

HOUSE BILL NO. 701

INTRODUCED BY FRITZ, B. BROWN, FULLER, HALLIGAN, SPAETH,  
D. BROWN, REAM, MENAHAN, THOFT, THOMAS, SEVERSON,  
SWIFT, FARRELL, KEENAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

February 7, 1985	Introduced and referred to Committee on Taxation.
	Fiscal Note requested.
February 12, 1985	Fiscal Note returned.
March 22, 1985	Committee recommend bill do pass as amended. Report adopted.
March 23, 1985	Bill printed and placed on members' desks.
March 26, 1985	Second reading, do pass as amended.
March 27, 1985	Correctly engrossed.
March 28, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 30, 1985	Introduced and referred to Committee on Taxation.
April 18, 1985	Committee recommend bill be concurrent in as amended. Report adopted.

April 19, 1985

Second reading, concurred in.

Third reading, concurred in.  
Ayes, 25; Noes, 22.

Returned to House with  
amendments.

IN THE HOUSE

April 19, 1985

Received from Senate.

April 20, 1985

Second reading, amendments  
concurred in.

April 22, 1985

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 701

INTRODUCED BY *Sp. Rep. Bob Bauer* *Sp. Rep. Dan Bon*  
BY REQUEST OF THE DEPARTMENT OF REVENUE *Ream* *M. Ziegen*  
*Thomas* *Samson* *Keenan* *Troft*

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF REVENUE TO ACCEPT IN-KIND PAYMENTS OF CERTAIN INHERITANCE AND ESTATE TAXES WITH OBJECTS, SITES, OR ITEMS OF EXTREMELY UNIQUE HISTORICAL AND CULTURAL SIGNIFICANCE OR WITH INTERESTS IN REAL PROPERTY HAVING CONSERVATION, RECREATION, OR WILDLIFE PRESERVATION VALUE; GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Intent. It is the intent of [this act], while limiting the impact of such transfers on the revenues collected under this chapter, to allow the payment of inheritance and estate taxes by the transfer to the state of unique objects of significant historical or artistic interest, extremely unique sites or buildings of historical interest, and easements and other recognized interests in land to conserve unique open space and to preserve wildlife habitat, park, recreational, historic, aesthetic, cultural, and natural values on or related to land. It is not the intent of [this act] to create a right in any donor to pay

estate or inheritance taxes with an in-kind payment.

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Donor" means the personal representative, administrator, joint tenant, heir, legatee, devisee, trustee, tenant in common, conservator, person interested in the estate or trust, or any person responsible for the payment of inheritance or estate taxes to the state.

(2) "In-kind payment" means a payment of inheritance or estate taxes or a portion thereof by the transfer to the state of personal property, real property, or an interest in real property as defined in Title 70, chapters 15 and 17.

(3) "Interest in real property having recreational, conservation, or wildlife value" means any interest in real property recognized in Title 70, chapters 15 and 17, that, in the opinion of the receiving entity, is of extremely unique value as a scenic, historic, archaeological, scientific, or recreational resource to the state and which will contribute to the cultural, recreational, or economic life of the people and their health or is unique and critical habitat for wildlife in the state.

(4) "Object of significant artistic merit" means any object of art, a collection of records or minerals, or a painting, engraving, relic, coin, furniture, or fixture which in the opinion of the receiving entity is of extremely



1 unique and peculiar artistic value and of historical  
2 significance to Montana.

3 (5) "Receiving entity" means the Montana historical  
4 society or the department of fish, wildlife, and parks.

5 (6) "Site of significant historical interest" means  
6 any building, fixture, real property, or any combination  
7 thereof that in the opinion of the receiving entity is of  
8 extremely unique and peculiar historical significance to  
9 Montana.

10 (7) "Value of in-kind payment" means the value of an  
11 object of significant artistic merit, a site of significant  
12 historical interest, or an interest in real property having  
13 recreational, conservation, or wildlife value reflecting its  
14 intrinsic value to Montana and the public as determined by  
15 the receiving entity.

16 Section 3. Receipt of in-kind property for payment of  
17 taxes -- limitations. (1) Upon written application of a  
18 receiving entity, the department of revenue may, at its  
19 discretion and for the benefit of Montana, accept from a  
20 donor as in-kind payment of all or a portion of estate or  
21 inheritance taxes property consisting of any object of  
22 significant artistic merit, any site of significant  
23 historical interest, or any interest in real property having  
24 recreational, conservation, or wildlife value.

25 (2) A written application pursuant to subsection (1)

1 must be accompanied by an assurance by the receiving entity  
2 that it can assume responsibility for the maintenance,  
3 supervision, and care of the object, site, or interest in  
4 real property.

5 (3) The department may accept in-kind payment only  
6 when the total estate and inheritance taxes due exceed  
7 \$250,000.

8 (4) An in-kind payment that results in a decrease in  
9 the value of the taxable property in a county must be  
10 approved by the county commissioners of the county in which  
11 the property is located.

12 Section 4. Valuation of in-kind payment. (1) The  
13 value of any in-kind payment of all or a portion of the  
14 inheritance or estate taxes must equal or exceed the  
15 monetary value of all or the portion of the inheritance or  
16 estate tax against which the in-kind payment is to be  
17 applied.

18 (2) The receiving entity shall certify the value of  
19 the in-kind payment to the department of revenue and provide  
20 such documentation or other evidence of the value of the  
21 in-kind payment as the department may require.

22 Section 5. Receipts of in-kind payments. Title or  
23 possession of the in-kind payment must be taken in the name  
24 of the state of Montana by the receiving entity. The  
25 receiving entity shall promptly notify the department of

1 revenue of the receipt of the in-kind payment and the proper  
2 recording of any interest in real property. Upon such  
3 notification, the department shall notify the county  
4 treasurer and state treasurer of the in-kind payment. The  
5 in-kind payment must be recorded and credited as if money  
6 had been received for payment of the inheritance or estate  
7 tax.

8 Section 6. Rulemaking authority. The department of  
9 revenue may adopt rules necessary for the administration of  
10 [this act].

11 Section 7. Applicability. This act applies  
12 retroactively, within the meaning of 1-2-109, to all  
13 estates, trusts, and terminations of joint tenancies that  
14 have not completed probate or paid Montana inheritance or  
15 estate taxes as of the effective date of this act and in  
16 which the decedent died after December 31, 1983, and before  
17 January 1, 1985.

18 Section 8. Codification instruction. Sections 1  
19 through 6 are intended to be codified as an integral part of  
20 Title 72, chapter 16.

21 Section 9. Effective date. This act is effective on  
22 passage and approval.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 361-85

Form BD-15

In compliance with a written request received February 7, 19 85, there is hereby submitted a Fiscal Note for H.B. 701 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:

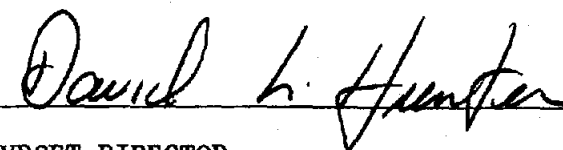
An act allowing the Department of Revenue to accept in-kind payments of certain inheritance and estate taxes with objects, sites, or items of extremely unique historical and cultural significance or with interests in real property having conservation, recreation, or wildlife preservation value; granting the Department of Revenue rulemaking authority; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

The proposed legislation would affect one estate valued at between \$10-20 million. The inheritance and estate taxes on this estate are estimated to between \$1-2 million. The fiscal impact of the proposed legislation would be a loss of this amount to the general fund but the state would gain an asset of the same value. The transaction would, thus, be identical to a general fund appropriation for and subsequent purchase of the asset.

The state will incur additional operating costs for maintenance and development of real property received through this act. The amount is not ascertainable at this time.

There will be a loss in revenue to county or local governments, however, the loss will vary depending on the value of the property and the county involved.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 12, 1985

HB 701

APPROVED BY COMMITTEE  
ON TAXATION

HOUSE BILL NO. 701

INTRODUCED BY FRITZ, B. BROWN, FULLER, HALLIGAN, SPAETH,

D. BROWN, REAM, MENAHAN, THOFT, THOMAS, SEVERSON,

SWIFT, FARRELL, KEENAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF REVENUE, AFTER CONSULTATION WITH THE REVENUE OVERSIGHT COMMITTEE, TO ACCEPT IN-KIND PAYMENTS OF CERTAIN INHERITANCE AND ESTATE TAXES WITH OBJECTS, SITES, OR ITEMS OF EXTREMELY UNIQUE HISTORICAL AND CULTURAL SIGNIFICANCE OR WITH INTERESTS IN REAL PROPERTY HAVING CONSERVATION, RECREATION, OR WILDLIFE PRESERVATION VALUE; ~~GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY~~; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Intent. It is the intent of [this act] ~~while limiting the impact of such transfers on the revenues collected under this chapter~~, to allow the payment of inheritance and estate taxes by the transfer to the state of unique objects of significant historical or artistic interest, extremely unique sites or buildings of historical interest, and easements and other recognized interests in land to conserve unique open space and to preserve wildlife

habitat, park, recreational, historic, aesthetic, cultural, and natural values on or related to land, WHILE LIMITING THE IMPACT OF SUCH TRANSFERS ON THE REVENUE COLLECTED UNDER THIS CHAPTER. IT IS THE INTENT OF [THIS ACT] TO ALLOW IN-KIND PAYMENT FOR A SHORT PERIOD OF TIME TO EVALUATE THE IMPACT OF [THIS ACT] ON REVENUE, TO EVALUATE THE TYPES OF IN-KIND PAYMENTS WHICH ARE RECEIVED BY THE DEPARTMENT OF REVENUE, AND TO EVALUATE THE ABILITY OF RECEIVING ENTITIES TO MANAGE THE IN-KIND PAYMENTS. It is not the intent of [this act] to create a right in any donor to pay estate or inheritance taxes with an in-kind payment.

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Donor" means the personal representative, administrator, joint tenant, heir, legatee, devisee, trustee, tenant in common, conservator, person interested in the estate or trust, or any person responsible for the payment of inheritance or estate taxes to the state.

(2) "In-kind payment" means a payment of inheritance or estate taxes or a portion thereof by the transfer to the state of personal property, real property, or an interest in real property as defined in Title 70, chapters 15 and 17.

(3) "Interest in real property having recreational, conservation, or wildlife value" means any interest in real property recognized in Title 70, chapters 15 and 17, that,



1 in the opinion of the receiving entity, is of extremely  
 2 unique value as a scenic, historic, archaeological,  
 3 scientific, or recreational resource to the state and which  
 4 will contribute to the cultural, recreational, or economic  
 5 life of the people and their health or is unique and  
 6 critical habitat for wildlife in the state.

7 (4) "Object of significant artistic merit" means any  
 8 object of art, a collection of records or minerals, or a  
 9 painting, engraving, relic, coin, furniture, or fixture  
 10 which in the opinion of the receiving entity is of extremely  
 11 unique and peculiar artistic value and of historical  
 12 significance to Montana.

13 (5) "Receiving entity" means the Montana historical  
 14 society or the department of fish, wildlife, and parks.

15 (6) "Site of significant historical interest" means  
 16 any building, fixture, real property, or any combination  
 17 thereof that in the opinion of the receiving entity is of  
 18 extremely unique and peculiar historical significance to  
 19 Montana.

20 (7) "Value of in-kind payment" means the value of an  
 21 object of significant artistic merit, a site of significant  
 22 historical interest, or an interest in real property having  
 23 recreational, conservation, or wildlife value reflecting its  
 24 intrinsic value to Montana and the public as determined by  
 25 the receiving entity.

1 SECTION 3. APPLICATION FOR IN-KIND PAYMENT -- IN-KIND  
 2 REVIEW COMMITTEE -- REVIEW PROCESS. (1) UPON WRITTEN  
 3 APPLICATION FROM A RECEIVING ENTITY, THE DEPARTMENT OF  
 4 REVENUE SHALL NOTIFY THE REVENUE OVERSIGHT COMMITTEE THAT  
 5 SUCH AN APPLICATION HAS BEEN RECEIVED.

6 (2) UPON RECEIPT OF SUCH NOTIFICATION, THE REVENUE  
 7 OVERSIGHT COMMITTEE SHALL APPOINT AN IN-KIND REVIEW  
 8 COMMITTEE. THE IN-KIND REVIEW COMMITTEE MUST BE COMPRISED OF  
 9 THE FOLLOWING PERSONS, APPOINTED BY THE REVENUE OVERSIGHT  
 10 COMMITTEE:

11 (A) A REPRESENTATIVE OF THE RECEIVING ENTITY; AND  
 12 (B) SIX MEMBERS REPRESENTING THE COUNTY IN WHICH THE  
 13 PROPERTY PROPOSED FOR IN-KIND PAYMENT LIES OR WAS SITUATED  
 14 AT THE TIME OF DEATH OF THE PERSON WHOM THE DONOR  
 15 REPRESENTS, AS FOLLOWS:

16 (I) ONE MEMBER OF THE COUNTY COMMISSION;

17 (II) ONE STATE SENATOR;

18 (III) ONE STATE REPRESENTATIVE; AND

19 (IV) THREE RESIDENTS FROM THE COMMUNITY AT LARGE.

20 (3) THE IN-KIND REVIEW COMMITTEE IS A VOLUNTARY REVIEW  
 21 COMMITTEE AND IS ENTITLED TO NO COMPENSATION OR  
 22 REIMBURSEMENT OF EXPENSES FOR ITS REVIEW, RECOMMENDATION, OR  
 23 ANY OTHER ACTIVITY.

24 (4) THE IN-KIND REVIEW COMMITTEE WILL ADVISE THE  
 25 DEPARTMENT AND THE REVENUE OVERSIGHT COMMITTEE AS TO THE



1 FOLLOWING:2 (A) PROPOSED AND POTENTIAL USES OF THE PROPERTY;3 (B) WHERE APPLICABLE, METHODS AND POTENTIAL SOURCES  
4 FOR REHABILITATION, MAINTENANCE, AND GENERAL SUPPORT OF THE  
5 PROPERTY ALTERNATIVE TO THE STATEMENT SUBMITTED BY THE  
6 RECEIVING ENTITY PURSUANT TO [SECTION 4].7 (5) UPON COMPLETION OF ITS REVIEW, THE IN-KIND REVIEW  
8 COMMITTEE SHALL SUBMIT A REPORT IN WRITTEN FORM TO THE  
9 REVENUE OVERSIGHT COMMITTEE AND THE DEPARTMENT, WHICH MUST  
10 BE CONSIDERED IN DETERMINING WHETHER TO APPROVE OR  
11 DISAPPROVE THE APPLICATION.12 (6) THE IN-KIND REVIEW COMMITTEE HAS 90 DAYS FROM THE  
13 DATE WRITTEN APPLICATION IS RECEIVED BY THE DEPARTMENT FROM  
14 THE RECEIVING ENTITY WITHIN WHICH TO MAKE ITS REPORT.15 (7) THE DEPARTMENT SHALL, AS PROVIDED IN 72-16-43B,  
16 DEFER PAYMENT OF INHERITANCE OR ESTATE TAX THAT IS UNDER  
17 REVIEW FOR IN-KIND PAYMENT, SO THAT THE TAX DUE IS EXEMPT  
18 FROM THE INTEREST PENALTY IMPOSED UNDER 72-16-441.19 Section 4. Receipt of in-kind property for payment of  
20 taxes -- limitations. (1) Upon RECEIPT OF THE written  
21 application of a receiving entity AND THE REPORT, IF ANY, OF  
22 THE IN-KIND REVIEW COMMITTEE, the department of revenue,  
23 AFTER CONSULTATION WITH THE REVENUE OVERSIGHT COMMITTEE,  
24 may, at its discretion and for the benefit of Montana,  
25 accept from a donor as in-kind payment of all or a portion1 of estate or inheritance taxes property consisting of any  
2 object of significant artistic merit, any site of  
3 significant historical interest, or any interest in real  
4 property having recreational, conservation, or wildlife  
5 value.6 (2) A written application pursuant to subsection (1)  
7 must be accompanied by ~~an assurance by~~ A STATEMENT FROM the  
8 receiving entity ~~that it can assume responsibility~~  
9 CONCERNING THE METHODS AVAILABLE for the maintenance,  
10 supervision, and care of the object, site, or interest in  
11 real property.12 (3) The department may accept in-kind payment only  
13 when the total estate and inheritance taxes due exceed  
14 \$250,000.15 ~~(4) An in-kind payment that results in a decrease in~~  
16 ~~the value of the taxable property in a county must be~~  
17 ~~approved by the county commissioners of the county in which~~  
18 ~~the property is located.~~19 Section 5. Valuation of in-kind payment. (1) The value  
20 of any in-kind payment of all or a portion of the  
21 inheritance or estate taxes must equal or exceed the  
22 monetary value of all or the portion of the inheritance or  
23 estate tax against which the in-kind payment is to be  
24 applied.

25 (2) The receiving entity shall certify the value of

1 the in-kind payment to the department of revenue and provide  
 2 such documentation or other evidence of the value of the  
 3 in-kind payment as the department may require.

4 Section 6. Receipts of in-kind payments. Title or  
 5 possession of the in-kind payment must be taken in the name  
 6 of the state of Montana by the receiving entity. The  
 7 receiving entity shall promptly notify the department of  
 8 revenue AND THE REVENUE OVERSIGHT COMMITTEE of the receipt  
 9 of the in-kind payment and the proper recording of any  
 10 interest in real property. Upon such notification, the  
 11 department shall notify the county treasurer and state  
 12 treasurer of the in-kind payment. The in-kind payment must  
 13 be recorded and credited as if money had been received for  
 14 payment of the inheritance or estate tax.

15 ~~Section 6.--Rulemaking--authority.--The--department--of~~  
 16 ~~revenue--may--adopt--rules--necessary--for--the--administration--of~~  
 17 ~~{this-act}.~~

18 Section 7. Applicability. This act applies  
 19 retroactively, within the meaning of 1-2-109, to all  
 20 estates, trusts, and terminations of joint tenancies that  
 21 have not completed probate or paid Montana inheritance or  
 22 estate taxes as of the effective date of this act and in  
 23 ~~which-the-decedent-died-after-December-31-1983-and-before~~  
 24 ~~January--1--1985.~~ TO THE ESTATES OF PERSONS WHO DIED AFTER  
 25 JANUARY 1, 1984. THIS ACT DOES NOT APPLY TO ANY ESTATE OR

1 THE TERMINATION OF A JOINT TENANCY OF ANY PERSON WHO DIED  
 2 AFTER JANUARY 1, 1985.

3 Section 8. Codification instruction. Sections 1  
 4 through 6 are intended to be codified as an integral part of  
 5 Title 72, chapter 16.

6 Section 9. Effective date. This act is effective on  
 7 passage and approval.

-End-

## HOUSE BILL NO. 701

INTRODUCED BY FRITZ, B. BROWN, FULLER, HALLIGAN, SPAETH,  
 D. BROWN, REAM, MENAHAN, THOFT, THOMAS, SEVERSON,  
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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT  
 OF REVENUE, AFTER CONSULTATION WITH THE REVENUE OVERSIGHT  
 COMMITTEE, TO ACCEPT IN-KIND PAYMENTS OF CERTAIN INHERITANCE  
 AND ESTATE TAXES WITH OBJECTS, SITES, OR ITEMS OF EXTREMELY  
 UNIQUE HISTORICAL AND CULTURAL SIGNIFICANCE OR WITH  
 INTERESTS IN REAL PROPERTY HAVING CONSERVATION, RECREATION,  
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Intent. It is the intent of [this act] ~~7  
 while--limiting-the-impact-of-such-transfers-on-the-revenues  
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Section 2. Definitions. As used in [this act], the  
 following definitions apply:

(1) "Donor" means the personal representative,  
 administrator, joint tenant, heir, legatee, devisee,  
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 the estate or trust, or any person responsible for the  
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 or estate taxes or a portion thereof by the transfer to the  
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(3) "Interest in real property having recreational,  
 conservation, or wildlife value" means any interest in real  
 property recognized in Title 70, chapters 15 and 17, that,

1 in the opinion of the receiving entity, is of extremely  
 2 unique value as a scenic, historic, archaeological,  
 3 scientific, or recreational resource to the state and which  
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 18 extremely unique and peculiar historical significance to  
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 21 object of significant artistic merit, a site of significant  
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 7 OVERSIGHT COMMITTEE SHALL APPOINT AN IN-KIND REVIEW  
 8 COMMITTEE. THE IN-KIND REVIEW COMMITTEE MUST BE COMPRISED OF  
 9 THE FOLLOWING PERSONS, APPOINTED BY THE REVENUE OVERSIGHT  
 10 COMMITTEE:

11 (A) A REPRESENTATIVE OF THE RECEIVING ENTITY; AND

12 (B) SIX MEMBERS REPRESENTING THE COUNTY IN WHICH THE  
 13 PROPERTY PROPOSED FOR IN-KIND PAYMENT LIES OR WAS SITUATED  
 14 AT THE TIME OF DEATH OF THE PERSON WHOM THE DONOR  
 15 REPRESENTS, AS FOLLOWS:

16 (I) ONE MEMBER OF THE COUNTY COMMISSION;

17 (II) ONE STATE SENATOR;

18 (III) ONE STATE REPRESENTATIVE; AND

19 (IV) THREE RESIDENTS FROM THE COMMUNITY AT LARGE.

20 (3) THE IN-KIND REVIEW COMMITTEE IS A VOLUNTARY REVIEW  
 21 COMMITTEE AND IS ENTITLED TO NO COMPENSATION OR  
 22 REIMBURSEMENT OF EXPENSES FOR ITS REVIEW, RECOMMENDATION, OR  
 23 ANY OTHER ACTIVITY.

24 (4) THE IN-KIND REVIEW COMMITTEE WILL ADVISE THE  
 25 DEPARTMENT AND THE REVENUE OVERSIGHT COMMITTEE AS TO THE

1 FOLLOWING:

2 (A) PROPOSED AND POTENTIAL USES OF THE PROPERTY;

3 (B) WHERE APPLICABLE, METHODS AND POTENTIAL SOURCES  
4 FOR REHABILITATION, MAINTENANCE, AND GENERAL SUPPORT OF THE  
5 PROPERTY ALTERNATIVE TO THE STATEMENT SUBMITTED BY THE  
6 RECEIVING ENTITY PURSUANT TO [SECTION 4].

7 (5) UPON COMPLETION OF ITS REVIEW, THE IN-KIND REVIEW  
8 COMMITTEE SHALL SUBMIT A REPORT IN WRITTEN FORM TO THE  
9 REVENUE OVERSIGHT COMMITTEE AND THE DEPARTMENT, WHICH MUST  
10 BE CONSIDERED IN DETERMINING WHETHER TO APPROVE OR  
11 DISAPPROVE THE APPLICATION.

12 (6) THE IN-KIND REVIEW COMMITTEE HAS 90 DAYS FROM THE  
13 DATE WRITTEN APPLICATION IS RECEIVED BY THE DEPARTMENT FROM  
14 THE RECEIVING ENTITY WITHIN WHICH TO MAKE ITS REPORT.

15 (7) THE DEPARTMENT SHALL, AS PROVIDED IN 72-16-438,  
16 DEFER PAYMENT OF INHERITANCE OR ESTATE TAX THAT IS UNDER  
17 REVIEW FOR IN-KIND PAYMENT, SO THAT THE TAX DUE IS EXEMPT  
18 FROM THE INTEREST PENALTY IMPOSED UNDER 72-16-441.

19 Section 4. Receipt of in-kind property for payment of  
20 taxes -- limitations. (1) Upon RECEIPT OF THE written  
21 application of a receiving entity AND THE REPORT, IF ANY, OF  
22 THE IN-KIND REVIEW COMMITTEE, the department of revenue,  
23 AFTER CONSULTATION WITH THE REVENUE OVERSIGHT COMMITTEE,  
24 may, at its discretion and for the benefit of Montana,  
25 accept from a donor as in-kind payment of all or a portion

1 of estate or inheritance taxes property consisting of any  
2 object of significant artistic merit, any site of  
3 significant historical interest, or any interest in real  
4 property having recreational, conservation, or wildlife  
5 value.

6 (2) A written application pursuant to subsection (1)  
7 must be accompanied by ~~an assurance by~~ A STATEMENT FROM the  
8 receiving entity ~~that it can assume responsibility~~  
9 CONCERNING THE METHODS AVAILABLE for the maintenance,  
10 supervision, and care of the object, site, or interest in  
11 real property.

12 (3) The department may accept in-kind payment only  
13 when:

14 (A) the total estate and inheritance taxes due exceed  
15 \$250,000; AND

16 (B) AFTER IT HAS RECEIVED THE APPROVAL OF THE BOARD OF  
17 EXAMINERS.

18 ~~(4) An in-kind payment that results in a decrease in~~  
19 ~~the value of the taxable property in a county must be~~  
20 ~~approved by the county commissioners of the county in which~~  
21 ~~the property is located.~~

22 (4) AN IN-KIND PAYMENT THAT RESULTS IN A DECREASE IN  
23 THE VALUE OF THE TAXABLE PROPERTY IN A COUNTY MUST BE  
24 APPROVED BY THE COUNTY COMMISSIONERS OF THE COUNTY IN WHICH  
25 THE PROPERTY IS LOCATED.

1 Section 5. Valuation of in-kind payment. (1) The value  
2 of any in-kind payment of all or a portion of the  
3 inheritance or estate taxes must equal or exceed the  
4 monetary value of all or the portion of the inheritance or  
5 estate tax against which the in-kind payment is to be  
6 applied.

7 (2) The receiving entity shall certify the value of  
8 the in-kind payment to the department of revenue and provide  
9 such documentation or other evidence of the value of the  
10 in-kind payment as the department may require.

11 Section 6. Receipts of in-kind payments. Title or  
12 possession of the in-kind payment must be taken in the name  
13 of the state of Montana by the receiving entity. The  
14 receiving entity shall promptly notify the department of  
15 revenue AND THE REVENUE OVERSIGHT COMMITTEE of the receipt  
16 of the in-kind payment and the proper recording of any  
17 interest in real property. Upon such notification, the  
18 department shall notify the county treasurer and state  
19 treasurer of the in-kind payment. The in-kind payment must  
20 be recorded and credited as if money had been received for  
21 payment of the inheritance or estate tax.

22 ~~Section 6. Rulemaking authority. The department of~~  
23 ~~revenue may adopt rules necessary for the administration of~~  
24 ~~{this act}.~~

25 Section 7. Applicability. This act applies

1 retroactively, within the meaning of 1-2-109, to all  
2 estates, trusts, and terminations of joint tenancies that  
3 have not completed probate or paid Montana inheritance or  
4 estate taxes as of the effective date of this act and in  
5 ~~which--the-decedent-died-after-December-31, 1983, and before~~  
6 ~~January 1, 1985.~~ TO THE ESTATES OF PERSONS WHO DIED AFTER  
7 JANUARY 1, 1984. THIS ACT DOES NOT APPLY TO ANY ESTATE OR  
8 THE TERMINATION OF A JOINT TENANCY OF ANY PERSON WHO DIED  
9 AFTER JANUARY 1, 1985.

10 Section 8. Codification instruction. Sections 1  
11 through 6 are intended to be codified as an integral part of  
12 Title 72, chapter 16.

13 Section 9. Effective date. This act is effective on  
14 passage and approval.

-End-

SENATE

STANDING COMMITTEE REPORT

April 18, 1985

April 18, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 701

third reading copy ( blue )  
color

(Senator Severson)

PAYMENT OF INHERITANCE TAX WITH PROPERTY OF HISTORIC OR CULTURAL VALUE.

Respectfully report as follows: That House Bill No. 701

be amended as follows:

1. Title, line 9.  
Following: "COMMITTEE"  
Insert: "AND APPROVAL BY THE LEGISLATURE"
2. Title, line 14.  
Following: "AUTHORITY,"  
Insert: "APPROVING ACCEPTANCE BY THE DEPARTMENT OF IN-KIND PAYMENT OF THE DALY MANSION;"
3. Page 2, line 7.  
Following: "ARE"  
Strike: "RECEIVED"  
Insert: "recommended"
4. Page 3, line 25.  
Following: line 24  
Insert: "a certified appraiser selected by"
5. Page 5, lines 10 and 11.  
Following: "TO" on line 10  
Strike: "APPROVE OR DISAPPROVE THE APPLICATION"  
Insert: "recommend that the legislature approve the in-kind payment"

(continued)

RR:RAG:

RR:RAG:

continued

TET  
Chairman.

6. Page 5, line 12.  
Following: "HAS"  
Strike: "90"  
Insert: "180"

7. Page 5, lines 24 and 25.  
Following: "may" on line 24  
Strike: remainder of line 24 through "donor" on line 25  
Insert: "recommend that the legislature approve acceptance by the department"

8. Page 6, lines 12 and 13.  
Following: "accept" on line 12  
Insert: "an"  
Following: "payment" on line 12  
Strike: "only when"  
Insert: "if"

9. Page 6, line 15.  
Following: line 14  
Strike: "\$250,000"  
Insert: "\$100,000"  
Following: ","  
Strike: "AND"

10. Page 6, line 16.  
Following: line 15  
Insert: "(b) the value of the in-kind payment does not exceed \$400,000; and"

11. Page 6, lines 16 and 17.  
Following: line 15  
Strike: "(B) AFTER"  
Insert: "(c)"  
Following: "OF THE" on line 16  
Strike: "BOARD OF EXAMINERS"  
Insert: "legislature"

12. Page 6, lines 22 through 25.  
Strike: subsection (4) in its entirety

13. Page 7, lines 1 through 7.  
Following: "payment" on line 1  
Strike: remainder of line 1 through "(2)" on line 7

(continued)

continued

TET

HB 701  
Page 3 of 3.

April 18, 1985

14. Page 7.

Following: line 24

Insert: "Section 7. Approval of Daly Mansion for in-kind payment. The department of revenue is authorized to receive in-kind payment of the Daly Mansion for a portion of the estate and inheritance taxes due the state in the matter of the Besseney estate, if:

(1) the total estate and inheritance taxes due exceed \$100,000; and

(2) the value of the in-kind payment does not exceed \$400,000."

Ranumber: subsequent sections

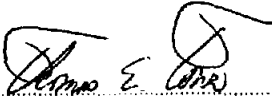
15. Page 8, lines 4 through 9.

Following: "act" on line 4

Insert: "."

Strike: remainder of line 4 through line 9

58  
AND AS AMENDED  
BE CONCURRED IN

  
.....  
Senator Thomas E. Towe, Chairman



HOUSE BILL NO. 701

INTRODUCED BY FRITZ, B. BROWN, FULLER, HALLIGAN, SPAETH,  
D. BROWN, REAM, MENAHAN, THOPT, THOMAS, SEVERSON,  
SWIFT, FARRELL, KEENAN  
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF REVENUE, AFTER CONSULTATION WITH THE REVENUE OVERSIGHT COMMITTEE AND APPROVAL BY THE LEGISLATURE, TO ACCEPT IN-KIND PAYMENTS OF CERTAIN INHERITANCE AND ESTATE TAXES WITH OBJECTS, SITES, OR ITEMS OF EXTREMELY UNIQUE HISTORICAL AND CULTURAL SIGNIFICANCE OR WITH INTERESTS IN REAL PROPERTY HAVING CONSERVATION, RECREATION, OR WILDLIFE PRESERVATION VALUE; ~~GRANTING---THE--DEPARTMENT--OF--REVENUE--RULEMAKING AUTHORITY;~~ APPROVING ACCEPTANCE BY THE DEPARTMENT OF IN-KIND PAYMENT OF THE DALY MANSION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Intent. It is the intent of [this act], ~~while-limiting-the-impact-of-such-transfers-on-the--revenues collected--under--this--chapter,~~ to allow the payment of inheritance and estate taxes by the transfer to the state of unique objects of significant historical or artistic interest, extremely unique sites or buildings of historical

interest, and easements and other recognized interests in land to conserve unique open space and to preserve wildlife habitat, park, recreational, historic, aesthetic, cultural, and natural values on or related to land, WHILE LIMITING THE IMPACT OF SUCH TRANSFERS ON THE REVENUE COLLECTED UNDER THIS CHAPTER. IT IS THE INTENT OF [THIS ACT] TO ALLOW IN-KIND PAYMENT FOR A SHORT PERIOD OF TIME TO EVALUATE THE IMPACT OF [THIS ACT] ON REVENUE, TO EVALUATE THE TYPES OF IN-KIND PAYMENTS WHICH ARE RECEIVED RECOMMENDED BY THE DEPARTMENT OF REVENUE, AND TO EVALUATE THE ABILITY OF RECEIVING ENTITIES TO MANAGE THE IN-KIND PAYMENTS. It is not the intent of [this act] to create a right in any donor to pay estate or inheritance taxes with an in-kind payment.

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Donor" means the personal representative, administrator, joint tenant, heir, legatee, devisee, trustee, tenant in common, conservator, person interested in the estate or trust, or any person responsible for the payment of inheritance or estate taxes to the state.

(2) "In-kind payment" means a payment of inheritance or estate taxes or a portion thereof by the transfer to the state of personal property, real property, or an interest in real property as defined in Title 70, chapters 15 and 17.

(3) "Interest in real property having recreational,



1 conservation, or wildlife value" means any interest in real  
 2 property recognized in Title 70, chapters 15 and 17, that,  
 3 in the opinion of the receiving entity, is of extremely  
 4 unique value as a scenic, historic, archaeologic,  
 5 scientific, or recreational resource to the state and which  
 6 will contribute to the cultural, recreational, or economic  
 7 life of the people and their health or is unique and  
 8 critical habitat for wildlife in the state.

9 (4) "Object of significant artistic merit" means any  
 10 object of art, a collection of records or minerals, or a  
 11 painting, engraving, relic, coin, furniture, or fixture  
 12 which in the opinion of the receiving entity is of extremely  
 13 unique and peculiar artistic value and of historical  
 14 significance to Montana.

15 (5) "Receiving entity" means the Montana historical  
 16 society or the department of fish, wildlife, and parks.

17 (6) "Site of significant historical interest" means  
 18 any building, fixture, real property, or any combination  
 19 thereof that in the opinion of the receiving entity is of  
 20 extremely unique and peculiar historical significance to  
 21 Montana.

22 (7) "Value of in-kind payment" means the value of an  
 23 object of significant artistic merit, a site of significant  
 24 historical interest, or an interest in real property having  
 25 recreational, conservation, or wildlife value reflecting its

1 intrinsic value to Montana and the public as determined by A  
 2 CERTIFIED APPRAISER SELECTED BY the receiving entity.

3 SECTION 3. APPLICATION FOR IN-KIND PAYMENT -- IN-KIND  
 4 REVIEW COMMITTEE -- REVIEW PROCESS. (1) UPON WRITTEN  
 5 APPLICATION FROM A RECEIVING ENTITY, THE DEPARTMENT OF  
 6 REVENUE SHALL NOTIFY THE REVENUE OVERSIGHT COMMITTEE THAT  
 7 SUCH AN APPLICATION HAS BEEN RECEIVED.

8 (2) UPON RECEIPT OF SUCH NOTIFICATION, THE REVENUE  
 9 OVERSIGHT COMMITTEE SHALL APPOINT AN IN-KIND REVIEW  
 10 COMMITTEE. THE IN-KIND REVIEW COMMITTEE MUST BE COMPRISED OF  
 11 THE FOLLOWING PERSONS, APPOINTED BY THE REVENUE OVERSIGHT  
 12 COMMITTEE:

13 (A) A REPRESENTATIVE OF THE RECEIVING ENTITY; AND

14 (B) SIX MEMBERS REPRESENTING THE COUNTY IN WHICH THE  
 15 PROPERTY PROPOSED FOR IN-KIND PAYMENT LIES OR WAS SITUATED  
 16 AT THE TIME OF DEATH OF THE PERSON WHOM THE DONOR  
 17 REPRESENTS, AS FOLLOWS:

18 (I) ONE MEMBER OF THE COUNTY COMMISSION;

19 (II) ONE STATE SENATOR;

20 (III) ONE STATE REPRESENTATIVE; AND

21 (IV) THREE RESIDENTS FROM THE COMMUNITY AT LARGE.

22 (3) THE IN-KIND REVIEW COMMITTEE IS A VOLUNTARY REVIEW  
 23 COMMITTEE AND IS ENTITLED TO NO COMPENSATION OR  
 24 REIMBURSEMENT OF EXPENSES FOR ITS REVIEW, RECOMMENDATION, OR  
 25 ANY OTHER ACTIVITY.

1       (4) THE IN-KIND REVIEW COMMITTEE WILL ADVISE THE  
 2 DEPARTMENT AND THE REVENUE OVERSIGHT COMMITTEE AS TO THE  
 3 FOLLOWING:

- 4       (A) PROPOSED AND POTENTIAL USES OF THE PROPERTY;  
 5       (B) WHERE APPLICABLE, METHODS AND POTENTIAL SOURCES  
 6 FOR REHABILITATION, MAINTENANCE, AND GENERAL SUPPORT OF THE  
 7 PROPERTY ALTERNATIVE TO THE STATEMENT SUBMITTED BY THE  
 8 RECEIVING ENTITY PURSUANT TO [SECTION 4].

9       (5) UPON COMPLETION OF ITS REVIEW, THE IN-KIND REVIEW  
 10 COMMITTEE SHALL SUBMIT A REPORT IN WRITTEN FORM TO THE  
 11 REVENUE OVERSIGHT COMMITTEE AND THE DEPARTMENT, WHICH MUST  
 12 BE CONSIDERED IN DETERMINING WHETHER TO APPROVE---OR  
 13 DISAPPROVE--THE--APPLICATION RECOMMEND THAT THE LEGISLATURE  
 14 APPROVE THE IN-KIND PAYMENT.

15       (6) THE IN-KIND REVIEW COMMITTEE HAS 90 180 DAYS FROM  
 16 THE DATE WRITTEN APPLICATION IS RECEIVED BY THE DEPARTMENT  
 17 FROM THE RECEIVING ENTITY WITHIN WHICH TO MAKE ITS REPORT.

18       (7) THE DEPARTMENT SHALL, AS PROVIDED IN 72-16-438,  
 19 DEFER PAYMENT OF INHERITANCE OR ESTATE TAX THAT IS UNDER  
 20 REVIEW FOR IN-KIND PAYMENT, SO THAT THE TAX DUE IS EXEMPT  
 21 FROM THE INTEREST PENALTY IMPOSED UNDER 72-16-441.

22       Section 4. Receipt of in-kind property for payment of  
 23 taxes -- limitations. (1) Upon RECEIPT OF THE written  
 24 application of a receiving entity AND THE REPORT, IF ANY, OF  
 25 THE IN-KIND REVIEW COMMITTEE, the department of revenue,

1 AFTER CONSULTATION WITH THE REVENUE OVERSIGHT COMMITTEE,  
 2 may, at its discretion and for the benefit of Montana,  
 3 accept from a donor RECOMMEND THAT THE LEGISLATURE APPROVE  
 4 ACCEPTANCE BY THE DEPARTMENT as in-kind payment of all or a  
 5 portion of estate or inheritance taxes property consisting  
 6 of any object of significant artistic merit, any site of  
 7 significant historical interest, or any interest in real  
 8 property having recreational, conservation, or wildlife  
 9 value.

10       (2) A written application pursuant to subsection (1)  
 11 must be accompanied by an assurance by A STATEMENT FROM the  
 12 receiving entity that---it---can---assume---responsibility  
 13 CONCERNING THE METHODS AVAILABLE for the maintenance,  
 14 supervision, and care of the object, site, or interest in  
 15 real property.

16       (3) The department may accept AN in-kind payment only  
 17 when IF:

18       [A] the total estate and inheritance taxes due exceed  
 19 \$250,000 \$100,000; AND

20       (B) THE VALUE OF THE IN-KIND PAYMENT DOES NOT EXCEED  
 21 \$400,000; AND

22       [B](C) AFTER IT HAS RECEIVED THE APPROVAL OF THE BOARD  
 23 OF EXAMINERS LEGISLATURE.

24       (4) An in-kind payment that results in a decrease in  
 25 the value of the taxable property in a county must be

1 approved--by-the-county-commissioners-of-the-county-in-which  
 2 the-property-is-located.

3 ~~{4}--AN-IN-KIND-PAYMENT-THAT-RESULTS-IN-A--DECREASE--IN  
 4 THE--VALUE--OF--THE--TAXABLE--PROPERTY--IN--A-COUNTY-MUST-BE  
 5 APPROVED-BY-THE-COUNTY-COMMISSIONERS-OF-THE-COUNTY-IN--WHICH  
 6 THE-PROPERTY-IS-LOCATED.~~

7 Section 5. Valuation of in-kind payment. {1} The value  
 8 of---any---in-kind---payment---of---all---or---a---portion---of---the  
 9 inheritance---or---estate---taxes---must---equal---or---exceed---the  
 10 monetary---value---of---all---or---the---portion---of---the---inheritance---or  
 11 estate---tax---against---which---the---in-kind---payment---is---to---be  
 12 applied.

13 {2} The receiving entity shall certify the value of the  
 14 in-kind payment to the department of revenue and provide  
 15 such documentation or other evidence of the value of the  
 16 in-kind payment as the department may require.

17 Section 6. Receipts of in-kind payments. Title or  
 18 possession of the in-kind payment must be taken in the name  
 19 of the state of Montana by the receiving entity. The  
 20 receiving entity shall promptly notify the department of  
 21 revenue AND THE REVENUE OVERSIGHT COMMITTEE of the receipt  
 22 of the in-kind payment and the proper recording of any  
 23 interest in real property. Upon such notification, the  
 24 department shall notify the county treasurer and state  
 25 treasurer of the in-kind payment. The in-kind payment must

1 be recorded and credited as if money had been received for  
 2 payment of the inheritance or estate tax.

3 ~~Section 6. Rulemaking authority. The department of  
 4 revenue may adopt rules necessary for the administration of  
 5 {this act}.~~

6 SECTION 7. APPROVAL OF DALY MANSION FOR IN-KIND  
 7 PAYMENT. THE DEPARTMENT OF REVENUE IS AUTHORIZED TO RECEIVE  
 8 IN-KIND PAYMENT OF THE DALY MANSION FOR A PORTION OF THE  
 9 ESTATE AND INHERITANCE TAXES DUE THE STATE IN THE MATTER OF  
 10 THE BESSENEY ESTATE, IF:

11 (1) THE TOTAL ESTATE AND INHERITANCE TAXES DUE EXCEED  
 12 \$100,000; AND

13 (2) THE VALUE OF THE IN-KIND PAYMENT DOES NOT EXCEED  
 14 \$400,000.

15 Section 8. Applicability. This act applies  
 16 retroactively, within the meaning of 1-2-109, to all  
 17 estates, trusts, and terminations of joint tenancies that  
 18 have not completed probate or paid Montana inheritance or  
 19 estate taxes as of the effective date of this act, and in  
 20 ~~which the decedent died after December 31, 1983, and before~~  
 21 ~~January 1, 1985; TO THE ESTATES OF PERSONS WHO DIED AFTER~~  
 22 ~~JANUARY 1, 1984. THIS ACT DOES NOT APPLY TO ANY ESTATE OR~~  
 23 ~~THE TERMINATION OF A JOINT TENANCY OF ANY PERSON WHO DIED~~  
 24 ~~AFTER JANUARY 1, 1985.~~

25 Section 9. Codification instruction. Sections 1

1 through 6 are intended to be codified as an integral part of  
2 Title 72, chapter 16.

3 Section 10. Effective date. This act is effective on  
4 passage and approval.

-End-