

HB 182 INTRODUCED BY FRITZ, ET AL.
ALLOW CERTAIN LOCAL OPTION TAXES TO BE IMPOSED
ORDINANCE

1/14 INTRODUCED
1/14 REFERRED TO TAXATION
1/30 HEARING
3/16 TABLED IN COMMITTEE

1 HB BILL NO. 182
 2 INTRODUCED BY Justin Alder
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
 5 GOVERNMENT TO IMPOSE CERTAIN LOCAL OPTION TAXES BY
 6 ORDINANCE; PROVIDING FOR ADMINISTRATION OF SUCH TAXES; AND
 7 PROVIDING CRIMINAL AND CIVIL PENALTIES NECESSARY FOR THE
 8 ADMINISTRATION OF THE TAXES."
 9

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

11 Section 1. Local option taxes authorized. A local
12 government may impose one or more of the taxes set forth in
13 [this act] upon its residents and upon transactions
14 occurring within its jurisdiction by ordinance adopted in
15 accordance with 7-5-103.

16 Section 2. Local payroll tax. As provided in [this
17 act], a local government may impose a local payroll tax,
18 which may be a flat rate or a schedule of flat rates levied
19 for specific time periods on employees of licensed
20 businesses or public employers operating within the
21 jurisdiction who are covered under the workers' compensation
22 laws of the state or for whom there must be withholdings for
23 state or federal taxes.

24 Section 3. Fee on light motor vehicles. As provided in
25 [this act], a local government may impose a fee on light

1 motor vehicles in addition to the fees required under Title
2 61, chapter 3, part 5. A local government may impose a fee
3 on light vehicles, as defined in 61-3-531, in an amount not
4 to exceed \$10 per vehicle. The fee is payable at the same
5 time on the same vehicles as the fees provided for in
6 61-3-532 and 61-3-533. For the purposes of [this act], the
7 fee provided in this subsection is considered a tax. The
8 distribution of the fee, if not provided for by agreement,
9 is based on the registration address of the owner of the
10 motor vehicle.

11 Section 4. Local sales tax. As provided in [this act],
12 a local government may impose a tax on the retail sale of
13 goods and services within the jurisdiction, to be a
14 percentage of the retail sales price of the goods or
15 services sold within the jurisdiction. The rate of such a
16 sales tax may not exceed 1% of the sales price. In enacting
17 the authorization for the imposition of a sales tax, the
18 electorate may establish categories of goods and services
19 that are not subject to a sales tax. The tax may not be
20 imposed on used goods, meaning goods which have been sold,
21 bargained, exchanged, given away, or title transferred from
22 the person who first took title of the goods from a seller
23 of the goods and so used by the original owner that it has
24 become what is commonly known as secondhand.

25 Section 5. Local income tax. As provided in [this



1 act], a local government may impose a local income tax as a
 2 percentage of the state income tax liability on its
 3 residents and all other persons earning or receiving income
 4 from activities carried out in the municipality or county.
 5 The rate of the tax may not exceed 20% of the person's state
 6 income tax liability. In addition to other provisions
 7 relating to the imposition of a local option tax pursuant to
 8 [this act], the following provisions apply to the imposition
 9 of a local income tax:

10 (1) The governing body of a municipality or county
 11 imposing an income tax may suspend the collection of the tax
 12 for any calendar year only after giving 150 days' notice to
 13 the department of revenue. The suspension takes effect the
 14 first day of the next calendar year. Suspension of the tax
 15 does not impair the authority of the governing body to
 16 impose the tax in subsequent calendar years without elector
 17 approval.

18 (2) The local option income tax must be administered
 19 by the department of revenue. The department shall adopt
 20 rules for the administration of the tax.

21 (3) Money collected by the department must be
 22 accounted for separately and must be credited to a local
 23 income tax account in the fiduciary fund of the state
 24 treasury.

25 (4) For the purpose of administration, the department

1 may deduct an amount not to exceed 1% of the amount
 2 collected in each jurisdiction.

3 (5) The department shall return the proceeds from the
 4 tax to the jurisdiction where they were collected, except:
 5 (a) the amount for refunds;
 6 (b) a reserve for anticipated refunds; and
 7 (c) the costs of administering the tax.

8 (6) If a county levies a local income tax, the
 9 distribution of the proceeds must be made on the basis of
 10 income tax collections in each jurisdiction. For this
 11 purpose, the county jurisdiction does not include taxpayers
 12 residing in municipalities.

13 (7) Only municipalities in counties that do not impose
 14 an income tax may impose a local option income tax. The tax
 15 is applicable to residents and other people earning an
 16 income within the municipal boundaries.

17 (8) A taxpayer whose principal place of business or
 18 employment is in a jurisdiction with an income tax but who
 19 lives outside the boundaries of that jurisdiction is liable
 20 for one-half the rate of the income tax.

21 Section 6. Local hotel-motel tax. As provided in [this
 22 act], a local government may impose a hotel-motel tax on the
 23 user of a hotel, motel, or tourist campground at a rate
 24 equal to 5% of the accommodation charge collected by the
 25 hotel, motel, or tourist campground. For the purposes of

1 this section, the following definitions apply:

2 (1) "Hotel" or "motel" means a building containing
3 individual sleeping rooms or suites, providing overnight
4 lodging facilities to the general public for compensation.
5 The term includes a facility represented to the public as a
6 hotel, motel, resort, inn, guest ranch, or public
7 lodginghouse. The term does not include a roominghouse,
8 retirement home, or other multiunit structure that is rented
9 on other than a daily or weekly basis.

10 (2) "Tourist campground" means a place used for public
11 camping, primarily by automobile tourists, where persons may
12 camp, secure tents, or park individual trailers or truck
13 trailers for camping and sleeping purposes. The term does
14 not include a trailer court, trailer park, or mobile home
15 park intended for occupancy by trailers or mobile homes for
16 nonrecreational dwelling purposes.

17 Section 7. Local restaurant tax. As provided in [this
18 act], a local government may impose a local restaurant tax,
19 which may be a percentage of the charges paid by a consumer
20 for ready-to-eat food and accompanying beverages sold by a
21 retail establishment licensed as a restaurant or bar or
22 other facility where food is prepared for immediate
23 consumption by members of the general public. A restaurant
24 may not be defined to include:

25 (1) governmentally operated or owned food service

1 establishments;

2 (2) facilities that provide food primarily for senior
3 citizens;

4 (3) school or educational institution food service
5 facilities;

6 (4) boarding homes and medical facilities that serve
7 meals as an integral part of an accommodation; or

8 (5) other food services not primarily servicing the
9 public-at-large.

10 Section 8. Local luxury tax. (1) As provided in [this
11 act], a local government may impose a luxury tax, to be a
12 percentage of the retail sales price of luxury items. A
13 luxury item may not be defined to include:

14 (a) foodstuffs;

15 (b) nonalcoholic beverages;

16 (c) over-the-counter or prescription drugs or health
17 supplies;

18 (d) used automobiles;

19 (e) farm, construction, or other machinery or
20 lubricants or supplies necessary for the operation of such
21 machinery or other motor vehicles;

22 (f) tools or items generally required for a person's
23 trade or occupation;

24 (g) individual items of clothing, including footwear,
25 with a retail price of less than \$100;

- 1 (h) real property and structures attached thereto; or
- 2 (i) mobile or manufactured homes.

3 (2) Luxury items must be specifically identified
 4 either in the enabling authorization of the tax or in the
 5 implementing enactment, and exceptions may be set forth for
 6 defined luxury items used but not required in the course of
 7 a person's business or occupation.

8 Section 9. Local entertainment tax. As provided in
 9 [this act], a local government may impose a local
 10 entertainment tax, which may be a flat rate on or a
 11 percentage of proceeds derived from an entertainment
 12 enterprise or device operated for profit.

13 Section 10. Prohibition against double taxation --
 14 allocations of collections. A local option tax may not be
 15 levied on the same persons or transactions by more than one
 16 local government. If a county imposes a local option tax,
 17 the tax must be levied countywide and, unless otherwise
 18 provided by agreement with municipalities within the county,
 19 the proceeds of the tax must be distributed by the county
 20 based upon the point of origin of the revenue of the tax.
 21 After a pro rata deduction for its administrative expenses,
 22 a county shall distribute taxes collected within each
 23 municipality to the municipality and shall retain
 24 collections not collected within any municipality.

25 Section 11. Administration of tax -- penalty. (1) The

1 governing body, for the enforcement of provisions relating
 2 to the imposition and collection of a tax under [this act],
 3 may establish:

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

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

10 (2) The proceeds of a tax imposed under [this act] may
 11 be used for the administration of the tax and for any lawful
 12 purpose by the local government.

13 (3) The governing body may contract or enter into
 14 interlocal agreements with other local governments or state
 15 agencies for the administration of a tax authorized by [this
 16 act].

17 Section 12. Exemption for public utilities. No public
 18 utility subject to rate regulation by the Montana public
 19 service commission or owned by a governmental entity,
 20 including a rural cooperative utility organized under Title
 21 35, chapter 18, is subject to a tax levied under [this act].

-End-