

HOUSE FINAL STATUS

HB 26

INTRODUCED BY ADDY

AUTHORIZING LOCAL OPTIONS TAXES

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE ON
INFRASTRUCTURE

1/05 INTRODUCED

1/05 REFERRED TO TAXATION

1/30 HEARING

3/19 COMMITTEE REPORT--BILL NOT PASSED AS AMENDED

3/20 REREFERRED TO TAXATION

3/30 TABLED TO COMMITTEE

1 HOUSE BILL NO. 26
 2 INTRODUCED BY ADDY
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON INFRASTRUCTURE

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
 7 GOVERNMENT TO IMPOSE ANY TYPE OF TAX NOT PROHIBITED BY LAW
 8 IF IT IS APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT;
 9 PROVIDING FOR ADMINISTRATION OF THE TAX; AND PROVIDING CIVIL
 10 AND CRIMINAL PENALTIES NECESSARY FOR ADMINISTRATION OF THE
 11 TAX."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Definitions. In [sections 1 through 6], the
 15 following definitions apply:

16 (1) "Local government" means the government of a
 17 county or a municipality.

18 (2) "Municipality" means an incorporated city, town,
 19 or city-county consolidated government.

20 Section 2. Authorization of local option tax. (1) If
 21 the enabling authority is approved by the electorate, as
 22 provided in this section, a local government may impose upon
 23 its residents and upon transactions occurring within its
 24 jurisdiction:

25 (a) taxes on income;

1 (b) taxes on the sale of goods or services; or
 2 (c) any other type of tax not prohibited by law.

3 (2) The proposal to enable a local government to
 4 impose a tax authorized by this section may be initiated by
 5 a petition of the electorate, as provided in 7-5-131 through
 6 7-5-135, or by a resolution of the governing body.

7 (3) The proposal must state:

8 (a) the specific type of tax the local government
 9 proposes to impose;

10 (b) the proposed tax rate;

11 (c) proposed exclusions and exemptions, if any;

12 (d) the proposed duration of the tax; and

13 (e) the purpose for which the proceeds of the proposed
 14 tax would be used.

15 (4) In addition to the provisions required by
 16 subsection (3), the proposal must grant the governing body
 17 authority to establish administrative procedures, rules,
 18 penalties, and other powers not inconsistent with the
 19 approved enabling authority.

20 (5) Upon approval by the electorate in accordance with
 21 7-5-136, the proposal becomes the local governing body's
 22 enabling authority to impose the specified tax subject to
 23 all provisions of the enabling authority.

24 (6) Except as provided in [section 6], the enabling
 25 authority may not be amended or repealed by the governing



1 body without a vote of the electorate.

2 Section 3. Local option income tax -- special
3 provisions. If the tax authorized by [section 2] is a
4 percentage of the state income tax liability of residents of
5 a county or municipality or of persons earning or receiving
6 income from activity in the county or municipality, the
7 following provisions apply:

8 (1) A local option income tax must be administered by
9 the department of revenue, and the department of revenue
10 shall adopt rules for the administration of the tax.

11 (2) Money collected by the department of revenue must
12 be credited to a local income tax account in the fiduciary
13 fund of the state treasury.

14 (3) The department of revenue shall return the tax
15 proceeds to the jurisdiction where they were collected,
16 except:

- 17 (a) the amount of refunds;
- 18 (b) a reserve for anticipated refunds; and
- 19 (c) an amount for administering the tax, not to exceed
20 1% of the proceeds collected in each jurisdiction.

21 (4) A taxpayer whose principal place of business or
22 employment is in a jurisdiction with a local income tax but
23 who lives outside the boundaries of that jurisdiction is
24 liable for one-half the rate of the income tax.

25 Section 4. Administration of tax -- penalties for

1 nonpayment. (1) Subject to any restrictions in the enabling
2 authority, a governing body may enforce its provisions
3 pertaining to the imposition and collection of the tax by
4 establishing:

5 (a) criminal penalties, not to exceed the penalties
6 for violating an ordinance as set forth in 7-5-109; and

7 (b) civil penalties that are monetary amounts, either
8 fixed or in percentages, enforceable in a justice's, city,
9 or municipal court.

10 (2) A governing body may contract or enter into
11 interlocal agreements with other local governments or state
12 agencies for the administration of a tax authorized by
13 [section 2].

14 Section 5. Distribution of tax proceeds. (1) The
15 proceeds of a tax authorized by [section 2] must be used for
16 the purpose stated in the enabling authority, except that a
17 governing body may use a portion of the proceeds for the
18 administration of the tax.

19 (2) A local option tax imposed by a county must be
20 levied countywide, and unless otherwise provided by
21 agreement with municipalities, the county shall distribute
22 the proceeds based on the point of origin of the tax
23 revenue. After a pro rata deduction for its administrative
24 expenses, the county shall distribute tax revenue collected
25 within each municipality to the municipality and shall

1 retain tax revenue not collected within any municipality.

2 Section 6. Double taxation prohibited. (1) A local
3 option tax may not be levied on the same person or
4 transaction by more than one local government.

5 (2) If the electorate of a county approves a local
6 option tax after the electorate of a municipality in the
7 county has approved a local option tax on the same person or
8 transaction at the same or a higher rate, persons and
9 transactions in the municipality are exempt from the county
10 tax as long as the municipal tax is in effect, but if the
11 municipal tax is at a lower rate than the county tax, the
12 governing body of the municipality shall repeal its tax
13 without a vote of the electorate.

14 Section 7. Codification instruction. Sections 1
15 through 6 are intended to be codified as an integral part of
16 Title 7, chapter 6, and the provisions of Title 7, chapter
17 6, apply to sections 1 through 6.

-End-