMENTS EXHIBIT 1.

Discussion: Dave Woodgerd, Chief Counsel, DOR, explained the amendments to the Committee (explanation included in EXHIBIT 1).

REP. RANEY, re amendments 38 and 39, page 5, EXHIBIT 1, asked if the Senate intention of taxing out-of-state businesses would be met if all in-state and out-of-state businesses were taxed and a tax rebate was then allowed for the in-state businesses.

Mr. Woodgerd said the rebate mechanism would probably work, assuming the Senate intended to tax out-of-state businesses only,

REP. ELLIOTT said there will be a substantial number of amendments offered that will change property values in the state. He asked if DOR would come back with further amendments if the property tax values are changed.

Mr. Woodgerd replied that DOR has prepared property tax valuation amendments for consideration if the amendments proposed by Montana Power are adopted. If further changes are made in the property tax system, DOR will determine if further technical coordinating amendments are needed.

REP. HANSON asked if amendment 49, page 6, EXHIBIT 1, changes the guaranteed tax base.

Mr. Woodgerd said because the coal gross proceeds and local government severance tax are no longer collected at the county level for transportation, capital or debt service, and retirement they will be remitted directly to the state. The amendments ensure that the counties and the state remain whole under the changed collection procedures. The guaranteed tax base, itself, is not changed.

REP. REAM asked if there are any other proposed amendments in addition to amendments 38 and 39, p. 5, EXHIBIT 1, that would significantly change any of the action taken by the Senate Taxation Committee.

Mr. Woodgerd said amendments 38 and 39 are the only amendments that make a substantial change. As explained in **EXHIBIT 1**, the change was made on the basis of violation of the interstate commerce clause and the U. S. Constitution.

REP. RANEY ASKED TO SEGREGATE AMENDMENTS 38 AND 39.

Vote: Motion to adopt DOR technical amendments as per **EXHIBIT 1**, with amendments 38 and 39 segregated, carried unanimously.

Motion: **REP. FOSTER MOVED TO ADOPT AMENDMENTS 38 AND 39, PAGE 5, EXHIBIT 1.**

REP. RANEY suggested substituting a new subsection B, lines 19 - 22, page 122, which would specify that the first \$10,000 of Montana based corporations income can be taken as an income tax deduction.

REP. REAM asked if DOR would comment on the feasibility of a rebate on Montana corporation corporate license taxes or income taxes as opposed to a reduction in market value.

Mick Robinson, Director, DOR, said the homestead exemption is a credit on individual income taxes which is available to Montana residents who file individual tax returns. This is not done in the corporate area because all corporations doing business in Montana file tax returns, whether they are in-state or out-of-state based. He said there would be no real change whether there was a property tax reduction or a tax rebate because the constitutional question is still valid.

Rep. Raney said it would then be impossible to exclude the out-of-state businesses because they file in Montana regardless of corporate location.

Mr. Robinson said that is his interpretation.

REP. RANEY said in that case the Committee should proceed with the amendment.

Vote: Motion that amendments 38 and 39 be adopted carried 13 - 7 on a roll call vote.

Discussion: **DISCUSSION OF PROPOSED "MASON" AMENDMENT EXHIBIT 2.**

CHAIRMAN GILBERT said this amendment, proposed by Rep. Mason, would reduce the personal property tax rate from 4.5% to 3.86%.

SEN. CRIPPEN said he opposes the amendment.

The Committee agreed not to consider the amendment.

Motion: **REP. BOHLINGER MOVED TO ADOPT THE AMENDMENT AS PER EXHIBIT 3.**

Discussion: Ward Shanahan, Rhone-Poulenc Basic Chemicals, said the amendment changes "deposition" to "reduction". The amendment on page 28, lines 5 - 8, was introduced by SEN.HARP in the Senate. Both Columbia Falls Aluminum and Rhone-Poulenc agree that this amendment satisfies both parties.

SEN. CRIPPEN said he supports the amendment.

REP. DOLEZAL asked if the amendment would impact the fiscal note in any way.

Mick Robinson, DOR, said the bill, as originally drafted, addresses reduction facilities. Aluminum plants were exempt, but they wanted clarification of "electrolytic reduction" and the extent to which electricity used in the process could be exempt. The electricity used in the electrolytic reduction process becomes a component part of the final product and there is no fiscal impact.

REP. HARPER asked how many corporations would be affected by the this exemption.

Mr. Robinson said he thinks there are four operations, but there may be others who use electricity as a component part of the end product. The electricity that is used as a fuel for normal operation of any plant is not exempt. DOR has tried to be consistent across all manufacturing segments.

Vote: Motion to adopt the amendment as per EXHIBIT 3 carried unanimously.

Motion: REP. HIBBARD MOVED TO ADOPT THE VOCATIONAL REHABILITATION AMENDMENT AS PER EXHIBIT 4.

Discussion: SEN. CRIPPEN said he had no objection to the amendment.

John Schonz said the amendment exempts vocational rehabilitation services received by an injured worker covered by workers' compensation from the sales tax. Other rehabilitation services are not exempt.

Vote: Motion to adopt amendment as per EXHIBIT 4 carried unanimously.

Motion: REP. HIBBARD MOVED THE ADOPTION OF THE AMENDMENTS AS CONTAINED IN EXHIBIT 5.

Discussion: REP. HIBBARD said these amendments exempt all utilities from taxation. He said taxing utilities is a pyramiding tax which is ultimately passed on to the consumer. Exempting utilities would put Montana on an equal footing with surrounding states.

REP. ELLIOTT said most commercial entities would deduct their utility expenses on their income taxes. He said there will always be a degree of pyramiding, no matter what is done. The more narrowly a sales tax is structured, the less revenue it will generate. The growth factor is lessened and it becomes more difficult to keep up with inflation. He noted businesses can write off their utility expenses, but individuals cannot.

REP. REAM asked Mr. Robinson about the fiscal impact of the amendments.

Mr. Robinson, DOR, said the original draft of the bill did not exempt utilities at all. The fiscal impact of these amendments is \$17 million. The argument of surrounding states not taxing utilities is valid. One of the purposes of tax reform is to make the tax climate in Montana more competitive. Section 10 of the bill, which exempts residential utility customers, has a fiscal impact of \$10 million.

SEN. CRIPPEN said he has had some concerns about this issue and has looked long and hard at other states' policies. He acknowledged there is a substantial impact on the projected income, but after considering all the ramifications, this seemed to be the best thing to do.

REP. HIBBARD said the off-road diesel exemption was not calculated correctly and will result in a net gain of \$7 million. He said it is hard to determine exactly what revenue the sales tax will yield so it may not be as fiscally bad as it seems.

Vote: Motion to adopt amendments as per EXHIBIT 5 carried 11 - 9 on a roll call vote.

Discussion: DISCUSSION OF PROPOSED AMENDMENTS CONTAINED IN EXHIBIT 6 WHICH WOULD VOID THE ACCOMMODATIONS TAX BILL (HB 591).

CHAIRMAN GILBERT asked Mr. Robinson to explain the amendments.

Mr. Robinson, DOR, said SB 235 does not exempt lodging so there would be a 4% sales tax on top of the 4% accommodations tax if SB 235 passes.

CHAIRMAN GILBERT asked if any of the 4% sales tax money which would be levied on accommodations would revert to local governments.

Mr. Robinson said it would not.

REP. HARPER said local governments would lose their share of the accommodations tax revenue if SB 235 passed with these amendments. He said that represents a considerable amount of money to those local entities.

A general discussion of various problems with coordinating language between several bills and effective dates of the sales tax bill and the accommodations tax bill led the Committee to decide to pass consideration of the proposed amendments until further review by DOR could be completed.

Motion: REP. FOSTER MOVED THE ADOPTION OF THE PROPOSED AMENDMENTS CONTAINED IN EXHIBIT 7.

Discussion: REP. FOSTER said the amendments were requested by Montana Power, Rosebud Energy, and Billings Generation. They would lower the centrally assessed electrical producers property tax and increase the electrical energy producers tax. Centrally assessed utilities currently pay a 12% property tax rate. These amendments would lower the rate to 4.5% which would reduce property tax revenue by \$23 million. To offset the \$23 million, the utilities had agreed to increase their electrical energy producers license tax. With adjustments for some independent power producers, the net effect is that more revenue is generated with these amendments than without them. These amendments also include the pipeline companies that transport natural gas. The amendments would make the utilities more competitive and still generate the revenue for the state.

REP. McCAFFREE said the electrical energy producers license tax is not a property tax. It is collected by the state and is not part of the taxable valuation of counties. He asked what the total statewide property tax reduction would be if these amendments were adopted.

REP. FOSTER said it would be a reduction of \$23 million.

REP. McCAFFREE said that would be \$23 million of property tax revenue that local governments would not receive to use in reducing their bonded indebtedness.

REP. FOSTER said although the entire \$23 million would not apply, a very large part would impact local governments.

REP. ELLIOTT asked how much money the electrical energy producers license tax would generate.

REP. FOSTER it would produce another \$23.1 million. An additional \$1.8 million would be generated by the amendments related to independent power producers.

REP. ELLIOTT asked what the impact would be on individual power companies.

A rationale for the amendments from Montana Power was distributed to the Committee EXHIBIT 7a. The Committee requested further information regarding possible impacts on local governments. It was decided to pass further consideration of the proposed amendments contained in EXHIBITS 7 and 8 until further information was available.

Motion: REP. FELAND MOVED TO ADOPT AMENDMENT 4 CONTAINED IN THE ATTACHED EXHIBIT 9. (Amendments 1, 2, and 3 were addressed previously in adoption of amendments Exhibit #5). The amendment exempts minerals used in production and processing oil and natural gas.

Discussion: Jerome Anderson said when drilling for oil and natural gas, companies use drilling muds, minerals, and natural gas. This amendment addresses that cost of production. He noted other oil and gas producing states exempt these production materials.

REP. HARPER asked if the amendment would apply to the full range of minerals as defined in 15-38-103, MCA.

Mr. Robinson said the statute applies to all minerals; however, if they are used in exploring, transporting or producing they would be exempt.

CHAIRMAN GILBERT said he would like DOR to clarify the amendments further. He said he felt the intent is to exempt natural gas or oil that is used as a component of production; however, the feeling of the Committee is that the effect of the amendment is too broad. He said action will be delayed until DOR and the Petroleum Association can work out new amendments.

Motion: REP. RANEY MOVED TO ADOPT THE AMENDMENT PROPOSED IN EXHIBIT 10. The amendment increases the amount used for determining a homeowner tax credit from \$15,000 to \$50,000.

Discussion: REP. RANEY said this is the citizens' exemption which raises a homeowner's tax credit to \$50,000. He said the middle class will pay the bulk of the sales tax and this exemption would be a property tax reduction for them.

REP. HANSON asked how much the increase will cost.

Mr. Robinson said the full year cost of the \$15,000 tax credit is \$33 million. Increasing the tax credit to \$55,000 will cost, at minimum, \$66 million.

REP. BOHLINGER asked SEN. CRIPPEN for his response to the amendment.

SEN. CRIPPEN was presenting a bill in another committee. Mr. Robinson said he believed SEN. CRIPPEN opposed the amendment.

REP. RANEY said this amendment would help middle-income taxpayers and senior citizens on fixed incomes significantly. The polls have consistently shown that taxpayers tend to favor the sales tax if it contains appreciable property and/or income tax relief.

Vote: Motion to adopt amendment as per EXHIBIT 10 failed 11-9 on a roll call vote.

CHAIRMAN GILBERT LEFT THE MEETING TO PRESENT BILLS IN ANOTHER COMMITTEE. VICE-CHAIRMAN FOSTER ASSUMED THE CHAIR.

Motion: REP. RANEY MOVED TO ADOPT AMENDMENTS AS PER EXHIBIT 11. The amendments would allow businesses a rental tax credit.

Discussion: REP. RANEY said these amendments offer the same tax credit to business owners as is given to home renters.

VICE-CHAIRMAN FOSTER asked Mr. Robinson about the cost impact of the amendments.

Mr. Robinson said he does not have an estimate and indicated that SEN. CRIPPEN does not support the amendments.

Vote: Motion to adopt amendments as per EXHIBIT 11 carried 11-9 on a roll call vote.

Motion: REP. HARPER MOVED TO ADOPT THE AMENDMENTS CONTAINED IN EXHIBIT 12. The amendments, requested by REP. COBB, would earmark 3% of the sales tax for capital projects in the long range building account and transfer the cigarette taxes earmarked for that account to the health care fund in HB 145.

Motion/Vote: REP. ELLIOTT MOVED TO DELAY CONSIDERATION OF ALL THE "COBB AMENDMENTS" UNTIL REP. COBB COULD BE PRESENT TO ANSWER QUESTIONS. Motion carried.

Motion: REP. HIBBARD MOVED THE ADOPTION OF THE AMENDMENTS CONTAINED IN EXHIBIT 13. The amendments would make sales by social services, museums, art galleries, and membership organizations exempt from the sales and use tax.

Discussion: REP. HIBBARD said the bill exempts sales by non-profit organizations from the sales tax. He said the cost of the non-profit exemptions would be approximately \$3 million.

REP. REAM submitted a review of taxation of hospital purchases for the Committee's information EXHIBIT 13a.

REP. RANEY said non-profit and charitable organizations compete against small businesses. They have the advantage because they use volunteer labor and donated materials and facilities to keep their costs low. This amendment would give them another 4% advantage over small business owners.

VICE-CHAIRMAN FOSTER asked if these amendments pertained to 501(c)(3) organizations only.

Mr. Heiman referred the Committee to EXHIBIT 13b. The 501(c)(3) information is highlighted on page 3. These amendments apply to other organizations and associations not included in the 501(c)(3) category.

REP. DRISCOLL asked if the amendments exempt sales of food and liquor by fraternal organizations.

Mr. Robinson said the DOR interpretation of the amendments does not exempt that type of operation. He said the majority of the \$3 million cost of these amendments comes from exempting dues for the various organizations. He said there is not a very large amount of money to be gained from sales by the various non-profits.

SEN. CRIPPEN said he supports the amendments.

Vote: The amendments as per **EXHIBIT 13** carried 19-1 with **REP. McCAFFREE** voting no.

Motion: **REP. RANEY** MOVED AMENDMENTS AS PER **EXHIBIT 14** BE ADOPTED. The amendments increase the percentage of vendor allowance withholding, but leave the dollar caps in place.

Discussion: **REP. RANEY** said the amendments address seasonal businesses whose income is very high during one season of the year, and very low the next. The amendments allow those businesses to reach their \$100 cap faster by increasing the percentage they get on their first amount of income.

Vote: Motion to adopt amendments as per **EXHIBIT 14** carried unanimously.

Motion: **REP. RANEY** MOVED THE ADOPTION OF THE AMENDMENTS AS CONTAINED IN **EXHIBIT 15**. The amendments would exempt the first 10,000 of the sale of a used car.

Discussion: **REP. RANEY** said a motor vehicle is a necessity and it is important for lower wage earners to get an exemption.

SEN. CRIPPEN noted the value of the trade-in of the used car is exempt.

Mr. Robinson said that the bill already exempts the trade-in value of the car being traded. The only amount subject to the tax would be price over and above the trade-in amount. That amount would only be taxed at 2.5% in recognition of the current 2% yearly tax on vehicles.

REP. RANEY said it is his intention that if he traded in a \$3000 car on a \$10,000 car, there would be no tax owing. If, however, he traded a \$3000 car on an \$11,000 car, he would pay tax on the \$1000 over the \$10,000 limit.

Mr. Robinson said there would have to be some definition and some coordinating amendments to meet that interpretation.

REP. RANEY said he did not object to waiting to take action on the amendments until suitable language could be submitted.

Motion: **REP. RANEY** MOVED TO ADOPT THE AMENDMENTS CONTAINED IN **EXHIBIT 16**. The amendments would tax the sale of newspapers, magazines, and books.

Discussion: REP. RANEY said these are products just like everything else and should be taxed.

SEN. CRIPPEN said the taxation of newspapers, magazines, and books created a great deal of controversy. He said newspapers will press the constitutional issues against taxation. The bill, as written, is the result of a compromise reached in the Senate. He urged the Committee to reject the amendments.

REP. HARPER said there is a vast difference between a legitimate newspaper and a tabloid, and scientific magazine and a quasi-pornographic magazine. He said there could be no legitimate reason to exempt the tabloid and exploitive pornographic publications from the tax.

SEN. CRIPPEN said REP. HARPER'S point is well taken. He asked who is going to draw the line and on what basis.

REP. HARPER said if the line cannot be drawn in the middle of the classification, the whole classification should be eliminated.

SEN. CRIPPEN said the dissemination of news is protected by both the Montana and the United States Constitution. How far the sales tax retards that dissemination is unknown. The opponents made a strong case for the unconstitutionality before the Senate Taxation Committee.

REP. ELLIOTT said a precedent has been set by 29 states that tax magazines, 23 states that tax textbooks, and 10 states that tax newspapers, including Idaho, which taxes newspapers at 5%.

SEN. CRIPPEN said Florida taxes newspapers at the newsstand. He wondered if the young people who deliver the newspapers would become tax collectors. He also posed the question of taxing books purchased from national book clubs.

Mr. Robinson said it is very difficult to tax out-of-state book clubs and subscriptions. There is litigation pending in several states over that very issue.

REP. HARPER asked what the impact would be if printed materials were taxed.

Mr. Robinson said the debate in the Senate included taxing both advertising and printing materials at a benefit to the bill of \$9 million. He said advertising would be the largest share of the \$9 million, but he did not have a further breakdown.

Vote: Motion to adopt amendments as per EXHIBIT 16 failed 11-9 on a roll call vote.

Motion: REP. DRISCOLL MOVED TO ADOPT THE AMENDMENTS CONTAINED IN EXHIBIT 17. The amendments establish requirements for special election passage.

Discussion: REP. DRISCOLL said a greater turnout is needed to approve the sales tax than the 20% to 25% voter turnout that traditionally votes in a primary. He objected to the sales tax being decided by 20% of the voters in the state. The amendment specifies that if there is a 40% or less turnout of the registered voters, the issue dies. If between 40% and 50% of the voters turn out, then 60% of the votes cast must be in favor of the issue for passage. Above a 50% turnout, a majority vote is needed.

SEN. CRIPPEN said he opposes the amendment. He noted the Treasure State Endowment passed in the primary election by a majority of the votes cast.

Vote: Motion to adopt amendments as per EXHIBIT 17 failed 8-12 on a roll call vote.

Motion: REP. RANEY MOVED TO ADOPT THE AMENDMENTS CONTAINED IN EXHIBIT 18. The amendments would tax hazardous waste disposal.

Discussion: REP. RANEY said it appears hazardous waste is going to be imported into Montana for profit in which case it should be taxed. Montana should receive some benefit from this potentially high volume business.

SEN. CRIPPEN asked what would be taxed.

REP. RANEY said the tax would be assessed against the cost of treatment, disposal or incineration of hazardous waste for profit. The amendments do not address landfill dumps.

SEN. CRIPPEN said he thought the sale of hazardous waste was already covered by the bill.

REP. RANEY said there is some confusion about waste that is used for fuel. He said these amendments are needed to eliminate any confusion.

SEN. CRIPPEN expressed concern that these amendments would interfere with the utility exception amendments.

Mr. Heiman said the amendments would not impact utilities at all. If utilities buy the waste they would pay a sales tax.

Mr. Robinson said the amendments were necessary because without them there would be a gray area re utilities and fuel sources.

Vote: Motion to adopt amendment as per EXHIBIT 18 carried 17-3 on a roll call vote.

Motion: REP. RANEY MOVED TO ADOPT THE AMENDMENTS AS CONTAINED IN EXHIBIT 19. The amendments use 12% of the sales tax revenue for Workers' Compensation unfunded liability and delay lowering the personal property tax rate to 4.5% until the unfunded liability is paid off.

Discussion: REP. RANEY said his proposed amendments would divert the income derived from reducing the personal property tax from 9% to 4.5% to the Workers' Compensation unfunded liability until it is paid off. At that time, the 4.5% would revert to sales tax revenue. He said the unfunded liability is the fault of the government, not that of either employer or worker. The government should take the responsibility for correcting the situation.

SEN. CRIPPEN said he agrees there is a serious Workers' Compensation problem. The amendments presume the black hole will eventually be paid off, but SEN. CRIPPEN expressed doubt that it ever would. The sales tax bill is designed to provide income and property tax reform. Applying proceeds from the sales tax to the unfunded liability problem is a different matter and not the best way to solve the dilemma.

REP. ANDERSON expressed concern about requiring property tax taxpayers to pay off the unfunded liability if they have never had employees or been part of the problem.

REP. HIBBARD said he appreciated any effort to find a revenue source for the unfunded liability. Property tax relief is another issue and is an important component of the sales tax reform package. He said the sales tax is not the vehicle to solve the unfunded liability.

REP. DRISCOLL said one-third to one-half of those who pay payroll tax are self-insurers who have never had any part in the Workers' Compensation problem. Their Workers' Compensation tax will increase and their property taxes will decrease. If this bill, without the amendments, and HB 405 pass, they will be paying more overall. This amendment will provide an easier and cheaper way to get the state out of the unfunded liability hole.

REP. RANEY said he thinks legislature will have to use general tax revenue to solve the unfunded liability problem. This amendment provides a method which is fair and equitable.

Vote: Motion to adopt amendments as per EXHIBIT 19 failed 11-9 on a roll call vote.

CHAIRMAN GILBERT RETURNED TO THE MEETING AND REASSUMED THE CHAIR.

Motion: REP. RANEY MOVED TO ADOPT THE AMENDMENTS CONTAINED IN EXHIBIT 20. The amendments reinstate the taxation of advertising.

Discussion: REP. RANEY said he knows of no good reason to exempt advertising from the sales tax.

REP. NELSON said it would be nice to have less advertising in all the media; however, he felt taxing advertising would inhibit commerce and, therefore, he opposed the amendment.

REP. ELLIOTT said Hawaii and New Mexico tax advertising and their economies do not seem to have suffered as a result.

REP. FOSTER said he agreed with REP. NELSON that this amendment would inhibit the advertising segment of the economy. He opposed the amendment.

REP. HARPER said every type of service or goods in the bill could realize some negative effects. As many items as possible should be included in order to keep the tax base as broad as possible.

Vote: Motion to adopt amendments as per EXHIBIT 20 failed 13-7 on a roll call vote.

Motion: REP. ELLIOTT MOVED THE ADOPTION OF THE AMENDMENTS CONTAINED IN EXHIBIT 21. The amendments would return taxation of retirement and pension income to the status of current law.

Discussion: REP. ELLIOTT said the amendments insert the \$3600 retirement income exemption, as set in current law, into the income tax portion of the bill. The retirement exemption would then be the same in current law, in SB 235, and in the flat tax bill, HB 671. The exclusion applies only to qualified retirement income, i.e., pension plans, state retirees, IRA's and Keogh funds. Forty percent of the retired people in Montana do not have qualified retirement income. When they sell their businesses or ranches they pay the full tax assessment. He said they should not be subjected to a double dose of taxation. These amendments do not affect social security income.

REP. DRISCOLL said he supports the amendments. He said the people the amendments address are not destitute but rather those who are making a great deal of retirement income.

Mr. Robinson said SEN. CRIPPEN does not support the amendments. He said the tax relief component of the bill would be reduced by \$8 million if the amendments were adopted.

REP. DRISCOLL said SB 235, without the amendments, provides that a married couple, both receiving retirement benefits, would have the first \$40,600 of retirement income exempt plus social security which would also be exempt. With the amendments, they would still receive a maximum of \$32,800 in exemptions plus social security. He said the average working income in the state is \$18,600.

In answer to a question from REP. HANSON, Mr. Robinson said there are approximately \$40,000 retiree households in Montana claiming exempt retirement income out of a total of 63,103 retirement households.

Vote: Motion to adopt amendments as per EXHIBIT 21 failed 11-9 on a roll call vote.

THE COMMITTEE RECESSED FOR LUNCH AND FLOOR SESSION.

CHAIRMAN GILBERT RECONVENED THE COMMITTEE AT 10:15 A.M., TUESDAY, APRIL 6. ALL COMMITTEE MEMBERS WERE PRESENT.

Motion: REP. FOSTER MOVED THE ADOPTION OF THE AMENDMENTS AS CONTAINED IN EXHIBIT 22. The amendments provide exemptions for certain nonprofit entities.

Discussion: REP. FOSTER said the amendments provide an exemption for 501(c)(3) organizations and hospitals. He said health care costs and reform are significant issues both statewide and nationally. If these amendments are not adopted, health care costs will increase as a result of this bill.

REP. HIBBARD asked how much the amendments would cost.

Mr. Robinson said the cost of the amendments would be approximately \$10 million for all 501(c)(3) organizations. Of that amount, approximately \$7 - \$8 million would be a result of hospital exemptions.

SEN. CRIPPEN said there were no amendments providing for hospital exemptions proposed in the Senate. He said he approved of the amendments.

REP. ELLIOTT said at least two hospitals in Montana have significant reserves.

Mr. Ehrens, Montana Hospital Association, said most hospitals have reserves. Most all of them are within a 1% margin at best.

REP. RANEY asked what other organizations besides hospitals are included in the 501(c)(3) designation. He also asked if both purchases and sales are exempt.

SEN. CRIPPEN said organizations such as churches, Red Cross, Big Brothers and Sisters, are covered by 501(c)(3). If a church is engaged in a for profit operation, that part of the organization is not exempt. Purchases and sales are exempt. He noted hospital services are already exempt in the bill.

REP. HARRINGTON said he liked the amendments, but warned the Committee they are taking more money out of the bill that will have to be made up somewhere else.

REP. REAM asked if the \$10 million was an annual figure.

Mr. Robinson replied affirmatively.

REP. REAM said these are not bad amendments, but he was unsure whether to vote for them. He echoed REP. HARRINGTON'S concern about making up revenue that is lost by further exemptions. He asked if the Committee could see a new spreadsheet before final action is taken on the bill.

SEN. CRIPPEN said a final accounting would be presented to the Committee.

REP. FOSTER, replying to concerns about hospital reserves, said hospitals with large reserves have multi-million dollar budgets. and the state should be pleased with their economic health. If costs and taxes increase and reimbursement by medicaid and medicare is less than 100%, the burden of that increase is shifted to the patients. Voting against the amendment is voting for higher health costs.

REP. ANDERSON said the Big Timber hospital closed last year. The budget of the Livingston hospital is funded 25% by private payers, the rest from medicaid and medicare. Small hospitals in this state have a very tenuous existence and the impact of this bill without the proposed amendments will close many more of them.

Vote: Motion to adopt amendments as per **EXHIBIT 22** carried unanimously.

Motion: **REP. FOSTER MOVED THE ADOPTION OF THE AMENDMENTS CONTAINED IN EXHIBIT 8.** These amendments are the Montana Power amendments with the MDU changes considered earlier by the Committee and held for further consideration pending additional information from DOR.

Discussion: **REP. FOSTER** said these amendments answer the concerns expressed by Montana Power and MDU regarding competition. Montana Power felt the property tax provisions of the bill placed them in an uncompetitive position. These amendments allow them to reduce their property taxes, and at the same time increase the electrical producers license tax. The reductions would be offset by the increased license tax with a resultant overall net revenue increase. MDU had some concerns regarding their interstate pipeline company which are addressed in the amendments.

Mr. Robinson presented a financial analysis of the amendments to the Committee **Exhibit 23**. He noted the amendments would create a positive revenue flow of over \$3 million.

REP. McCAFFREE asked what effect these amendments would have on local governments.

Mr. Robinson said the amendments include a new Section 120 which addresses the reimbursement of local governments. The amendments provide that local governments are 100% reimbursed so there will be no adverse effect on local government tax revenue.

REP. McCAFFREE asked for figures regarding the taxable valuation and the property tax reductions.

Mr. Robinson said he had not brought the taxable valuation figures, but the total reduction of property taxes is \$47 million.

REP. McCAFFREE asked what would happen to the bonding percentage.

Mr. Robinson replied the bonding percentage is adjusted in Section 120 also.

REP. ELLIOTT asked various power company representatives how the amendments would impact their businesses.

Robert Winship, Vice President, Continental Hydro Corporation, and President, National Hydro, said his companies work in development of hydropower potential at various dams around the country. They are independent power generation producers and sell their power to utilities either in or out-of-state. The effect of the amendment puts his company, as well as any other independent power producers, at a competitive disadvantage in Montana no matter where they sell their power. With these amendments in place, his company would be at a 10% disadvantage with out-of-state power producers.

Neil Colwell, Washington Water Power Company, said the amendment significantly affects his company. His company has a \$40 million assessed valuation in the state. The amendment would reduce their property taxes at the expense of a 30% \$3 million increase in the generation area. He said Puget Sound Power and Light will sustain a \$5 million net increase and Portland General Electric will be impacted about \$2 million.

REP. HARPER asked if this bill would raise consumers electricity bills by \$50 million.

Mr. Robinson said that is not the case. It is simply substituting one tax for another. He said a case could be made that Montana consumers will pay less because more electricity will be exported outside the state.

REP. HARPER asked if there is any guarantee that will happen.

Mr. Robinson said there is no guarantee but the majority of the power generated at Colstrip is exported and the tax would also be exported to those using that energy.

REP. HARPER said the decrease in property taxes is going to impact state and local government revenues significantly. He wanted to know what the net impact would be on consumers.

REP. FOSTER replied the tax is paid by the companies. Whether they try to recoup that tax from their customers depends on their regulatory commission.

Jack Haffey, Montana Power, said the bill puts Montana electrical energy suppliers and gas and pipeline companies on a level taxation playing field. It is completely fair in terms of those suppliers. It is not a key ingredient in the competitiveness of Montana produced energy sold in the Northwest. It does not adversely affect customers in terms of the whole property tax picture.

REP. HARRINGTON expressed concern about property taxes being lowered in the counties even though they will be reimbursed. He asked if the property taxes will be frozen at that level or can they grow from that point in the future.

Mr. Robinson said the reimbursement mechanism is structured to start at a particular point in time. The reimbursement formula is tied to growth in the sales tax revenue. A growth potential does exist in terms of the dollar amount that could be reimbursed to local governments once the mechanism is fully in place.

REP. HARRINGTON asked if the growth would come through the sales tax exclusively, or if millages could be increased also.

Mr. Robinson said if the \$47 million would equal 15% of the sales tax, the 15% would be a growing base for reimbursement to the counties that are impacted by property tax relief. He said there is 4% inflation growth built into the sales tax economic model.

REP. RANEY asked why railroads and airlines are included in the utility designation.

Mr. Robinson said railroad and airlines are part of the 4R's Act. Their taxes are averaged with all the other property taxes in the state and would be reduced accordingly.

REP. RANEY asked if the tax reduction for railroads is also offset in the electrical producers license tax.

Mr. Robinson said the electrical producers license tax increase will offset all the property tax reductions and, in fact, raise an additional \$3 million.

REP. DRISCOLL said the property tax on all business property drops to 4.5% except regulated utilities who remain at a 12% property tax level. Independent power producers will be paying 4.5% while regulated utilities with huge power plants are still paying 12%. He said there is no semblance of a level playing field in this case.

REP. REAM asked **Mr. Robinson** to explain the impact of the amendments on various power companies. He said he understands Montana Power remains revenue neutral.

Mr. Robinson said the companies that end up paying more are the companies that do not have a large property base in Montana. He quoted the following figures:

| Company | Prop. Tax Reduction | Elec. License Increase |
|---------------------|------------------------------------|------------------------|
| Puget Sound P&L | \$6.5 million | \$11.5 million |
| Wash. Water Power | \$5.2 million | \$ 8.4 million |
| Portland Gen. Elec. | \$3.2 million | \$ 5.2 million |
| Pacific Corp. | breaks even | |
| MDU | overall tax reduction of \$100,000 | |

REP. ELLIOTT asked **Mr. Haffey** what the Montana Power earnings per share were last quarter.

Mr. Haffey said earnings were \$2.01 per share on 51 million shares.

REP. ELLIOTT asked if Montana Power made a profit in the last year.

Mr. Haffey said the company did make a profit.

REP. ELLIOTT said Montana Power is a very profitable company. He said the company had indicated they wanted to be on a level playing field and asked with whom they wished to play.

Mr. Haffey replied they want to be on an competitively equal basis with other electric energy suppliers and pipeline companies in the state. He referred to **REP. DRISCOLL's** remarks regarding the 12% taxation rate of centrally assessed utilities.

REP. ELLIOTT said there is a lot of talk in the Legislature about level playing fields, the little guy, competition, and free enterprise. He said he did not see competition and free enterprise in these amendments which are brought to the Legislature by an excellent major Montana corporation. He pointed out the amendments are basically good for that corporation only. They will hurt independent power producers in the state of Montana and represents a significant tax increase for neighbor companies in other states who generate electricity in Montana and have invested significantly in Montana. He said he could not support the amendments.

CHAIRMAN GILBERT pointed out that under current law the local companies are paying 12% while the competitors are paying 9%. Under the provisions of the bill, without the amendment, the local utilities would pay 12% and the competitors 4.5%. He said there is question of fairness involved; however, the definition of fairness is different for everyone.

Vote: Motion to adopt amendments as per **EXHIBIT 8** (Montana Power amendments with MDU changes) carried 15 to 3 with 2 abstentions on a roll call vote.

REP. HARPER said he felt good questions were asked about impacts on local governments, effects of burden shifts, and the effect of the reductions on this bill. He said other information was requested that was not received and other questions not answered. He abstained because he felt it was difficult to uphold his Constitutional duty to cast an informed vote on an issue that has not been fully explained and which he did not fully understand.

CHAIRMAN GILBERT said that **REP. COBB** would review all his proposed amendments in a group for the Committee members' information.

Discussion: REP. COBB presented a package of proposed amendments for the Committee's consideration. Amendments included:

1. 3% of sales tax proceeds deposited to long range building projects and cigarette taxes deposited to the health care account
2. increase commercial property tax exemption from \$10,000 to \$15,000
3. remove Senate education amendments and replace 40 statewide school mills with sales tax money
4. \$30 million annual funding for Workers' Compensation Fund for 10 years
5. state earned income credit
6. 4% of sales tax to long range building project account
7. 3% of sales tax to health care fund
8. reduce sales tax rate from 4% to 3%
9. require a 2/3 vote of legislature for any additional exemptions
10. tax industrial and agricultural equipment at 2%
11. tax industrial and agricultural equipment at 3%
12. any revenue amount over \$279 million in FY 1995 to be deposited to Workers' Compensation account.

REP. COBB said the two amendments that are most important are replacing the 40 statewide school mills with sales tax revenue and the sales tax collections over \$279 million in FY 1995 deposited to Workers' Compensation.

REP. HIBBARD asked how the sponsor of the bill feels about earmarking revenue over \$279 million in FY 1995.

Mr. Robinson, speaking for SEN. CRIPPEN, said allocation of excess revenue was discussed as the bill developed. He was not sure if Workers' Compensation was the target recipient or not. SEN. CRIPPEN has indicated he is open to the process but a little leery of continuing an earmarked fund. He said he would probably support a one time earmark.

Motion: REP. RANEY MOVED THE ADOPTION OF THE AMENDMENT CONTAINED IN EXHIBIT 24. The amendment would earmark \$30 million annually for the Workers' Compensation Fund for 10 years.

Vote: Motion to amend as per Exhibit #24 failed on a voice vote.

Motion/Vote: REP. MCCARTHY MOVED TO ADOPT THE AMENDMENT CONTAINED IN EXHIBIT 25. The amendment would earmark 4% of the sales tax revenue for the long range building fund project account. Motion failed 6 - 14 on a roll call vote.

CHAIRMAN GILBERT RECESSED THE MEETING FOR LUNCH AND FLOOR SESSION. THE MEETING WAS RECONVENED AT 3:30 P.M., APRIL 6, 1993. ALL COMMITTEE MEMBERS WERE PRESENT.

Motion: REP. FELAND MOVED THE AMENDMENTS AS CONTAINED IN EXHIBIT 26. The amendments would exempt unrefined petroleum products used in production, maintenance, or exploration of oil wells.

Discussion: Mr. Heiman said he would like to make minor corrections to the amendments by striking "such" on line 1, amendment 1, and line 4, and inserting "the" in lieu thereof.

The Committee approved the grammatical changes.

CHAIRMAN GILBERT said the intent of the amendment is to exempt materials produced in the oil field that are then used to further production, maintenance, or exploration in the field. He said products such as casing head gas have been used for firing heaters and engines. Crude oil has been used as a base for crude oil drilling mud, for displacement, and to lubricate hydraulic pumps. The products have been produced, but not sold. They are being recycled back into the production process and should not be taxed.

Vote: Motion to adopt amendments as per **EXHIBIT 1** carried unanimously.

Motion: REP. DRISCOLL MOVED TO ADOPT AMENDMENTS AS CONTAINED IN **EXHIBIT 27**. The amendments would exempt goods and services used in construction on contracts that were bid prior to June 8, 1993.

Discussion:

REP. DRISCOLL said these amendments apply primarily to highway construction bids that are hard money bids that cannot be raised once they are sealed and accepted by the Department of Transportation.

CHAIRMAN GILBERT said adoption of the amendments would protect a business from a large loss if a bid was made on a project and two months later the sales tax was adopted.

Vote: Motion to adopt amendments as per **EXHIBIT 27** carried unanimously.

Motion: REP. FOSTER MOVED TO ADOPT THE AMENDMENTS CONTAINED IN **EXHIBIT 28**. The amendments would equalize the sales and use tax on mobile homes and manufactured homes with the tax paid on traditionally built housing.

Discussion: REP. FOSTER said in other states with a sales tax it is common to give consideration to prefabricated housing. These amendments reduce the sales tax from 4% to 2.5% on these sales because they traditionally address a lower income market.

Stuart Doggett, Manufactured Housing Association, said labor costs for site built houses are not subject to sales tax. These amendments make allowance for the labor costs included in the price of prefabricated housing by reducing the sales tax rate to 2.5%.

REP. FOSTER asked Mr. Robinson how much the amendment would cost.

Mr. Robinson said these amendments make taxation of premanufactured homes consistent with residential construction taxation. Construction materials are taxed but labor costs are exempt. The 2.5% rate approximates the material cost portion of manufacturing the pre-built homes. The fiscal impact includes a trade-in allowance with the total impact being \$250,000.

Vote: Motion to amend as per **Exhibit 28** carried 16-4 on a voice vote with **REP. ELLIOTT, REP. FELAND, REP. HARPER, and CHAIRMAN GILBERT** voting no.

Motion: **REP. NELSON** MOVED TO ADOPT THE AMENDMENTS AS CONTAINED IN **EXHIBIT 29**. The amendments exempt from the sales and use tax the commissions paid to insurance agents and increase the rate of the insurance premium tax from 2.75% to 2.875%.

Discussion: **REP. NELSON** said commissions are an integral part of premiums that are paid for insurance coverage. He said these amendments create a level playing field because wages of agents who are employees are exempt. However, agents who are not employees of the insurance company and work on commission do not have their wages exempted. Agents cannot pass on the sales tax in their product. He said the fiscal impact of the amendments is \$700,000 per year. The bill contains offsetting funding in the form of an increase in the premium tax of .08%.

CHAIRMAN GILBERT said some agents' commission based salaries are passed on in the insurance premiums. The salaries are income and already subject to income tax. If the bill passes as it stands, the salaries would also be subject to the sales tax. He said there is no reason to replace the money because incomes are not subject to the sales tax.

Motion/Vote: **REP. NELSON** MADE A SUBSTITUTE MOTION TO ADOPT **AMENDMENT 3 AS CONTAINED IN EXHIBIT 29**. This would limit the amendments to exempting commissions only. **Mr. Heiman** will change the catch line to conform. Motion to amend carried unanimously.

Discussion: **REP. HIBBARD** said there is some confusion about how much revenue the sales tax will raise and also some dispute about off-road diesel revenue. He asked **Mr. Robinson** if anything is being done to firm up the revenue estimate.

Mr. Robinson said the sales tax model has been updated every six weeks. The off-road diesel component has not been addressed adequately; however, late information indicates there may be \$7 million available from that area. The gross revenue estimate was \$290 million at the time the bill was introduced. He said exemptions adopted to date probably total \$20 million, leaving the estimate at approximately \$270 million (which does not include the possible \$7 million off-road diesel revenue). He said it is difficult to develop a specific model because there has never been a sales tax in the state and many factors, such as

inflation, are averaged or unknown. He said DOR has adopted a conservative stance and hopes its estimates err on the side of underestimating rather than overestimating the projected revenues.

Motion: REP. HIBBARD MOVED TO ADOPT THE AMENDMENTS AS CONTAINED IN EXHIBIT 30. The amendments would place sales tax revenues collected in excess of \$279 million in the Workers' Compensation unfunded liability account.

Discussion: REP. REAM said he supports the amendment because it applies to FY 1995 only.

REP. HIBBARD said if the sales tax is enacted and if there is a windfall in the first year collections, it would be applied to the unfunded liability. He said this would not alter any alternative plans addressing the unfunded liability coming out of this session. The only effect it would have would be to "jumpstart" the process.

Vote: Motion to adopt amendments as per EXHIBIT 30 carried 17-3 on a voice vote with REP. ANDERSON, REP. HARRINGTON, and REP. MCCARTHY voting no.

Motion: REP. McCAFFREE MOVED TO ADOPT THE AMENDMENTS CONTAINED IN EXHIBIT 31. The amendments would delay the repeal of I-105.

Discussion: REP. McCAFFREE said it is unclear what is going to happen to the taxable valuation of counties and local governments and these amendments would delay the repeal of I-105 until the impact can be fully assessed. The counties that would be most affected would be those that have reached the maximum mill levy. If the taxable valuation drops significantly in those counties as a result of passage of this bill, they would be able to maintain the 1986 dollar level if I-105 is still in place. He said 25 mills on the general fund is as high as a county can levy even without I-105.

CHAIRMAN GILBERT said it appears to him that the money will be replaced in those counties whose taxable valuation is reduced in the same manner as the local government severance tax. He said it seems the amendments would result in a windfall to local governments for a time because the state would replace the money they would be losing and yet they could slowly withdraw from I-105 which would give them extra income.

Mr. Heiman explained that I-105 allows the county to change the number of mills that can be levied based upon a reduction in taxable valuation. The bill has two property tax components in it. If the compensation rates to the local governments are not tuned to the amount of property taxes they are losing, then receipts could drop below the 5% level in I-105 which would trigger the ability of the counties to increase their mill levies. If I-105 is repealed at the same time this bill is enacted, then the local governments are bound by their statutory mill levy limits.

Vote: Motion to adopt amendments as per EXHIBIT 31 failed 11-9 on a roll call vote.

Motion: REP. DOLEZAL MOVED TO ADOPT THE AMENDMENTS CONTAINED IN EXHIBIT 32. The amendments would exempt seeds and plants purchased to grow foods for personal use.

Discussion: REP. DOLEZAL said the agricultural exemptions include exemptions for seeds, trees, roots, and bulbs. He said the bill overlooks the person who raises food for his own personal use and consumption. The amendments further define food products to include seeds and plants used to grow foods. He said this is a good consumer amendment.

REP. REAM said if the language on p. 25, line 19, re commercial quantities was stricken, there would be no need for the amendment.

Mr. Robinson said the language on p. 25 refers to seeds and plants and REP. DOLEZAL'S amendments apply to food for consumption. He said the seeds and plants that are purchased are not part of the food consumption area. Section 26 is not intended to cover commercial products only. The reference on page 25 applies to "irrigation water (used) for the production of agricultural products in commercial quantities". He said any seeds purchased by individuals or businesses would be exempt. DOR felt the effort required to separate agricultural products from those used in home food production was not worth the effort. All seeds and fertilizers are covered in the exemption.

REP. DOLEZAL asked if he would have to pay a sales tax on a tomato plant.

Mr. Robinson said it would be exempt under the provisions of Section 26.

REP. DOLEZAL SAID HE WAS SATISFIED THAT THE INTENT OF HIS AMENDMENT WAS ADDRESSED IN SECTION 26 AND, THEREFORE, HE WITHDREW HIS MOTION.

Motion: REP. FOSTER MOVED TO ADOPT THE AMENDMENTS AS CONTAINED IN EXHIBIT 33. These are technical amendments that coordinate SB 168, HB 671 and SB 235.

Discussion: Mr. Heiman said these are simple clean-up amendments which eliminate references to non-existent bills, coordinate similar sections of bills that have passed, and resolve conflicts created by adoption of various amendments.

Vote: Motion to adopt amendments as per Exhibit 33 carried 19-1 with REP. DRISCOLL voting no.

Motion/Vote: Mr. Heiman said amendments are needed to eliminate Sections 174 - 178 and Section 182 from the bill and to change the title accordingly. These sections appear in other bills already signed by the Governor and need to be eliminated from

this bill so that they do not appear in a ballot issue.

REP. HANSON MOVED TO AMEND THE BILL BY STRIKING SECTIONS 174 -178 AND SECTION 182 WITH COORDINATING CHANGES IN THE TITLE. Motion to amend carried unanimously.

Motion/Vote: Mr. Heiman said further technical amendments were needed to strike the definition of utility in the DOR amendments (EXHIBIT 1) due to Committee action repealing the utilities references.

REP. HANSON MOVED THE AMENDMENTS. Motion carried unanimously.

Motion/Vote: Mr. Heiman said because of the adoption of the two amendments re non-profit organizations amendment 6 EXHIBIT 13 is no longer needed and should be stricken.

REP. HANSON MOVED THE AMENDMENT. Motion carried unanimously.

Discussion: CHAIRMAN GILBERT asked if any action should be taken regarding a conflict between HB 591 and SB 235.

Mr. Heiman said the bills do not technically conflict. He said HB 591 raised the bed tax 1% and implemented a new distribution system. The bill could be left as it is, the rate could be lowered to 4% and the new distribution system kept in place, or the bill could be voided entirely.

CHAIRMAN GILBERT asked what the bed tax would be if both SB 235 and HB 591 are left in place.

Mr. Heiman replied the bed tax would be 9% with 1% of the proceeds going to the general fund and 4% going to local governments. The 4% in SB 235 will distributed as per the bill.

Motion/Vote: REP. HARRINGTON MOVED TO TAKE NO ACTION ON EITHER BILL. Motion carried 15-5 on a voice vote with REP. RANEY, REP. HARPER, REP. BOHLINGER, REP. REAM, and REP. HANSON voting no.

Motion: REP. RANEY MOVED TO ADOPT THE AMENDMENTS CONTAINED IN EXHIBIT 34. The amendments would exempt the first \$10,000 of a used car sale and are intended to replace EXHIBIT 15 amendments.

Discussion: REP. RANEY said the first \$10,000 of value of a used car would be exempt from taxation. This \$10,000 would include trade-in and/or cash that is used to reach the \$10,000 limit. For example, if a \$10,000 car is traded-in on a \$15,000 car, taxes would only be paid on \$5,000.

REP. TUNBY asked what is included in the definition of motor vehicle.

Mr. Robinson said he thought it included motor vehicles less than 46,000 pounds including passenger cars, light duty trucks, and motorcycles. The Department of Justice has a definition of light duty vehicles under 10,000 pounds that should be looked at also.

REP. ORR expressed some concern that dealers would manipulate their prices to stay under \$10,000.

REP. RANEY WITHDREW HIS MOTION AND WILL PRESENT IT ON THE FLOOR IN ORDER TO ALLOW MORE TIME TO RESOLVE THE DEFINITION QUESTION.

Motion: REP. REAM MOVED TO RECONSIDER ACTION ON AMENDMENT 21 REGARDING RETIREMENT INCOME.

Discussion: REP. REAM said exemptions adopted in the past two days have taken \$34 million in proceeds out of the bill. If these amendments were adopted \$8 million would be restored. The amendments would lower the pension income exemption from \$7500 to \$3600.

REP. ELLIOTT said there are basically two types of retirees in the state: retirees who have a pension plan and income and retirees who do not. People who do not have pension income have provided for their own retirement through sales of business or land and/or investments and all of their income is taxable. Retirees with pension income get a \$3600 exemption under current law. SB 235 would increase the exemption to \$7500. He said he has long felt that all people over 65 should be treated equally in terms of taxation regardless of their source of income. Taxation of income should not discriminate against the source of the income.

CHAIRMAN GILBERT asked if this covers all types of retirement income including those with investments, annuities, endowments, and social security.

REP. ELLIOTT said those people are still unable to deduct any of their retirement earnings. He said his amendments reduce the inequity of the treatment they get under SB 235 to the level of current law. One of the difficulties is that there is no statutory definition of retirement, retirement age, and retirement income. In order to be completely fair, the deductions would have to be stricken entirely and everyone given a third exemption.

CHAIRMAN GILBERT said his concern is that we take very good care of retirees in Montana as long as they belong to a approved pension plan, yet other retirees are treated as second class citizens. Correcting that inequity can be very expensive, but he felt an effort should be made in that area rather than continuing to give breaks to people on the approved pension plans.

REP. ELLIOTT said his amendments would not correct the inequity in current law, but it would not add insult to injury by expanding the inequity any further as is done in SB 235.

Mr. Robinson said the fiscal impact would be an \$8 million revenue reduction.

REP. ELLIOTT said SB 235 gives 40,000 people an additional \$8 million tax break over current law. His amendments would remove that additional break for the 40,000 retirees who have qualified retirement income.

SEN. CRIPPEN said he is concerned about the approximately 20,000 people who do not have qualified retirement income. Retired people are an important economic component of this state's population. He said the bill should be as palatable as possible for retired people.

Vote: Motion to reconsider action on **EXHIBIT 21** carried on 10-9 on a roll call vote.

Motion/Vote: **REP. ELLIOTT MOVED TO ADOPT THE AMENDMENTS AS CONTAINED IN EXHIBIT 21.** The motion carried 10-9 on a roll call vote.

Motion: **REP. BOHLINGER MOVED SB 235 BE CONCURRED IN AS AMENDED.**

Discussion: **REP. ELLIOTT** said he liked the bill as it was originally introduced, but the extensive House and senate amendments have made it into a bill he can no longer support. The bill, as it came out of the Senate, contained \$74.5 million in property tax relief for commercial enterprises. That figure is closer to \$100 million in commercial property tax relief as a result of House Taxation Committee action while homeowners and renters relief has decreased. The combined effect of action taken by this Committee amounts to \$199 million in property taxes that local governments will not collect. He said he had very grave concerns about the bill due to the lack of trust in legislative promises made to local governments expressed by **REP. McCAFFREE** and **Alec Hanson**. He said his concern is that the bill has more and more become a relief bill for large businesses and corporations in Montana. He noted the revenue projections are far from accurate even if they are as accurate as the model can make them.

REP. REAM said the 6% income tax revenue projections for 1995 are \$40.9 million, \$39 million in 1996, and \$33 million in 1997. He asked why the revenues have a continual decrease and how long they are projected to continue.

Mr. Robinson said there are two reasons for the decline. Indexing has been removed from the income tax portion of the flat tax with a resultant decline in the cost of providing income tax relief. There is a one time impact in FY 1997 due to the federal income tax liability issue.

REP. HARPER asked **SEN. CRIPPEN** if he is comfortable with this bill as a ballot measure.

SEN. CRIPPEN said nothing is perfect and this bill is no exception. Given the alternatives facing the state the bill is a good response and can still be improved upon and fine tuned before it completes the legislative process. There are areas

where he has concerns such as more relief for retirees. He said that is his own opinion and does not necessarily make the bill better or worse. It is up to everyone to make this the best possible bill to put before the voters.

REP. HARPER said he has always opposed a sales tax, but he ran on a platform of putting the best possible sales tax before the people for a vote. He said he did not feel this was the best bill that could be put on the ballot. He asked how the Governor feels about the bill.

SEN. CRIPPEN said he could not speak for the Governor, but he would try to answer the question as far as possible. One solution was a strict retail sales tax based on the Wyoming model. That approach appealed to many people, but not to those who preferred a broader base. As the bill developed, **SEN. CRIPPEN** felt that a broader base that included services as well as sales would result in a more viable bill. The bill was developed on that model.

Mr. Robinson said he believes the Governor supports the work of the House Taxation Committee and the bill as it stands.

REP. ELLIOTT said even though **SEN. CRIPPEN** started SB 235 as a broad based bill, the Senate and House Taxation Committees have narrowed it substantially. Many states with narrow based sales taxes have found them to be very inelastic and are having to go back and broaden them. He asked if **Mr. Robinson** felt, as he did, that the base of this bill had been narrowed so much that it will require coming back and eliminating exemptions and imposing broader taxes.

Mr. Robinson said many states are moving toward a broader base. As it stands, SB 235 is still broader based than most other sales taxes due to the inclusion of services as well as retail sales. The federal economy is moving toward a service economy rather than a manufacturing economy. Many of the states that are in trouble are those with a manufacturing based sales tax which is declining. Montana is better off with the bill in its current form because it has a growth potential in the service source and is broad based, although not as broad based as when it was introduced.

Vote: Motion that SB 235 Be Concurred In As Amended carried 11-9 on a roll call vote.

EXECUTIVE ACTION ON SENATE BILL 289

Motion: **REP. FELAND** MOVED SB 289 BE CONCURRED IN.

Discussion: **REP. RANEY** remarked that if the sales tax is so good there should be no reason to cap it.

REP. DRISCOLL said a sales tax cap will do nothing but result in eventual income and property tax increases.

Motion/Vote: REP. HARPER MOVED TO ADOPT A COORDINATING AMENDMENT THAT STATES THE CAP IS NOT EFFECTIVE UNLESS SB 235 PASSES.

Motion failed 11-9 on a roll call vote.

Discussion: REP. RANEY said it is poor policy to put tax policy into the Constitution. If this cap is in the Constitution, caps could be enacted for every other existing tax. He could not see why one specific tax should be singled out for a cap when the potential for myriad adjustments exists within the tax by eliminating and granting exemptions.

CHAIRMAN GILBERT pointed out the gas tax is in the Constitution.

REP. FOSTER said the reason for the constitutional cap is the distrust the public has for the legislature based on what happens to sales taxes in other states. Capping the tax sends a message to the taxpayers that says, "We know you are wary of a sales tax and, therefore, we will cap it so that some of your well placed fears may be somewhat allayed."

REP. REAM said that REP. COBB'S proposed constitutional amendment to SB 235, requiring a two-thirds vote of the Legislature in order to add any exemptions to the bill, should be considered in this discussion.

REP. HARPER said he would strongly support SB 289 if it was coordinated with the passage of SB 235. SB 289 is unnecessary without the sales tax bill. If it passes, it will go on the ballot with or without SB 235. It is not necessary and it does not keep faith with the people.

CHAIRMAN GILBERT said if he was an opponent of a sales tax and the sales tax had a companion bill that would cap it constitutionally, he would do everything he could to kill the cap. In that way, when the sales tax went before the public the opponents could make an effective case against it because there is no way to contain it. The people of the state told both Governor Racicot and Dorothy Bradley that they might support a sales tax, but only if it had a cap so that they could be sure it would not be raised every time the Legislature met. SB 289 is before the Committee at the request of the people of the state.

REP. DRISCOLL said he envisions the failure of the sales tax but the passage of the cap. Next session it will be easy for the Legislature to pass a sales tax without a vote of the people because the cap will already be in place.

Vote: Motion that SB 289 Be Concurred In carried 11-9 on a roll call vote.

EXECUTIVE ACTION ON SENATE BILL 257

Motion: REP. DRISCOLL MOVED SB 257 BE CONCURRED IN.

Motion: REP. HARPER MOVED TO AMEND PAGE 5, LINE 11 AND PAGE 6, LINE 15. The amendment would make the second increase effective June 1, 1994.

Discussion: REP. FOSTER said he does not disagree with the idea of taxing the tourists, but he is not happy with taxing the people of the state a month early.

Vote: Motion to amend carried 11-9 on a roll call vote.

Motion: REP. DRISCOLL MOVED SB 257 BE CONCURRED IN AS AMENDED.

Discussion: REP. MCCARTHY said this is the one tax that her constituents say they can support.

REP. FOSTER said his rural constituents told him they do not want an increase in the gas tax.

REP. ELLIOTT said he agreed with REP. FOSTER'S comments about rural opposition to the gas tax. The people in his area live almost 100 miles from the closest town. He said he does not see taxing himself and his constituents more to get somewhere in order to pay a sales tax when they get there.

REP. TUNBY said if we do not pay now we will have to pay later when the roads start falling apart.

Vote: Motion that SB 257 Be Concurred In As Amended carried 13-7 on a roll call vote.

EXECUTIVE ACTION ON SENATE BILL 436

Motion: REP. HARRINGTON MOVED SB 436 BE CONCURRED IN.

Discussion: REP. HARRINGTON said 33 other states also have a realty transfer tax. This is an alternative to the sales tax that will help local schools when they are underfunded and local governments when property tax valuations drop.

REP. HARPER said he supports this tax because it is one way to begin to tax the carving up and selling of Montana to out-of-staters. The House of Representatives has dug a \$40 million hole in education funding that local property taxpayers are going to have to fill. He said another revenue source will have to be found if this bill fails because it is a direct shift of the state's responsibility for schools to the local property taxpayers. That is a direct violation of HB 2 and is exactly what the Legislature said it would not do.

REP. HIBBARD said he opposes the bill because it is a selective sales tax and is extremely narrow based. He was not sure if the buyer or the seller would pay the tax or if it would even impact the out-of-state purchaser.

REP. BOHLINGER said the bill would work a hardship on the people in his district which is in an older part of Billings. Even with a \$50,000 floor it would negatively impact them.

REP. RANEY responded that the seven cent gasoline tax the Committee just adopted is a very selective sales tax. He said if the school foundation program money is not raised at a state level, the local taxpayers will have to pay it in increased property taxes. This bill taxes the "Ted Turner" segment of the population and uses some of their money to help support the services provided by the state.

REP. MCCARTHY reminded the Committee that SEN. JACOBSON said in her testimony this bill is a part of the Democratic package that is an alternative to the sales tax bill and it should be looked at in that light.

REP. FOSTER said this bill will act as a deterrent to low income and first time home buyers. An extra \$150 to \$200 on top of closing costs may work a real hardship.

REP. DRISCOLL said he did not think that the extra \$150 that would have to be paid on a \$65,000 home would be as large a detriment to completing a home sale as would the \$3900 realtor commission or the \$650 origination fee the banks charge.

REP. McCAFFREE said that the additional property tax the people will have to pay if this bill fails will be ten times the \$150.

REP. HARRINGTON said this is a replacement funding source for the \$40 million that came out of school funding. It is fair, more inexpensive than alternative taxing mechanisms, and taxes a new segment of the population that has the ability to pay.

Vote: Motion that SB 436 Be Concurred In failed 12-8 on a roll call vote.

Motion/Vote: REP. ELLIOTT MOVED SB 436 BE TABLED. A reverse vote was cast and the motion carried 12-8.

Adjournment: The meeting adjourned at 6:30 p.m.


BOB GILBERT, Chairman


JILL ROHYANS, Secretary

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

4/5/93

| NAME | PRESENT | ABSENT | EXCUSED |
|------------------------|---------|--------|---------|
| REP. GILBERT, CHAIRMAN | ✓ | | |
| REP. FOSTER | ✓ | | |
| REP. HARRINGTON | ✓ | | |
| REP. ANDERSON | ✓ | | |
| REP. BOHLINGER | ✓ | | |
| REP. DOLEZAL | ✓ | | |
| REP. DRISCOLL | ✓ | | |
| REP. ELLIOTT | ✓ | | |
| REP. FELAND | ✓ | | |
| REP. HANSON | ✓ | | |
| REP. HARPER | ✓ | 9:40am | |
| REP. HIBBARD | ✓ | | |
| REP. KELLER | ✓ | | |
| REP. McCAFFREE | ✓ | | |
| REP. MCCARTHY | ✓ | | |
| REP. NELSON | ✓ | | |
| REP. ORR | ✓ | | |
| REP. RANEY | ✓ | | |
| REP. REAM | ✓ | | |
| REP. TUNBY | ✓ | | |
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HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 31

Mr. Speaker: We, the committee on Taxation report that Senate Bill 235 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Gilbert
Bob Gilbert, Chair

And, that such amendments read:

Carried by: Rep. Hibbard

1. Title, line 20.
Following: "15-6-138,"
Insert: "15-6-141,"

2. Title, line 21.
Following: "15-8-205,"
Insert: "15-23-703,"

3. Title, line 24.
Following: "15-32-303,"
Insert: "15-36-112, 15-51-101,"

4. Title, page 1, line 25 through page 2, line 3.
Strike: "19-3-105" on page 1, line 25 through "19-10-504," on
page 2, line 2
Strike: "19-11-612," on page 2, line 2 through "19-21-212," on
page 2, line 3

5. Page 3, line 24.
Strike: "65"
Insert: "70"

6. Page 4, line 1.
Insert: "(1) "Arboretums and botanical or zoological gardens"
means establishments that are created for the exhibition of
plants or animals and that are not operated for profit."
Renumber: subsequent subsections

7. Page 5.
Following: line 7
Insert: "(7) (a) "Manufactured home" means a structure that:
(i) is not an improvement to real property;

Committee Vote:
Yes 11, No 9.

731547SC.Hpf

- (ii) is transportable in one or more sections;
 - (iii) when erected on site is 320 square feet or more;
 - (iv) is designed to be used as a dwelling with a permanent foundation when connected to the required utilities; and
 - (v) contains plumbing, heating, and electrical systems.
- (b) The term also includes structures that:
- (i) do not meet the size requirements of subsection (6)(a)(iii) but for which the manufacturer voluntarily filed the certification required by the secretary of housing and urban development; and
 - (ii) comply with the standards required under 42 U.S.C. 5401, et seq."
- Renumber: subsequent subsections

8. Page 6.

Following: line 4

Insert: "(11)(a) "Membership organization" means an organization that operates on a membership basis, that requires the payment of dues to hold membership, and that is not operated for profit. The term includes but is not limited to an organization:

- (i) that is engaged in promoting the business interests of its members, including an association that is owned by its members and that is organized to perform a specific business function;

- (ii) that is composed of professional persons;

- (iii) that is composed of workers organized for the purpose of improvement of wages and working conditions;

- (iv) that is engaged in civic, social, or fraternal activities;

- (v) that is established to promote the interests of a national, state, or local political party or candidate, including a group organized to raise funds for a political party or candidate; and

- (vi) that is operated for worship, religious training or study, or government or administration of an organized religion or for promotion of religious activities.

(b) The term does not include an organization that provides sporting or recreational services to its members, such as a country club or a golf or tennis club.

(12) "Museums and art galleries" means establishments that are created for the exhibition of curiosities or works of art and that are not operated for profit."

Renumber subsequent subsections

9. Page 6, line 6.

Strike: "42"

Insert: "47"

10. Page 6, line 21.

Strike: "(12)"

Insert: "(16)"

11. Page 7, line 8.

Strike: "49"

Insert: "54"

12. Page 7, line 16.

Strike: "(12) (C) (I)"

Insert: "(16) (c) (i)"

13. Page 9.

Following: line 3

Insert: "(20) "Social or family services organizations" means establishments that provide social or family services and rehabilitation services to persons with social or personal problems or to handicapped or disadvantaged persons and that are not operated for profit. These services include but are not limited to counseling services, senior citizen centers, youth centers, job counseling and training services, vocational rehabilitation services, and homes for physically and mentally handicapped persons."

Renumber: subsequent subsections

14. Page 9, lines 10 through 12.

Following: "WATER" on line 10

Strike: remainder of line 10 through "STATE" on line 12

15. Page 9, line 20.

Strike: "subsection"

Insert: "subsections"

Following: "(5)"

Insert: "and (6)"

16. Page 11, line 12.

Strike: "65"

Insert: "70"

17. Page 11.

Following: line 13

Insert: "(6) (a) A sales tax of 2.5% is imposed upon the sales of all new or used mobile homes, as defined in 15-1-101, and on all manufactured homes, as defined in [section 1], that are not an improvement to real property. The tax is imposed on the purchaser and must be collected by the seller and paid to the department by the seller. The tax must be applied to the sales price. The seller holds all taxes collected in trust for the state."

(b) For the privilege of using a new or used mobile home or manufactured home in this state, there is imposed on the person using the property a use tax equal to 2.5% of the value of a home that was:

(i) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred within this state;

(ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside of the exterior boundaries of an Indian reservation within this state; or

(iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by subsection (1) or the use tax imposed by subsection (2)(b) but which transaction, because of the buyer's subsequent use of the property, is subject to the sales tax or use tax.

(c) The provisions of [sections 1 through 70] apply to this subsection except as specifically provided in this subsection."

18. Page 12, line 21.

Strike: "65"

Insert: "70"

19. Page 13, line 10.

Strike: "65"

Insert: "70"

20. Page 14, line 22.

Strike: "or"

21. Page 15, line 2.

Following: "facilities"

Insert: "; or (xii) the acceptance by a for-profit entity of hazardous waste, as defined in 75-10-403, or infectious waste, as defined in 75-10-1003, for treatment, disposal, or incineration"

22. Page 15, line 3.

Strike: "65"

Insert: "70"

23. Page 15, line 15.

Strike: "42"

Insert: "47"

24. Page 16, line 2.

Strike: "65"

Insert: "70"

25. Page 16, line 5.

Strike: "65"

Insert: "70"

26. Page 17, line 25.

Strike: "42"

Insert: "47"

27. Page 18, line 2.

Following: "business"

Insert: "or the category of nonprofit organization of the purchaser"

28. Page 18, line 3.

Strike: "for resale"

29. Page 18, lines 8 and 9.

Strike: "to a person engaging in business in this state"

30. Page 18, lines 11 and 12.

Following: "each" on line 11

Insert: "eligible"

Strike: "engaging in business in this state prior to [the applicability date of this section]"

31. Page 18, line 17.

Strike: "(1)"

Strike: "subsection"

32. Page 18, line 18.

Strike: "(2)"

Insert: "[section 10]"

33. Page 18, line 23 through page 19, line 8.

Strike: subsection (2) in its entirety.

34. Page 19, line 9.

Strike: "RESIDENTIAL"

35. Page 19, line 10.

Following: "."

Insert: "(1)"

36. Page 19, lines 12 and 13.

Strike: "TO RESIDENTIAL CUSTOMERS"

37. Page 19, line 15.

Following: line 14

Insert: "(2) For purposes of this section, the term "utility services" does not include services provided by a cable television system as that term is defined in 35-18-102."

38. Page 21, line 9.

Strike: "private"

Following: "physician"

Insert: ", a mental health professional,"

Following: "or"

Insert: "a"

39. Page 21, line 12.

Strike: "65"

Insert: "70"

40. Page 22, line 6.

Strike: "but not limited to"

41. Page 22, line 7.

Strike: "conducted or"

42. Page 22, line 15.

Following: "dividends"

Insert: ", commissions,"

43. Page 22, line 23.

Following: "bond,"

Strike: "or"

Following: "security"

Insert: ", or contract of insurance"

44. Page 24.

Following: line 10

Insert: "(3) Minerals used by the producer of the minerals for purposes of exploring for, producing, or transporting minerals are exempt from the sales tax and use tax except that the exemption does not include refined petroleum products."

45. Page 26, line 2.

Strike: "petroleum,"

Insert: "hydrocarbons at the extraction site;"

46. Page 26, line 3.

Following: "facility"

Insert: ";

47. Page 26, line 25.

Following: line 24

Insert: "NEW SECTION. Section 32. Exemption -- rehabilitation services. The sale or use of rehabilitation services, as defined in 39-71-1011(6), to or by a disabled worker is exempt from the sales tax and use tax.

NEW SECTION. Section 33. Exemption -- sales by social or family services organizations. The sale of property and services by a social or family services organization is exempt from the sales tax and use tax.

NEW SECTION. Section 34. Exemption -- sales by museum, art gallery, arboretum, or botanical or zoological garden. The sale of property and services by museums and art galleries and by arboreturns and botanical or zoological gardens is exempt from the sales tax and use tax.

NEW SECTION. Section 35. Exemption -- sales by membership organization. The sale of property and services by a membership organization is exempt from the sales tax and use tax.

NEW SECTION. Section 36. Nontaxability -- certain nonprofit organizations. (1) All sales to or uses by an organization not operated for gain or profit and which may have property exempt from property taxation under 15-6-201 are nontaxable.

(2) In the case of a sale, the buyer must deliver a nontaxable transaction certificate."

Renumber: subsequent sections

48. Page 28, line 6.

Strike: "DEPOSITION"

Insert: "reduction"

49. Page 30, line 13.

Following: "sale"

Insert: "or lease"

50. Page 30, line 14.

Strike: "exclusively"

Insert: "primarily"

51. Page 30, line 15.

Following: "commerce"

Insert: "and registered under 61-3-721"

52. Page 33, line 17.

Strike: "65"

Insert: "70"

53. Page 34, line 24.

Strike: "65"

Insert: "70"

54. Page 35, line 15.

Strike: "65"

Insert: "70"

55. Page 35, line 23.

Strike: "65"

Insert: "70"

56. Page 35, line 25.

Strike: "53"

Insert: "58"

57. Page 36, line 2.

Strike: "65"

Insert: "70"

58. Page 36, line 16.

Strike: "65"

Insert: "70"

59. Page 37, line 25.

Strike: "65"

Insert: "70"

60. Page 38, line 2.

Strike: "53"

Insert: "58"

61. Page 38, line 4.

Strike: "65"

Insert: "70"

62. Page 38, line 8.

Strike: "42"

Insert: "47"

63. Page 38, line 17.

Strike: "65"

Insert: "70"

64. Page 38, line 24.

Strike: "65"

Insert: "70"

65. Page 39, line 13.

Strike: "65"

Insert: "70"

66. Page 39, line 18.

Strike: "65"

Insert: "70"

67. Page 39, line 24.

Strike: "65"

Insert: "70"

68. Page 40, line 15.

Strike: "65"

Insert: "70"

69. Page 40, line 17.

Strike: "65"

Insert: "70"

70. Page 40, line 22.

Strike: "65"

Insert: "70"

71. Page 41, line 22.

Strike: "50"

Insert: "55"

72. Page 42, line 5.

Strike: "50"

Insert: "55"

73. Page 42, lines 7 and 10.

Strike: "38"

Insert: "48"

74. Page 42, line 14.

Strike: "50"

Insert: "55"

75. Page 42, lines 16 and 18.

Strike: "1.58"

Insert: "2.58"

76. Page 43, line 25.

Strike: "65"

Insert: "70"

77. Page 44, line 6.
Strike: "50"
Insert: "55"

78. Page 45, line 5.
Strike: "65"
Insert: "70"

79. Page 45, line 15.
Strike: "65"
Insert: "70"

80. Page 45, line 25.
Strike: "65"
Insert: "70"

81. Page 46, line 8.
Strike: "65"
Insert: "70"

82. Page 46, line 9.
Strike: "65"
Insert: "70"

83. Page 47, line 7.
Strike: "60"
Insert: "30"

84. Page 47, line 16.
Strike: "65"
Insert: "70"

85. Page 48, line 25.
Strike: "65"
Insert: "70"

86. Page 49, line 4.
Strike: "57"
Insert: "62"

87. Page 49, line 19.
Strike: "65"
Insert: "70"

88. Page 49, line 22.
Strike: "65"
Insert: "70"

89. Page 49, line 25.

Strike: "65"

Insert: "70"

90. Page 50, line 5.

Strike: "65"

Insert: "70"

91. Page 50, line 6.

Strike: "65"

Insert: "70"

92. Page 50, line 17.

Strike: "65"

Insert: "70"

93. Page 51, line 1.

Strike: "65"

Insert: "70"

94. Page 52, line 13.

Strike: "65"

Insert: "70"

95. Page 53, line 7.

Strike: "65"

Insert: "70"

96. Page 53, line 9.

Strike: "65"

Insert: "70"

97. Page 53, line 17.

Strike: "65"

Insert: "70"

98. Page 54, line 10.

Strike: "65"

Insert: "70"

99. Page 54, line 16.

Strike: "65"

Insert: "70"

100. Page 54, line 24.

Strike: "65"

Insert: "70"

101. Page 55, line 3.

Strike: "65"

Insert: "70"

102. Page 55, line 9.

Strike: "65"

Insert: "70"

103. Page 55, line 14.

Strike: "and"

Insert: "(b) for the fiscal year ending June 30, 1995, the
amount determined under [section 184] to be deposited in the
workers' compensation tax account established in 39-71-2504;
and"

Renumber: subsequent subsection

104. Page 55, line 16.

Strike: "subsection"

Insert: "subsections"

Following: "(1)(a)"

Insert: "and (1)(b)"

105. Page 55, line 22.

Strike: "(1)(b)"

Insert: "(1)(c)"

106. Page 56, line 12.

Strike: "67"

Insert: "72"

Strike: "74"

Insert: "79"

107. Page 56.

Following: line 13

Insert: "(1) 'Business property' means a structure used for
commercial or industrial purposes that is subject to ad
valorem taxes in Montana and as much of the surrounding land
as is necessary for commercial or industrial use."

Renumber: subsequent subsections

108. Page 56, line 14.

Strike: "individual natural"

109. Page 56, line 15.

Strike: "68"

Insert: "73"

110. Page 56, line 17.

Following: "returns"

Insert: ", the tax year for corporations required to file returns
under Title 15, chapter 31,"

111. Page 56, line 22.

Page 59, line 6.

Page 59, line 7.

Following: "homestead"

Insert: "or business property"

112. Page 57, line 13.

Strike: "67"

Insert: "72"

Strike: "74"

Insert: "79"

113. Page 57, line 16.

Strike: "72"

Insert: "77"

114. Page 57.

Following: line 23

Insert: "(3) A business is eligible to make a claim under
[sections 72 through 79] if the business:

(a) has been in operation in the state of Montana for
at least 9 months of the period for which the claim is made;
and

(b) occupied one or more business properties as a
renter or lessee for at least 6 months of the claim period."

115. Page 58, line 2.

Strike: "individual income"

116. Page 58, line 11.

Strike: "67"

Insert: "72"

Strike: "74"

Insert: "79"

117. Page 58, line 15.

Strike: "67"

Insert: "72"

118. Page 58, line 16.

Strike: "74"

Insert: "79"

119. Page 58, line 17.
Following: "liability"
Insert: "or liability under Title 15, chapter 31,"

120. Page 58, line 24.
Following: "under"
Insert: "chapter 31 or"

121. Page 59, line 2.
Strike: "67"
Insert: "72"
Strike: "74"
Insert: "79"

122. Page 59, line 21.
Following: "household"
Insert: "or business entity"

123. Page 60, line 7.
Strike: "67"
Insert: "72"
Strike: "74"
Insert: "79"

124. Page 60, line 23.
Strike: "75"
Insert: "80"
Strike: "82"
Insert: "87"

125. Page 61, line 1.
Strike: "76"
Insert: "81"

126. Page 61, line 18.
Strike: "75"
Insert: "80"
Strike: "82"
Insert: "87"

127. Page 62, line 11.
Strike: "75"
Insert: "80"
Strike: "82"
Insert: "87"

128. Page 62, line 15.
Strike: "75"
Insert: "80"

129. Page 62, line 16.
Strike: "82"
Insert: "87"

130. Page 63, line 2.
Strike: "75"
Insert: "80"
Strike: "82"
Insert: "87"

131. Page 63, line 25.
Strike: "75"
Insert: "80"
Strike: "82"
Insert: "87"

132. Page 65, line 16.
Strike: "83"
Insert: "88"

133. Page 65, line 17.
Strike: "87"
Insert: "92"

134. Page 65, line 19.
Strike: "84"
Insert: "89"

135. Page 68, line 17.
Strike: "83"
Insert: "88"
Strike: "87"
Insert: "92"

136. Page 69, line 19.
Strike: "84"
Insert: "89"
Strike: "85"
Insert: "90"

137. Page 70, line 1.
Strike: "85"
Insert: "90"
Strike: "86"
Insert: "91"

138. Page 78, line 6.
Strike: "65"
Insert: "70"

139. Page 80, line 8.

Strike: "7%"

Insert: "7.3%"

140. Page 80, line 19.

Strike: "31%"

Insert: "34%"

141. Page 81, line 21.

Strike: "19%"

Insert: "20.5%"

142. Page 83, line 1.

Strike: "42%"

Insert: "46.5%"

143. Page 83, line 15.

Strike: "43%"

Insert: "47.5%"

144. Page 84, line 19.

Strike: "25%"

Insert: "28%"

145. Page 85, line 19.

Strike: "12.5%"

Insert: "13.5%"

146. Page 86, line 6.

Strike: "30.5%"

Insert: "34%"

147. Page 86, line 21.

Strike: "13.75%"

Insert: "15%"

148. Page 87, line 9.

Strike: "31%"

Insert: "34%"

149. Page 88, line 20.

Strike: "19%"

Insert: "20.5%"

150. Page 89, line 1.

Strike: "31%"

Insert: "34%"

151. Page 89, lines 12 and 25.

Strike: "12.5%"

Insert: "13.5%"

152. Page 90, lines 1 and 14.

Strike: "25%"

Insert: "27.5%"

153. Page 91, line 3.

Strike: "25%"

Insert: "27.5%"

154. Page 92, line 5.

Strike: "31%"

Insert: "34%"

155. Page 92, line 22.

Strike: "14%"

Insert: "16%"

156. Page 94, line 5.

Strike: "18%"

Insert: "20%"

157. Page 95, line 5.

Strike: "25%"

Insert: "27.5%"

158. Page 96, line 1.

Strike: "18%"

Insert: "20%"

159. Page 96, line 15.

Strike: "25%"

Insert: "27.5%"

160. Page 98, lines 7, 9, and 24.

Strike: "4.4%"

Insert: "4.9%"

161. Page 101, line 9.

Strike: "49.5%"

Insert: "55%"

162. Page 102, lines 8, 9, 16, and 19.

Strike: "49.5%"

Insert: "55%"

163. Page 117, line 6.

Following: line 5

Insert: "(13) (a) In addition to the calculation and distribution provided for in subsections (2), (3), and (6) through (8), each fiscal year, the department shall distribute from the sales and use tax account to each municipality, as defined in 7-15-4283(6), the amount, if any, as provided in subsection (13) (b), that is required to reimburse the municipality the revenue lost by the tax increment financing district, created pursuant to 7-15-4282 on or before July 1, 1993, as a result of the state reducing the mill levy for the elementary school and high school districts' debt service, transportation, and retirement funds.

(b) (i) Based on school fiscal year 1994, the department shall determine the number of mills levied by each school district in the tax increment financing district for the retirement fund and determine the reduction of transportation and debt service mills that would have occurred if [sections 144 and 149] had been in effect for that year.

(ii) For school fiscal year 1995 and each succeeding year, the reimbursement must be equal to the number of mills determined in subsection (3) (b) (i) times the incremental taxable value of the tax increment financing district. The department shall distribute the amounts to the municipalities in two equal installments on November 30 and May 31 of the fiscal year."

164. Page 122, line 13.

Strike: "(A)"

165. Page 122, lines 19 through 22.

Strike: subsection (B) in its entirety

166. Page 124, line 15.

Following: line 14

Insert: "Section 123. Section 15-6-141, MCA, is amended to read:

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

~~(a) centrally assessed electric power companies' allocations, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);~~

~~(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and~~

~~(c) property owned, possessed, or controlled by a person and subject to central assessment, as provided in 15-23-101, centrally assessed companies' allocations except:~~

~~++~~ (a) electric power and natural gas companies' property, including property of pipeline companies that transport natural gas, that is included in class thirteen;

~~++~~ (b) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;

~~+++~~ (c) property owned by organizations providing telephone communications to rural areas and classified in class seven;

~~++~~ (d) railroad transportation property included in class twelve; and

~~++~~ (e) airline transportation property included in class twelve.

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

NEW SECTION. Section 124. Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes:

(a) operating property owned, possessed, or controlled by electric power companies that is subject to central assessment, as provided in 15-23-101, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute electric energy produced at privately owned generating facilities, not including rural electric cooperatives;

(b) property owned, possessed, or controlled by natural gas distribution companies that is subject to central assessment, as provided in 15-23-101, which companies have a major distribution system in this state; and,

(c) property owned, possessed, or controlled by natural gas pipeline companies that is subject to central assessment, as provided in 15-23-101.

(2) Class thirteen property is taxed at 4.5% of market value.

NEW SECTION. Section 125. Reimbursement to local governments and schools -- centrally assessed utility property -- duties of department and county treasurer. (1) Prior to October 30, 1994, for each county, the department shall determine the following information for each taxing jurisdiction in existence in tax year 1994:

(a) the number of mills levied in each taxing jurisdiction for tax year 1994; and

(b) the total taxable valuation for tax year 1994 of all property included in class thirteen.

(2) (a) Based on the information determined under subsection (1), the department shall calculate the revenue loss for each

taxing jurisdiction due to the difference in tax year 1994 taxable valuation rates between class thirteen property and the tax rate specified in 15-6-141 for class nine property. For purposes of this section, revenue loss for each taxing jurisdiction is determined as:

(i) the absolute difference between actual taxable valuation of class thirteen property in tax year 1994 and what that taxable valuation would have been had the class nine taxable valuation rate been applicable to class thirteen property;

(ii) multiplied by the number of mills levied in the taxing jurisdiction for tax year 1994.

(b) The total revenue loss within each county is the sum of the revenue loss computed for each taxing jurisdiction in the county.

(3) The amount of reimbursement due from the state to each county for tax years 1994, 1995, and 1996 is the total revenue loss calculated under subsection (2). The county treasurer shall distribute to each taxing jurisdiction the total revenue loss as calculated by the department.

(4) The amount of total reimbursement for each county for tax year 1997 and for each tax year thereafter is determined in the same manner as under the procedures provided in 15-1-111(7)(c) through (11)."

Renumber: subsequent sections

167. Page 129, line 9.

Following: line 8

Insert: "Section 130. Section 15-23-703, MCA, is amended to read:

"15-23-703. Taxation of gross proceeds -- taxable value for bonding and guaranteed tax base aid to schools. (1) The county assessor shall compute from the reported gross proceeds from coal a tax roll that ~~he~~ the assessor shall transmit to the county treasurer on or before September 15 each year. The county assessor may not levy or assess any mills against the reported gross proceeds of coal but shall levy a tax of 5% against the value of the reported gross proceeds as provided in 15-23-701(1)(d). The county treasurer shall proceed to give full notice to each coal producer of the taxes due and to collect the taxes as provided in 15-16-101.

(2) For bonding, county classification, and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102(5).

(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed

during the preceding calendar year.

(4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:

(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

(b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as Public Law 81-874 money, in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.

(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenues, to the department for redistribution as provided in 15-23-706.

(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.

(6) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (4)(a), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The Except as provided in subsection (6)(c), the county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) If Subject to the requirements of subsection (6)(c), if the allocation in subsection (6)(a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(c) For fiscal year 1995 and each succeeding year, the county treasurer shall remit to the state treasurer the amount of money attributable to the mills levied in fiscal year 1990 for the county retirement fund provided for in 20-9-501 and for the county transportation fund, which was provided for in 20-10-146, as that section read on June 30, 1993. The state treasurer shall credit the money received to the state special revenue fund for state equalization aid to the public schools as provided in 20-9-

343.

(7) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection (7)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(8) The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

Renumber: subsequent sections

168. Page 131, line 7.

Following: line 6

Insert: "Section 132. Section 15-36-112, MCA, is amended to read:

"15-36-112. Disposition of oil and gas state and local government severance taxes -- calculation of unit value for local government severance tax. (1) Each year the department of revenue shall determine the amount of tax collected under this chapter from within each taxing unit.

(2) For purposes of the distribution of local government severance taxes collected under this chapter, the department shall determine the unit value of oil and gas for each taxing unit as follows:

(a) The unit value for petroleum and other mineral or crude oil for each taxing unit is the quotient obtained by dividing the net proceeds taxes calculated on petroleum or mineral or crude oil produced in that taxing unit in calendar year 1988 by the number of barrels of petroleum or other mineral or crude oil produced in that taxing unit during 1988, excluding new and interim production.

(b) The unit value for natural gas is the quotient obtained by dividing the net proceeds taxes calculated on natural gas produced in that taxing unit in calendar year 1988 by the number of cubic feet of natural gas produced in that taxing unit during 1988, excluding new and interim production.

(3) The state and local government severance taxes collected under this chapter are allocated as follows:

(a) The local government severance tax is statutorily

appropriated, as provided in 17-7-502, for allocation to the county for distribution as provided in subsection (4);

(b) The state severance tax is allocated to the state general fund.

(4) (a) For the purpose of distribution of the local government severance tax, the department shall adjust the unit value determined under this section according to the ratio that the local government severance taxes collected during the quarters to be distributed plus accumulated interest earned by the state and penalties and interest on delinquent local government severance taxes bears to the total liability for local government severance taxes for the quarters to be distributed. The taxes must be calculated and distributed as follows:

(i) By November 30 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4) (a) times the units of production on which the local government severance tax was owed during the calendar quarters ending March 31 and June 30 of the preceding calendar year.

(ii) By May 31 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4) (a) times the units of production on which the local government severance tax was owed during the 2 calendar quarters immediately following those quarters referred to in subsection (4) (a) (i).

(b) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsections (4) (a) (i) and (4) (a) (ii) must be calculated and distributed in the following manner:

(i) The excess amount or shortage must be divided by the total distribution determined for that period to obtain an excess or shortage percentage.

(ii) The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.

(iii) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.

(5) Except as provided in subsection (6), the county treasurer shall distribute the money received under subsection (4) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that no distribution may be made to a municipal taxing unit.

(6) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of

local government severance tax money that would have gone to a taxing unit, as provided in subsection (5), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) ~~The Except as provided in subsection (6) (c), the county treasurer shall first allocate the {local government severance} taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.~~

(b) ~~If Subject to the requirements of subsection (6) (c), if the allocation in subsection (6) (a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.~~

(c) For fiscal year 1995 and each succeeding year, the county treasurer shall remit to the state treasurer the amount of money attributable to the mills levied in fiscal year 1990 for the county retirement fund provided for in 20-9-501 and for the county transportation fund, which was provided for in 20-10-146, as that section read on June 30, 1993. The state treasurer shall credit the money received to the state special revenue fund for state equalization aid to the public schools as provided in 20-9-343.

(7) The board of trustees of an elementary or high school district may reallocate the {local government severance} taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the {local government severance} taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection (7) (a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.""

Renumber: subsequent sections

169. Page 139, line 19.

Strike: "66"

Insert: "71"

170. Page 177, line 15.

Strike: "66"

Insert: "71"

171. Page 181, lines 9 through 14.

Following: "." on line 9

Strike: remainder of line 9 through "." on line 14

172. Page 188, line 17.

Strike: "66"

Insert: "71"

173. Page 193, line 22.

Strike: "65"

Insert: "70"

174. Page 197, line 6.

Strike: "65"

Insert: "70"

175. Page 201, line 16.

Strike: "65"

Insert: "70"

176. Page 202, line 2.

Strike: "subsection"

Insert: "subsections"

Following: "(2)"

Insert: "and (3)"

Strike: "152"

Insert: "162"

177. Page 203, line 4.

Following: line 3

Insert: "(3) In addition to the amount provided in subsection (2), the county treasurer shall deduct 10% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of 1 ton or less. The county treasurer shall credit the amount deducted to a separate suspense account and shall forward the amount in the account to the state treasurer at the time the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the school equalization aid account."

178. Page 204, line 23.

Strike: "65"

Insert: "70"

179. Page 206, lines 7 and 8.

Following: "15-30-112" on line 7

Strike: remainder of line 7 through "15-30-112(6)" on line 8

180. Page 206, lines 11 and 12.

Following: "15-30-122" on line 11

Strike: remainder of line 11 through "15-30-122" on line 12

181. Page 214, line 5.

Following: "7"

Insert: "(i) except as provided in subsection (2)(c)(ii),"

182. Page 212, lines 3 through 8.

Following: "." on line 3

Strike: remainder of line 3 through "." on line 8

183. Page 214, line 6.

Strike: "\$7,500"

Insert: "\$3,600"

Following: "all"

Insert: "all"

184. Page 214, lines 7 and 8.

Following: "income"

Strike: "1"

Following: "received"

Insert: "received"

Strike: "1, received by a taxpayer"

185. Page 214.

Following: line 21

Insert: "(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;"

186. Page 230, lines 21 and 22.

Following: "15-30-112" on line 21

Strike: remainder of line 21 through "15-30-112(6)" on line 22

187. Page 230, lines 24 and 25.

Following: "15-30-122" on line 24

Strike: remainder of line 24 through "15-30-122(4)" on line 25

188. Page 231, line 17.

Strike: "67"

Insert: "72"

Strike: "74"

Insert: "79"

189. Page 231, line 18.

Strike: "75"

Insert: "80"
Strike: "82"
Insert: "87"

190. Page 236, line 11.

Following: line 10

Insert: "Section 179. Section 15-51-101, MCA, is amended to read:

15-51-101. Rate of tax -- electrical energy producers. (1) ~~In~~ Except as provided in subsection (2), in addition to the license tax ~~now provided by law~~, each person or other organization, ~~now~~ engaged in the generation, manufacture, or production of electricity and electrical energy in the state of Montana, ~~either through waterpower or by any other means~~, for barter, sale, or exchange ~~(and hereinafter referred to as the "producer")~~ shall on or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30, and December 31, render a statement to the department of revenue showing the gross amount, except for actual and necessary plant use, required to produce the energy of electricity and electrical energy produced, manufactured, or generated during the preceding calendar quarter without any deduction and shall pay a license tax thereon in the sum of ~~\$.0002~~ \$.00252 per kilowatt hour on all ~~such~~ electricity and electrical energy generated, manufactured, or produced, measured at the place of production and as shown on the statement required in the manner and within the time hereinafter provided.

(2) The license tax required to be paid by a qualified facility, as that term is defined in the Federal Power Act, as amended by the Public Utilities Regulatory Policies Act of 1978, that exceeds \$.0002 per kilowatt hour must be reimbursed to the qualified facility by the wholesale purchaser making purchases of a qualified facility's electricity or electrical energy if the wholesale purchases are made pursuant to a contract in effect on June 30, 1993. The wholesale purchaser shall reimburse the qualified facility on or before the date that the qualified facility is required to pay the tax imposed under subsection (1).

Renumber: subsequent sections

191. Page 236, line 13.

Strike: "65"
Insert: "70"

192. Page 236, line 20.

Strike: "65"
Insert: "70"

193. Page 240, line 9.
Strike: "65" in 2 places
Insert: "70"

194. Page 240, line 17.
Strike: "65" in 2 places
Insert: "70"

195. Page 241, line 1.
Strike: "65"
Insert: "70"

196. Page 241, line 3 through page 248, line 3.
Strike: sections 172 through 183 in their entirety
Renumber: subsequent sections

197. Page 248, line 19.
Strike: "42"
Insert: "47"

198. Page 248, line 20.
Strike: "65"
Insert: "70"

199. Page 248, line 22.
Strike: "65"
Insert: "70"

200. Page 248, line 23.
Strike: "42"
Insert: "47"

201. Page 249, line 1.
Strike: "65"
Insert: "70"

202. Page 249, line 3.
Strike: "65"
Insert: "70"

203. Page 249, line 10.
Strike: "65"
Insert: "70"

204. Page 249.

Following: line 17

Insert: "NEW SECTION. Section 184. Determination of deposit to
workers' compensation tax account -- fiscal year
1995. Prior to July 1 and October 1, 1994, and April 1,

1995, the budget director shall estimate the amount of sales tax revenue, less anticipated vendor payments and refunds, that will be collected during the fiscal year ending June 30, 1995. For each quarter in which the budget director estimates that sales tax revenue for the fiscal year will exceed \$279 million, the budget director shall determine the percentage that the anticipated revenue will exceed \$279 million. In the ensuing quarter, that percentage of sales tax revenue estimated to be in excess of \$279 million must be allocated for workers' compensation funding as provided in [section 71(1)(b)]."

Renumber: subsequent sections

205. Page 250, lines 7 and 10.

Strike: "65"

Insert: "70"

Strike: "184"

Insert: "183"

206. Page 250, lines 11 and 14.

Strike: "67"

Insert: "72"

Strike: "82"

Insert: "87"

Strike: "83"

Insert: "88"

207. Page 250, lines 12 and 15.

Strike: "87"

Insert: "92"

208. Page 250, lines 16 and 19.

Strike: "66"

Insert: "71"

209. Page 250, lines 23 and 25.

Strike: "152"

Insert: "162"

210. Page 251, line 5.

Following: line 4

Insert: "(5) [Section 124] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 124]."

(6) [Section 125] is intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 125]."

211. Page 251, lines 9 through 16.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection

212. Page 251.

Following: line 21

Insert: "(3) If Senate Bill No. 168, is passed and approved,
then [sections 120 and 126 of this act] are void.

(4) If House Bill No. 671 is passed and approved, then:

(a) [sections 164 through 178] are effective on January
1, 1994, and apply to tax years beginning after December 31,
1993; and

(b) House Bill No. 671 terminates December 31, 1993,
and applies only to the tax year beginning in 1993."

213. Page 252, line 9.

Following: "(1)"

Insert: "(a)"

Strike: "[Sections]"

Insert: "Except as provided in subsection (1)(b), [sections]"

214. Page 252, line 10.

Strike: "87"

Insert: "92"

Strike: "145"

Insert: "155"

Strike: "153"

Insert: "163"

215. Page 252.

Following: line 11

Insert: "(b) Purchases of goods and services pursuant to
construction contracts that were bid prior to June 8, 1993,
are exempt from the sales tax and use tax. However,
property or services purchased on or after April 1, 1995,
pursuant to a construction contract are subject to the sales
tax and use tax regardless of when the contract was bid."

216. Page 252, line 12.

Strike: "88"

Insert: "93"

Strike: "125"

Insert: "135"

Strike: "154"

Insert: "164"

April 7, 1993
Page 31 of 31

217. Page 252, line 13.

Strike: "183"

Insert: "182"

218. Page 252, line 15.

Strike: "126"

Insert: "136"

Strike: "143"

Insert: "153"

219. Page 252, line 17.

Strike: "(4)"

Insert: "(5)"

220. Page 253, line 5.

Strike: "168"

Insert: "178"

-END-

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 289 (third reading copy -- blue) be concurred in.

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Gilbert

Committee Vote:
Yes 11, No 1.

781256SC.Hpf

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 257 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Gilbert
Bob Gilbert, Chair

And, that such amendments read:

Carried by: Rep. Driscoll

1. Title, line 7.
Strike: "JULY"
Insert: "JUNE"

2. Page 5, line 11.
Page 6, line 14.
Strike: "July"
Insert: "June"

-END-

Committee Vote:
Yes 13, No 7.

781252SC.Hpf

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SA 235 NUMBER 1

MOTION: My Rep. Hanson to adopt
WOR Amends #1

#7 segregated

8:37

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | ✓ | |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | ✓ | |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | ✓ | |
| REP. HANSON | ✓ | |
| REP. HARPER | | |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | ✓ | |
| REP. McCARTHY | ✓ | |
| REP. NELSON | ✓ | |
| REP. ORR | ✓ | |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | ✓ | |
| REP. GILBERT | ✓ | |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5/73 BILL NO. SB 235 NUMBER _____

MOTION: by Rep. Foster to adopt
segregated amendments # 38 & #39
Exhibit #1

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | X | |
| REP. HARRINGTON | X | |
| REP. ANDERSON | X | |
| REP. BOHLINGER | X | |
| REP. DOLEZAL | X | |
| REP. DRISCOLL | | X |
| REP. ELLIOTT | | X |
| REP. FELAND | X | |
| REP. HANSON | X | |
| REP. HARPER | | X |
| REP. HIBBARD | X | |
| REP. KELLER | X | |
| REP. McCAFFREE | | X |
| REP. MCCARTHY | X | |
| REP. NELSON | | X |
| REP. ORR | X | |
| REP. RANEY | | X |
| REP. REAM | | X |
| REP. TINBY | X | |
| REP. GILBERT | X | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 735 NUMBER

MOTION: by Rep. Hibbard that amendments
as per Exhibit #5 be adopted

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | ✓ | |
| REP. HARRINGTON | | ✓ |
| REP. ANDERSON | ✓ | |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | | ✓ |
| REP. DRISCOLL | | ✓ |
| REP. ELLIOTT | | ✓ |
| REP. FELAND | ✓ | |
| REP. HANSON | ✓ | |
| REP. HARPER | | ✓ |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | | ✓ |
| REP. MCCARTHY | | ✓ |
| REP. NELSON | ✓ | |
| REP. ORR | ✓ | |
| REP. RANEY | | ✓ |
| REP. REAM | | ✓ |
| REP. TUNBY | ✓ | |
| REP. GILBERT | ✓ | |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. Raney to adopt amendments
10

failed

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TINBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 235 NUMBER _____

MOTION: by Rep. Raney to adopt amend-
ments as per Exhibit 11

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | ✓ | |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCaffree | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | ✓ | |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 9/5/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. Hibbard to adopt
amendments as per Exhibit
13

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | ✓ | |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | ✓ | |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | ✓ | |
| REP. HANSON | ✓ | |
| REP. HARPER | ✓ | |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | | ✓ |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | ✓ | |
| REP. ORR | ✓ | |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TINBY | ✓ | |
| REP. GILBERT | ✓ | |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. Roney to adopt amendment
16 re newspapers, books
magazines -
failed

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TINBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. HB 235 NUMBER

MOTION: by Rep. Driscoll to adopt
amendments as per Exhibit 17

Failed

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. McCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | | ✓ |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 235 NUMBER _____

MOTION: by Rep. Raney re hazardous waste disposal #18

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | ✓ | |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | ✓ | |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | ✓ | |
| REP. HANSON | ✓ | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | ✓ | |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | ✓ | |
| REP. GILBERT | ✓ | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 235 NUMBER _____MOTION: by Rep. Raney to accept amendments as per Exhibit A*Failed*

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. MCCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/5 BILL NO. SB 235 NUMBER

MOTION: by Rep. Raney to tax
advertising Ex. # 20

Failed

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | ✓ |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | ✓ |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/15/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. Elliott to adopt
amendments as per Exhibit 2

Failed

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. Foster to adopt
amendments as per Exhibit 22

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | ✓ | |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | ✓ | |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | ✓ | |
| REP. HANSON | ✓ | |
| REP. HARPER | ✓ | |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | ✓ | |
| REP. ORR | ✓ | |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TINBY | ✓ | |
| REP. GILBERT | ✓ | |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. Foster to adopt
amends #8 Mt Power amends
w/ MDA changes

| NAME | AYE | NO |
|-----------------|---------|----|
| REP. FOSTER | ✓ | |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | ✓ | |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | | ✓ |
| REP. FELAND | ✓ | |
| REP. HANSON | ✓ | |
| REP. HARPER | abstain | |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | | ✓ |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | ✓ | |
| REP. ORR | ✓ | |
| REP. RANEY | abstain | |
| REP. REAM | | ✓ |
| REP. TUNBY | ✓ | |
| REP. GILBERT | ✓ | |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. McCarthy that amend-
ments as per Exhibit 25
be adopted

Failed

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | | ✓ |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | | ✓ |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | | ✓ |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | ✓ | |
| REP. RANEY | | ✓ |
| REP. REAM | ✓ | |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 235 NUMBER

MOTION:

by Rep. McCaffrey to adopt
31 - delay repeal of F105

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. McCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 739 NUMBER MOTION: by Rep. Ream to reconsider
action on amendments
per Exhibit 91

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | ✓ | |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. Elliott to adopt
amendments as per Exhibit A

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | ✓ | |
| REP. GILBERT | | ✓ |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 235 NUMBER

MOTION: by Rep. Bohlinger that
SB 235 Do Pass As Amended

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | X | |
| REP. HARRINGTON | | X |
| REP. ANDERSON | X | |
| REP. BOHLINGER | X | |
| REP. DOLEZAL | | X |
| REP. DRISCOLL | | X |
| REP. ELLIOTT | | X |
| REP. FELAND | X | |
| REP. HANSON | X | |
| REP. HARPER | X | |
| REP. HIBBARD | X | |
| REP. KELLER | X | |
| REP. McCAFFREE | | X |
| REP. MCCARTHY | | X |
| REP. NELSON | X | |
| REP. ORR | X | |
| REP. RANEY | | X |
| REP. REAM | | X |
| REP. TUNBY | X | |
| REP. GILBERT | | X |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 289 NUMBER

MOTION: by Rep. Harper to accept a
coordinating amendment - if sales
tax fails ^{SB 289} won't appear on
ballot Failed

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | ✓ | |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 789 NUMBER _____

MOTION: by Rep. Feland that SB 789
Do Pass

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | x | |
| REP. HARRINGTON | | x |
| REP. ANDERSON | x | |
| REP. BOHLINGER | x | |
| REP. DOLEZAL | | x |
| REP. DRISCOLL | | x |
| REP. ELLIOTT | | x |
| REP. FELAND | x | |
| REP. HANSON | x | |
| REP. HARPER | | x |
| REP. HIBBARD | x | |
| REP. KELLER | x | |
| REP. McCAFFREE | | x |
| REP. MCCARTHY | | x |
| REP. NELSON | x | |
| REP. ORR | x | |
| REP. RANEY | | x |
| REP. REAM | | x |
| REP. TUNBY | x | |
| REP. GILBERT | x | |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 257 NUMBER

MOTION: by Harper to amend to
change effective date to June 1 in 1994

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | | ✓ |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 257 NUMBER

MOTION: by Driscoll that SB 257
Do Pass As Amended

| NAME | AYE | NO |
|-----------------|-----|--------------|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | ✓ | ✓ |
| REP. BOHLINGER | ✓ | |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | | ✓ |
| REP. FELAND | | ✓ |
| REP. HANSON | ✓ | |
| REP. HARPER | ✓ | |
| REP. HIBBARD | ✓ | |
| REP. KELLER | ✓ | |
| REP. McCAFFREE | | ✓ |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | ✓ | |
| REP. ORR | | ✓ |
| REP. RANEY | | ✓ |
| REP. REAM | ✓ | |
| REP. TUNBY | ✓ | |
| REP. GILBERT | | ✓ |
| | | |

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/6/93 BILL NO. SB 436 NUMBER

MOTION: My Rep. Harrington that
SB 436 DO Pass

| NAME | AYE | NO |
|-----------------|-----|----|
| REP. FOSTER | | ✓ |
| REP. HARRINGTON | ✓ | |
| REP. ANDERSON | | ✓ |
| REP. BOHLINGER | | ✓ |
| REP. DOLEZAL | ✓ | |
| REP. DRISCOLL | ✓ | |
| REP. ELLIOTT | | ✓ |
| REP. FELAND | | ✓ |
| REP. HANSON | | ✓ |
| REP. HARPER | ✓ | |
| REP. HIBBARD | | ✓ |
| REP. KELLER | | ✓ |
| REP. McCAFFREE | ✓ | |
| REP. MCCARTHY | ✓ | |
| REP. NELSON | | ✓ |
| REP. ORR | | ✓ |
| REP. RANEY | ✓ | |
| REP. REAM | ✓ | |
| REP. TUNBY | | ✓ |
| REP. GILBERT | | ✓ |
| | | |

AMENDMENTS
SB 235
SECOND READING COPY (YELLOW)
PREPARED BY THE DEPARTMENT OF REVENUE
April 4, 1993

I. The purpose of this amendment is clarify the definition of transportation services.

1. Page 9, lines 10 through 12
Following: "or water" on line 10
Strike: "from a point within this state to another point within this state or to a point outside this state"

II. The purpose of this amendment is to clarify §§ 9 and 10 to provide that governmental sales of utility services to nonresidential customers are taxable, but sales of utility services for resale including governmental sales are nontaxable.

2. Page 18, line 17 and 18
Following: "-- exception."
Strike: "(1)"
Following: "provided in" on line 17
Strike: "subsection (2)"
Insert: "[section 10]"
3. Page 18, line 23
Following: line 22
Strike: Subsection (2) in its entirety.
4. Page 19, line 10
Following: "utility services"
Insert: "(1)"
5. Page 19, line 14
Following: line 14
Insert: "(2)(a) The sale of utility services, except as provided in subsection (1), by a governmental agency is subject to the sales and use tax unless the sale is to a person, who provides utility services to customers.
(b) The sale of utility services to a person providing utility services for resale to customers is exempt from the sales tax and use tax.
(3) For the purposes of subsection (1), telephone communications services includes the act of originating in this state or receiving in this state interstate and intrastate telecommunications by a person in this state who is billed for the services at a Montana telephone number or Montana service address.
(4) For purposes of this section the term utility services does not include services provided by cable television systems as that term is defined in 35-18-102.

III. The purpose of this amendment is to clarify that only gambling and amusement services licensed under Title 23, Chapters 4, 5, and 7, MCA are exempt from sales and use tax.

6. Page 22, line 6
Following: "including"
Strike: "but not limited to"

7. Page 22, line 7
Following: "which are"
Strike: "conducted or"

IV. The purpose of this amendment is to clarify that the sale or lease of vehicles with a gross vehicle weight in excess of 46,000 pounds used primarily in interstate commerce is a nontaxable transaction.

8. Page 30, line 13
Following: "The sale"
Insert: "or lease"

9. Page 30 line 14
Following: "pounds used"
Strike: "exclusively"
Insert: "primarily"

10. Page 30, line 15
Following: "commerce"
Insert: "and registered under 61-3-721"

V. The purpose of this amendment is to clarify that the time for payment of the penalty on a deficiency is the same as the time for the payment of the sales and use tax.

11. Page 47, line 7
Following: "within"
Strike: "60"
Insert: "30"

VI. The purpose of these amendments is to adjust the bonding and mill levy limitation sections to account for the changes in property taxable values.

12. Page 80, line 8
Following: "(e)"
Strike: "7%"
Insert: "7.5%"

13. Page 80, line 19
Following: "aggregate exceeding"
Strike: "31%"
Insert: "34%"

14. Page 81, line 21
Following: "has reached"
Strike: "19%"
Insert: "21%"
15. Page 83, line 1
Following: "may not exceed"
Strike: "42%"
Insert: "46%"
16. Page 83, line 15
Following: "may exceed"
Strike: "43%"
Insert: "47%"
17. Page 84, line 19
Following: "aggregate exceeding"
Strike: "25%"
Insert: "27%"
18. Page 85, line 19
Strike: "12.5"
Insert: "14%"
19. Page 86, line 6
Following: "will not exceed"
Strike: "30.5%"
Insert: "33%"
20. Page 86, line 21
21. Following: "will not exceed"
Strike: "13.75"
Insert: "15%"
22. Page 87, line 9
Following: "will exceed"
Strike: "31%"
Insert: "34%"
23. Page 88, line 20
Strike: "19%"
Insert: "21%"
24. Page 89, line 12
Strike: "12.5%"
Insert: "14%"
25. Page 91, line 3
Following: "exceeds"
Strike: "25%"
Insert: "27%"

26. Page 92, line 5
Strike: "31%"
Insert: "34%"
27. Page 92, line 22
Strike: "14%"
Insert: "15%"
28. Page 94, line 5
Following: "any time exceed"
Strike: "18%"
Insert: "20%"
29. Page 95, line 5
Following: "may not exceed"
Strike: "25%"
Insert: "27%"
30. Page 96, line 1
Following: "may not exceed"
Strike: "18%"
Insert: "20%"
31. Page 96, line 15
Following: "may not exceed"
Strike: "25%"
Insert: "27%"
32. Page 98, line 7
Following: "equal to"
Strike: "4.4%"
Insert: "4.8%"
33. Page 98, line 9
Following: "less than"
Strike: "4.4%"
Insert: "4.8%"
34. Page 98, line 24
Following: "less than"
Strike: "4.4%"
Insert: "4.8%"
35. Page 102, line 7
Strike: "49.5%"
Insert: "54%"
36. Page 102, line 8
Following: "purposes and"
Strike: "49.5"
Insert: "54%"

37. Page 102, line 15
Following: "warrants, is"
Strike: "49.5"
Insert: "54%"

VII. The purpose of this amendment is to delete the requirement that a commercial property must be owned by a Montana resident or corporation organized within Montana. The requirement violates the privileges and immunities clause and the interstate commerce clause of the United States Constitution.

38. Page 122, line 12
Following: "(4)"
Strike: "(A)"

39. Page 122, lines 18 through 21
Strike: Subsection (B) in its entirety

VIII. The purpose of this amendment is to delete obsolete references to indexing of income tax exemptions and the standard deduction for inflation.

40. Page 206, lines 6 and 7
Following: "in 15-30-112," on line 6
Strike: "but unadjusted by 15-30-112(6)"

41. Page 206, lines 10 and 11
Following: "15-30-122," on line 10
Strike: "but unadjusted by subsection (4) of 15-30-122"

42. Page 230, lines 20 and 21
Following: "15-30-112" on line 20
Strike: The remainder of line 20 and line 21 through 15-30-112(6).

43. Page 230 lines 23 and 24
Following: "by 15-30-122" on line 23
Strike: The remainder of line 23 and line 24 through 15-30-122(4).

IX. The purpose of this amendment is to clarify the taxation of nonresidents by deleting the provision that the tax be calculated by the ratio of income earned in Montana to total income.

44. Page 212, lines 2 through 7
Following: "taxable income." on line 2
Strike: The remainder of line 2 and lines 3 through 7 in their entirety.

X. The purpose of these amendments is to provide that excess nonlevy revenue no longer allocated to school districts to pay for debt service, retirement and transportation due to the reduction in

these school district mill levies is distributed to the state to make these payments.

A. The purpose of this amendment is to distribute 10% of the tax collected on automobiles and light trucks to the state for redistribution to school districts due to reduction in mill levies for debt service, retirement and transportation.

45. Page 203, line 2
Following: line 2

Insert: "(3) The county treasurer shall deduct, in addition to the amount provided in subsection (2), 10% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of 1 ton or less. The county treasurer shall credit the amount deducted to a separate suspense account and shall forward the amount in the account to the state treasurer at the time the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the school equalization aid account.

B. The purpose of this amendment is to provide that excess forest reserve funds are allocated to the state for redistribution by the school equalization aid account.

46. Page 181, lines 8 through 13
Following: "funds." on line 8

Strike: The remainder of line 8 and lines 9 through 13 in their entirety.

C. The purpose of this amendment to provide that excess revenue from the coal gross proceeds tax and the local government severance tax are allocated to the state for redistribution by the school equalization aid account.

47. Title, line 21
Following: "15-8-205,"
Insert: "15-23-703,"

48. Title, line 24
Following: "15-32-303,"
Insert: "15-36-112,"

49. Page 129, line 8
Following: line 7
Insert: "Section 122. Section 15-23-703, MCA, is amended to read:

"15-23-703. Taxation of gross proceeds -- taxable value for bonding and guaranteed tax base aid to schools. (1) The county assessor shall compute from the reported gross proceeds from coal a tax roll that he shall transmit to the county treasurer on or before September 15 each year. The county assessor may not levy or assess any mills against the reported gross proceeds of coal but

shall levy a tax of 5% against the value of the reported gross proceeds as provided in 15-23-701(1)(d). The county treasurer shall proceed to give full notice to each coal producer of the taxes due and to collect the taxes as provided in 15-16-101.

(2) For bonding, county classification, and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102(5).

(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.

(4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:

(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

(b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as Public Law 81-874 money, in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.

(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenues, to the department for redistribution as provided in 15-23-706.

(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.

(6) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (4)(a), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) Except as provided in subsection (c) the The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) Subject to the requirements of subsection (c) if ~~if~~ the allocation in subsection (6)(a) exceeds the total budget for a

taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(c) For fiscal year 1995 and each year thereafter, the county treasurer shall remit to the state treasurer the amount of money attributable to the mills levied in fiscal year 1990 for the county retirement fund provided for in 20-9-501, and the county transportation fund which was provided for in 20-10-146, as that section read on July 1, 1993. The state treasurer must credit the money received to the state special revenue fund for state equalization aid to the public schools as provided by 20-9-343.

(7) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection (7)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(8) The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

Renumber: Subsequent Sections

50. Page 131, line 5

Following: line 5

Insert: Section 123. Section 15-36-112, MCA, is amended to read:

"15-36-112. Disposition of oil and gas state and local government severance taxes -- calculation of unit value for local government severance tax. (1) Each year the department of revenue shall determine the amount of tax collected under this chapter from within each taxing unit.

(2) For purposes of the distribution of local government severance taxes collected under this chapter, the department shall determine the unit value of oil and gas for each taxing unit as follows:

(a) The unit value for petroleum and other mineral or crude oil for each taxing unit is the quotient obtained by dividing the net proceeds taxes calculated on petroleum or mineral or crude oil produced in that taxing unit in calendar year 1988 by the number of barrels of petroleum or other mineral or crude oil produced in that taxing unit during 1988, excluding new and interim production.

(b) The unit value for natural gas is the quotient obtained by dividing the net proceeds taxes calculated on natural gas produced in that taxing unit in calendar year 1988 by the number of cubic feet of natural gas produced in that taxing unit during 1988,

excluding new and interim production.

(3) The state and local government severance taxes collected under this chapter are allocated as follows:

(a) The local government severance tax is statutorily appropriated, as provided in 17-7-502, for allocation to the county for distribution as provided in subsection (4);

(b) The state severance tax is allocated to the state general fund.

(4) (a) For the purpose of distribution of the local government severance tax, the department shall adjust the unit value determined under this section according to the ratio that the local government severance taxes collected during the quarters to be distributed plus accumulated interest earned by the state and penalties and interest on delinquent local government severance taxes bears to the total liability for local government severance taxes for the quarters to be distributed. The taxes must be calculated and distributed as follows:

(i) By November 30 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which the local government severance tax was owed during the calendar quarters ending March 31 and June 30 of the preceding calendar year.

(ii) By May 31 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which the local government severance tax was owed during the 2 calendar quarters immediately following those quarters referred to in subsection (4)(a)(i).

(b) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsections (4)(a)(i) and (4)(a)(ii) must be calculated and distributed in the following manner:

(i) The excess amount or shortage must be divided by the total distribution determined for that period to obtain an excess or shortage percentage.

(ii) The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.

(iii) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.

(5) Except as provided in subsection (6), the county treasurer shall distribute the money received under subsection (4) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that no distribution may be made to a municipal taxing unit.

(6) The board of county commissioners of a county may direct

the county treasurer to reallocate the distribution of local government severance tax money that would have gone to a taxing unit, as provided in subsection (5), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) Except as provided in subsection (c) the The county treasurer shall first allocate the [local government severance] taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) Subject to the requirements of subsection (c) if ~~if~~ the allocation in subsection (6)(a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(c) For fiscal year 1995 and each year thereafter, the county treasurer shall remit to the state treasurer the amount of money attributable to the mills levied in fiscal year 1990 for the county retirement fund provided for in 20-9-501, and the county transportation fund which was provided for in 20-10-146, as that section read on July 1, 1993. The state treasurer must credit the money received to the state special revenue fund for state equalization aid to the public schools as provided by 20-9-343.

(7) The board of trustees of an elementary or high school district may reallocate the [local government severance] taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the [local government severance] taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection (7)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district."

Renumber: Subsequent sections.

XI. The purpose of this amendment is to provide a procedure for reimbursing municipalities which have adopted increment financing districts for the loss in revenue due to the reduction of mills levied for the transportation, retirement, and debt service funds by school districts.

51. Page 117, line 5

Following: line 4

Insert: "(13)(a) In addition to the distribution provided for in subsections (2), (3), (6), (7), and (8) the department of revenue shall distribute each fiscal year from the sales and use tax account to each municipality, as defined in 7-15-4283(6), the amount, if any, as provided in subsection (b) required to reimburse the municipality the revenue lost by a the tax increment financing district, created pursuant to 7-15-4282 on or before July 1, 1993, as a result of the state reducing the mill levy for the high school and elementary school districts' debt service, transportation and

retirement funds.

(b)(i) Based on school fiscal year 1994, the department shall determine the number of mills levied by each school district in the tax increment financing district for the retirement fund, and the reduction of transportation and debt service mills that would have occurred if [section 134] and [section 139] had been in effect for that year.

(ii) For school fiscal year 1995 and each year thereafter the reimbursement is equal to the number of mills determined in (b)(i) times the incremental taxable value of the tax increment financing district. The department shall distribute the amounts to the municipalities in two equal installments on November 30 and May 31 of the fiscal year.

XII. The purpose of this amendment is to clarify that mental health services received at the office of mental health professional are exempt from sales and use tax.

52. Page 21, line 9

Following: "of a"

Strike: "private"

Following: "physician"

Insert: ", a mental health professional,"

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 2
DATE 4/5/93
SB 235

Requested by Rep. Mason
For the Committee on Taxation

Prepared by Lee Heiman
March 25, 1993

1. Page 124, line 13.
Strike: "4.5%"
Insert: "3.86%"

EXHIBIT 3
DATE 4/5/13
SB 235

Montana House Committee on Taxation

Amendment to Senate Bill 235

Proposed by Rhone-Poulenc Basic Chemicals

March 29, 1993

1. Page 28, Line 6.
Following: "ELECTROLYTIC"
Strike: "DEPOSITION"
Insert: "reduction"

EXHIBIT 4
DATE 4/5/93
SB 235

AMENDMENTS
SB 235
THIRD READING VERSION (YELLOW COPY)
April 5, 1993

VOCATIONAL REHABILITATION SERVICES

The purpose of this amendment is to exempt from sales and use tax vocational rehabilitation services provided pursuant to Title 39, Chapter 71, part 10, MCA.

Page 26, line 25

Following: "line 24"

Insert: "NEW SECTION. Section 32. Exemption -- Rehabilitation services. The sale or use of rehabilitation services provided under 39-71-1014 MCA to a disabled worker is exempt from the sales and use tax."

inserted last phrase concerning the rehabilitation plan and filing of the plan. Amendment effective July 1, 1991.

39-71-1014. Rehabilitation services — required and provided by insurers and the department of social and rehabilitation services. (1) Rehabilitation services are required for disabled workers and may be initiated by:

(a) an insurer by designating a rehabilitation provider and notifying the department;

(b) the department by requiring the insurer to designate a rehabilitation provider; or

(c) a disabled worker through a request to the department. The department shall then require the insurer to designate a rehabilitation provider.

(2) Rehabilitation services provided under this part must be delivered:

(a) through a rehabilitation counselor certified by the board of rehabilitation certification;

(b) by a vocational rehabilitation counselor employed by the department of social and rehabilitation services; or

(c) by both.

(3) A disabled worker served by the department of social and rehabilitation services may receive only those vocational rehabilitation services as provided in Title 53, chapter 7, parts 1 and 2.

History: En. Sec. 37, Ch. 464, L. 1987; amd. Sec. 64, Ch. 613, L. 1989.

39-71-1015 through 39-71-1019. Repealed. Sec. 14, Ch. 574, L. 1991.

Compiler's Comments

Histories of Repealed Sections:

39-71-1015. En. Sec. 38, Ch. 464, L. 1987; amd. Sec. 64, Ch. 613, L. 1989.

39-71-1016. En. Sec. 39, Ch. 464, L. 1987; amd. Sec. 64, Ch. 613, L. 1989.

39-71-1017. En. Sec. 40, Ch. 464, L. 1987; amd. Sec. 9, Ch. 333, L. 1989; amd. Sec. 64, Ch. 613, L. 1989.

39-71-1018. En. Sec. 41, Ch. 464, L. 1987; amd. Sec. 64, Ch. 613, L. 1989.

39-71-1019. En. Sec. 42, Ch. 464, L. 1987; amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 40, Ch. 16, L. 1991.

39-71-1020 through 39-71-1022 reserved.

39-71-1023. Repealed. Sec. 14, Ch. 574, L. 1991.

History: En. Sec. 44, Ch. 464, L. 1987; amd. Sec. 3, Ch. 333, L. 1989; amd. Sec. 64, Ch. 613, L. 1989.

39-71-1024. Repealed. Sec. 14, Ch. 574, L. 1991.

History: En. Sec. 45, Ch. 464, L. 1987; amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 9, Ch. 9, Sp. L. June 1989.

39-71-1025. Auxiliary rehabilitation benefits. In addition to benefits otherwise provided in this chapter, separate benefits not exceeding a total of \$4,000 may be paid by the insurer for reasonable travel and relocation expenses used to:

(1) search for new employment;

(2) return to work but in a new location;

(3) implement a rehabilitation plan that has been filed with the department; and

(4) attend an on-the-job training program.

Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Rep. Hibbard
For the Committee on Taxation

Prepared by Lee Heiman
April 2, 1993

5
EXHIBIT S
DATE 4/9/93
SB 235

Exempts all utility services

1. Page 19, line 9.

Strike: "RESIDENTIAL"

2. Page 19, lines 12 and 13.

Strike: "TO RESIDENTIAL CUSTOMERS"

6
EXHIBIT 6
DATE 4/5/93
SB SB 935
Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Representative Fisher
For the Committee on Taxation

Prepared by Greg Petesch
March 25, 1993

Voids HB 591 -- accomodations tax bill

1. Page 251, line 22.

Following: line 21

Insert: "

NEW SECTION. Section 190. Contingent voidness. If [this
act] is passed and approved, then House Bill No. 591 is void on
July 1, 1995."

Renumber: subsequent sections

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 7
DATE 4/5/93
SB 235

Requested by Bob Gannon, Montana Power
Rosebud Energy/Billings Generation

For the Committee on Taxation

Prepared by Lee Heiman
March 25, 1993

Lowers centrally assessed electrical producers property tax and
increases electrical energy producers tax

1. Title, line 20.

Following: "15-6-138,"

Insert: "15-6-141,"

2. Title, line 24.

Following: "15-32-303,"

Insert: "15-51-101,"

3. Page 124.

Following: line 14

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

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

~~(a) centrally assessed electric power companies'~~
~~allocations, including, if congress passes legislation that~~
~~allows the state to tax property owned by an agency created by~~
~~congress to transmit or distribute electrical energy, allocations~~
~~of properties constructed, owned, or operated by a public agency~~
~~created by the congress to transmit or distribute electric energy~~
~~produced at privately owned generating facilities (not including~~
~~rural electric cooperatives);~~

~~(b) allocations for centrally assessed natural gas~~
~~companies having a major distribution system in this state; and~~

~~(c) property owned, possessed, or controlled by a person~~
~~and subject to central assessment, as provided in 15-23-101,~~
~~centrally assessed companies' allocations except:~~

~~(i) (a) electric power and natural gas companies'~~
~~property, including property of pipeline companies that transport~~
~~natural gas, that is included in class thirteen;~~

~~(ii) (b) property owned by cooperative rural electric and~~
~~cooperative rural telephone associations and classified in class~~
~~five;~~

~~(iii) (c) property owned by organizations providing~~
~~telephone communications to rural areas and classified in class~~
~~seven;~~

~~(iv) (d) railroad transportation property included in class~~
~~twelve; and~~

~~(v) (e) airline transportation property included in class~~
~~twelve.~~

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

NEW SECTION. Section 119. Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes:

(a) operating property owned, possessed, or controlled by electric power companies that is subject to central assessment, as provided in 15-23-101, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute electric energy produced at privately owned generating facilities, not including rural electric cooperatives;

(b) property owned, possessed, or controlled by natural gas distribution companies that is subject to central assessment, as provided in 15-23-101, which companies have a major distribution system in this state; and,

(c) property owned, possessed, or controlled by natural gas pipeline companies that is subject to central assessment, as provided in 15-23-101.

(2) Class thirteen property is taxed at 4.5% of market value.

4. Page 236, line 11.

Following: line 10

Insert: "Section 172. Section 15-51-101, MCA, is amended to read:

"15-51-101. Rate of tax -- electrical energy producers. (1) ~~In~~ Except as provided in subsection (2), in addition to the license tax ~~now provided by law~~, each person or other organization, ~~now engaged in the generation, manufacture, or production of electricity and electrical energy in the state of Montana, either through waterpower or by any other means, for barter, sale, or exchange (and hereinafter referred to as the "producer")~~ shall on or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30, and December 31, render a statement to the department of revenue showing the gross amount, except for actual and necessary plant use, required to produce the energy of electricity and electrical energy produced, manufactured, or generated during the preceding calendar quarter without any deduction and shall pay a license tax ~~thereon~~ in the sum of ~~\$.0002~~ \$.00252 per kilowatt hour on all ~~such~~ electricity and electrical energy generated, manufactured, or produced, measured at the place of production and as shown on the statement required in the manner and within the time hereinafter provided.

(2) The license tax required to be paid by a qualified facility, as that term is defined in the Federal Power Act, as amended by the Public Utilities Regulatory Policies Act of 1978, that exceeds \$.0002 per kilowatt hour must be reimbursed to the qualified facility by the wholesale purchaser making purchases of a qualified facility's electricity or electrical energy if the wholesale purchases are made pursuant to a contract in effect on June 30, 1993. The wholesale purchaser shall reimburse the qualified facility on or before the date that the qualified facility is required to pay the tax imposed under subsection

EXHIBIT # 7
DATE 4-5-93
X SB-235

(1)."

Renumber: subsequent sections

5. Page 251, line 5.

Following: line 4

Insert: "(5) [Section 119] is intended to be codified as an
integral part of Title 15, chapter 6, part 1, and the
provisions of Title 15, chapter 6, part 1, apply to [section
119].

EXHIBIT 7A 79
DATE 4/5/93 3
SB 235

MEMORANDUM

To: House Taxation Committee Members
From: Montana Power Company
Date: April 2, 1993
Re: Proposed Amendments for SB 235 (Sales Tax)

Rationale for Montana Power Company's Proposed Amendments

Montana Power Company's proposed amendments to SB 235 are offered to establish a competitive environment between utility companies and non-utility producers of electrical energy in Montana.

Attached for your review are Charts A, B, C and D. Chart A shows the current tax rate for various classes of property. Please note that the current tax rate for centrally assessed utility property is 12%. This tax rate is four times higher than what some of our non-centrally assessed competitors pay (rural electric cooperatives' property is taxed at 3% of market value), and at least one-third higher than what our other non-centrally assessed competitors pay (locally assessed gas companies' and independent power producers' property is taxed at 9% of market value).

Now, if you look at Chart B, you will see a similar comparison based on Senate Bill 235. You will see that centrally assessed utility property would be taxed at rates 2 1/2 to 4 times greater than what our non-centrally assessed competitors

would pay.

Chart C graphically describes the competition problem. If SB 235 is not amended, a new facility costing \$100,000,000 would be taxed \$24,000,000 over a 15-year period if owned by a centrally assessed utility. On the other hand, if an independent power producer built the facility, the taxes over the same period would be \$9,000,000, a difference of \$15,000,000.

The proposed amendments place centrally assessed utility property, such as Montana Power Company property, in a new class (class thirteen), taxed at 4.5% of market value. Chart D indicates that the amendment would provide a property tax reduction of \$23,114,296 for the Montana Power utility.

In order to provide property tax equality for centrally assessed electric and natural gas utility property without reducing the overall tax responsibility of our utility, we are also proposing an amendment to increase the electrical energy producers' license tax rate 12.6 times, from \$.0002 per kilowatt hour to \$.00252 per kilowatt hour. Chart D demonstrates that this amendment would increase the electrical energy producers' tax we presently pay by an additional \$23,125,053.88, which would more than offset our property tax reduction.

Another amendment relating to independent power producers, and the electrical generation tax they would pay, would have the effect of adding an additional \$1,800,000 to our tax bill. See Chart D.

In addition, Chart D indicates that the 4% sales tax levied

against our commercial and industrial customers would raise \$10,556,878. This tax would be directly billed to customers on their monthly utility bills.

Chart D also indicates that the 4% sales and use tax on Montana Power Company's purchases would raise \$6,650,227. We expect to recover this amount through rates.

Finally, Chart D shows a net increase in the Montana Power utility taxes of \$5,178,160.88 under the provisions of Senate Bill 235, if our proposed amendments are adopted. Again, we expect to recover this amount through rates.

Railroads

The impact of Montana Power Company's proposed amendments on Class 12 property (railroads and airlines) would result in Class 12 property being taxed at a 4.87% rate. We estimate that this new rate would mean a property tax savings to Class 12 property of an additional \$3 million annually.

However, the additional new money raised from electric utilities by increasing the generation tax is \$8.4 million. When netted against the railroad decrease, an additional \$5.4 million in new money would be raised by adopting our proposed amendments to Senate Bill 235.

These proposed amendments do not affect pipelines or telephone companies that are in Class 9 and taxed on the basis of 12% of market value.

Future Capital Expenditures

Montana Power Company provided a "Load Forecast & Integrated

3

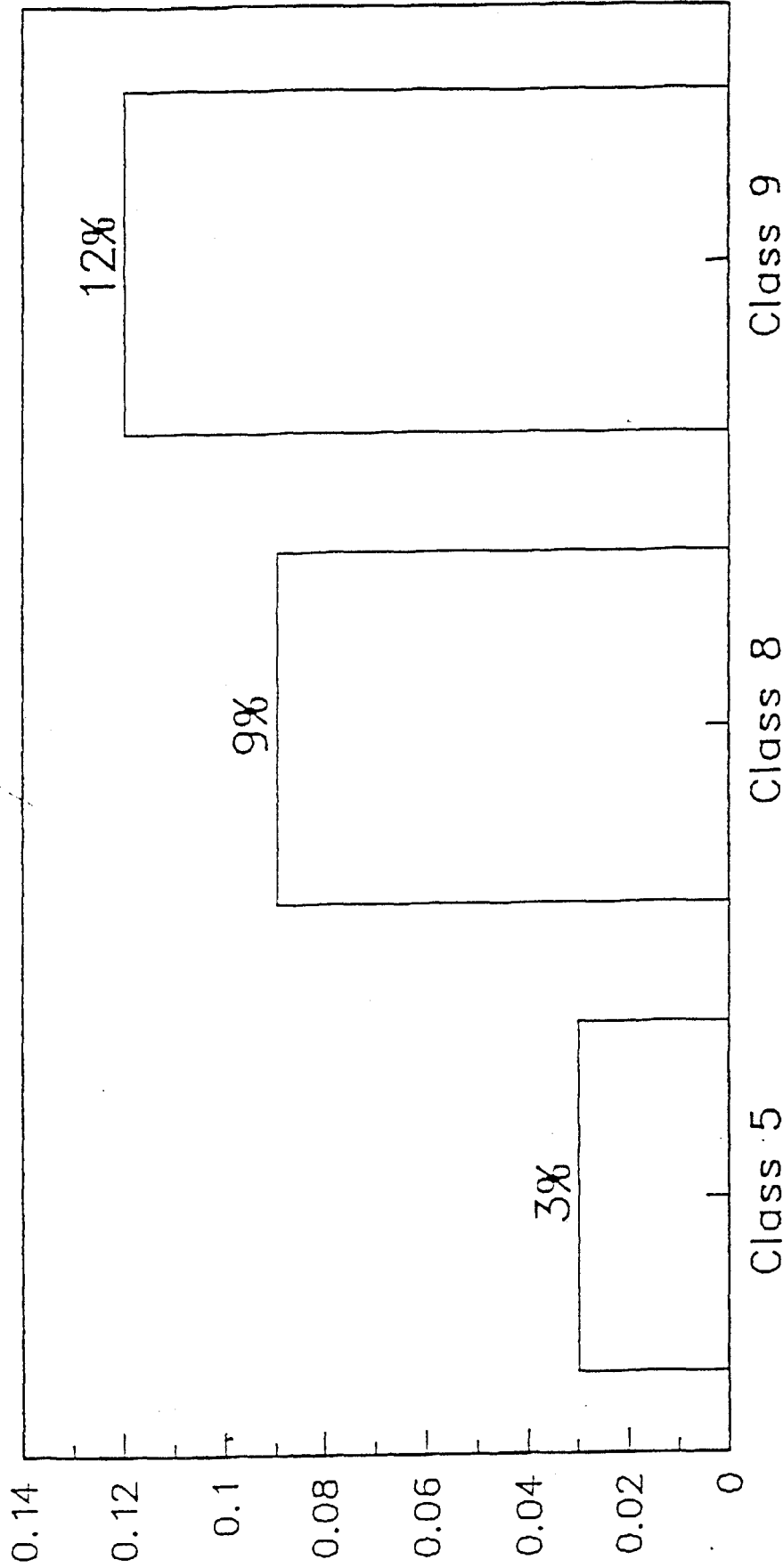
Least Cost Resource Plan," dated March 1993, to The Montana Public Service Commission. It states, "Montana Power Company's need for resources in the year 2000 is over 400 megawatts." Investments necessary to provide the resources to serve new and existing customers will require the company to make capital expenditures in Montana of more than a billion dollars over the next ten years. Montana Power's 1993 capital construction budget is \$99.6 million, which is \$7.2 million higher than last year's actual construction budget.

AMENDMENTS ATTACHED.

CHART A

MONTANA PROPERTY CLASSIFICATION RATES

PRESENT LAW



- * COOP's
- * Pollution Control Equip.

- * Business Property *Centrally Assessed
- * Locally Assessed Gas Companies

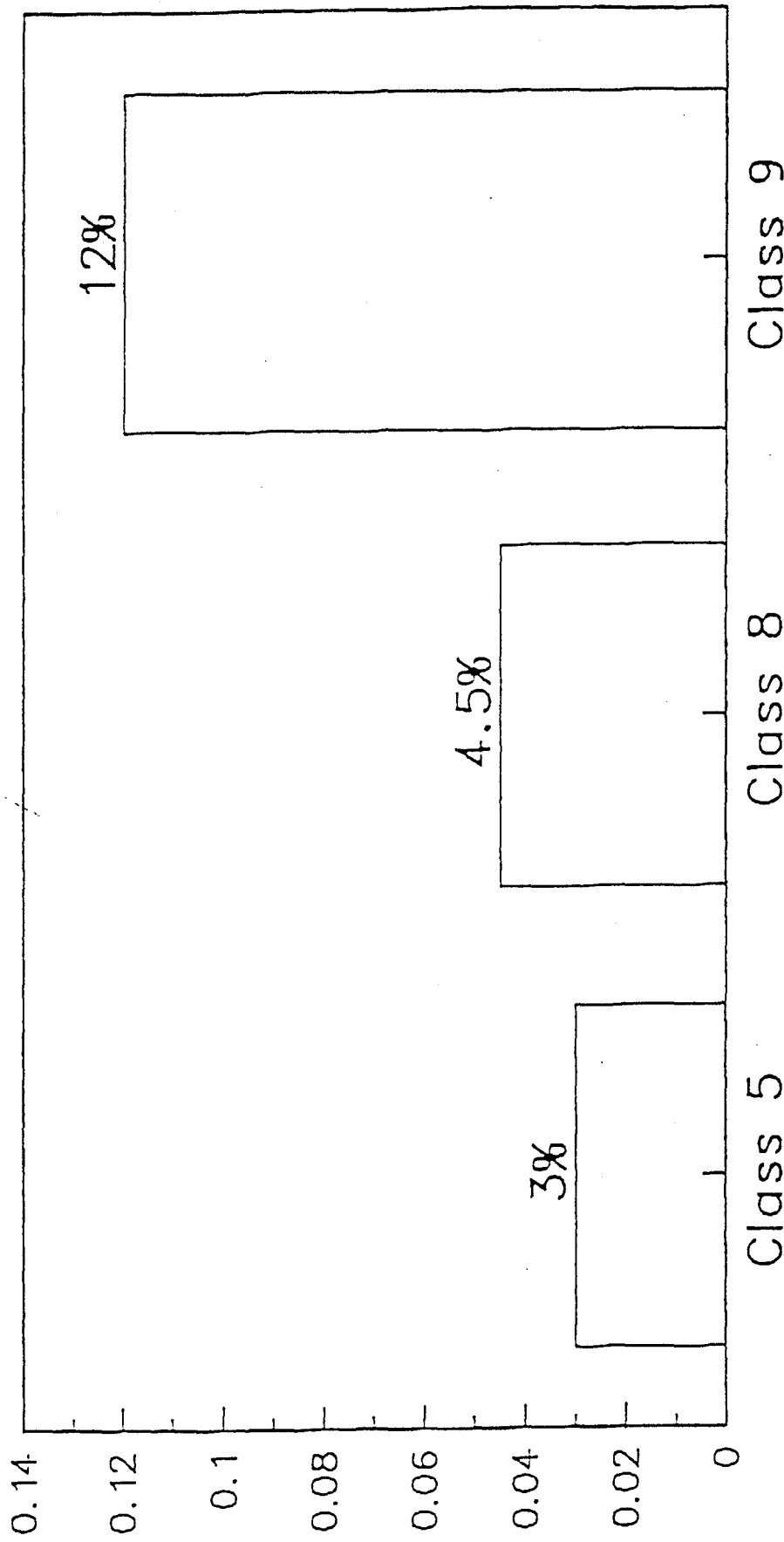
- Utility Property (MPC & Others)

DATE 4-5-93
58-235

CHART B

MONTANA PROPERTY CLASSIFICATION RATES

SENATE BILL 235



- * COOP's
- * Pollution Control Equip.
- * Business Property
- * Locally Assessed Gas Companies
- * Centrally Assessed Utility Property (MPC & Others)

CHART C

ASSUMPTIONS

PRESENT VALUE OF PROPERTY TAXES

| | | |
|--------------------------------|------------------------|--------------|
| \$100,000,000 PLANT INVESTMENT | 1) @ 12% TAXABLE RATE | \$18,481,368 |
| 15 YEAR LIFE | 2) @ 9% TAXABLE RATE | \$13,861,026 |
| | 3) @ 4.5% TAXABLE RATE | \$6,930,513 |

STRAIGHT-LINE DEPRECIATION

PRESENT VALUE RATE 5.00%

250 MILL AVERAGE USED FOR PROPERTY TAX CALCULATION

EXHIBIT 7A
DATE 4-5-93
SB-235

| YEAR | DEPRECIATED BASIS @ 12% TAXABLE RATE | PROPERTY TAXES @ 9% TAXABLE VALUE | PROPERTY TAXES @ 4.5% TAXABLE VALUE | PROPERTY TAXES |
|------|--------------------------------------|-----------------------------------|-------------------------------------|----------------|
| 1 | 100,000,000 | \$3,000,000 | \$2,250,000 | \$1,125,000 |
| 2 | 93,333,333 | \$2,800,000 | \$2,100,000 | \$1,050,000 |
| 3 | 86,666,667 | \$2,600,000 | \$1,950,000 | \$975,000 |
| 4 | 80,000,000 | \$2,400,000 | \$1,800,000 | \$900,000 |
| 5 | 73,333,333 | \$2,200,000 | \$1,650,000 | \$825,000 |
| 6 | 66,666,667 | \$2,000,000 | \$1,500,000 | \$750,000 |
| 7 | 60,000,000 | \$1,800,000 | \$1,350,000 | \$675,000 |
| 8 | 53,333,333 | \$1,600,000 | \$1,200,000 | \$600,000 |
| 9 | 46,666,667 | \$1,400,000 | \$1,050,000 | \$525,000 |
| 10 | 40,000,000 | \$1,200,000 | \$900,000 | \$450,000 |
| 11 | 33,333,333 | \$1,000,000 | \$750,000 | \$375,000 |
| 12 | 26,666,667 | \$800,000 | \$600,000 | \$300,000 |
| 13 | 20,000,000 | \$600,000 | \$450,000 | \$225,000 |
| 14 | 13,333,333 | \$400,000 | \$300,000 | \$150,000 |
| 15 | 6,666,667 | \$200,000 | \$150,000 | \$75,000 |
| 16 | 0 | \$0 | \$0 | \$0 |
| | | | | \$9,000,000 |

CHART D

THE MONTANA POWER COMPANY

UTILITY DIVISION AND COLSTRIP UNIT NO. 4 ONLY

THESE FIGURES REFLECT THE BILL WITH THE INCLUSION OF MPC'S AMENDMENTS

REDUCTION OF PROPERTY TAXES

| | |
|---|---------------------|
| REDUCED MILL LEVIES FOR RETIREMENT & TRANSPORTATION | (\$3,282,874.00) |
| MPC'S PROPOSED AMENDMENTS | (\$23,114,296.00) |
| | (\$26,397,170.00) |

SALES TAX ON UTILITY BILLS

ELECTRIC

| | | | |
|-------------------|------------------|--------|----------------|
| RESIDENTIAL | \$102,652,162.00 | EXEMPT | \$0.00 |
| COMMERCIAL | \$106,858,485.00 | 4% | \$4,274,339.00 |
| INDUSTRIAL | \$121,988,084.00 | 4% | \$4,879,523.00 |
| INTERDEPARTMENTAL | \$943,906.00 | 4% | \$37,756.00 |

NATURAL GAS

| | | | |
|-------------------|-----------------|--------|------------------------|
| RESIDENTIAL | \$52,293,715.00 | EXEMPT | \$0.00 |
| COMMERCIAL | \$30,732,669.00 | 4% | \$1,229,307.00 |
| INDUSTRIAL | \$3,234,193.00 | 4% | \$129,368.00 |
| INTERDEPARTMENTAL | \$164,620.00 | 4% | \$6,585.00 |
| | | | <u>\$10,556,878.00</u> |

SALES TAX ON MPC PURCHASES

ESTIMATED CASH DISBURSEMENTS (BASED UPON YTD NOV 1992)

| | |
|--|-------------------------|
| CONSTRUCTION | \$63,842,328.00 |
| EXPENSE WORK ORDERS | \$51,712,033.00 |
| 15% OF AMOUNTS CHARGED TO ACCOUNTS PAYABLE | \$13,748,888.00 |
| MATERIALS & SUPPLIES (50% USED TO EXCL OTHER | \$13,358,893.00 |
| 75% OF VOUCHERS CHARGED TO EXPENSE | \$12,018,280.00 |
| | <u>\$154,680,422.00</u> |

MPC PAYROLL CHARGED TO CONSTRUCTION

| |
|-------------------------|
| \$11,576,509.00 |
| <u>\$166,256,931.00</u> |
| 4% |

\$6,650,277.00

INCREASE IN ELECTRICAL ENERGY PROD. LICENSE TAX

| | |
|--|---------------------|
| TAX PAID BY THE UTILITY - 12 MONTHS ENDED NOVEMB | \$1,644,324.26 |
| TAX PAID BY COLSTRIP 4 - 12 MONTHS ENDED NOVEMBE | <u>\$349,214.86</u> |
| TAX PAID AT A RATE OF .0002 | \$1,993,539.12 |
| TAX INCREASE IF RATE IS INCREASED TO .00252 | \$23,125,053.88 |

INDEPENDENT POWER GENERATION TAX PAID BY MONTANA POWER

\$1,800,000.00

NET INCREASE IN TAXES

\$15,735,038.88

AMOUNTS DIRECTLY BILLED TO CUSTOMERS

\$10,556,878.00

AMOUNTS RECOVERED THROUGH RATES

\$5,178,160.88

EXHIBIT # 7A
DATE 4-5-93
AL SB-235

April 5, 1993

Proposed Amendments For SB 235
(Third Reading Version)
Requested by The Montana Power Company

1. Title, line 20.

Following: "15-6-138,"

Insert: "15-6-141,"

2. Title, line 24.

Following: "15-32-303,"

Insert: "15-51-101,"

3. Page 124, line 14.

Following: line 13

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

15-6-141. Class nine property -- description -- taxable percentage. (1) Class nine property includes: the intercounty operating property owned, possessed or controlled by a person subject to central assessment as provided in 15-23-101,

{a} centrally-assessed-electric-power-companies¹
allocations,-including,-if-congress-passes-legislation-that
allows-the-state-to-tax-property-owned-by-an-agency-created-by
congress-to-transmit-or-distribute-electrical-energy,-allocations
of-properties-constructed,-owned,-or-operated-by-a-public-agency
created-by-the-congress-to-transmit-or-distribute-electric-energy
produced-at-privately-owned-generating-facilities-(not-including

~~rural-electric-cooperatives~~;

~~(b) allocations-for-centrally-assessed-natural-gas companies-having-a-major-distribution-system-in-this-state--and-~~

~~(c) centrally-assessed-companies'-allocations~~ except:

~~(i)(a)~~ electric power and natural gas companies' property included in class thirteen [Section 119];

~~(ii)(b)~~ property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;

~~(iii)(c)~~ property owned by organizations providing telephone communications to rural areas and classified in class seven;

~~(iv)(d)~~ railroad transportation property included in class twelve; and

~~(v)(e)~~ airline transportation property included in class twelve.

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

NEW SECTION. Section 119. Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes:

(a) the intercounty operating property owned, possessed or controlled by electric power companies subject to central assessment as provided in 15-23-101, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned

or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives); and

(b) the intercounty operating property owned, possessed or controlled by natural gas distribution companies subject to central assessment as provided in 15-23-101, having a major distribution system in this state. For purposes of this subsection, a distribution system means the pipelines, equipment and machinery required to deliver natural gas to the ultimate user. It does not mean a system of pipelines or equipment used to either gather or transport petroleum products.

(2) Class thirteen property is taxed at 4.5% of market value."

Renumber subsequent sections.

4. Page 236, line 10.

Following: line 9

Insert: "Section 169. Section 15-51-101, MCA, is amended to read:

15-51-101. Rate of tax -- electrical energy producers.

(1) In addition to the license tax now provided by law, each person or other organization now engaged in the generation, manufacture, or production of electricity and electrical energy in the state of Montana, either through waterpower or by any other means, for barter, sale, or exchange (and hereinafter

referred to as the "producer") shall on or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30, and December 31, render a statement to the department of revenue showing the gross amount, except for actual and necessary plant use, required to produce the energy of electricity and electrical energy produced, manufactured, or generated during the preceding calendar quarter without any deduction and shall pay a license tax thereon in the sum of ~~\$.00252~~~~\$-.0002~~ per kilowatt hour on all such electricity and electrical energy generated, manufactured, or produced, measured at the place of production and as shown on the statement required in the manner and within the time hereinafter provided.

(2) The license tax required to be paid by a qualified facility, as that term is defined in the Federal Power Act (as amended by The Public Utility Regulatory Policies Act of 1978), that exceeds \$.0002 per kilowatt hour must be reimbursed to the qualified facility by the wholesale purchaser making purchases of a qualified facility's electricity or electrical energy, provided that the wholesale purchases are made pursuant to a contract in effect as of June 30, 1993. The wholesale purchaser shall reimburse the qualified facility on or before the date that the qualified facility is required to pay the tax imposed under subsection (1)."

Renumber subsequent sections.

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 8
DATE 4/5/93
SB 235

For the Committee on Taxation

Prepared by DOR and Greg Petesch
April 3, 1993

Montana Power Amendments with MDU Changes

The purpose of these amendments is to equalize the property taxes paid on property throughout all the classes. The amendments also clarify that natural gas pipeline companies will be treated the same as natural gas companies that own or possess major distribution systems. Amendment #4 is to provide a source of revenue to the state for reimbursement to taxing jurisdictions as a result of the reduction in taxable value for utility property. In addition, the amendment provides that qualified facilities that sell power will be reimbursed for the increase in the electrical energy producers' license tax.

1. Title, line 20.
Following: "15-6-138,"
Insert: "15-6-141,"

2. Title, line 24.
Following: "15-32-303,"
Insert: "15-51-101,"

3. Page 80, line 8.
Strike: "7%"
Insert: "7.3%"

4. Page 80, line 19.
Strike: "31%"
Insert: "34%"

5. Page 81, line 21.
Strike: "19%"
Insert: "20.5%"

6. Page 83, line 1.
Strike: "42%"
Insert: "46.5%"

7. Page 83, line 15.
Strike: "43%"
Insert: "47.5%"

8. Page 84, line 19.
Strike: "25%"
Insert: "28%"

9. Page 85, line 19.

Strike: "12.5%"
Insert: "13.5%"

10. Page 86, line 6.
Strike: "30.5%"
Insert: "34%"

11. Page 86, line 21.
Strike: "13.75%"
Insert: "15%"

12. Page 87, line 9.
Strike: "31%"
Insert: "34%"

13. Page 88, line 20.
Strike: "19%"
Insert: "20.5%"

14. Page 89, line 1.
Strike: "31%"
Insert: "34%"

15. Page 89, lines 12 and 25
Strike: "12.5%"
Insert: "13.5%"

16. Page 90, lines 1 and 14.
Strike: "25%"
Insert: "27.5%"

17. Page 91, line 3.
Strike: "25%"
Insert: "27.5%"

18. Page 92, line 5.
Strike: "31%"
Insert: "34%"

19. Page 92, line 22.
Strike: "14%"
Insert: "16%"

20. Page 94, line 5.
Strike: "18%"
Insert: "20%"

21. Page 95, line 5.
Strike: "25%"
Insert: "27.5%"

22. Page 96, line 1.
Strike: "18%"
Insert: "20%"

23. Page 96, line 15.

Strike: "25%"

Insert: "27.5%"

24. Page 98, lines 7, 9, and 24.

Strike: "4.4%"

Insert: "4.9%"

25. Page 102, lines 8, 9, 16, and 19.

Strike: "49.5%"

Insert: "55%"

26. Page 124, line 15.

Following: line 14

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

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

~~(a) centrally assessed electric power companies' allocations, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);~~

~~(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and~~

~~(c) property owned, possessed, or controlled by a person and subject to central assessment, as provided in 15-23-101, centrally assessed companies' allocations except:~~

~~(i) (a) electric power and natural gas companies' property, including property of pipeline companies that transport natural gas, that is included in class thirteen;~~

~~(ii) (b) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;~~

~~(iii) (c) property owned by organizations providing telephone communications to rural areas and classified in class seven;~~

~~(iv) (d) railroad transportation property included in class twelve; and~~

~~(v) (e) airline transportation property included in class twelve.~~

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

NEW SECTION. Section 119. Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes:

(a) operating property owned, possessed, or controlled by electric power companies that is subject to central assessment, as provided in 15-23-101, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute

electric energy produced at privately owned generating facilities, not including rural electric cooperatives;

(b) property owned, possessed, or controlled by natural gas distribution companies that is subject to central assessment, as provided in 15-23-101, which companies have a major distribution system in this state; and,

(c) property owned, possessed, or controlled by natural gas pipeline companies that is subject to central assessment, as provided in 15-23-101.

(2) Class thirteen property is taxed at 4.5% of market value.

NEW SECTION. Section 120. Reimbursement to local governments and schools -- centrally assessed utility property -- duties of department and county treasurer. (1) Prior to October 30, 1994, for each county, the department shall determine the following information for each taxing jurisdiction in existence in tax year 1994:

(a) the number of mills levied in each taxing jurisdiction for tax year 1994; and

(b) the total taxable valuation for tax year 1994 of all property included in class thirteen.

(2)(a) Based on the information determined under subsection (1), the department shall calculate the revenue loss for each taxing jurisdiction due to the difference in tax year 1994 taxable valuation rates between class thirteen property and the tax rate specified in 15-6-141 for class nine property. For purposes of this section, revenue loss for each taxing jurisdiction is determined as:

(i) the absolute difference between actual taxable valuation of class thirteen property in tax year 1994 and what that taxable valuation would have been had the class nine taxable valuation rate been applicable to class thirteen property;

(ii) multiplied by the number of mills levied in the taxing jurisdiction for tax year 1994.

(b) The total revenue loss within each county is the sum of the revenue loss computed for each taxing jurisdiction in the county.

(3) The amount of reimbursement due from the state to each county for tax years 1994, 1995, and 1996 is the total revenue loss calculated under subsection (2). The county treasurer shall distribute to each taxing jurisdiction the total revenue loss as calculated by the department.

(4) The amount of total reimbursement for each county for tax year 1997 and for each tax year thereafter is determined in the same manner as under the procedures provided in 15-1-111(7)(c) through (11)."

Renumber: subsequent sections

27. Page 236, line 11.

Following: line 10

Insert: "Section 172. Section 15-51-101, MCA, is amended to read:

"15-51-101. Rate of tax -- electrical energy producers. (1) ~~In~~ Except as provided in subsection (2), in addition to the

license tax ~~now provided by law~~, each person or other organization, ~~now engaged in the generation, manufacture, or production of electricity and electrical energy in the state of Montana, either through waterpower or by any other means, for barter, sale, or exchange (and hereinafter referred to as the "producer")~~ shall on or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30, and December 31, render a statement to the department of revenue showing the gross amount, except for actual and necessary plant use, required to produce the energy of electricity and electrical energy produced, manufactured, or generated during the preceding calendar quarter without any deduction and shall pay a license tax ~~thereon~~ in the sum of ~~\$.0002~~ \$.00252 per kilowatt hour on all ~~such~~ electricity and electrical energy generated, manufactured, or produced, measured at the place of production and as shown on the statement required in the manner and within the time hereinafter provided.

(2) The license tax required to be paid by a qualified facility, as that term is defined in the Federal Power Act, as amended by the Public Utilities Regulatory Policies Act of 1978, that exceeds \$.0002 per kilowatt hour must be reimbursed to the qualified facility by the wholesale purchaser making purchases of a qualified facility's electricity or electrical energy if the wholesale purchases are made pursuant to a contract in effect on June 30, 1993. The wholesale purchaser shall reimburse the qualified facility on or before the date that the qualified facility is required to pay the tax imposed under subsection (1)."

Renumber: subsequent sections

28. Page 251, line 5.

Following: line 4

Insert: "(5) [Section 119] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 119]."

(6) [Section 120] is intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 120]."

29. Page 252, line 12.

Strike: "125"

Insert: "128"

Strike: "154"

Insert: "157"

30. Page 252, line 13.

Strike: "183"

Insert: "187"

Strike: "187"

Insert: "191"

Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Montana Petroleum Association
For the Committee on Taxation

Prepared by Lee Heiman
March 29, 1993

Utility and minerals exemptions for production or processing

1. Page 19, line 9.

Strike: "RESIDENTIAL"

2. Page 19, line 10.

Following: "SERVICES."

Insert: "(1)"

3. Page 19.

Following: line 14

Insert: "(2) The sale of electricity, natural gas, water, and other utilities directly consumed in producing, manufacturing, refining, or processing a product or commodity is exempt from the sales tax and use tax."

4. Page 24.

Following: line 10

Insert: "(3) Minerals used by the producer of the minerals for purposes of exploring for, producing, or transporting minerals are exempt from the sales tax and use tax."

Amendments to Senate Bill No. 235
Third Reading Copy .

Requested by Rep. Raney
For the Committee on Taxation

Prepared by Lee Heiman
March 31, 1993

10
EXHIBIT 10
DATE 4/5/93
SB 235

Increase amount used for determining homeowner tax credit

1. Page 63, line 4.

Strike: "\$15,000"

Insert: "\$50,000"

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 11
DATE 4/5/93
SB 235

Requested by Rep. Raney
For the Committee on Taxation

Prepared by Lee Heiman
April 3, 1993

Allows business a rental tax credit.

1. Page 56.

Following: line 13

Insert: "(1) "Business property" means a structure used for commercial or industrial purposes that is subject to ad valorem taxes in Montana and as much of the surrounding land as is necessary for commercial or industrial use.

2. Page 56, line 14.

Strike: "individual natural"

3. Page 56, line 17.

Following: "returns"

Insert: ", the tax year for corporations required to file returns under Title 15, chapter 31, and"

4. Page 56, line 22.

Page 59, line 6.

Page 59, line 7.

Following: "homestead"

Insert: "or business property"

5. Page 57.

Following: line 23

Insert: "(2) A business is eligible to make a claim under [sections 67 through 74] if the business:

(a) has been in operation in the state of Montana for at least 9 months of the period for which the claim is made; and

(b) occupied one or more business properties as a renter or lessee for at least 6 months of the claim period."

6. Page 58, line 2.

Strike: "individual income"

7. Page 58, line 17.

Following: "liability"

Insert: "or liability under Title 15, chapter 31"

8. Page 58, line 24.

Following: "chapter"

Insert: "or chapter 31"

9. Page 59, line 21.

Following: "household"

Insert: "or business entity"

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 12
DATE 4/5/93
SB 235

Requested by Rep. Cobb
For the Committee on Taxation

Prepared by Lee Heiman
March 31, 1993

3% of sales tax to capital projects in long range building and cigarette taxes earmarked for that account to the health care fund in HB 145.

1. Title, page 1, line 25.
Following: "16-2-301,"
Insert: "16-11-119,"

2. Title, page 2, line 12.
Strike: "AN"
Strike: "DATE"
Insert: "DATES"

3. Page 55, line 20.
Following: "~~further~~"
Insert: "[distributed as follows:
(i) 3% to the long-range building program fund in the capital projects fund type in 17-5-404; and
(ii) 97% that must be further]"

4. Page 248.
Following: line 3
Insert: "Section 184. Section 16-11-119, MCA, is amended to read:
"16-11-119. (Temporary) Disposition of taxes -- retirement of bonds. (1) Except as provided in subsection (2), all money collected under the provisions of 16-11-111, less the expense of collecting the taxes, must be paid to the state treasurer and deposited as follows: 72.79% in the long-range building program fund in the debt service fund type and 27.21% in the long-range building program fund in the capital projects fund type.
(2) In fiscal year 1993, \$1,133,624 is transferred from the long-range building program fund in the capital projects fund type to the general fund. (Terminates June 30, 1993--sec. 2, Ch. 3, Sp. L. July 1992.)
16-11-119. (Effective July 1, 1993) Disposition of taxes - retirement of bonds. All moneys collected under the provisions of 16-11-111, less the expense of collecting all the taxes levied, imposed, and assessed by said section, shall be paid to the state treasurer and deposited as follows: 72.79% in the long-range building program fund in the debt service fund type and 27.21% in the long-range building program fund in the capital projects fund type.
16-11-119. (Effective August 15, 1993) Disposition of taxes -- retirement of bonds. All moneys collected under the provisions of 16-11-111, less the expense of collecting all the

taxes levied, imposed, and assessed by said section, shall be paid to the state treasurer and deposited as follows: 70.89% in the long-range building program fund in the debt service fund type and 29.11% in the ~~long range building program fund in the capital projects fund type~~ health care fund established in [section 1 of House Bill No. 145]."

{ Internal References to 16-11-119: None. }

Renumber: subsequent sections

5. Page 251.

Following: line 21

Insert: "(4) If [this act] is approved at the special election held pursuant to [section 186] and if House Bill No. 145 is not passed and approved, then in [this act]:

(a) the bracketed language in [section 66(1)(b)] is void; and

(b) [section 184] is void."

6. Page 252, line 7.

Strike: "date"

Insert: "dates"

Strike: "[This"

Insert: "(1) Except as provided in subsection (2), [this"

7. Page 252.

Following: line 8

Insert: "(2) [Section 184] is effective July 1, 1995."

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 13DATE 4/5/93SB 235

Requested by Rep. Hibbard
For the Committee on Taxation

Prepared by DOR and Lee Heiman
April 2, 1993

The purpose of these amendments is to make sales by social services, museums, art galleries, and membership organizations exempt from the sales and use tax.

1. Page 4, line 1.

Insert: "(1) "Arboretums and botanical or zoological gardens" means establishments that are created for the exhibition of plants or animals and that are not operated for profit."

Renumber: subsequent subsections

2. Page 6.

Following: line 4

Insert: "(10) (a) "Membership organization" means an organization that operates on a membership basis, that requires the payment of dues to hold membership, and that is not operated for profit. The term includes but is not limited to an organization:

(i) that is engaged in promoting the business interests of its members, including an association that is owned by its members and that is organized to perform a specific business function;

(ii) that is composed of professional persons;

(iii) that is composed of workers organized for the purpose of improvement of wages and working conditions;

(iv) that is engaged in civic, social, or fraternal activities;

(v) that is established to promote the interests of a national, state, or local political party or candidate, including a group organized to raise funds for a political party or candidate; and

(vi) that is operated for worship, religious training or study, or government or administration of an organized religion or for promotion of religious activities.

(b) The term does not include an organization that provides sporting or recreational services to its members, such as a country club or a golf or tennis club.

(11) "Museums and art galleries" means establishments that are created for the exhibition of curiosities or works of art and that are not operated for profit."

Renumber subsequent subsections

3. Page 6, line 21.

Strike: "(12)"

Insert: "(15)"

4. Page 7, line 16.

Strike: "(12)(C)(I)"
Insert: "(15)(c)(i)"

5. Page 9.

Following: line 3

Insert: "(19) "Social or family services organizations" means establishments that provide social or family services and rehabilitation services to persons with social or personal problems or to handicapped or disadvantaged persons and that are not operated for profit. These services include but are not limited to counseling services, senior citizen centers, youth centers, job counseling and training services, vocational rehabilitation services, and homes for physically and mentally handicapped persons."

Renumber: subsequent subsections

6. Page 18, line 8.

Following: "business"

Insert: "or using property or services that are nontaxable"

7. Page 26.

Following: line 24

Insert: "NEW SECTION. Section 32. Exemption -- sales by social or family services organizations. The sale of property and services by a social or family services organization is exempt from the sales tax and use tax.

NEW SECTION. Section 33. Exemption -- sales by museum, art gallery, arboretum, or botanical or zoological garden. The sale of property and services by museums and art galleries and by arboretums and botanical or zoological gardens is exempt from the sales tax and use tax.

NEW SECTION. Section 34. Exemption -- sales by membership organization. The sale of property and services by a membership organization is exempt from the sales tax and use tax."

Renumber: subsequent sections



EXHIBIT 13 a
DATE 4/5/93
House Members
SB 235 RED MENAHAN
CHAIRMAN
JAN BROWN
MARY LOU PETERSON
JIM RICE

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Library
BETH FURBUSH
NANCY ZALUTSKY
RITA GIBSON

April 3, 1993

TO: Senator Fred Van Valkenburg, President of the Senate
Representative Bob Ream

FROM: Dave Bohyer *Dave*

RE: Letter of April 2 re taxable status of purchases by and sales by nonprofits;
non-profit hospitals

Your questions are related to the general taxability, under Senate Bill No. 235, of sales to and sales by nonprofit organizations, especially nonprofit hospitals. I have attempted a "reality check" on my answers herein with Jeff Martin. I believe that at least the two of us agree.

The fundamental rule adopted by us in writing sales tax bills and by the Department of Revenue in interpreting the bills is this: Upon the sale of any good or service, the transaction is taxable unless specifically exempt.

Having said that, I will proceed through the list of purchases focusing on a hospital as a purchaser. Under the bill, "nonprofits" are generally not entitled to special treatment.

1. **Non-revenue producing supplies:** My interpretation of this term is that "non-revenue producing supplies" would include such things as forms and envelopes for billing purposes; cleaning products; plastic trash bags; and the myriad of products that are consumed in the normal course of business by most commercial enterprises, including hospitals. Based on that interpretation, such supplies would be taxable at the time of purchase by the hospital.
2. **Revenue-producing supplies/equipment:** My interpretation of this term is that "revenue-producing supplies/equipment" would include such things as bandages; crutches; walkers; life-support equipment; and the myriad of items that are tangible

personal property purchased by a hospital and that would be resold to or used in the treatment of a customer or patient. Based on that interpretation, some purchases of and some sales of the revenue-producing supplies/equipment are taxable and some are nontaxable.

Recognizing that that interpretation is probably not very helpful, I would clarify by directing you to, specifically, the various exemptions provided in Section 13 of the bill. The exemptions must be read with the definitions in Section 1 of the bill.

NEW SECTION. Section 13. Exemption -- prescribed medicine, drugs, and certain devices -- medical services. (1) Medicine, drugs, insulin, and therapeutic and prosthetic devices are exempt from the sales tax and use tax.

(2) The following are exempt from the sales tax and use tax:

- (a) medical services;
- (b) any service reasonably related to the delivery of a medical service:
 - (i) by or at a health care facility as defined in 50-5-101; or
 - (ii) by or at the office of a private physician or dentist.

An example of a "supply" that would be an exempt purchase by a hospital would be something like Tylenol III. As an analgesic (pain mitigation agent), Tylenol III is a normal supply of a hospital, yet it meets the definition of "medicine" contained in Section 1(8). Therefore, purchases of supplies of Tylenol III by a hospital would be exempt from the tax. For the same reason, sales by a hospital of Tylenol III to a patient would be exempt from the tax.¹ I also believe that some supplies, such as blood for transfusions, are exempt under Section 13.

An example of "equipment" that would be an exempt purchase by a hospital would be something like a walker, a pair of crutches, or a wheelchair. Each of these types of equipment likely falls within the definition of a "therapeutic device". (See

¹ In contrast, the hospital's purchase of regular Tylenol or generic aspirin, because it need not be prescribed by a licensed person, is not exempt as "medicine", but is probably exempt under Section 32, as a sale for resale. However, when a patient is charged for the regular Tylenol or the aspirin, the tax would apply to the sale as the patient is the final consumer of a taxable item.

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DATE 4-5-93
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Section 1(16)) However, even if some such equipment fell outside the definitions provided in Section 1(16), such purchases by a hospital would likely be purchases for subsequent rent and, therefore, would be nontaxable under Section 35.

Example of "supplies" that would be taxable to the hospital would be anything consumed by the hospital within the regular course of business: light bulbs; paper products not resold to patients; cleaning products; linens and bedding; computer paper; billing supplies, such as envelopes and invoice forms; manilla folders; pens and pencils; specimen containers; prescription containers and envelopes; and many items used in hospitals that do not meet the definition of "medicine" or "medical service", including: rubber gloves; surgical clothing; plaster for casts; tongue depressors; "Q-Tips"; cotton balls; disinfectants or antiseptics, such as alcohol or iodine; gauze; "Ace Bandages"; and "Band-Aids". (The taxability to the hospital rather than to the patient assumes that the hospital does not charge the patient separately for any of the items listed.)

Equipment that would be taxable to the hospital would be anything purchased by the hospital and used or consumed by the hospital in the ordinary course of business, but not itemized as a charge or charges to a patient. Examples of taxable equipment might include: file cabinets; desks; chairs; waiting room furnishings; carpet; surgical instruments; gurneys; beds; operating tables; and a host of other equipment.

3. **Equipment purchases/leases:** My interpretation of this term is very similar to the term "revenue-producing supplies/equipment", except that this term suggest that the hospital would lease the equipment, rather than purchase it.

With that interpretation, a lease by a hospital of any equipment such as is noted in item 2, above, would be a taxable transaction to the hospital. To the extent that the hospital would lease equipment from a leasing company or manufacturer, then subsequently charge patients for the use of the equipment, the lease by the leasing company to the hospital would be exempt (under Section 36), but the lease by hospital to the patient would be taxable. A twist in the "lease for lease" exemption occurs, however, when the lease by the hospital or to the patient would comprise the lease of "therapeutic or prosthetic device" — an exempt transaction under Section 13.

Although one could perhaps be persuaded otherwise, I believe that a lease (or purchase) of diagnostic equipment, such as a CT scanner, magnetic resonance imager (MRI), or X-ray machine is taxable to the hospital. However, the sale of the medical service where such equipment is used is not taxable to the patient because the use of the equipment meets the definition of "medical service" in Section 1.

Leases (or purchases) of vehicles and maintenance equipment are taxable transactions. I also believe that if a hospital leased (or purchased) a vehicle, including a helicopter, for the rescue or transfer of a patient, the vehicle lease or purchase would be taxable.

4. **Buildings/fixtures:** My interpretation of "building/fixtures" includes the building, grounds, and physical plant of the hospital and anything that would be virtually permanently affixed to the building, grounds, or physical plant of the hospital.

Generally, construction materials are taxable; construction services are exempt.

Consequently, a portion of the costs of the actual building, grounds (including parking facilities), and physical plant would be subject to the sales tax. Taxable materials and fixtures would include: lighting; plumbing, heating, and air conditioning units and ducting or other distribution, collection, or disposal systems; bricks, mortar, or other masonry materials; cement; concrete; asphalt; lumber; structural steel; gravel; dirt; decorative flora, including sod or grass; paint; wallpaper; sheetrock; paneling; flooring; glazing; doors; locks; hardware; roofing material; waste incineration fixtures; and the many other tangible components of the building, grounds, and physical plant of a hospital.

5. **Utilities:** The sale of utilities to a hospital (or to any commercial entity) is a taxable transaction under Sections 2, 3, and 10(2).
6. **Professional services -- medical:** My interpretation of "professional services -- medical" reflects the services included in the definition of "medical services" contained in Section 1(7) of the bill. The exempt services include the services performed by a licensed mental health professional, by a person certified licensed under Title 53, chapter 24, MCA, as a chemical dependency counselor, and probably by persons licensed under Title 37, MCA, to practice any of the following:

medicine; dentistry; dental hygiene, osteopathy; podiatry; pharmacy; nursing; optometry; physical therapy; chiropractic; acupuncture; radiologic technology; speech pathology; audiology; psychology; dietetics; social work; professional counseling; occupational therapy; nutrition; naturopathic physicians; midwifery; respiratory care; and dentistry. All medical services performed by such persons are exempt under Section 13.

Additionally, there are some persons licensed under Title 37, MCA, who perform services that might or might not be included within the definition of "medical services". Such persons include nursing home administrators, hearing aid dispensers, and certified physician assistants.

7. **Professional services -- nonmedical:** My interpretation of "professional services -- nonmedical" would certainly include such things as accounting, legal, and data processing services, and might include others.²

Based on this interpretation, all services, other than "medical services", purchased by a hospital would be taxable unless specifically exempted in the bill. Legal services, accounting services, and other services typically consumed in operating a hospital would be taxable if they are contracted services. However, if the hospital hires as employees, lawyers, accountants, and the like, the services provided by the employees are not taxable.

8. **Dietary supplies (raw food excluded):** I am unsure of what is implied by the term "dietary supplies" or "raw food". If the term includes unprepared food that is purchased for meals provided within the hospital to patients, staff, and visitors, the food is exempt. If the term includes prepared food that is sold to the public or to hospital staff through a cafeteria, the food would be taxable at the time it is sold to the public or staff as prepared food ready to consume.

If the terms include such things as vitamins or mineral supplements, such are

² A complicating factor in discussing "professional services" is determining a widely acceptable working definition of "professional". One definition of professional would include anyone that is required to be licensed. Under Title 37, MCA, that definition would include barbers, cosmetologists, electrologists, sanitarians, cesspool cleaners, water well contractors, real estate brokers, private investigators, and the list goes on. Note, however, that services provided by such persons are taxable.

taxable to the patient if the patient is charged for the items separately, or the items are taxable when purchased by the hospital if the items are not charged to patients separately.

9. **Other taxable purchases:** My interpretation of this term relies again on the premise that, "if it's not specifically exempted, it's taxable".

For example, janitorial services, laundry services, and diagnostic services are taxable to the extent they are contracted services paid for by either the hospital, generally, or by patients as line-items on a bill or invoice. If such services are performed by employees of the hospital, they are exempt.

Additionally, if the item purchased by the hospital is not food, medicine, or an otherwise specifically exempt transaction, the hospital would be liable for the sales tax on the purchased item just as any other entity or person.

To the extent that a purchase or lease by a hospital of an item or service is purchased or leased for a subsequent sale or subsequent lease, the transaction is not taxable to the hospital, but should be taxable at the time of subsequent sale or lease to the patient or other customer.

So that I afford myself some wiggle room, I must say that I have not pondered sufficiently the taxability of any of these specific transactions in goods or services to provide you with a blanket answer of "It is taxable", or "It is exempt." Especially at the edges, taxability is very nebulous, ambiguous, unclear, vague, cloudy, grey, or whatever other term might be appropriate when attempting to communicate the difficulty in establishing a generally applicable rule of taxability or exemptness.

Also, we are attempting to contact staff in New Mexico who can give some indication of the fiscal impact of an exemption for "nonprofits", including hospitals. We were told late Friday by staff in New Mexico that the New Mexico law generally exempts sales to and sales by entities exempted from taxation under section 501(3)(c) of Title 26 of the Internal Revenue Code, which entities are generally referred to as "nonprofits".

I hope that this information proves to be useful to you. Please contact us if we can be of further assistance.

State of Montana

Marc Racicot, Governor



EXHIBIT #13A
DATE 4-5-93
SB-235

Department of Revenue

Mick Robinson, Director

P.O. Box 202701

Helena, Montana 59620-2701

April 3, 1993

Fred Van Valkenburg
President of the Senate

Bob Ream
House Taxation Committee

Re: SB235 Treatment of Non-Profit Entities

Dear Senator Van Valkenburg and Representative Ream:

The following discussion presents the Department of Revenue interpretation regarding the taxability of the various hospital purchase categories that you have provided me:

Supplies (both revenue producing and non-revenue producing)

Partially exempt - Section 13 exempts medicine, drugs, insulin, and therapeutic and prosthetic devices. This exemption applies to purchases made by individuals, as well as business entities.

Equipment purchases/leases

Not Exempt

Buildings/fixtures

Exempt - Section 31 provides an exemption for the sale or use of construction services for the construction, fabrication, or remodeling of commercial buildings.

Utilities

Not Exempt - Section 10 provides an exemption for residential utilities but not for commercial utilities.

Professional services - medical

Exempt - Section 13 provides an exemption for medical services.

Professional services - non-medical

Partially exempt - Section 13 provides an exemption for medical services and any service reasonably related to the delivery of a medical service. Obviously, the range of services that are "reasonably related to the delivery of a medical service" would have to be determined by administrative rule.

Dietary supplies (raw food excluded)

Partially exempt - Although it is unclear what is included in this category, I would expect that some dietary supplies would be exempted under Section 11 which provides an exemption for food products. Section 11 provides an exemption for food products for human consumption which is broader than the phrase "raw food".

As you know, our economic model was based on "sales" by economic sector and as a result it has presented some difficulty in calculating the dollar impact of exempting "purchases" for a particular sector i.e. non-profits.

I hope this discussion provides sufficient information to meet your needs.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mick Robinson", followed by a horizontal line.

Mick Robinson
Director

15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

- (a) the property of:
 - (i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);
 - (ii) irrigation districts organized under the laws of Montana and not operating for profit;
 - (iii) municipal corporations; and
 - (iv) public libraries;
- (b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;
- (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.
- (d) property that meets the following conditions:
 - (i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
 - (ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
 - (iii) is not maintained and operated for private or corporate profit;
- (e) property owned by institutions of purely public charity and directly used for purely public charitable purposes;
- (f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;
- (g) public museums, art galleries, zoos, and observatories not used or held for private or corporate profit;
- (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;
- (i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.
- (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- (k) motor homes, travel trailers, and campers;
- (l) all watercraft;
- (m) motor vehicles, land, fixtures, buildings, and improvements owned by a

cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit, and property owned and used by an organization owning and operating facilities for the care of the retired, aged, or chronically ill, which are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) provided the tools are owned by the taxpayer, the first \$15,000 or less of market value of tools that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105; and

(u) beginning January 1, 1994, timber as defined in 15-44-102.

(2) (a) The term "institutions of purely public charity" includes any organization that meets the following requirements:

(i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(ii) The organization accomplishes its activities through absolute gratuity or grants; however, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) The following portions of the appraised value of a capital investment made

after January 1, 1979, in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

Federal:

Number in parentheses is subsection in 26 USC 501(c)

- (1) Corporation organized under an Act of Congress as a U.S. instrumentality.
- (2) Corporation organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the net income to an exempt organization.

(3) Corporation and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (so long as none of its activities involve the providing of athletic facilities or equipment) or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not attempt to participate or intervene in any political campaign (Code Sec. 501(c)(3)). (Form 1023.)

Because of the need for the IRS to combat efforts on the part of some individuals and organizations to utilize a church form of organization to avoid taxes and the equally important need to protect legitimate churches from undue IRS interference in their activities, the Code contains detailed rules governing the circumstances under which the IRS may inquire into or examine churches (Code Secs. 7428(d) and 7611; Reg. ^U301.7611-1) [93FED P42, 320, 93FED P43,810, 93FED P43,812].

An educational organization includes a child-care center whose services are available to the general public and whose purpose is to enable individuals to be gainfully employed (Code Sec. 501(k)) [93FED P22,602]. Educational institutions that practice racial discrimination cannot qualify for exemption [93FED P22,604.043].

(4) Civic league, an organization not organized for profit but operated exclusively for the promotion of social welfare, or a local association of employees.

(5) Labor, agricultural, or horticultural organization.

(6) Business league, chamber of commerce, real estate board, board of trade, or professional football league, not organized for profit.

(7) Club organized for pleasure, recreation, and other nonprofit purposes (social and recreation clubs).

(8) Fraternal beneficiary society, order, or association.

(9) Voluntary employees' beneficiary association providing for the payment of life, sickness, accident or other benefits to members or their dependents.

(10) Domestic fraternal society, or association, operating under the lodge system the net earnings of which are devoted exclusively to religious, charitable, scientific, literary,

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DATE 4-5-93
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educational, or fraternal purposes and which does not provide for payment of life, sickness, accident or other benefits.

(11) Teachers' retirement fund association of a purely local character.

(12) Benevolent life insurance association of a purely local character, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization.

(13) Cemetery company that is owned and operated exclusively for the benefit of its members.

(14) Credit union without capital stock, organized and operated for mutual purposes and without profit.

(15) Insurance companies or associations other than life.

(16) Corporation--farmers' and fruit growers' cooperative.

(17) A trust or trusts forming part of a nondiscriminatory plan providing for the payment of supplemental unemployment compensation benefits.

(18) Nondiscriminatory employee pension trust or trusts created before June 25, 1959.

(19) War veterans' organization or post, including any auxiliary unit.

(20) Organization or trust forming part of a qualified group legal services.

(21) A trust established by coal operators in the U. S. and maintained for the purpose of satisfying liability for claims.

(22) Condominium and residential real estate management associations.

(23) Political organization.

(24) A trust set up by a corporation in connection with the termination of its pension plan.

(25) A title-holding corporation or trust that has no more than 35 shareholders

EXHIBIT 14
DATE 4/5/93
SB 935

Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Rep. Raney
For the Committee on Taxation

Prepared by Lee Heiman
April 2, 1993

Increases the percentage of vendor allowance withholding, but
leaves dollar caps in place.

1. Page 42, lines 7 and 10.

Strike: "3%"

Insert: "4%"

2. Page 42, lines 16 and 18.

Strike: "1.5%"

Insert: "2.5%"

EXHIBIT 15
DATE 4/15/93
SB SB 235

Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Representative Raney
For the Committee on Taxation

Prepared by Greg Petesch
April 2, 1993

Exempt \$10,000 of used car sale

1. Page 199, line 18.

Following: "price"

Strike: ", as defined in [section 1]"

Insert: "in excess of \$10,000"

2. Page 199, line 24.

Following: "."

Insert: "As used in this subsection (a), "sales price" has the
meaning as defined in [section 1]."

3. Page 199, line 25.

Following: "value"

Insert: ", in excess of \$10,000,"

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EXHIBIT 16
DATE 4/5/93
SB 255

Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Representative Raney
For the Committee on Taxation

Prepared by Greg Petesch
April 2, 1993

Tax sale of newspapers, magazines, and books

1. Page 24, line 18.

Strike: "-- printed material"

2. Page 24, lines 19 through 22.

Following: "." on line 19

Strike: remainder of line 19 through "(2)" on line 22

3. Page 25, line 2.

Strike: "(a)"

Insert: "(1)"

4. Page 25, line 3.

Strike: "(b)"

Insert: "(2)"

5. Page 25, line 4.

Strike: "(c)"

Insert: "(3)"

6. Page 25, line 5.

Strike: "(d)"

Insert: "(4)"

7. Page 25, line 6.

Strike: "(e)"

Insert: "(5)"

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 17
DATE 4/5/93
SB. 235

Requested by Representative Driscoll
For the Committee on Taxation

Prepared by Greg Petesch
April 2, 1993

Election special approval requirements

1. Page 252, line 7.

Following: "date"

Insert: "-- determination of voter approval"

Following: "."

Strike: "[This"

Insert: "(1) Subject to subsection (2), [this"

2. Page 252, line 9.

Following: line 8

Insert: "(2)(a) The board of state canvassers shall canvass the votes on [this act]. When the board of state canvassers canvasses the vote on [this act], the board shall determine the approval or rejection in the following manner:

(i) determine from the county abstracts the total number of electors who are qualified to vote from the total number of registered electors in the state;

(ii) determine from the county abstracts the total number of electors who are qualified to vote at the special election; and

(iii) calculate the percentage of qualified electors voting at the election by dividing the amount determined in subsection (2)(a)(ii) by the amount determined in subsection (2)(a)(i).

(b) When the calculated percentage in subsection (2)(a)(iii) is more than 50%, [this act] must be considered to have been approved if a majority of the votes have been cast in favor of the proposition; otherwise, it is considered to have been rejected.

(c) When the calculated percentage in subsection (2)(a)(iii) is more than 40% but less than or equal to 50%, [this act] is considered to have been approved if 60% or more of the votes have been cast in favor of the proposition; otherwise, it is considered to have been rejected.

(d) When the calculated percentage in subsection (2)(a)(iii) is 40% or less, [this act] is considered to have been rejected."

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SB 235

Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Representative Raney
For the Committee on Taxation

Prepared by Greg Petesch
April 2, 1993

Hazardous waste

1. Page 14, line 22.
Strike: "or"

2. Page 15, line 2.
Following: "facilities"

Insert: "; or (xii) the acceptance by a for-profit entity of
hazardous waste, as defined in 75-10-403, or infectious
waste, as defined in 75-10-1003, for treatment, disposal, or
incineration"

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 19
DATE 4/5/93
SB 235

Requested by Rep. Raney
For the Committee on Taxation

Prepared by Lee Heiman
April 2, 1993

Uses 12% of revenue for Workers' Compensation unfunded liability and delays lowering personal property tax rate to 4.5% until unfunded liability is paid off.

1. Page 55, line 20.

Following: "~~further~~"

Insert: "distributed as follows:

(i) 12% to the workers' compensation tax account, established, in 39-71-2504 until the governor, by executive order, certifies that there is no longer an unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990; and

(ii) 88% until the allocation under subsection (1)(b)(i) terminates, and then 100% must be further"

2. Page 124, line 13.

Strike: "Class"

Insert: "(a) Until the tax year beginning after December 31 of the year in which the governor, by executive order, certifies that there is no longer an unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990, class"

Strike: "4.5%"

Insert: "9%"

3. Page 124.

Following: line 14

Insert: "(b) For tax years beginning after December 31 of the year in which the executive order referred to in subsection (4)(a) was issued, class eight property is taxed at 4.5% of its market value."

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DATE 7/5/13
SB 235

Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Representative Raney
For the Committee on Taxation

Prepared by Greg Petesch
April 2, 1993

Tax advertising

1. Page 24, line 19.

Strike: "-- advertising services"

Strike: "(1)"

2. Page 24, line 22 through page 25, line 6.

Strike: subsection (2) in its entirety

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 21
DATE 4/5/93
SB 235

Requested by Rep. Elliott
For the Committee on Taxation

Prepared by Lee Heiman
April 3, 1993

Returns pension and retirement income tax treatment to present law.

1. Title, page 1, line 25 through page 2, line 3.

Strike: "19-3-105" on page 1, line 25 through "19-10-504," on page 2, line 2

Strike: "19-11-612," on page 2, line 2 through "19-21-212," on page 2, line 3

2. Page 214, line 5.

Following: "7"

Insert: "(i) except as provided in subsection (2)(c)(ii),"

3. Page 214, line 6.

Strike: "\$7,500"

Insert: "\$3,600"

Following: "all"

Insert: "all"

4. Page 214, lines 7 and 8.

Following: "income"

Strike: "1"

Following: "received"

Insert: "received"

Strike: ", received by a taxpayer"

5. Page 214.

Following: line 21

Insert: "(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;"

6. Page 241, line 3 through page 248, line 3.

Strike: sections 172 through 183 in their entirety

Renumber: subsequent sections

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 22
DATE 4/5/93
S3 235

Requested by Katharine Donnelley
For the Committee on Taxation

Prepared by Lee Heiman
March 31, 1993

Exemption for certain nonprofit entities.

1. Page 18, line 2.

Following: "business"

Insert: "or the category of nonprofit organization of the purchaser"

2. Page 18, line 3.

Strike: "for resale"

3. Page 18, lines 8 and 9.

Strike: "to a person engaging in business in this state"

4. Page 18, lines 11 and 12.

Following: "each" on line 11

Insert: "eligible"

Strike: "engaging in business in this state prior to [the applicability date of this section]"

5. Page 26.

Following: line 24

Insert: "NEW SECTION. Section 32. Nontaxability -- certain nonprofit organizations. (1) All sales to or uses by an organization that is not operated for gain or profit and that may have property exempt from property taxation under 15-6-201 are nontaxable.

(2) In the case of a sale, the buyer shall deliver a nontaxable transaction certificate."

Renumber: subsequent sections

State of Montana

Marc Racicot, Governor



EXHIBIT 23
DATE 4/5/3
SB 235

Department of Revenue

Mick Robinson, Director

P.O. Box 202701

Helena, Montana 59620-2701

IMPACT OF MPC AMENDMENT

Property Tax Reductions

| | |
|---------------------------------|---------------------|
| Class 9 (Utilities) | (38,590,000) |
| Class 12 (Railroads & Airlines) | (2,749,000) |
| | <u>(41,339,000)</u> |

| | |
|--------------------------------|-------------------|
| Electrical Energy Tax Increase | <u>50,067,000</u> |
|--------------------------------|-------------------|

8,728,000

IMPACT OF MDU AMENDMENT

Property Tax Reductions

| | |
|---------------------------------|--------------------|
| Class 9 (Utilities) | (4,700,000) |
| Class 12 (Railroads & Airlines) | (888,000) |
| | <u>(5,588,000)</u> |

NET IMPACT OF BOTH AMENDMENTS

3,140,000
=====

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 24
DATE 4/5/93
SB 235

Requested by Rep. Cobb
For the Committee on Taxation

Prepared by Lee Heiman
April 2, 1993

Places \$30 million per year into the Workers' Compensation
unfunded liability.

1. Page 55, line 14.

Strike: "and"

Insert: "(b) \$30 million to be deposited in the workers'
compensation tax account established in 39-71-2504; and"

Renumber: subsequent subsection

2. Page 55, line 16.

Strike: "subsection"

Insert: "subsections"

Following: "(1)(a)"

Insert: "and (1)(b)"

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 25
DATE 4/5/93
SB 235

Requested by Rep. Cobb
For the Committee on Taxation

Prepared by Lee Heiman
April 3, 1993

4% to long range build project account

1. Page 55, line 20.

Following: "~~further~~"

Insert: "distributed as follows:

- (i) ~~43~~% to the long-range building program fund in the capital projects fund type in 17-5-404; and
- (ii) 97% that must be further"

Senate Bill 235

Amendments

Second Reading Copy

Requested by Montana Petroleum Association
For the Committee on Taxation

April 5, 1993

1. Page 24

Following: line 10

Insert: "(3) Minerals used by the producer of ^{the} such minerals for purposes of exploring for, producing, or transporting minerals are exempt from the sales tax and use tax, except that ^{the} such exemption does not include refined petroleum products."

2. Page 26

Following: line 1

Strike: "petroleum"

Insert: "hydrocarbons at the extraction site, or"

EXHIBIT 27
DATE 4/5/93
SB 235

Amendments to Senate Bill No. 235
Third Reading Copy

For the Committee on Taxation

Prepared by DOR and Greg Petesch
April 3, 1993

Construction Contracts

The purpose of this amendment is to exempt from sales and use tax all purchases pursuant to construction contracts bid before June 8, 1993. However, for such contracts that extend beyond April 1, 1995, property and services supplied or provided pursuant to the contract after April 1, 1995, are subject to the sales tax and use tax.

1. Page 252, line 9.

Following: "(1)"

Insert: "(a)"

Strike: "[Sections]"

Insert: "Except as provided in subsection (1)(b), [sections]"

2. Page 252, line 12.

Following: line 11

Insert: "(b) Purchases of goods and services pursuant to construction contracts that were bid prior to June 8, 1993, are exempt from the sales tax and use tax. However, property or services purchased on or after April 1, 1995, pursuant to a construction contract are subject to the sales tax and use tax regardless of when the contract was bid."

Amendments to Senate Bill No. 235
Third Reading Copy

For the Committee on Taxation

Prepared by DOR and Lee Heiman
April 3, 1993

Mobile and Manufactured Homes

The purpose of this amendment is equalize the sales and use tax on mobile homes and manufactured homes with the tax paid on traditionally built housing.

1. Page 5.

Following: line 7

Insert: "(6)(a) "Manufactured home" means a structure that:

- (i) is not an improvement to real property;
 - (ii) is transportable in one or more sections;
 - (iii) when erected on site is 320 square feet or more;
 - (iv) is designed to be used as a dwelling with a permanent foundation when connected to the required utilities; and
 - (v) contains plumbing, heating, and electrical systems.
- (b) The term also includes structures that:
- (i) do not meet the size requirements of subsection (6)(a)(iii) but for which the manufacturer voluntarily filed the certification required by the secretary of housing and urban development; and
 - (ii) comply with the standards required under 42 U.S.C. 5401, et seq."

Renumber: subsequent subsections

2. Page 6, line 21.

Strike: "(12)"

Insert: "(13)"

3. Page 7, line 16.

Strike: "(12)(C)(I)"

Insert: "(13)(c)(i)"

4. Page 9, line 20.

Strike: "subsection"

Insert: "subsections"

Following: "(5)"

Insert: "and (6)"

5. Page 11.

Following: line 13

Insert: "(6)(a) A sales tax of 2.5% is imposed upon the sales of all new or used mobile homes, as defined in 15-1-101, and on all manufactured homes, as defined in [section 1], that are not an improvement to real property. The tax is imposed on the purchaser and must be collected by the seller and paid to the department by the seller. The tax must be applied to

the sales price. The seller holds all taxes collected in trust for the state.

(b) For the privilege of using a new or used mobile home or manufactured home in this state, there is imposed on the person using the property a use tax equal to 2.5% of the value of a home that was:

(i) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred within this state;

(ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside of the exterior boundaries of an Indian reservation within this state; or

(iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by subsection (1) or the use tax imposed by subsection (2) (b) but which transaction, because of the buyer's subsequent use of the property, is subject to the sales tax or use tax.

(c) The provisions of [sections 1 through 65] apply to this subsection except as specifically provided in this subsection."

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 29
DATE 4/5/93
SB 235

For the Committee on Taxation

Prepared by DOR / Lee Heiman
April 3, 1993

Insurance Commissions and Premium Tax

The purpose of this amendment is to exempt from sales and use tax the commissions paid to insurance agents. Further, amendment #4 increases the rate of the insurance premium tax from 2.75% to 2.875%.

1. Title, page 1, line 14.

Following: "FUNDING;"

Insert: "INCREASING THE RATE FOR THE INSURANCE PREMIUM TAX;"

2. Title, page 2, line 7.

Following: "20-15-311,"

Insert: "33-2-705,"

3. Page 22, line 23.

Following: "bond,"

Strike: "or"

Following: "security"

Insert: ", or contract of insurance"

4. Page 77.

Following: line 19

Insert: "Section 88. Section 33-2-705, MCA, is amended to read:

"33-2-705. (Effective January 1, 1993) Report on premiums and other consideration -- tax. (1) Each authorized insurer and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state shall file with the commissioner, on or before March 1 each year, a report in form as prescribed by the commissioner showing total direct premium income, including policy, membership, and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance, whether designated as a premium or otherwise, received by a life insurer or written by an insurer other than a life insurer during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana, with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state, after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any

deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance, "premium" includes the total charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums computed at the rate of ~~2-3/4%~~ 2.875%.

(3) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

(4) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.

(5) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

(6) In addition to the penalty provided for in subsection (5), the commissioner may impose upon an insurer who fails to pay the tax required under this section a fine of \$100 a day for each day the tax remains unpaid past the due date or 1% of the amount owed in tax, whichever is greater.

(7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which such tax liability is accrued."

Renumber: Subsequent sections

Amendments to Senate Bill No. 235
Third Reading Copy

Requested by Rep. Cobb
For the Committee on Taxation

Prepared by Lee Heiman
April 3, 1993

Places money in excess of \$279 million in Workers' Comp unfunded liability.

1. Page 55, line 14.

Strike: "and"

Insert: "(b) for the fiscal year ending June 30, 1995, the amount determined under [section 185] to be deposited in the workers' compensation tax account established in 39-71-2504; and"

Renumber: subsequent subsection

2. Page 55, line 16.

Strike: "subsection"

Insert: "subsections"

Following: "(1)(a)"

Insert: "and (1)(b)"

3. Page 249.

Following: line 17

Insert: "NEW SECTION. Section 185. Determination of deposit to workers' compensation tax account -- fiscal year 1995. Prior to July 1 and October 1, 1994, and April 1, 1995, the budget director shall estimate the amount of sales tax revenue, less anticipated vendor payments and refunds, that will be collected during the fiscal year ending June 30, 1995. For each quarter in which the budget director estimates that sales tax revenue for the fiscal year will exceed \$279 million, the budget director shall determine the percentage that the anticipated revenue will exceed \$279 million. In the ensuing quarter, that percentage of sales tax revenue estimated to be in excess of \$279 million must be allocated for workers' compensation funding as provided in [section 66(1)(b)]."

Renumber: subsequent sections

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 31
DATE 4/5/93
SB 235

Requested by Rep. McCaffree
For the Committee on Taxation

Prepared by Lee Heiman
April 3, 1993

Delays repeal of I-105

1. Title, page 2, line 12.

Strike: "AN"

Strike: "DATE"

Insert: "DATES"

2. Page 250, line 3.

Strike: "15-10-401, 15-10-402, 15-10-406, 15-10-411, 15-10-412,"

3. Page 250.

Following: line 5

Insert: "NEW SECTION. Section 188. Delayed repealer. Sections
15-10-401, 15-10-402, 15-10-406, 15-10-411, and 15-10-412,
MCA, are repealed."

4. Page 252, line 7.

Strike: "date"

Insert: "dates"

Following: "."

Insert: "(1)"

Strike: "[This"

Insert: "Except as provided in subsection (2), [this"

5. Page 252.

Following: line 8

Insert: "(2) [Section 188] is effective July 1, 1995."

Amendments to Senate Bill No. 235
Third Reading Copy

32
EXHIBIT 32
DATE 4/5/93
SB 235

Requested by Rep. Dolezal
For the Committee on Taxation

Prepared by Lee Heiman
April 5, 1993

1. Page 4, line 19.

Strike: "and"

Insert: "(b) means seeds and plants to grow foods; and"

Renumber: subsequent subsection

2. Page 5, line 2.

Following: "gum;"

Insert: "or"

3. Page 5, lines 3 and 4.

Strike: "; or" on line 3 through "foods" on line 4

Amendments to Senate Bill No. 235
Third Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
April 3, 1993

Coordination instructions and technical amendments by Lee

Deletes reference to LC 159, which has not been introduced.

1. Page 251, lines 9 through 16.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

SB 168 is ag valuation bill; HB 671 is income and corp. tax bill.

2. Page 251.

Following: line 21

Insert: "(4) If Senate Bill No. 168, is passed and approved, then
[sections 115 and 118 of this act] are void.

(5) If House Bill No. 671 is passed and approved, then:

(a) [sections 154 through 168 and 172 through 183] are
effective on January 1, 1994, and apply to tax years beginning
after December 31, 1993; and

(b) House Bill No. 671 terminates December 31, 1993, and
applies only to the tax year beginning in 1993."

Technical:

3. Page 252, line 17.

Strike: "(4)"

Insert: "(5)"

4. Page 253, line 4.

Strike: "168"

Insert: "186"

Amendments to Senate Bill No. 235
Third Reading Copy

EXHIBIT 34
DATE 4/5/93
SB 235

Requested by Representative Raney
For the Committee on Taxation

Prepared by Greg Petesch and Lee Heiman
April 6, 1993

Exempt \$10,000 of used car sale

Version 2

1. Page 6, line 23.

Following: "kind"

Insert: "in sales other than of used motor vehicles"

2. Page 199, line 18.

Following: "price"

Strike: ", as defined in [section 1]"

Insert: "in excess of \$10,000"

3. Page 199, line 24.

Following: "._"

Insert: "As used in this subsection (a), "sales price" has the
meaning as defined in [section 1]."

4. Page 199, line 25.

Following: "value"

Insert: ", in excess of \$10,000,"

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By VICE-CHAIRMAN MIKE FOSTER, on April 5, 1993,
at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: Chairman Bob Gilbert

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 431, SB 438, SB 436
Executive Action: None

HEARING ON SENATE BILL 431Opening Statement by Sponsor:

SEN. GARY AKLESTAD, SD 6, Galata, said SB 431 revises and simplifies the propane gas permit law. If a customer does not have a permit when purchasing propane, the dealer must take his license number, send it to the Department of Transportation, the Department then sends the forms back to the customers, who in many cases, never sent them back with the \$20 fee for a permit. SB 431 leaves the propane fee in place for vehicles 12,000 pounds and greater. He said under old law provisions propane has a 14 cent federal tax and a \$20 permit fee; under SB 431 propane would be charged 14 cents federal and 12 cents Montana tax for vehicles and fleets under 12,000 pounds. Vehicles over 12,000 pounds would continue to use permits. Under old law, there is no federal tax on natural gas and a seven cent Montana tax. Under provisions of SB 431, natural gas would be charged ten cents a gallon, rather than a permit. The bill is not intended to generate revenue, rather get the tax dollars the state intended with a fee system that has not worked.

Proponents' Testimony:

Chris Bowers, Northern Energy Propane Company, said his company is a major propane supplier in the state. He submitted proposed amendments requested by REP. ORR that technically correct the language regarding fleets under 12,000 pounds EXHIBIT 1. He said propane dealers are happy with bill, it will eliminate a lot of paperwork for the dealers, and he urged the Committee to pass the bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. RANEY said he purchases a \$108 permit for his a 3/4 ton propane fueled pickup. He asked if he would still be paying for the permit or just be taxed by the gallon under provisions of this bill.

SEN. AKLESTAD said he would be taxed by the gallon unless his pickup is part of a fleet.

REP. BOHLINGER asked for clarification of the LPG tax amounts.

SEN. AKLESTAD said the bill would impose a 12 cent Montana tax in addition to the 14 cent federal tax. The Montana tax was designed to be revenue neutral by replacing the permit fee.

Closing by Sponsor:

SEN. AKLESTAD said the bill does away with a lot of unnecessary paperwork and promotes the use of clean burning fuel in the state. He urged the Committee to give the bill a favorable recommendation.

HEARING ON SENATE BILL 438Opening Statement by Sponsor:

SEN. BARRY STANG, SD 26, St. Regis, said this is the proverbial migratory equipment tax bill. The bill has passed twice before, but was brought back this session for further fine-tuning. Equipment sited in Montana on January 1 is taxed for the full year. If the equipment is moved out of state during the year, and taxes are paid in the new location, the owner gets a receipt which he then submits to Montana for a tax refund for the time the equipment was out of the state. He submitted proposed amendments from the Department of Revenue (DOR) and the County Treasurers and Assessors which further clarify that the bill does not prorate property from the day it enters the state until the day it leaves EXHIBIT 2. SEN. STANG asked for the record to reflect that the intent of the bill is to provide a refund on property that is taxed, especially on the first day of the year. If the owner takes the property to another state, he would get a refund for the time the equipment is in the other state.

Proponents' Testimony:

Keith Olson, Executive Director, Montana Logging Association, said the bill, as amended, would be consistent with Idaho migratory property law. It is important to businesses such as logging companies who move their equipment for portions of the year to be able to get a tax refund for the time their property is out of the state.

Keith Colbo, Montana Assessors Association, said the Assessors support the bill and the amendments.

Ken Morrison, DOR, said DOR supports the bill with the amendments. It requires property owners to have proof of taxes paid in another state in order receive a refund of Montana taxes.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN. STANG said, "the intent of the bill is to include January 1 and I want that in the record".

HEARING ON SENATE BILL 436Opening Statement by Sponsor:

SEN. JUDY JACOBSON, SB 36, Butte, said SB 436 imposes a 1% realty transfer tax on transfers of real property. Because of reduced state support for school equalization, counties are going to have to increase millage for school financing. The revenue generated from this tax would alleviate the need for increased property tax mills at the county level. Taxpayers want property taxes lowered, but lowered state support for school equalization will force counties to increase their property taxes if a tax package is accepted that does not include a sales tax.

Proponents' Testimony:

SEN. JERGESSON, SD 8, reviewed EXHIBIT 3 with the Committee. He said tax reform must be comprised of several factors. Simplicity is a key ingredient and is well represented by a realty transfer tax. Progressivity is another factor and an element of progressivity is provided by the exemption of the first \$50,000 from the tax on any sale. The bill relieves the burden on an existing revenue source as illustrated by the graphs re mill levies for school equalization support on Pages 2, 3, and 4, EXHIBIT 3. Approximately \$40 million has been cut from school equalization support this session. The realty transfer tax will generate approximately \$18 million a year. The Budget Office has differing revenue figures which would have to be worked out during executive session on the bill. The fourth factor in tax reform is broadening of the tax base. This bill is a tax that impacts one specific area. The tax base is broadened when several narrow based taxes are enacted across varying segments of the population.

SEN. JERGESSON said SB 436 should be kept alive as an option as the Legislature struggles with education funding, balancing the budget, and tax reform while trying to keep from injuring the Montana property taxpayer any more.

Eric Feaver, Montana Education Association, said his organization supports this bill. Support for SB 436 does not mean the MEA does not support SB 235. MEA is convinced the sales tax is the proper vehicle for tax reform. MEA also believes HB 667 is an excellent school funding remedy, but it would be better if there were \$40 million applied to it. He said there does not seem to be any other viable method of raising revenue of that magnitude. SB 436 is a good means of alleviating the pain that SB 667 will inevitably visit on property taxpayers of the state.

Pat Melby, Underfunded Schools Coalition, said the Supreme Court attributed the problem with the disparity of per pupil spending between the various districts to the over-reliance on the local property tax. If the equalization problem is to be solved, the over-reliance on local property taxes must be resolved as well. Taking \$40 million from school equalization shifts the burden from the state back on to the local property taxpayers and will serve to exacerbate the over-reliance problem as well as per pupil spending. SB 436 or some similar measure is vitally important to replace the \$40 million that is lost in SB 667.

Opponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said the bill attempts to amend the Realty Transfer Act. The legislation was originally introduced because DOR was required to value property at market value, but there was no way to determine what market value was. It took three legislative sessions to get the Act passed. The main obstacle to passage was the fear that the Act would eventually evolve into a tax.

He said these amendments are ambiguous because it is unclear who the actual taxpayer will be, i.e., the buyer, seller, or broker. The definition of taxpayer needs to be clearly defined. Another amendment gives the County Treasurer authority to change the valuation if he thinks it is not right. The taxpayer then must appeal the decision to DOR. It would be much better to write a clean realty transfer tax bill than to try to institute a tax by amendment of an existing Act.

Gloria Neuhardt, President, Montana Association of Realtors, presented her testimony in support of the bill **EXHIBIT 4**.

Vicki Hammond, First Vice President, Montana Association of Realtors, presented the Committee with a statement in opposition to the bill signed by over 1700 people across the state **EXHIBIT 5**. She said passage of these amendments will make buying a house much more costly.

Don Byrd, Montana Association of Clerks and Recorders, read a letter in opposition to the bill from Susan Haverfield, President of the Montana Clerks and Recorders **EXHIBIT 6**.

Nancy Griffin, Executive Director, Montana Building Industry Association, presented her testimony in opposition to the bill **EXHIBIT 7**.

Tom Hopgood, Montana Association of Realtors, said this is not responsible tax policy and reform when the bill is introduced one day before the revenue transmittal and heard and acted upon the next day. It is especially irresponsible when everyone was aware that there would be \$40 million cut from education before the session even began. He urged the Committee not to pass the bill.

Steve Mandeville, Legislative Chairman, Montana Association of Realtors, said realtors are the people who "man the pumps" for house buyers and sellers and are the most knowledgeable about the flow line of real estate economy. This is a tax on the few for the benefit of the many. He said this is regressive taxation; the less you can afford it, the more it hurts.

David Owen, Montana Chamber of Commerce, said this is a narrow based tax as barely 20% of the people in the state buy or sell a home in a given year. He expressed concern about small business owners who need to purchase expansion land. He said the \$1500 tax on a \$200,000 piece of property can stall that expansion. Adding more taxes in obscure and narrow-based areas bears no resemblance to comprehensive tax reform and will only serve to expand the problems already facing the state.

Greg Van Horssen, Income Property Managers and Owners Association and the Montana Landlords Association, said he concurs with the foregoing testimony and expressed the opposition of both organizations to the bill.

Donna Trahan, realtor from Helena, said these amendments will keep people from buying homes. She said \$300 - \$400 in additional costs can make a real difference and deny first time homebuyers the chance to buy a home.

Questions From Committee Members and Responses:

REP. DRISCOLL said realtors should just lower their commissions to compensate for this tax.

Mr. Hopgood said there are laws forbidding the fixing of commissions. Commissioners are derived from the market and sales price. He suggested buyer would have to discuss that option with their brokers.

REP. BOHLINGER said he perceives a conflict between the over reliance on property taxes as a means of funding schools and the realty transfer tax which seems to be just another form of property tax. He said there are so many fees and assessments added to the purchase price of a home that addition of even another \$150 to the cost of a home purchase puts affordable housing in the \$50,000 to \$65,000 range out of reach for many people.

SEN. JERGESON responded this seems to be more of a selective sales tax than a property tax. He said there is no question that this tax adds to the "up front" additional costs of a home purchase. He said the one time payment of a realty transfer tax looks a lot more attractive when compared to an ongoing annual property tax.

SEN. JACOBSON said closing costs, fees, closing costs, and commissions on a \$63,000 home amount to \$7640. The realty transfer tax would add another \$150 to that total. What the homebuyer is really concerned about is the monthly payment and the property tax. She said this is a much fairer way to raise the needed revenue than by burdening the low income homeowner with an increase in property taxes.

REP. HARPER said it appears this bill provides a way of ensuring wealthy out-of-state buyers pay their share of government support.

SEN. JACOBSON said the bill was originally drafted to give in-state residents an income tax credit. It will still impact people who are coming in and buying large ranches in the state. The \$50,000 exemption is intended to protect the one-time in-state homebuyer rather than the income tax credit which has definite negative revenue impacts.

Closing by Sponsor:

SEN. JACOBSON presented the Committee with an estimated sales and revenue chart **EXHIBIT 8**. She said the Democrats are truly concerned about property taxes and school equalization. She noted the petitions that were submitted did not identify what the revenue would be used for, only what tax was being levied. The main concern of Montanans is property taxes. They are concerned about the wealthy out-of-staters coming here, buying the agricultural land, and then, not having to pay Montana income taxes. This bill begins to address those issues. This truly is a tax on sales. There is a good chance the sales tax will be rejected and there has to be a fall back option to address the concerns and deficits in school equalization.

ADJOURNMENT

Adjournment: The meeting adjourned at 4:45 p.m.



CHAIRMAN BOB GILBERT



JILL ROHYANS, Secretary

BG/jdr

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

2nd Mtg.
of the Day

ROLL CALL

DATE

4/5/93

| NAME | PRESENT | ABSENT | EXCUSED |
|------------------------|---------|--------|---------|
| REP. GILBERT, CHAIRMAN | | | ✓ |
| REP. FOSTER | ✓ | | |
| REP. HARRINGTON | ✓ | | |
| REP. ANDERSON | ✓ | | |
| REP. BOHLINGER | ✓ | | |
| REP. DOLEZAL | ✓ | | |
| REP. DRISCOLL | ✓ | | |
| REP. ELLIOTT | ✓ | | |
| REP. FELAND | ✓ | | |
| REP. HANSON | ✓ | | |
| REP. HARPER | ✓ | | |
| REP. HIBBARD | ✓ | | |
| REP. KELLER | ✓ | | |
| REP. McCAFFREE | ✓ | | |
| REP. MCCARTHY | ✓ | | |
| REP. NELSON | ✓ | | |
| REP. ORR | ✓ | | |
| REP. RANEY | ✓ | | |
| REP. REAM | ✓ | | |
| REP. TUNBY | ✓ | | |
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Amendments to Senate Bill No. 431
Second Reading Copy

Requested by Rep. Orr
For the Committee on Taxation

Prepared by Lee Heiman
April 5, 1993

1. Page 5, line 11.
Strike: "INCLUDING OWNERS OR OPERATORS"
2. Page 5, line 12.
Following: "VEHICLES"
Insert: ", regardless of licensed gross vehicle weight,"
3. Page 5, line 13.
Following: "BUSINESS"
Strike: "1"
Insert: "and owners or operators"
4. Page 5, line 22.
Following: "+"
Insert: "fleet vehicles whose licensed gross vehicle weight is
under 12,000 pounds, \$108;"
5. Page 5, line 23.
Following: "(b)"
Insert: "(b)"
Renumber: subsequent subsections

Amendments to Senate Bill 438
Third Reading Copy

3/30/93

1. Page 2, line 13.
Following: "property."
Insert: "(1)"

2. Page 2, line 17.
Following: "~~remaining~~"
Strike: "~~of the~~"
Insert: "which the remaining"

3. Page 2, lines 17 and 18.
Following: "months"
Strike: "that the personal property is located in the state in
during"
Insert: "in"

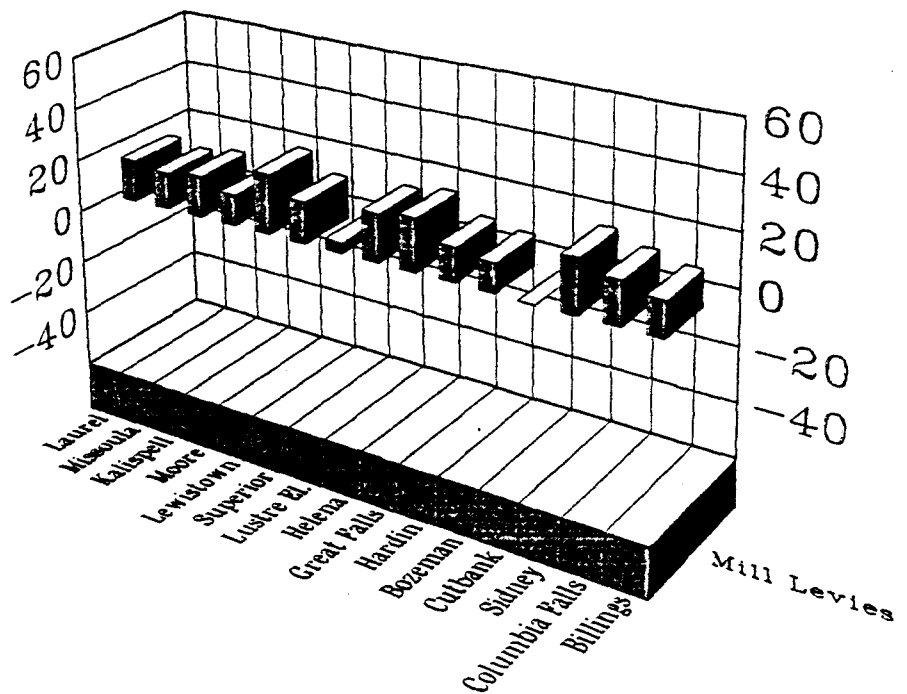
4. Page 2, line 19.
Following: line 18
Strike: "~~bears~~"
Insert: "bears"

5. Page 2, line 21.
Following: line 21
Insert: "(2) If property upon which taxes have been paid is removed from the state, the taxpayer may obtain a refund of a prorated portion of the taxes subject to the requirements of 15-16-613."

REASON FOR AMENDMENT: This amendment clarifies that a taxpayer under 15-24-303 must pay the tax on the property for entire remainder of the year from when the property is first present in the state. If the taxpayer removes the property from the state before the end of the year, any refund of taxes is subject to the provisions of 15-16-613.

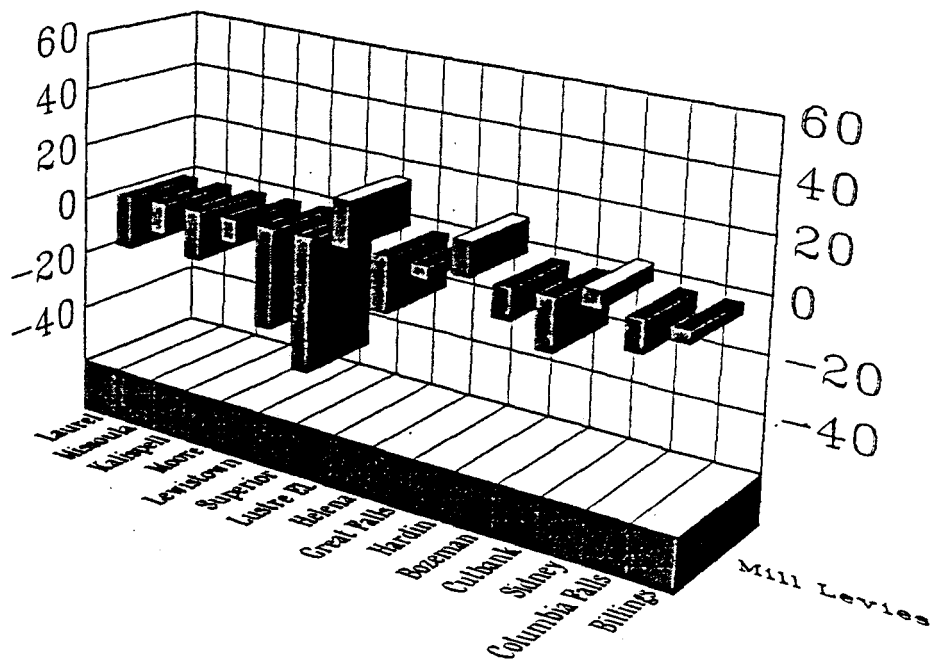
Tax Reform:

- Simplicity
- Progressivity
- Relieves Burden on an existing revenue source
- Broadens the Tax Base

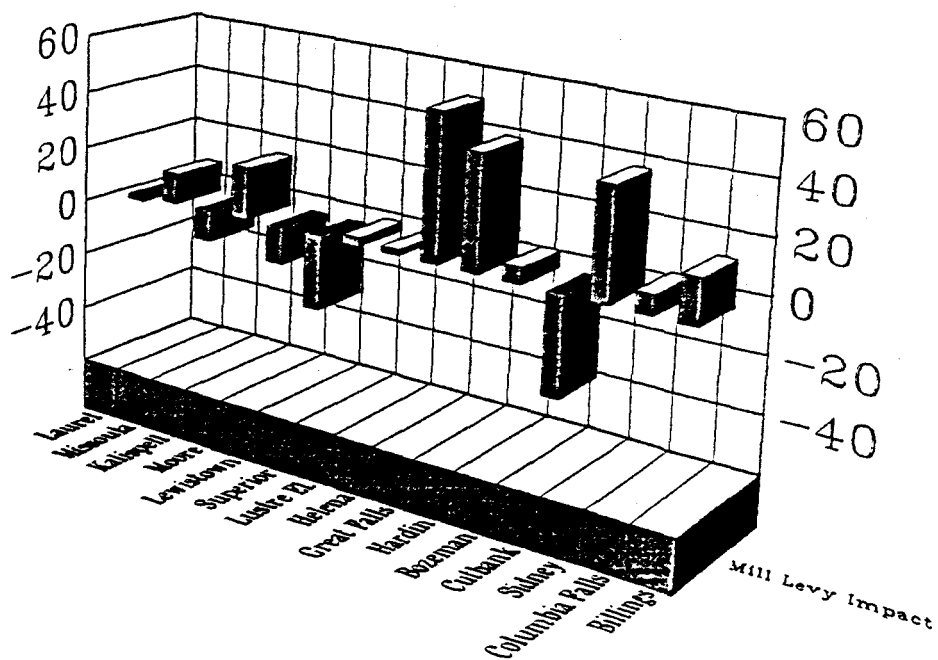


HOUSE BILL 471 as introduced

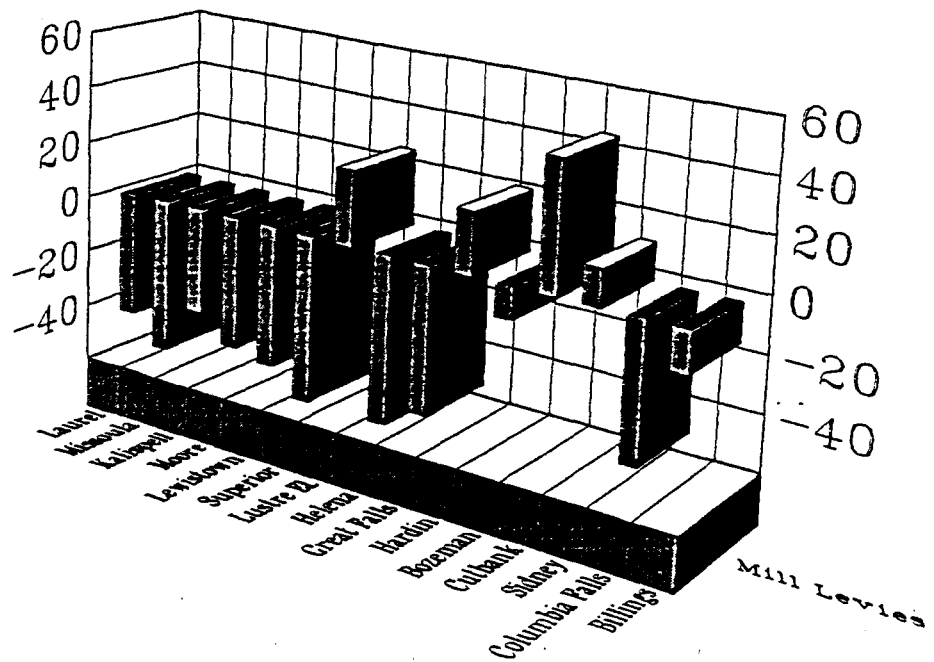
Mill Levy Impact from OLA spreadsheet 3/25/93



HOUSE BILL 667 after select committee
Mill Levy Impact

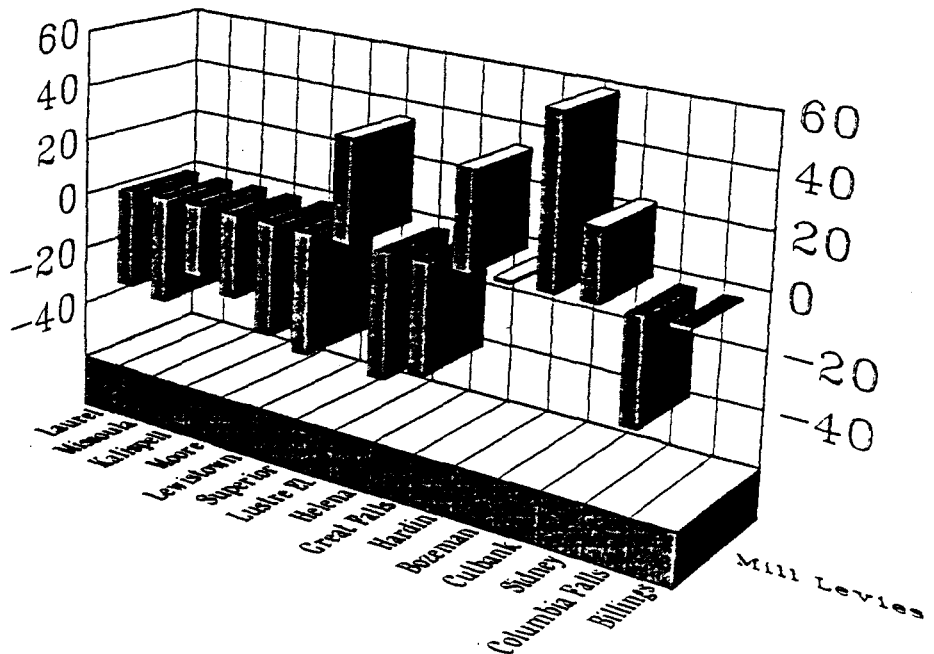


HOUSE BILL 667 after floor action
Mill Levy Impact



SENATE BILL 432 as introduced

Mill Levy Impact



SENATE BILL 432 less \$24M in FY95

Mill Levy Impact

Realty Transfer Tax Revenue

| 1991 Estimated Sales | 3,065,000,000 | Revenue at 1% 30,650,000 |
|----------------------|----------------------|--|
| New | | Assume Tax Exemption on First \$50,000 Value of All Transfers |
| Homes | 280,000,000 | 3,500 105,000,000 |
| Commercial | 106,520,000 | 213 95,868,000 |
| Other | 163,500,000 | 327 147,150,000 |
| Total | 550,020,000 | 348,018,000 3,480,180 |
| Existing | | |
| Homes | 1,364,160,000 | 17,400 494,160,000 |
| Commercial | 80,000,000 | 160 72,000,000 |
| Real Estate | 950,000,000 | 950,000,000 |
| Total | 2,394,160,000 | 1,516,160,000 15,161,600 |
| GR TOTAL | 2,944,180,000 | 1,864,178,000 18,641,780 |

EXHIBIT # 3
DATE 4-5-93
SB-436

***** REAL ESTATE TRANSACTION IN HILL COUNTY *****
CLOSED IN JUNE 1992

PURCHASE PRICE: \$54,500.00

***** CLOSING COST & FEES *****

| | |
|-----------------------------|--------------|
| 6% SALES COMMISSION: | \$3,815.00 * |
| TITLE INSURANCE: | \$586.65 * |
| 1% ORIGATION FEE: | \$520.00 |
| SURVEY: | \$0.00 |
| APPRAISAL FEE: | \$300.00 * |
| CLOSING FEE: | \$0.00 |
| RECORDING FEE: | \$80.00 |
| DOWNPAYMENT: | \$2,500.00 |
| CREDIT REPORT: | \$55.00 |
| LOAN DISCOUNT FEE: | \$823.50 |
| RESERVATION FEE: | \$549.50 |
| RESERVE ACCOUNT: | \$207.30 |
| 1ST YEAR HAZARD INSURANCE: | \$273.00 |
| LENDERS INSPECTION FEE: | \$45.00 * |
| TAX SERVICE FEE: | \$50.00 * |
| ATTORNEY FEE: | \$35.00 * |
| MORTGAGE INSURANCE PREMIUM: | \$2,010.05 |

COST AT CLOSING: \$7,801.65

LOAN AMOUNT AND MONTHLY PAYMENT

| | |
|-----------------------------------|--|
| MORTGAGE INTEREST RATE: | 7.38% |
| LOAN AMOUNT: | \$54,900.00 |
| TERM OF: | 30 YEARS |
| HOMEBUYERS TOTAL MONTHLY PAYMENT: | \$463.19 (PRINCIPAL, INTEREST, TAXES & INSURANCE) |

* PAID BY SELLER

***** REAL ESTATE TRANSACTION IN SILVER BOW COUNTY *****
CLOSED IN JULY 1992

PURCHASE PRICE: \$63,000.00

***** CLOSING COST & FEES *****

| | |
|-----------------------------|--------------|
| 6% SALES COMMISSION: | \$3,780.00 * |
| TITLE INSURANCE: | \$587.75 * |
| 1% ORIGATION FEE: | \$607.00 |
| SURVEY: | \$0.00 |
| APPRAISAL FEE: | \$300.00 * |
| CLOSING FEE: | \$0.00 |
| RECORDING FEE: | \$73.00 |
| DOWNPAYMENT: | \$2,300.00 |
| CREDIT REPORT: | \$40.00 |
| LOAN DISCOUNT FEE: | \$945.00 |
| RESERVATION FEE: | \$630.00 |
| RESERVE ACCOUNT: | \$1,112.78 |
| 1ST YEAR HAZARD INSURANCE: | \$217.00 |
| MORTGAGE INSURANCE PREMIUM: | \$2,306.60 |

COST AT CLOSING: \$7,647.75

LOAN AMOUNT AND MONTHLY PAYMENT

| | |
|-----------------------------------|--|
| MORTGAGE INTEREST RATE: | 7.38% |
| LOAN AMOUNT: | \$63,000.00 |
| TERM OF: | 30 YEARS |
| HOMEBUYERS TOTAL MONTHLY PAYMENT: | \$581.00 (PRINCIPAL, INTEREST, TAXES & INSURANCE) |

* PAID BY SELLER

EXHIBIT H 5
DATE 4-5-93
1 SB-436

***** ESTIMATED COST OF REAL ESTATE TRANSACTION *****

PURCHASE PRICE: \$125,000.00

***** ESTIMATED CLOSING COST & FEES *****

TAXES AND INSURANCE: \$2,600.00
6% SALES COMMISSION: \$7,500.00 *
TITLE INSURANCE: \$930.00 *
1% ORIGATION FEE: \$1,000.00
SURVEY: \$135.00
APPRAISAL FEE: \$450.00
CLOSING FEE: \$105.00
RECORDING FEE: \$60.00

TYPICAL 20% DOWNPAYMENT: \$25,000.00

COST AT CLOSING: \$37,780.00

ESTIMATED LOAN AMOUNT AND MONTHLY PAYMENT

MORTGAGE INTEREST RATE: 8.50%

LOAN AMOUNT: \$100,000.00

TERM OF: 30 YEARS

HOMEBUYERS TOTAL MONTHLY PAYMENT: \$985.58 (PRINCIPAL, INTEREST,
TAXES & INSURANCE)

* TYPICALLY PAID BY SELLER

***** ESTIMATED COST OF REAL ESTATE TRANSACTION *****

PURCHASE PRICE: \$175,000.00

***** ESTIMATED CLOSING COST & FEES *****

| | |
|--------------------------|---------------|
| TAXES AND INSURANCE: | \$3,700.00 |
| 6% SALES COMMISSION: | \$10,500.00 * |
| TITLE INSURANCE: | \$1,100.00 * |
| 1% ORIGATION FEE: | \$1,400.00 |
| SURVEY: | \$135.00 |
| APPRAISAL FEE: | \$450.00 |
| CLOSING FEE: | \$130.00 |
| RECORDING FEE: | \$60.00 |
| TYPICAL 20% DOWNPAYMENT: | \$35,000.00 |

COST AT CLOSING: \$52,475.00

ESTIMATED LOAN AMOUNT AND MONTHLY PAYMENT

| | |
|-----------------------------------|--|
| MORTGAGE INTEREST RATE: | 8.50% |
| LOAN AMOUNT: | \$140,000.00 |
| TERM OF: | 30 YEARS |
| HOMEBUYERS TOTAL MONTHLY PAYMENT: | \$1,384.81 (PRINCIPAL, INTEREST, TAXES & INSURANCE) |

* TYPICALLY PAID BY SELLER

EXHIBIT 4
DATE 4/5/93
SB 436

1

SB 436: Realty Transfer Tax Testimony **House Taxation Committee**

Sponsor: Senator Judy Jacobson

Room 437

Monday, April 5th; 3:00 p.m.

TESTIMONY

Mr. Chairman and members of the House Taxation Committee, my name is Gloria Neuhardt and I am the President of the Montana Association of REALTORS®, a trade association of 2,500 plus REALTORS® with 18 local Boards.

I appreciate the opportunity to address each of you on behalf of the association today. The consideration of a realty transfer tax is not a new phenomenon among State Legislatures seeking additional revenues, especially during the time of budget deficits.

You have just listened to the proponents of a realty transfer tax who believe it is a wonderful component in providing additional revenue for decreasing the state's deficit, adding to the school's equalization money and providing additional appropriations for government spending. Well, Mr. Chairman and members of the committee, what the

proponents did not tell you is how this tax impacts the affordability of housing, growth in the Montana economy and the dramatic hardship placed on the already burdened taxpayer.

The affordability of housing is a predominant factor in the availability of housing. As you well know, the major cities within the state are in a housing crisis. The inventory of housing available in this tight housing market and newly constructed residential properties are only available to qualified homebuyers who can afford the down payment and the closing costs; often the two barriers that first time homebuyers must overcome to own a home. If you impose a realty transfer tax, it will further impede a buyer's ability to buy and the community's ability to provide home ownership. Since transfer taxes are collected along with other closing costs, the taxes tend to cut into the homebuyer's funds that would otherwise be available for a down payment. A major hurdle faced by many first time homebuyers is acquiring the money for a down payment. Clearly, assessing a transfer tax only exacerbates this problem. Alternatively, assessment of a transfer tax could force sellers to absorb a portion of the tax through a reduction of their equity

EXHIBIT #4
DATE 4-5-93
31 SB-4363

in order to assist buyers in meeting their down payment and closing cost obligations.

The ability to purchase property contributes directly to the economy of the state and the ability to compete with neighboring states. Transfer taxes typically go to the general operating fund of state and local governments. This system puts a major burden of taxation on the buyers and sellers at the time of settlement and places an unreasonable burden on real property ownership and economic development.

It is reasonable to state that new industries locating within the city limits would contribute a great deal to broadening the revenue generating tax base. What we can do to foster additional business and industrial development can only enhance jobs, quality of living and ultimately the economy of the state.

Although, the transfer tax is essentially a prepaid real estate tax, local governments are already overly dependent upon property taxes for its

4

base of revenue. Property owners are rightly seeking relief from high enough property taxes and opposing any added increases.

A reminder of the results of Initiative 105 In 1986 should be apparent that individuals do not want additional property taxes.

Currently, the housing market in the Western region of the United States is notably the region most dramatically impacted by transfer fees. Property taxes, environmental regulations, permit fees, ^{APPLICATION} ~~appreciation~~ fees and sewer moratoria are key factors with the highest percentage of the four continental U.S. regions.

Equity among income taxes, property taxes and whatever other taxes that will be on the books in the future to support vital services, such as infrastructure, education and human services, must take into account those that pay the brunt of taxes.

The housing industry makes a significant contribution to the state in property taxes, permit fees and ^{APPLICATION} ~~appreciation~~ fees; as well as labors'

disposable income spent back in the community. Let's not kill the goose that lays the golden egg by penalizing property ownership with more taxes.

[More than forty states presently levy a real estate transfer tax, of which at least eighteen states now authorize local governments to assess additional local transfer taxes. Since 1978, thirteen states have increased their transfer tax rates, while only four states have reduced rates.] Transfer taxes, as a form of wealth tax, are a discriminatory and regressive tax that burden the lower and middle income classes more heavily than the wealthy class. Typically the tax is imposed at a flat rate, causing housing expenditures and home values to decline as a percent of income as income increases. For example, a 2% transfer tax would impose a burden of 4.7% of income on a purchaser with \$22,500 of income buying a house for \$52,500 as compared with a burden of 2.6% on a \$100,000 income homebuyer purchasing a house for \$128,000.

It is with these comments that the Montana Association of

6

REALTORS® and I urge you to not pass SB 436 or any realty transfer tax because of the impact it will have on the state of Montana and the individual citizens who buy and sell real estate.

FROM : Flathead Board of REALTORS
APR- 2-93 FRI 17:25

GLACIER REAL ESTATE

PHONE NO. : 406 7524197

FAX NO. 4067522861

EXHIBIT 5

DATE 4/5/93

SB. 436

P. 02

TO THE 53RD MONTANA LEGISLATURE

We, the undersigned Montana residents, respectfully oppose the enactment of a realty transfer tax at any rate, in any form or for any reason. We believe that a realty transfer tax is unduly burdensome, discriminatory, selective, regressive and counterproductive. We ask you to vote against any realty transfer tax.

| NAME | ADDRESS |
|-----------------------|-----------------------------|
| 1. Terry N. Anderson | 123 FAIRWAY Blvd. |
| 2. Judith K. Anderson | 123 FAIRWAY Blvd. |
| 3. Brian Treece | 1123 4th St. W. Kal. |
| 4. Cornelius F. Blum | 70 Box 404 Kal. |
| 5. Al Dams | 535 GRANDE VISTA. |
| 6. Jacob Dams | 535 GRANDE VISTA DR. |
| 7. Sharon L. Dams | 5618 LUSILLA HWY. 2 W. Kal. |
| 8. Monica M. Shay | 1985 Hwy #35 - #28 Kal. |
| 9. David H. Larson | 1985 Hwy 35 - #28 Kal. |
| 10. Mike F. White | 672 SHADY LN. |
| 11. Dale J. Lundberg | 780 N. Damsgaard Kal. |
| 12. Dan Nelson | 154 CANINE RD. KALISTON |
| 13. Robin Young | 1490 MT Hwy 35 Kal. |
| 14. Sam J. Young | Rt 4C-70 Pullins |
| 15. M. Doug Anderson | 153 Wedgewood Kal. |
| 16. Junior Beardley | 427 B. ELF Dr. Kal. |
| 17. Phil Goff | 172 Sand Hills, CA |
| 18. Sharon Copeland | 560 9th Ave E N. |
| 19. Joe Copeland | 560 9th Ave E N. |
| 20. David K. Dams | 98 Hawthorn W. |
| 21. Bob G. Dams | 1120 1/2 3rd Ave. East |

The original is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694. Exhibit 5 is signatures of 1700 people who are against any realty transfer tax.

SUSAN W. HAVERFIELD

FLATHEAD COUNTY CLERK & RECORDER

800 South Main - Kalispell, Montana 59901

Phone (406) 752-5300

EXHIBIT 6
DATE 4/5/93
SB 436

April 3, 1993

The Honorable Bob Gilbert, Chairman
House Taxation Committee
Montana State Capitol
Helena, Montana 59620

Dear Chairman Gilbert:

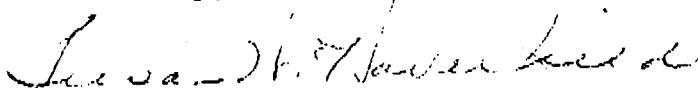
I am writing in opposition to SB 436, Realty Transfer Tax. I believe this is a regressive tax and another burden to be borne by people attempting to buy and own a home. Although there is an exemption in the bill on the first \$50,000 of value, properties in Flathead County valued under \$50,000 are few and far between. The same holds true across the state in the counties where population growth is occurring. Flathead and the other counties experiencing major real estate market activity would be the tax collectors for this state imposed tax.

SB 436 would fund school equalization aid with this new tax. School funding should be based on a predictable, guaranteed tax base; slapping a sales tax on a hot commodity is neither predictable or guaranteed. The bottom has fallen out of the real estate market before, and that market tends to be cyclical.

We should not be imposing new taxes on a portion of the population at a time when we expect, and have encouraged, the Legislature to do a total tax reform.

Please enter my opposition to SB 436 into the Committee record. Thank you.

Sincerely,



Susan W. Haverfield
Flathead County Clerk and Recorder
President, Montana Association of Clerks and Recorders

The sneakiest selective sales tax to surface this session.

- ① It was introduced in The Senate Mar 25th and heard in Committee Mar 26th.
- ② It has been called part of a tax reform package, which is a misnomer because rather than being broad-based, its focus and those who must pay this tax, are a very narrow band of taxpayers.
- ③ The Mt Assoc of C & R are particularly apposed to this legislation, since they are the ones charged with providing a Certificate of ^{Realty} Transfer by which the tax is calculated

Builders Assoc. of Billings
2-7533

Montana Home Builders Assoc.
58 181

Great Falls Homebuilders Assoc.
452-HOME



EXHIBIT 7
DATE 1/5/93
SB 436
Flathead Home Builders Assoc.
752-2522
Missoula Chapter of NAHB
273-0314
Helena Chapter of NAHB
449-7275

Nancy Lien Griffin, Executive Director
Suite 4D Power Block Building • Helena, Montana 59601 • (406) 442-4479

SB 436
1% Realty Transfer Tax Over \$50,000

Recommend:
Do Not Pass

Nancy Griffin, Executive Officer, Montana Building Industry Association.
Representing 6 local associations, 720 members, registering 31,007 employees.

1. Proposes to Balance the Budget on a Single Industry.

There has been much discussion on equitable taxation during this legislative session. The Administration has run multiple progressivity checks on it's proposals; the House compromise proposal was subjected to ongoing "fairness" discussion. SB 436 proposes yet another tax--a new tax--that hits one industry and one industry alone--housing.

To refresh your memories about the current taxes that housing pays:

| <u>Existing Housing</u> | | <u>New Housing</u> | |
|-------------------------|----------------|--------------------------|-------------|
| Property Tax | \$ 1,800/yr. | Property Tax | \$2,000/yr. |
| Service Fees | 500/yr. | Hookup Fees | 500 |
| SID's | \$ 600 - 1,500 | SID's | \$1,500 |
| | | Septic Tank & Drainfield | \$ 2,500 * |
| | | Water Well & Pump | \$ 2,000 * |
| | | Building Permit | \$ 1,000 * |
| | | Impact Fees | \$ 500 * |
| | | Engineering Fee | \$ 500 * |

(* one time costs)

Housing supports the provision of local infrastructure services, water, sewer and roads. If you consider the jobs and support services housing provides, you will understand that it is the homebuilding industry that is providing economic growth within our Montana communities.

2. A Realty Transfer Tax Would Impact Housing Affordability.

Although it is easy to say that this is a tax that those rich out of state parttime residents would pay--it is really tax that working Montanans' will pay. When a tax is assessed on the sale of the home, that cost is added to the cost of the home. We have in Montana a housing shortage crisis. Our major communities have all reported from 25% to 38% decreases in housing inventories. A home that was worth \$50,000 five years ago, is worth \$85,000 today. Lot prices even in affordable neighborhoods have risen from \$10,000 to \$20,000. Those who are fortunate to be able to build their own home find that at \$65 per square foot, even a modest 1000 sq. ft. home, will cost them \$65,000, lot or property not included.

Have any of you noticed what is happening with lumber prices? 2x4 framing lumber was \$240/M in October and today it is over \$500/M. Each month there are working Montana's whose wages have not kept pace with property values who can no longer afford their own home. With each impact fee, each service fee, each building inspection fee, each tax we impose on homeowners we knock the bottom rung off the ladder of home affordability.

So while you think you are socking the rich out of staters with this tax, you are really disenfranchising even more working Montanans from the American dream of owning their own home.

3. This is a brand new tax.

This is not just a new tax, but there are no constitutional limits proposed. Each industry in this state has been forced to realize that if our state is to regain it's solvency and offer relief to it's overburdened business that there will have to be tax reform. Our industry strongly endorses comprehensive tax reform, and realizes that in some form we will have to pay our fair share. In previous discussions with the Administration our industry costed the impact of various tax proposals, including a realty transfer tax, on housing and housing affordability. The highest rate discussed was 1/4% and then only in substitution for other tax relief. These concepts were rejected as it raised a disproportionate amount of the revenue on homeowners--those taxpayers most in need of tax relief.

A 1% realty transfer tax is unacceptable. It hits homeowners already struggling to meet mortgage income criteria. It is an unfair and inequitable in it's distribution. Please do not pass this bill from this committee.

REALTY TRANSFER TAX REVENUE

REVENUE AT X %

HB 147, 1991 EST SALES
3,065,000,000

1.0% 1.5% 2.0%
30,650,000 45,975,000 61,300,000

NEW CONSTRUCTION

PARCELS

ASSUME TAX CREDIT OF FIRST \$50,000 VALUE OF HOMES ONLY

HOMES 280,000,000
COMM 106,520,000
OTHER 163,500,000
TOTAL 550,020,000

3,500
213
327

105,000,000
106,520,000
163,500,000
375,020,000

3,750,200 5,625,300 7,500,400

EXISTING

HOMES 1,364,160,000
COMM 80,000,000
Real Estate 950,000,000
TOTAL 2,394,160,000

17,400
160

494,160,000
80,000,000
950,000,000
1,524,160,000

15,241,600 22,862,400 30,483,200

GR TOTAL 2,944,180,000

20,900

1,899,180,000 18,991,800 28,487,700 37,983,600

NEW CONSTRUCTION

ASSUME TAX CREDIT OF FIRST \$50,000 VALUE OF ALL TRANSFERS

HOMES 280,000,000
COMM 106,520,000
OTHER 163,500,000
TOTAL 550,020,000

3,500
213
327

105,000,000
95,868,000
147,150,000
348,018,000

3,480,180 5,220,270 6,960,360

EXISTING

HOMES 1,364,160,000
COMM 80,000,000
Real Estate 950,000,000
TOTAL 2,394,160,000

17,400
160

494,160,000
72,000,000
950,000,000
1,516,160,000

15,161,600 22,742,400 30,323,200

GR TOTAL 2,944,180,000

1,864,178,000 18,641,780 27,962,670 37,283,560

EXHIBIT 9
DATE 4/5/93
B 436

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation COMMITTEE SB 431
DATE 4/15/93 SPONSOR(S) Ableson, Jacobson, Hargis 436
438

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|-------------------|----------------------------------|----------|-------------|
| Steve Manderville | MT Assoc Realtors | | 436 X |
| Tom Emerling | Billings Assoc Realtors | | 436 X |
| Gloria Mondak | Pres Montana Ass Realtors | | 436 X |
| Ucky Nammond | 1st U.P. Montana Assoc Realtors | | 436 X |
| Donna Tralac | Relief of Helium | | 436 X |
| Eugene Roberts | Pres Helena Board of Realtors | | 436 X |
| Charles Herring | Billings Assoc Realtors | | 436 X |
| Earl Boyd | MT Assoc County Clerks & Records | | X |
| A. F. "Al" Litter | Self | | SB 436 X |
| J A Brown | Suburban Petroleum | 431 X | 1 |
| Daryl South | Montana Propane | 431 X | |
| Chris Bowers | Northern Energy | 431 X | |
| Nancy Grayfin | Montana Building Industry Assoc | | SB 436 X |
| Pat Mally | Underfunded Schools | 436 | |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

COMMITTEE _____

SB
BILL NO. 436

DATE _____ SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | SUPPORT | OPPOSE |
|------------------|--------------------------|---------|----------|
| Tri O'Leary | MSA | 436 | |
| Tom Hoggood | Mt. Assoc Realtors | | 436 |
| Ken Hoover | Self | 436 | X |
| Norm Fugere | STAM | 436 | |
| Staci Riley | MFT/MFSE | 436 | |
| Don Allen | Nat. Wood Products Assoc | | 436 X |
| Greg Van Hornen | IPMA/MLA | | X |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.