

HOUSE BILL NO. 793

Introduced: 02/14/83

Referred to Committee on Local Government: 02/14/83

Hearing: 2/19/83

Report: 03/22/84, Do Pass, As Amended

Rereferred to Committee on Appropriations: 02/24/83

Report: 03/28/83, Do Pass

2nd Reading: 03/28/83, Do Pass

3rd Reading: 03/28/83, Do Pass

Transmitted to Senate: 3/28/83

Referred to Committee on Finance & Claims: 4/5/83

Hearing: 04/11/83

On Motion, 4/14/83, That The Bill Be Taken From The Table
In The Committee On Finance & Claims, Printed And Placed
On 2nd Reading. Motion Failed.
Died in Senate Committee

1 House BILL NO. 793
 2 INTRODUCED BY Bentley
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR OPTIONAL
 5 LOCAL GOVERNMENT TAXES; AUTHORIZING A 55-MILL ALL-PURPOSE
 6 LEVY FOR COUNTIES; A LOCAL GOVERNMENT INCOME TAX NOT TO
 7 EXCEED 20 PERCENT OF STATE INCOME TAX LIABILITIES TO BE
 8 ESTABLISHED COUNTYWIDE AFTER APPROVAL BY THE ELECTORATE; A
 9 LOCAL GOVERNMENT MOTOR VEHICLE LICENSE FEE; AND A HOTEL OR
 10 MOTEL ROOM TAX; AMENDING SECTION 7-6-2220, MCA; AND
 11 PROVIDING AN EFFECTIVE DATE."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 NEW SECTION. Section 1. All-purpose mill levy
 15 authorized. A county may at its option levy an all-purpose
 16 annual mill levy as provided in [sections 1 through 7].
 17 NEW SECTION. Section 2. All-purpose mill levy --
 18 definition -- maximum. (1) The all-purpose mill levy is an
 19 annual levy upon the taxable value of all property in the
 20 county subject to taxation for county purposes in lieu of
 21 all multiple levies authorized by law, except those provided
 22 for in [sections 3 and 4].
 23 (2) Except as provided in [section 4], the all-purpose
 24 mill levy may not exceed 55 mills on the dollar.
 25 (3) If the county governing body determines that the

1 interests of the county would be best served by an
 2 all-purpose mill levy, it shall specify its intent to impose
 3 an all-purpose levy in the resolution approving and adopting
 4 the annual budget.
 5 NEW SECTION. Section 3. Additional levies exceeding
 6 all-purpose mill levy. A county using the all-purpose levy
 7 may impose a property tax in addition to the all-purpose
 8 mill levy for the following funds or purposes:
 9 (1) for the general road tax as provided in 7-14-2501;
 10 (2) for the poor fund as provided in 53-2-321;
 11 (3) for the district court fund as provided in
 12 7-6-2511;
 13 (4) for paying interest and principal on general
 14 obligation bonds during the fiscal year and for funding
 15 reserves as necessary on each series or issue of general
 16 obligation bonds;
 17 (5) for payment of any judgment against the county as
 18 provided in 2-9-316;
 19 (6) to maintain an improvement district revolving fund
 20 at an amount not to exceed the maximum amount of principal
 21 and interest on outstanding improvement bonds in any fiscal
 22 year;
 23 (7) to fund a self-insurance fund and a deductible
 24 reserve fund and to pay insurance premiums as provided in
 25 2-9-212;

1 (8) for the emergency purposes described in 10-3-405,
2 by a levy not to exceed 2 mills;

3 (9) for paying required contributions to the public
4 employees' retirement system as provided in 19-3-204;

5 (10) to fund any levy receiving the required approval
6 of the elected county body; and

7 (11) to fund the maintenance and operation of districts
8 created to provide a service not available countywide or to
9 provide a higher level of service than that available
10 countywide.

11 **NEW SECTION.** Section 4. Vote to exceed all-purpose
12 mill levy. (1) A county may impose a property tax mill levy
13 that exceeds the all-purpose levy of 55 mills if the
14 imposition of additional mills is approved by the electorate
15 of the county by a simple majority of those voting on the
16 question.

17 (2) The levy is in addition to the all-purpose mill
18 levy. The additional levy may not exceed the amount or the
19 mill levy limit established in the ballot question, and it
20 may not remain in effect longer than the durational limit
21 specified in the ballot question.

22 **NEW SECTION.** Section 5. Changes from all-purpose mill
23 levy. A county adopting the all-purpose levy provided for in
24 [sections 1 through 7] is bound by that adoption during the
25 ensuing fiscal year but may abandon the method in succeeding

1 fiscal years.

2 **NEW SECTION.** Section 6. Distribution of all-purpose
3 levy. The money received from the all-purpose levy must be
4 accounted for in a common fund known as the all-purpose
5 general fund.

6 **NEW SECTION.** Section 7. Exemptions of future levies.
7 Any statutory mill levy authorized for county governments
8 after July 1, 1983, which does not specifically include the
9 mill levy established in [sections 1 through 7] within the
10 all-purpose levy is in addition to the all-purpose levy.

11 **NEW SECTION.** Section 8. Local income tax. Pursuant to
12 the provisions of [section 9], a county may impose a local
13 income tax on its residents and on all other persons earning
14 or receiving income from activities carried out in the
15 county, not exceeding 20% of an individual's state income
16 tax liability.

17 **NEW SECTION.** Section 9. Election required to impose
18 local income tax. (1) A local government may impose or
19 repeal a tax authorized by [section 8] only after approval
20 by a simple majority of the electors voting on the question
21 who are residents of the jurisdiction that is or will be
22 subject to the tax.

23 (2) The ballot issue may be presented to the electors
24 of the local government by:

25 (a) a petition signed by 15% of the electors; or

(b) a resolution of the governing body.

(3) Upon the receipt of a petition or a resolution requesting an election, the question on the local tax must be placed on the ballot at the next regularly scheduled election.

(4) The question must be presented in substantially the following form:

☐ FOR the local government income tax.

☐ AGAINST the local government income tax.

(5) The question of imposition of a local tax may not be placed before the electors more than one time in any one fiscal year.

NEW SECTION. Section 10. Rate of income tax. The rate of the income tax must be determined by the electors when voting on the question. The governing body of the county shall certify the rate of the tax to the department of revenue on or before October 1.

NEW SECTION. Section 11. Suspension of income tax. The governing body of a county imposing an income tax, with the consent of the governing bodies of the municipalities of the county, may suspend for any fiscal year the collection of the county income tax only after first giving at least 120 days' notice of the suspension to the department of revenue. The suspension is effective the first day of the next calendar year. The suspension does not impair the

authority of the county to impose the tax in subsequent years.

NEW SECTION. Section 12. Use of income tax. Any portion or all of the proceeds of the income tax may be utilized for the reduction of property taxes in the local government.

NEW SECTION. Section 13. Administration of income tax -- role of department of revenue. (1) The local income tax must be administered by the department of revenue under rules adopted by the department. The rules for the administration of the state income tax apply to the local income tax except when, in the judgment of the department, the rules would be inconsistent or not feasible for proper administration.

(2) The department may make refunds to taxpayers pursuant to [sections 8 through 15].

(3) Money collected pursuant to [sections 8 through 15] must be accounted for separately and must be credited to a separate local income tax account in the state treasury.

(4) The department may deduct from the money collected an amount not exceeding 1% to cover necessary costs incurred by the department in administering the local income tax.

NEW SECTION. Section 14. Income tax on nonresidents. (1) The local income tax liability of a nonresident is limited to his place of employment or business if the county

1 of such place imposes a local income tax. The department of
2 revenue shall credit one-half of the tax imposed by the
3 jurisdiction of employment or business to the nonresident's
4 place of residence if the county of his residence also
5 imposes the local income tax.

6 (2) If the nonresident lives in a county that does not
7 impose a tax but he earns income in a county that does
8 impose a tax, the department shall credit one-half of the
9 total net proceeds of the nonresident's tax liability to the
10 jurisdiction of employment or business and refund the
11 remainder to the taxpayer.

12 (3) If the nonresident derives income in a county that
13 does not impose a local income tax but resides in a
14 jurisdiction that does impose such a tax, the department
15 shall credit the proceeds of the local income tax
16 exclusively to the jurisdiction of residence.

17 NEW SECTION. Section 15. Distribution of income tax
18 collections. (1) Except as provided in [section 14], all
19 money collected pursuant to [sections 8 through 15] must be
20 distributed by the department of revenue to the county of
21 origin on a monthly basis after the following deductions are
22 made:

- 23 (a) the amount for refunds;
- 24 (b) a reserve for expected or anticipated refunds; and
- 25 (c) the costs of administering the tax.

1 (2) The county treasurer or finance administrator
2 shall distribute the revenues according to the terms and
3 conditions of an interlocal agreement between the county and
4 all municipalities within the county. The interlocal
5 agreement must be adopted by all the municipalities and the
6 county prior to the calling of the election on the income
7 tax under [section 9].

8 (3) In the absence of an interlocal agreement, the
9 proceeds of the income tax must be distributed in the
10 following manner:

11 (a) One-half of the proceeds must be distributed
12 between the municipalities and county in a ratio based on
13 the total income tax collections in each jurisdiction. For
14 this purpose the municipality jurisdiction includes all
15 taxpayers residing in the municipality. The county
16 jurisdiction includes only taxpayers residing in the county
17 but outside a municipality.

18 (b) The remainder of the proceeds must be distributed
19 to local governments in the county in the same proportion
20 that their populations bear to the total population of the
21 county. For this purpose the population of the county
22 includes all county residents, including municipal
23 residents, and must be added to the population of the
24 municipalities to calculate the proportions.

25 (4) The department shall provide the necessary revenue

1 information for the proper distribution of the revenues to
2 the county finance administrator.

3 **NEW SECTION.** Section 16. Motor vehicle license fees.

4 (1) A governing body of a local government may by ordinance
5 or, if the local government does not have the authority to
6 enact general purpose ordinances, by resolution impose a
7 license fee of not more than 25% of the automobile and light
8 vehicle fees established in 61-3-533.

9 (2) The registrar of motor vehicles shall by rule
10 provide for the collection by counties of the license fee
11 and the distribution of proceeds to counties and
12 municipalities imposing the license fee.

13 (3) A county may impose the fee only in that portion
14 of the county that is not within a municipality, and a
15 municipality may impose the fee only within the
16 municipality.

17 (4) The revenue may be used by the county or the
18 municipality only for:

19 (a) the construction and repair of trafficways within
20 its respective jurisdiction;

21 (b) maintenance of trafficways within its respective
22 jurisdiction unless an interlocal agreement provides
23 otherwise;

24 (c) enforcement of trafficway safety;

25 (d) driver education;

1 (e) tourist promotion; and

2 (f) administrative collection costs.

3 **NEW SECTION.** Section 17. Hotel or motel room tax. (1)

4 A governing body of a local government may by ordinance or,
5 if the local government does not have the authority to enact
6 general purpose ordinances, by resolution impose a tax on
7 the use of hotel or motel facilities, as defined in
8 50-51-102, not to exceed 10% of the room rental.

9 (2) The local government imposing the tax shall
10 provide for the administration and the collection of this
11 tax.

12 Section 18. Section 7-6-2220, MCA, is amended to read:

13 "7-6-2220. Levy for capital improvement fund. Money
14 for the capital improvement fund is to be derived from the
15 multiple levies ~~or the all-purpose levy~~ authorized by
16 statute and appropriated to the capital improvement fund.
17 However, no more than 10% of the money derived from any one
18 levy may be appropriated to the capital improvement fund."

19 **NEW SECTION.** Section 19. Severability. If a part of
20 this act is invalid, all valid parts that are severable from
21 the invalid part remain in effect. If a part of this act is
22 invalid in one or more of its applications, the part remains
23 in effect in all valid applications that are severable from
24 the invalid applications.

25 **NEW SECTION.** Section 20. Effective date. This act is

1 effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 420-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 83, there is hereby submitted a Fiscal Note for House Bill 793 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 793 provides for optional local government taxes; authorizes a 55-mill all-purpose levy for counties, a local government income tax not to exceed 20% of state income tax liabilities to be established countywide after approval by the electorate, a local government motor vehicle license fee, and a hotel or motel room tax; and provides an effective date.

FISCAL IMPACT:

- 1) 55-Mill All-Purpose Property Tax Levy for Counties: No state impact.
- 2) Local Government Income Tax: Administrative expenses to be deducted by Department of Revenue from payments made to local governments. Expenditures in FY84 would total \$77,000, and in FY85 would total \$40,000.
- 3) Local Government Motor Vehicle License Fee: No state impact.
- 4) Local Government Hotel or Motel Room Tax: No state impact.

EFFECT ON LOCAL GOVERNMENTS:

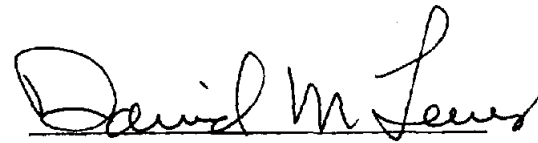
- 1) 55-Mill All-Purpose Property Tax Levy for Counties:

This provision should not have any fiscal impact, it merely gives counties more budgetary flexibility.

- 2) Local Government Income Tax:

The amount of revenue to be generated will be determined by the tax rate established by individual counties, as well as by the allocation of administrative costs incurred by the Department of Revenue for participating counties. If all counties imposed an income tax at the maximum allowable rate, then between \$31 million and \$33 million would be received annually by local governments statewide.

(Continued)



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83

3) Local Government Motor Vehicle License Fee:

The amount of revenue to be generated will be determined by the size of fee established by counties and municipalities imposing such fees. If all local governments imposed a motor vehicle license fee at the maximum allowable rate then approximately \$10.5 million in gross revenue would be received annually.

4) Local Government Hotel or Motel Room Tax:

The amount of revenue to be generated will be determined by the tax rate established by local governments. If all nonresident hotel/motel expenditures were subjected to a tax at the 10% rate, approximately \$11.2 million in gross revenue would be produced annually.

TECHNICAL NOTE:

The amount which the Department may deduct to cover administrative costs for the local income tax is limited to 1% of the amount collected. It is quite possible that 1% of local income tax receipts may be less than the necessary administrative expenses, particularly if the participating counties are small in number and/or income.

1 STATEMENT OF INTENT

2 HOUSE BILL 793

3 House Local Government Committee

1 local governments.

5 A statement of intent is required on this bill because
6 rulemaking authority is granted the Department of Revenue in
7 section 13 and the Motor Vehicle Division of the Department
8 of Justice in section 16.

9 It is intended that the rules promulgated by the
10 Department of Revenue would provide maximum compatibility
11 with rules adopted by the Department for administering state
12 income taxes. In achieving this goal the Department should
13 strive for simplicity for taxpayers, and if burdens are
14 necessary, the Department should bear them. In administering
15 the program the primary objective should be efficiency for
16 both the state and the concerned counties. It is
17 contemplated that the rules will address reporting forms,
18 payments to local governments, and other procedures
19 necessary for the proper administration of the local income
20 tax.

21 The rules promulgated by the Motor Vehicle Division are
22 intended to be primarily administrative such as prescribing
23 reporting by local governments, payment schedules by the
24 Division, forms to be used, and other procedures necessary
25 for the proper administration of the motor vehicle fee for

SECOND READING

Approved by Comm.
on Local Government

HOUSE BILL NO. 793
INTRODUCED BY BERTELSEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR OPTIONAL LOCAL GOVERNMENT TAXES; AUTHORIZING A 55-MILL ALL-PURPOSE LEVY FOR COUNTIES; A LOCAL GOVERNMENT INCOME TAX NOT TO EXCEED 20 PERCENT OF STATE INCOME TAX LIABILITIES TO BE ESTABLISHED COUNTYWIDE AFTER APPROVAL BY THE ELECTORATE; A LOCAL GOVERNMENT MOTOR VEHICLE LICENSE FEE, AND A HOTEL OR MOTEL ROOM TAX; AMENDING SECTION 7-6-2220, MCA; ~~PROVIDING AN APPROPRIATION~~; AND PROVIDING AN EFFECTIVE DATE."

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

~~NEW SECTION.~~ Section 1. All-purpose mill levy authorized. A county may at its option levy an all-purpose annual mill levy as provided in [sections 1 through 7].

~~NEW SECTION.~~ Section 2. All-purpose mill levy -- definition -- maximum. (1) The all-purpose mill levy is an annual levy upon the taxable value of all property in the county subject to taxation for county purposes in lieu of all multiple levies authorized by law, except those provided for in [sections 3 and 4].

(2) Except as provided in [section 4], the all-purpose mill levy may not exceed 55 mills on the dollar.

(3) If the county governing body determines that the

interests of the county would be best served by an all-purpose mill levy, it shall specify its intent to impose an all-purpose levy in the resolution approving and adopting the annual budget.

~~NEW SECTION.~~ Section 3. Additional levies exceeding all-purpose mill levy. A county using the all-purpose levy may impose a property tax in addition to the all-purpose mill levy for the following funds or purposes:

(1) for the general road tax as provided in 7-14-2501;

(2) for the poor fund as provided in 53-2-321;

(3) for the district court fund as provided in 7-6-2511;

(4) for paying interest and principal on general obligation bonds during the fiscal year and for funding reserves as necessary on each series or issue of general obligation bonds;

(5) for payment of any judgment against the county as provided in 2-9-316;

(6) to maintain an improvement district revolving fund at an amount not to exceed the maximum amount of principal and interest on outstanding improvement bonds in any fiscal year;

(7) to fund a self-insurance fund and a deductible reserve fund and to pay insurance premiums as provided in 2-9-212;

(8) for the emergency purposes described in 10-3-405, by a levy not to exceed 2 mills;

(9) for paying required contributions to the public employees' retirement system as provided in 19-3-204;

(10) to fund any levy receiving the required approval of the elected county body; and

(11) to fund the maintenance and operation of districts created to provide a service not available countywide or to provide a higher level of service than that available countywide.

NEW SECTION. Section 4. Vote to exceed all-purpose mill levy. (1) A county may impose a property tax mill levy that exceeds the all-purpose levy of 55 mills if the imposition of additional mills is approved by the electorate of the county by a simple majority of those voting on the question.

(2) The levy is in addition to the all-purpose mill levy. The additional levy may not exceed the amount or the mill levy limit established in the ballot question, and it may not remain in effect longer than the durational limit specified in the ballot question.

NEW SECTION. Section 5. Changes from all-purpose mill levy. A county adopting the all-purpose levy provided for in [sections 1 through 7] is bound by that adoption during the ensuing fiscal year but may abandon the method in succeeding

fiscal years.

NEW SECTION. Section 6. Distribution of all-purpose levy. The money received from the all-purpose levy must be accounted for in a common fund known as the all-purpose general fund.

NEW SECTION. Section 7. Exemptions of future levies. Any statutory mill levy authorized for county governments after July 1, 1983, which does not specifically include the mill levy established in [sections 1 through 7] within the all-purpose levy is in addition to the all-purpose levy.

NEW SECTION. Section 8. Local income tax. Pursuant to the provisions of [section 9], a county may impose a local income tax ~~AS A PERCENTAGE OF THE STATE INCOME TAX LIABILITY~~ on its residents and on all other persons earning or receiving income from activities carried out in the county, not exceeding 20% of an individual's state income tax liability. ~~NOTHING IN SECTIONS 8 THROUGH 151 MAY BE CONSTRUED TO PERMIT A COUNTY TO LEVY AN INCOME TAX ON A REGULATED PUBLIC UTILITY.~~

NEW SECTION. Section 9. Election required to impose local income tax. (1) A local government may impose or repeal a tax authorized by [section ~~SECTIONS 8, 16, AND 17~~] only after approval by a simple majority of the electors voting on the question who are residents of the jurisdiction that is or will be subject to the tax.

(2) The ballot issue may be presented to the electors of the local government by:

(a) a petition signed by 15% of the electors; or

(b) a resolution of the governing body.

(3) Upon the receipt of a petition or a resolution requesting an election, the question on the local tax must be placed on the ballot at the next regularly scheduled election.

(4) The question must be presented in substantially the following form:

FOR the local government ~~income-tax~~ INSERT NAME OF TAX.

AGAINST the local government ~~income-tax~~ INSERT NAME OF TAX.

(5) The question of imposition of a local tax may not be placed before the electors more than one time in any one fiscal year.

NEW SECTION. Section 10. Rate of income tax. The rate of the income tax must be determined by the electors when voting on the question. The governing body of the county shall certify the rate of the tax to the department of revenue on or before October ~~AUGUST~~ 1.

NEW SECTION. Section 11. Suspension of income tax. The governing body of a county imposing an income tax, with the consent of the governing bodies of the municipalities of

the county, may suspend for any ~~fiscal~~ CALENDAR year the collection of the county income tax only after first giving at least ~~at least~~ 150 days' notice of the suspension to the department of revenue. The suspension is effective the first day of the next calendar year. The suspension does not impair the authority of the county to impose the tax in subsequent years.

NEW SECTION. Section 12. Use of income tax. Any portion or all of the proceeds of the income tax may be utilized for the reduction of property taxes in the local government.

NEW SECTION. Section 13. Administration of income tax -- role of department of revenue. (1) The local income tax must be administered by the department of revenue under rules adopted by the department. The rules for the administration of the state income tax apply to the local income tax except when, in the judgment of the department, the rules would be inconsistent or not feasible for proper administration.

(2) The department may make refunds to taxpayers pursuant to [sections 3 through 15].

(3) Money collected pursuant to [sections 3 through 15] must be accounted for separately and must be credited to a separate local income tax account in the state treasury.

(4) The department may deduct from the money collected

an amount not exceeding 1% to cover necessary costs incurred by the department in administrating the local income tax.

NEW SECTION. Section 14. Income tax on nonresidents.

~~(1) FOR THE PURPOSES OF THIS SECTION THE TERM "NONRESIDENT" MEANS A PERSON NOT MAINTAINING A PERMANENT PLACE OF RESIDENCE IN THE COUNTY AT THE CLOSE OF THE TAX YEAR.~~

~~(2)~~ The local income tax liability of a nonresident is limited to his place of employment or business if the county of such place imposes a local income tax. The department of revenue shall credit one-half of the tax imposed by the jurisdiction of employment or business to the nonresident's place of residence if the county of his residence also imposes the local income tax.

~~(3)~~ If the nonresident **TAXPAYER** lives in a county that does not impose a tax but he earns income in a county that does impose a tax, the department ~~shall credit~~ **TAXPAYER** ~~shall pay~~ one-half of the total net ~~proceeds of the~~ nonresident's tax liability to ~~be credited to~~ the jurisdiction of employment or business ~~and refund the remainder to the taxpayer.~~

~~(4)~~ If the nonresident derives income in a county that does not impose a local income tax but resides in a jurisdiction that does impose such a tax, the department shall credit the proceeds of the local income tax exclusively to the jurisdiction of residence.

NEW SECTION. Section 15. Distribution of income tax collections. (1) Except as provided in [section 14], all money collected pursuant to [sections 8 through 15] must be distributed by the department of revenue to the county of origin on a monthly basis after the following deductions are made:

- (a) the amount for refunds;
- (b) a reserve for expected or anticipated refunds; and
- (c) the costs of administering the tax.

(2) The county treasurer or finance administrator shall distribute the revenues according to the terms and conditions of an interlocal agreement between the county and all municipalities within the county. The interlocal agreement must be adopted by all the municipalities and the county prior to the calling of the election on the income tax under [section 9].

(3) In the absence of an interlocal agreement, the proceeds of the income tax must be distributed ~~in the following manner:~~

~~(a) One-half of the proceeds must be distributed between the municipalities and county in a ratio based on the total income tax collections in each jurisdiction. For this purpose the municipality jurisdiction includes all taxpayers residing in the municipality. The county jurisdiction includes only taxpayers residing in the county~~

but outside a municipality.

~~(b) The remainder of the proceeds must be distributed to local governments in the county in the same proportion that their populations bear to the total population of the county for this purpose the population of the county includes all county residents including municipal residents and must be added to the population of the municipalities to calculate the proportions.~~

(4) The department shall provide the necessary revenue information for the proper distribution of the revenues to the county finance administrator.

NEW SECTION. Section 16. Motor vehicle license fees.

(1) ~~A PURSUANT TO THE PROVISIONS OF [SECTION 9] A~~ governing body of a local government may ~~by ordinance or if the local government does not have the authority to enact general purpose ordinances by resolution~~ impose a license fee of not more than 25% of the automobile and light vehicle fees established in 61-3-533.

(2) The registrar of motor vehicles **MOTOR VEHICLE DIVISION, DEPARTMENT OF JUSTICE** shall by rule provide for the collection by counties of the license fee and the distribution of proceeds to counties and municipalities imposing the license fee.

(3) A county may impose the fee only in that portion of the county that is not within a municipality, and a

municipality may impose the fee only within the municipality.

(4) The revenue may be used by the county or the municipality only for:

(a) the construction and repair of trafficways within its respective jurisdiction;

(b) maintenance of trafficways within its respective jurisdiction unless an interlocal agreement provides otherwise;

(c) enforcement of trafficway safety;

(d) driver education;

(e) tourist promotion; and

(f) administrative collection costs.

NEW SECTION. Section 17. Hotel or motel room tax. (1)

~~A PURSUANT TO THE PROVISIONS OF [SECTION 9] A~~ governing body of a local government may ~~by ordinance or if the local government does not have the authority to enact general purpose ordinances by resolution~~ impose a tax on the use of hotel or motel facilities, as defined in 50-51-102, not to exceed 10% of the room rental.

(2) The local government imposing the tax shall provide for the administration and the collection of this tax.

Section 18. Section 7-6-2220, MCA, is amended to read:

"7-6-2220. Levy for capital improvement fund. Money

1 for the capital improvement fund is to be derived from the
 2 multiple levies or the all-purpose levy authorized by
 3 statute and appropriated to the capital improvement fund.
 4 However, no more than 10% of the money derived from any one
 5 levy may be appropriated to the capital improvement fund."

6 NEW SECTION. Section 19. Severability. If a part of
 7 this act is invalid, all valid parts that are severable from
 8 the invalid part remain in effect. If a part of this act is
 9 invalid in one or more of its applications, the part remains
 10 in effect in all valid applications that are severable from
 11 the invalid applications.

12 SECTION 20. APPROPRIATION. THERE IS APPROPRIATED
 13 \$37,000 FROM THE GENERAL FUND TO THE DEPARTMENT OF REVENUE
 14 FOR THE BIENNium ENDING JUNE 30, 1985, FOR THE INITIAL
 15 DEVELOPMENT COSTS OF THE LOCAL INCOME TAX PROGRAM.

16 NEW SECTION. Section 21. Effective date. This act is
 17 effective July 1, 1983.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 793

3 House Local Government Committee

1 local governments.

4
5 A statement of intent is required on this bill because
6 rulemaking authority is granted the Department of Revenue in
7 section 13 and the Motor Vehicle Division of the Department
8 of Justice in section 16.

9 It is intended that the rules promulgated by the
10 Department of Revenue would provide maximum compatibility
11 with rules adopted by the Department for administering state
12 income taxes. In achieving this goal the Department should
13 strive for simplicity for taxpayers, and if burdens are
14 necessary, the Department should bear them. In administering
15 the program the primary objective should be efficiency for
16 both the state and the concerned counties. It is
17 contemplated that the rules will address reporting forms,
18 payments to local governments, and other procedures
19 necessary for the proper administration of the local income
20 tax.

21 The rules promulgated by the Motor Vehicle Division are
22 intended to be primarily administrative such as prescribing
23 reporting by local governments, payment schedules by the
24 Division, forms to be used, and other procedures necessary
25 for the proper administration of the motor vehicle fee for

HOUSE BILL NO. 793

INTRODUCED BY BERTELSEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR OPTIONAL LOCAL GOVERNMENT TAXES; AUTHORIZING A 55-MILL ALL-PURPOSE LEVY FOR COUNTIES, A LOCAL GOVERNMENT INCOME TAX NOT TO EXCEED 20 PERCENT OF STATE INCOME TAX LIABILITIES TO BE ESTABLISHED COUNTYWIDE AFTER APPROVAL BY THE ELECTORATE, A LOCAL GOVERNMENT MOTOR VEHICLE LICENSE FEE, AND A HOTEL OR MOTEL ROOM TAX; AMENDING SECTION 7-6-2220, MCA; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. All-purpose mill levy authorized. A county may at its option levy an all-purpose annual mill levy as provided in [sections 1 through 7].

NEW SECTION. Section 2. All-purpose mill levy -- definition -- maximum. (1) The all-purpose mill levy is an annual levy upon the taxable value of all property in the county subject to taxation for county purposes in lieu of all multiple levies authorized by law, except those provided for in [sections 3 and 4].

(2) Except as provided in [section 4], the all-purpose mill levy may not exceed 55 mills on the dollar.

(3) If the county governing body determines that the

interests of the county would be best served by an all-purpose mill levy, it shall specify its intent to impose an all-purpose levy in the resolution approving and adopting the annual budget.

NEW SECTION. Section 3. Additional levies exceeding all-purpose mill levy. A county using the all-purpose levy may impose a property tax in addition to the all-purpose mill levy for the following funds or purposes:

(1) for the general road tax as provided in 7-14-2501;

(2) for the poor fund as provided in 53-2-321;

(3) for the district court fund as provided in 7-6-2511;

(4) for paying interest and principal on general obligation bonds during the fiscal year and for funding reserves as necessary on each series or issue of general obligation bonds;

(5) for payment of any judgment against the county as provided in 2-9-316;

(6) to maintain an improvement district revolving fund at an amount not to exceed the maximum amount of principal and interest on outstanding improvement bonds in any fiscal year;

(7) to fund a self-insurance fund and a deductible reserve fund and to pay insurance premiums as provided in 2-9-212;

1 (8) for the emergency purposes described in 10-3-405,
 2 by a levy not to exceed 2 mills;
 3 (9) for paying required contributions to the public
 4 employees' retirement system as provided in 19-3-204;
 5 (10) to fund any levy receiving the required approval
 6 of the elected county body; and
 7 (11) to fund the maintenance and operation of districts
 8 created to provide a service not available countywide or to
 9 provide a higher level of service than that available
 10 countywide.
 11 **NEW SECTION.** Section 4. Vote to exceed all-purpose
 12 mill levy. (1) A county may impose a property tax mill levy
 13 that exceeds the all-purpose levy of 55 mills if the
 14 imposition of additional mills is approved by the electorate
 15 of the county by a simple majority of those voting on the
 16 question.
 17 (2) The levy is in addition to the all-purpose mill
 18 levy. The additional levy may not exceed the amount or the
 19 mill levy limit established in the ballot question, and it
 20 may not remain in effect longer than the durational limit
 21 specified in the ballot question.
 22 **NEW SECTION.** Section 5. Changes from all-purpose mill
 23 levy. A county adopting the all-purpose levy provided for in
 24 [sections 1 through 7] is bound by that adoption during the
 25 ensuing fiscal year but may abandon the method in succeeding

1 fiscal years.
 2 **NEW SECTION.** Section 6. Distribution of all-purpose
 3 levy. The money received from the all-purpose levy must be
 4 accounted for in a common fund known as the all-purpose
 5 general fund.
 6 **NEW SECTION.** Section 7. Exemptions of future levies.
 7 Any statutory mill levy authorized for county governments
 8 after July 1, 1983, which does not specifically include the
 9 mill levy established in [sections 1 through 7] within the
 10 all-purpose levy is in addition to the all-purpose levy.
 11 **NEW SECTION.** Section 8. Local income tax. Pursuant to
 12 the provisions of [section 9], a county may impose a local
 13 income tax AS A PERCENTAGE OF THE STATE INCOME TAX LIABILITY
 14 on its residents and on all other persons earning or
 15 receiving income from activities carried out in the county,
 16 not exceeding 20% of an individual's state income tax
 17 liability. NOTHING IN SECTIONS 8 THROUGH 151 MAY BE
 18 CONSTRUED TO PERMIT A COUNTY TO LEVY AN INCOME TAX ON A
 19 REGULATED PUBLIC UTILITY.
 20 **NEW SECTION.** Section 9. Election required to impose
 21 local income tax. (1) A local government may impose or
 22 repeal a tax authorized by [section SECTIONS 8, 16, AND 17]
 23 only after approval by a simple majority of the electors
 24 voting on the question who are residents of the jurisdiction
 25 that is or will be subject to the tax.

1 (2) The ballot issue may be presented to the electors
2 of the local government by:

- 3 (a) a petition signed by 15% of the electors; or
4 (b) a resolution of the governing body.
5 (3) Upon the receipt of a petition or a resolution
6 requesting an election, the question on the local tax must
7 be placed on the ballot at the next regularly scheduled
8 election.

9 (4) The question must be presented in substantially
10 the following form:

11 FOR the local government ~~income-tax~~ (INSERT NAME OF
12 TAX).
13 AGAINST the local government ~~income-tax~~ (INSERT NAME
14 OF TAX).

15 (5) The question of imposition of a local tax may not
16 be placed before the electors more than one time in any one
17 fiscal year.

18 **NEW SECTION.** Section 10. Rate of income tax. The rate
19 of the income tax must be determined by the electors when
20 voting on the question. The governing body of the county
21 shall certify the rate of the tax to the department of
22 revenue on or before October ~~1~~ **AUGUST 1**.

23 **NEW SECTION.** Section 11. Suspension of income tax.
24 The governing body of a county imposing an income tax, with
25 the consent of the governing bodies of the municipalities of

1 the county, may suspend for any ~~fiscal~~ **CALENDAR** year the
2 collection of the county income tax only after first giving
3 at least ~~120~~ **150** days' notice of the suspension to the
4 department of revenue. The suspension is effective the first
5 day of the next calendar year. The suspension does not
6 impair the authority of the county to impose the tax in
7 subsequent years.

8 **NEW SECTION.** Section 12. Use of income tax. Any
9 portion or all of the proceeds of the income tax may be
10 utilized for the reduction of property taxes in the local
11 government.

12 **NEW SECTION.** Section 13. Administration of income tax
13 -- role of department of revenue. (1) The local income tax
14 must be administered by the department of revenue under
15 rules adopted by the department. The rules for the
16 administration of the state income tax apply to the local
17 income tax except when, in the judgment of the department,
18 the rules would be inconsistent or not feasible for proper
19 administration.

20 (2) The department may make refunds to taxpayers
21 pursuant to [sections 8 through 15].

22 (3) Money collected pursuant to [sections 8 through
23 15] must be accounted for separately and must be credited to
24 a separate local income tax account in the state treasury.

25 (4) The department may deduct from the money collected

1 an amount not exceeding 1% to cover necessary costs incurred
2 by the department in administrating the local income tax.

3 NEW SECTION. Section 14. Income tax on nonresidents.
4 (1) FOR THE PURPOSES OF THIS SECTION THE TERM "NONRESIDENT"
5 MEANS A PERSON NOT MAINTAINING A PERMANENT PLACE OF
6 RESIDENCE IN THE COUNTY AT THE CLOSE OF THE TAX YEAR.

7 ~~(1)(2)~~ The local income tax liability of a nonresident
8 is limited to his place of employment or business if the
9 county of such place imposes a local income tax. The
10 department of revenue shall credit one-half of the tax
11 imposed by the jurisdiction of employment or business to the
12 nonresident's place of residence if the county of his
13 residence also imposes the local income tax.

14 ~~(2)(3)~~ If the nonresident TAXPAYER lives in a county
15 that does not impose a tax but he earns income in a county
16 that does impose a tax, the department ~~shall credit~~ TAXPAYER
17 SHALL PAY one-half of the total ~~net--proceeds--of--the~~
18 ~~nonresident's tax liability to~~ BE CREDITED TO the
19 ~~jurisdiction of employment or business and--refund--the~~
20 ~~remainder to the taxpayer.~~

21 ~~(3)(4)~~ If the nonresident derives income in a county
22 that does not impose a local income tax but resides in a
23 jurisdiction that does impose such a tax, the department
24 shall credit the proceeds of the local income tax
25 exclusively to the jurisdiction of residence.

1 NEW SECTION. Section 15. Distribution of income tax
2 collections. (1) Except as provided in [section 14], all
3 money collected pursuant to [sections 8 through 15] must be
4 distributed by the department of revenue to the county of
5 origin on a monthly basis after the following deductions are
6 made:

- 7 (a) the amount for refunds;
- 8 (b) a reserve for expected or anticipated refunds; and
- 9 (c) the costs of administering the tax.

10 (2) The county treasurer or finance administrator
11 shall distribute the revenues according to the terms and
12 conditions of an interlocal agreement between the county and
13 all municipalities within the county. The interlocal
14 agreement must be adopted by all the municipalities and the
15 county prior to the calling of the election on the income
16 tax under [section 9].

17 (3) In the absence of an interlocal agreement, the
18 proceeds of the income tax must be distributed ~~in the~~
19 ~~following manner:~~

20 ~~(a) One-half of the proceeds must be~~ distributed
21 between the municipalities and county in a ratio based on
22 the total income tax collections in each jurisdiction. For
23 this purpose the municipality jurisdiction includes all
24 taxpayers residing in the municipality. The county
25 jurisdiction includes only taxpayers residing in the county

1 but outside a municipality.

2 ~~{b}--The--remainder--of--the--proceeds--must--be--distributed~~
3 ~~to--local--governments--in--the--county--in--the--same--proportion~~
4 ~~that--their--populations--bear--to--the--total--population--of--the~~
5 ~~county--For--this--purpose--the--population--of--the--county~~
6 ~~includes--all--county--residents--including--municipal~~
7 ~~residents--and--must--be--added--to--the--population--of--the~~
8 ~~municipalities--to--calculate--the--proportions~~

9 (4) The department shall provide the necessary revenue
10 information for the proper distribution of the revenues to
11 the county finance administrator.

12 NEW SECTION. Section 16. Motor vehicle license fees.
13 (1) * PURSUANT TO THE PROVISIONS OF [SECTION 9] A governing
14 body of a local government may ~~by ordinance or~~ if the local
15 ~~government does not have the authority to enact general~~
16 ~~purpose ordinances~~ by resolution impose a license fee of
17 not more than 25% of the automobile and light vehicle fees
18 established in 61-3-533.

19 (2) The ~~registrar of motor vehicles~~ MOOTOR VEHICLE
20 DIVISION, DEPARTMENT OF JUSTICE, shall by rule provide for
21 the collection by counties of the license fee and the
22 distribution of proceeds to counties and municipalities
23 imposing the license fee.

24 (3) A county may impose the fee only in that portion
25 of the county that is not within a municipality, and a

1 municipality may impose the fee only within the
2 municipality.

3 (4) The revenue may be used by the county or the
4 municipality only for:

5 (a) the construction and repair of trafficways within
6 its respective jurisdiction;

7 (b) maintenance of trafficways within its respective
8 jurisdiction unless an interlocal agreement provides
9 otherwise;

10 (c) enforcement of trafficway safety;

11 (d) driver education;

12 (e) tourist promotion; and

13 (f) administrative collection costs.

14 NEW SECTION. Section 17. Hotel or motel room tax. (1)
15 * PURSUANT TO THE PROVISIONS OF [SECTION 9] A governing body
16 of a local government may ~~by ordinance or~~ if the local
17 ~~government does not have the authority to enact general~~
18 ~~purpose ordinances~~ by resolution impose a tax on the use of
19 hotel or motel facilities, as defined in 50-51-102, not to
20 exceed 10% of the room rental.

21 (2) The local government imposing the tax shall
22 provide for the administration and the collection of this
23 tax.

24 Section 18. Section 7-6-2220, MCA, is amended to read:

25 "7-6-2220. Levy for capital improvement fund. Money

1 for the capital improvement fund is to be derived from the
2 multiple levies ~~of the all-purpose levy~~ authorized by
3 statute and appropriated to the capital improvement fund.
4 However, no more than 10% of the money derived from any one
5 levy may be appropriated to the capital improvement fund."

6 NEW SECTION. Section 19. Severability. If a part of
7 this act is invalid, all valid parts that are severable from
8 the invalid part remain in effect. If a part of this act is
9 invalid in one or more of its applications, the part remains
10 in effect in all valid applications that are severable from
11 the invalid applications.

12 SECTION 20. APPROPRIATION. THERE IS APPROPRIATED
13 \$37,000 FROM THE GENERAL FUND TO THE DEPARTMENT OF REVENUE
14 FOR THE BIENNium ENDING JUNE 30, 1985, FOR THE INITIAL
15 DEVELOPMENT COSTS OF THE LOCAL INCOME TAX PROGRAM.

16 NEW SECTION. Section 21. Effective date. This act is
17 effective July 1, 1983.

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