

HB 782 INTRODUCED BY SANDS
LOCAL OPTION SALES OR INCOME TAX

2/16	INTRODUCED		
2/16	REFERRED TO TAXATION		
3/09	HEARING		
3/19	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/23	2ND READING PASSED AS AMENDED	52	47
3/24	3RD READING PASSED	57	43
	TRANSMITTED TO SENATE		
3/25	REFERRED TO TAXATION		
4/02	HEARING		
4/11	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
4/14	2ND READING CONCUR AS AMENDED		
	MOTION FAILED	20	29
4/14	2ND READING INDEFINITELY POSTPONED	29	20
4/14	SEGREGATED FROM COMMITTEE OF WHOLE REPORT	32	18
4/15	2ND READING CONCUR MOTION FAILED	24	25
4/15	2ND READING INDEFINITELY POSTPONED (BILL RETURNED TO HOUSE NOT CONCURRED AS AMENDED)	28	21
4/23	MOTION TO SUSPEND RULES TO RECONSIDER ACTION ON 2ND READING AND REQUEST RETURN OF BILL FROM HOUSE; FAILED	25	25
4/23	RECONSIDERED FAILING TO RECONSIDER PREVIOUS ACTION		
4/23	MOTION TO SUSPEND RULES TO RECALL BILL FROM HOUSE AND PLACE ON 2ND READING; FAILED TO RECEIVE TWO-THIRDS VOTE (BILL FAILED)	27	23

1 House BILL NO. 782
 2 INTRODUCED BY Sande
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
 5 GOVERNMENT TO IMPOSE A LOCAL INCOME TAX IF APPROVED BY THE
 6 ELECTORATE OF THE LOCAL GOVERNMENT; AUTHORIZING A LOCAL
 7 GOVERNMENT TO IMPOSE A LOCAL SALES TAX IF A GENERAL SALES
 8 TAX HAS BEEN ENACTED AND THE ELECTORATE OF THE LOCAL
 9 GOVERNMENT APPROVES; PROVIDING FOR ADMINISTRATION OF THE
 10 TAX; PROVIDING CIVIL AND CRIMINAL PENALTIES NECESSARY FOR
 11 ADMINISTRATION OF THE TAX; AND AMENDING SECTION 17-7-502,
 12 MCA."
 13

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

15 NEW SECTION. Section 1. Definitions. In [sections 1
 16 through 3 and 5 through 7], the following definitions apply:

- 17 (1) "Department" means the department of revenue.
 18 (2) "Local government" means the government of a
 19 county or a municipality.
 20 (3) "Municipality" means an incorporated city, town,
 21 or city-county consolidated government.

22 NEW SECTION. Section 2. Authorization of local option
 23 sales or income tax. (1) If the enabling authority is
 24 approved by the electorate, as provided in this section, a
 25 local government may impose a tax:

1 (a) on the retail sale of goods and services within
 2 its jurisdiction, at a rate not exceeding 0.5% of the sales
 3 price, provided that a general sales tax has been enacted
 4 and is in effect statewide; or

5 (b) on the income of its residents and other persons
 6 earning or receiving income from activities carried out
 7 within its jurisdiction, provided that it does not exceed
 8 10% of the person's state income tax liability.

9 (2) The proposal to enable a local government to
 10 impose a local option tax authorized by this section may be
 11 initiated by a petition of the electorate, as provided in
 12 7-5-131 through 7-5-135, or by a resolution of the governing
 13 body.

14 (3) (a) A local sales tax may be proposed only if a
 15 general sales tax has been enacted by the legislature, and
 16 it must be imposed on the same categories of goods and
 17 services, with the same exclusions and exemptions, as the
 18 general sales tax. A proposal to impose a local sales tax
 19 must state in terms of decimal fractions of a percentage,
 20 not exceeding 0.5%, the amount by which the general sales
 21 tax would be increased in the local government's
 22 jurisdiction.

23 (b) A local governing body may:

24 (i) use a portion of the proceeds of a local sales tax
 25 for administration of the tax; and

1 (ii) contract or enter into agreements with other local
2 governments or state agencies for the administration of a
3 local sales tax authorized by this section.

4 (4) A proposal to impose a local income tax must
5 state:

6 (a) the proposed tax as a percentage of the person's
7 state income tax liability; and

8 (b) proposed exclusions and exemptions, if any.

9 (5) In addition to the provisions required by
10 subsections (3) and (4), the proposal must grant the
11 governing body authority to establish administrative
12 procedures, rules, penalties, and other powers not
13 inconsistent with the approved enabling authority.

14 (6) Upon approval by the electorate in accordance with
15 7-5-136, the proposal becomes the local governing body's
16 enabling authority to impose the local sales or income tax
17 subject to all provisions of the enabling authority.

18 (7) Except as provided in [section 7], the enabling
19 authority may not be amended or repealed by the governing
20 body without a vote of the electorate.

21 NEW SECTION. Section 3. Local option income tax --
22 special provisions. (1) A local option income tax must be
23 administered by the department. The department shall adopt
24 rules that are compatible with its rules for administering
25 state income taxes. The rules must govern:

1 (a) provision for the tax on state income tax forms;

2 (b) determination of residence for purposes of
3 allocating tax revenue to one or more local governments; and

4 (c) enforcement of the local income tax.

5 (2) Proceeds of a local income tax authorized under
6 [section 2] must be credited to a local income tax account
7 in the fiduciary fund of the state treasury. The department
8 shall make withdrawals from this account to return the tax
9 proceeds to the jurisdictions in which they were collected,
10 except:

11 (a) the amount of refunds;

12 (b) a reserve for anticipated refunds; and

13 (c) reimbursement for the cost of administering the
14 tax, not to exceed 5% of the proceeds collected in each
15 jurisdiction.

16 (3) The reimbursement provided for in subsection
17 (2)(c) must be deposited in an account in the state special
18 revenue fund to the credit of the department. These
19 reimbursements are statutorily appropriated, as provided in
20 17-7-502, for the purpose of paying the costs of collecting
21 a local income tax authorized under [section 2].

22 (4) A local income tax becomes effective on the first
23 day of the calendar year following the election in which it
24 was approved. The proceeds of the tax must be returned to
25 the jurisdiction in which they were collected on a quarterly

1 basis, beginning the first day of April in the following
2 year.

3 Section 4. Section 17-7-502, MCA, is amended to read:

4 "17-7-502. Statutory appropriations -- definition --
5 requisites for validity. (1) A statutory appropriation is an
6 appropriation made by permanent law that authorizes spending
7 by a state agency without the need for a biennial
8 legislative appropriation or budget amendment.

9 (2) Except as provided in subsection (4), to be
10 effective, a statutory appropriation must comply with both
11 of the following provisions:

12 (a) The law containing the statutory authority must be
13 listed in subsection (3).

14 (b) The law or portion of the law making a statutory
15 appropriation must specifically state that a statutory
16 appropriation is made as provided in this section.

17 (3) The following laws are the only laws containing
18 statutory appropriations:

- 19 (a) 2-9-202;
- 20 (b) 2-17-105;
- 21 (c) 2-18-812;
- 22 (d) 10-3-203;
- 23 (e) 10-3-312;
- 24 (f) 10-3-314;
- 25 (g) 10-4-301;

- 1 (h) 13-37-304;
- 2 (i) 15-31-702;
- 3 (j) 15-36-112;
- 4 (k) 15-70-101;
- 5 (l) 16-1-404;
- 6 (m) 16-1-410;
- 7 (n) 16-1-411;
- 8 (o) 17-3-212;
- 9 (p) 17-5-404;
- 10 (q) 17-5-424;
- 11 (r) 17-5-804;
- 12 (s) 19-8-504;
- 13 (t) 19-9-702;
- 14 (u) 19-9-1007;
- 15 (v) 19-10-205;
- 16 (w) 19-10-305;
- 17 (x) 19-10-506;
- 18 (y) 19-11-512;
- 19 (z) 19-11-513;
- 20 (aa) 19-11-606;
- 21 (bb) 19-12-301;
- 22 (cc) 19-13-604;
- 23 (dd) 20-6-406;
- 24 (ee) 20-8-111;
- 25 (ff) 23-5-612;

1 (gg) 37-51-501;
 2 (hh) 53-24-206;
 3 (ii) 75-1-1101;
 4 (jj) 75-7-305;
 5 (kk) 80-2-103;
 6 (ll) 80-2-228;
 7 (mm) 90-3-301;
 8 (nn) 90-3-302;
 9 (oo) 90-15-103; and
 10 (pp) Sec. 13, HB 861, L. 1985; and
 11 (qq) [section 3].

12 (4) There is a statutory appropriation to pay the
 13 principal, interest, premiums, and costs of issuing, paying,
 14 and securing all bonds, notes, or other obligations, as due,
 15 that have been authorized and issued pursuant to the laws of
 16 Montana. Agencies that have entered into agreements
 17 authorized by the laws of Montana to pay the state
 18 treasurer, for deposit in accordance with 17-2-101 through
 19 17-2-107, as determined by the state treasurer, an amount
 20 sufficient to pay the principal and interest as due on the
 21 bonds or notes have statutory appropriation authority for
 22 such payments."

23 NEW SECTION. Section 5. Administration of tax --
 24 penalties for nonpayment. Subject to any restrictions in the
 25 enabling authority, a governing body may enforce its

1 provisions pertaining to the imposition and collection of
 2 the tax by establishing:

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

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

8 NEW SECTION. Section 6. Distribution of tax proceeds.
 9 A local option sales or income tax imposed by a county must
 10 be levied countywide, and unless otherwise provided by
 11 agreement with municipalities, the county shall distribute
 12 the proceeds based on the point of origin of the tax
 13 revenue. After a pro rata deduction for its administrative
 14 expenses, the county shall distribute tax revenue collected
 15 within each municipality to the municipality and shall
 16 retain tax revenue not collected within any municipality.

17 NEW SECTION. Section 7. Double taxation prohibited.
 18 (1) A local option sales or income tax may not be levied on
 19 the same person or transaction by more than one local
 20 government.

21 (2) If the electorate of a county approves a local
 22 option sales or income tax after the electorate of a
 23 municipality in the county has approved a local option tax
 24 on the same person or transaction at the same or a higher
 25 rate, persons and transactions in the municipality are

1 exempt from the county tax as long as the municipal tax is
2 in effect, but if the municipal tax is at a lower rate than
3 the county tax, the governing body of the municipality shall
4 repeal its tax without a vote of the electorate.

5 NEW SECTION. Section 8. Codification instruction.
6 Sections 1 through 3 and 5 through 7 are intended to be
7 codified as an integral part of Title 7, chapter 6, and the
8 provisions of Title 7, chapter 6, apply to sections 1
9 through 3 and 5 through 7.

-End-

APPROVED BY COMMITTEE
ON TAXATION

1 STATEMENT OF INTENT

2 HOUSE BILL 782

3 House Taxation Committee

4
5 A statement of intent is required for this bill because
6 rulemaking authority is granted to the department of revenue
7 in section 3.

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

SECOND READING

HB-782

HOUSE BILL NO. 782
INTRODUCED BY SANDS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL GOVERNMENT TO IMPOSE A LOCAL INCOME TAX IF APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT; AUTHORIZING A LOCAL GOVERNMENT TO IMPOSE A LOCAL SALES TAX IF A-GENERAL-SALES TAX-HAS--BEEN--ENACTED--AND THE ELECTORATE OF THE LOCAL GOVERNMENT APPROVES; PROVIDING FOR ADMINISTRATION OF THE TAX; PROVIDING CIVIL AND CRIMINAL PENALTIES NECESSARY FOR ADMINISTRATION OF THE TAX; AND AMENDING SECTION 17-7-502, MCA."

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

NEW SECTION. Section 1. Definitions. In [sections 1 through 3 and 5 through 7], the following definitions apply:

(1) "Department" means the department of revenue.

(2) "Local government" means the government of a county or a municipality.

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

NEW SECTION. Section 2. Authorization of local option sales or income tax. (1) If the enabling authority is approved by the electorate, as provided in this section, a local government may impose a tax:

(a) on the retail sale of goods and services within its jurisdiction, at a rate not ~~exceeding 0.5% of the sales price, provided that~~ TO EXCEED 3% IF THERE IS NO STATEWIDE SALES TAX, OR IF a general sales tax has been enacted and is in effect statewide, AT A RATE NOT TO EXCEED 1%; or

(b) on the income of its residents and other persons earning or receiving income from activities carried out within its jurisdiction, provided that it does not exceed 10% of the person's state income tax liability; OR

(C) AS PROVIDED IN 7-6-4461 THROUGH 7-6-4467.

(2) THE PROPOSAL MUST STATE:

(A) THE SPECIFIC TYPE OF TAX THE LOCAL GOVERNMENT PROPOSES TO IMPOSE;

(B) THE PROPOSED TAX RATE;

(C) PROPOSED EXCLUSIONS AND EXEMPTIONS, IF ANY;

(D) THE PROPOSED DURATION OF THE TAX; AND

(E) THE PURPOSE FOR WHICH THE PROCEEDS OF THE PROPOSED TAX WOULD BE USED.

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

~~(3)~~(4) ~~(a) A local sales tax may be proposed only if a general sales tax has been enacted by the legislature, and~~

1 it must be imposed on the same categories of goods and
 2 services, with the same exclusions and exemptions, as the
 3 general sales tax. A proposal to impose a local sales tax
 4 must state in terms of decimal fractions of a percentage,
 5 not exceeding 0.5%, the amount by which the general sales
 6 tax would be increased in the local government's
 7 jurisdiction. IMPOSED:

8 (A) ONLY BY ANY ONE LOCAL GOVERNMENT IN CONFORMANCE
 9 WITH [SECTION 7];

10 (B) ON THE RETAIL SALE OF ITEMS OF TANGIBLE PERSONAL
 11 PROPERTY OR SERVICES, BUT THE TAXING PROPOSAL MAY EXEMPT
 12 SALES IN THE FOLLOWING CATEGORIES:

13 (I) UNPREPARED FOOD;

14 (II) PRESCRIPTION AND NONPRESCRIPTION DRUGS;

15 (III) AGRICULTURAL MACHINERY, EQUIPMENT, AND SUPPLIES;

16 (IV) ANY ITEM COSTING MORE THAN \$500;

17 (V) BASIC NECESSITIES AS SPECIFIED IN THE TAXING
 18 PROPOSAL UNDER SUBSECTION 3; OR

19 (VI) SERVICES.

20 (5) A LOCAL GOVERNMENT MAY PLEDGE FOR REPAYMENT OF
 21 BONDS UP TO ONE-THIRD OF THE REVENUES DERIVED FROM A 3%
 22 SALES TAX OR ALL OF THE REVENUE DERIVED FROM A 1% SALES TAX.
 23 SUCH BONDS DO NOT CONSTITUTE DEBT FOR PURPOSES OF ANY
 24 STATUTORY DEBT LIMITATION, PROVIDED THAT IN THE RESOLUTION
 25 AUTHORIZING THE ISSUANCE OF THE BONDS THE LOCAL GOVERNMENT

1 DETERMINES THAT THE SALES TAX REVENUES, SPECIAL ASSESSMENTS
 2 LEVIED FOR AND REVENUES FROM SUCH FACILITIES, IMPROVEMENTS
 3 OR UNDERTAKINGS, OR OTHER SOURCES OF REVENUE, IF ANY,
 4 PLEGGED TO THE PAYMENT OF THE BONDS WILL BE SUFFICIENT IN
 5 EACH YEAR TO PAY THE PRINCIPAL THEREOF AND INTEREST THEREON
 6 WHEN DUE.

7 ~~(b)~~(6) A local governing body may:

8 ~~(i)~~(A) use a portion of the proceeds of a local sales
 9 tax for administration of the tax; and

10 ~~(ii)~~(B) contract or enter into agreements with other
 11 local governments or state agencies for the administration
 12 of a local sales tax authorized by this section.

13 ~~(4)~~(7) A proposal to impose a local income tax must
 14 state:

15 (a) the proposed tax as a percentage of the person's
 16 state income tax liability; and

17 (b) proposed exclusions and exemptions, if any.

18 ~~(5)~~(8) In addition to the provisions required by
 19 subsections ~~(3)~~ (4) and ~~(4)~~ (7), the proposal must grant the
 20 governing body authority to establish administrative
 21 procedures, rules, penalties, and other powers not
 22 inconsistent with the approved enabling authority.

23 ~~(6)~~(9) Upon approval by the electorate in accordance
 24 with 7-5-136, the proposal becomes the local governing
 25 body's enabling authority to impose the local sales or

1 income tax subject to all provisions of the enabling
2 authority.

3 ~~(7)~~(10) Except as provided in [section 7], the enabling
4 authority may not be amended or repealed by the governing
5 body without a vote of the electorate.

6 NEW SECTION. Section 3. Local option income tax --
7 special provisions. (1) A local option income tax must be
8 administered by the department. The department shall adopt
9 rules that are compatible with its rules for administering
10 state income taxes. The rules must govern:

- 11 (a) provision for the tax on state income tax forms;
- 12 (b) determination of residence for purposes of
- 13 allocating tax revenue to one or more local governments; and
- 14 (c) enforcement of the local income tax.

15 (2) Proceeds of a local income tax authorized under
16 [section 2] must be credited to a local income tax account
17 in the fiduciary fund of the state treasury. The department
18 shall make withdrawals from this account to return the tax
19 proceeds to the jurisdictions in which they were collected,
20 except:

- 21 (a) the amount of refunds;
- 22 (b) a reserve for anticipated refunds; and
- 23 (c) reimbursement for the cost of administering the
- 24 tax, not to exceed 5% of the proceeds collected in each
- 25 jurisdiction.

1 (3) The reimbursement provided for in subsection
2 (2)(c) must be deposited in an account in the state special
3 revenue fund to the credit of the department. These
4 reimbursements are statutorily appropriated, as provided in
5 17-7-502, for the purpose of paying the costs of collecting
6 a local income tax authorized under [section 2].

7 (4) A local income tax becomes effective on the first
8 day of the calendar year following the election in which it
9 was approved. The proceeds of the tax must be returned to
10 the jurisdiction in which they were collected on a quarterly
11 basis, beginning the first day of April in the following
12 year.

13 Section 4. Section 17-7-502, MCA, is amended to read:
14 "17-7-502. Statutory appropriations -- definition --
15 requisites for validity. (1) A statutory appropriation is an
16 appropriation made by permanent law that authorizes spending
17 by a state agency without the need for a biennial
18 legislative appropriation or budget amendment.

19 (2) Except as provided in subsection (4), to be
20 effective, a statutory appropriation must comply with both
21 of the following provisions:

22 (a) The law containing the statutory authority must be
23 listed in subsection (3).

24 (b) The law or portion of the law making a statutory
25 appropriation must specifically state that a statutory

1 appropriation is made as provided in this section.
 2 (3) The following laws are the only laws containing
 3 statutory appropriations:
 4 (a) 2-9-202;
 5 (b) 2-17-105;
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 10 (g) 10-4-301;
 11 (h) 13-37-304;
 12 (i) 15-31-702;
 13 (j) 15-36-112;
 14 (k) 15-70-101;
 15 (l) 16-1-404;
 16 (m) 16-1-410;
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 19 (oo) 90-15-103; and
 20 (pp) Sec. 13, HB 861, L. 1985; and
 21 (qq) [section 3].
 22 (4) There is a statutory appropriation to pay the
 23 principal, interest, premiums, and costs of issuing, paying,
 24 and securing all bonds, notes, or other obligations, as due,
 25 that have been authorized and issued pursuant to the laws of

1 Montana. Agencies that have entered into agreements
 2 authorized by the laws of Montana to pay the state
 3 treasurer, for deposit in accordance with 17-2-101 through
 4 17-2-107, as determined by the state treasurer, an amount
 5 sufficient to pay the principal and interest as due on the
 6 bonds or notes have statutory appropriation authority for
 7 such payments."

8 NEW SECTION. Section 5. Administration of tax --
 9 penalties for nonpayment. (1) Subject to any restrictions in
 10 the enabling authority, a governing body may enforce its
 11 provisions pertaining to the imposition and collection of
 12 the tax by establishing:

13 (1)(A) criminal penalties, not to exceed the penalties
 14 for violating an ordinance as set forth in 7-5-109; and

15 (2)(B) civil penalties that are monetary amounts,
 16 either fixed or in percentages, enforceable in a justice's,
 17 city, or municipal court.

18 (2) A GOVERNING BODY MAY CONTRACT OR ENTER INTO
 19 INTERLOCAL AGREEMENTS WITH OTHER LOCAL GOVERNMENTS OR STATE
 20 AGENCIES FOR THE ADMINISTRATION OF A TAX AUTHORIZED BY
 21 [SECTION 2].

22 NEW SECTION. Section 6. Distribution of tax proceeds.
 23 A local option sales or income tax imposed by a county must
 24 be levied countywide, and unless otherwise provided by
 25 agreement with municipalities, the county shall distribute

1 the proceeds based on the point of origin of the tax
 2 revenue. After a pro rata deduction for its administrative
 3 expenses, the county shall distribute tax revenue collected
 4 within each municipality to the municipality and shall
 5 retain tax revenue not collected within any municipality.

6 NEW SECTION. Section 7. Double taxation prohibited.
 7 (1) A local option sales or income tax may not be levied on
 8 the same person or transaction by more than one local
 9 government.

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

19 NEW SECTION. SECTION 8. EXEMPTION FROM PUBLIC
 20 UTILITIES. NO PUBLIC UTILITY SUBJECT TO RATE REGULATION BY
 21 THE MONTANA PUBLIC SERVICE COMMISSION OR OWNED BY A
 22 GOVERNMENTAL ENTITY, INCLUDING A RURAL COOPERATIVE ORGANIZED
 23 UNDER TITLE 35, CHAPTER 18, IS SUBJECT TO A TAX LEVIED UNDER
 24 [THIS ACT].

25 NEW SECTION. Section 9. Codification instruction.

1 Sections 1 through 3 and 5 through 7 8 are intended to be
2 codified as an integral part of Title 7, chapter 6, and the
3 provisions of Title 7, chapter 6, apply to sections 1
4 through 3 and 5 through 7 8.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 782

3 House Taxation Committee
4

5 A statement of intent is required for this bill because
6 rulemaking authority is granted to the department of revenue
7 in section 3.

8 It is intended that the rules promulgated by the
9 department of revenue for administering the local option
10 income tax will be as compatible as possible with rules
11 adopted by the department for administering state income
12 taxes. In achieving this goal, the department should strive
13 for simplicity for taxpayers, and if burdens are necessary,
14 the department should bear them. In administering the tax,
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16 state and the concerned local governments. It is
17 contemplated that the rules will address reporting forms,
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19 necessary for proper administration of the local option
20 income tax.

1 HOUSE BILL NO. 782

2 INTRODUCED BY SANDS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
5 GOVERNMENT TO IMPOSE A LOCAL INCOME TAX IF APPROVED BY THE
6 ELECTORATE OF THE LOCAL GOVERNMENT; AUTHORIZING A LOCAL
7 GOVERNMENT TO IMPOSE A LOCAL SALES TAX IF A GENERAL SALES
8 TAX HAS BEEN ENACTED AND THE ELECTORATE OF THE LOCAL
9 GOVERNMENT APPROVES; PROVIDING FOR ADMINISTRATION OF THE
10 TAX; PROVIDING CIVIL AND CRIMINAL PENALTIES NECESSARY FOR
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21 or city-county consolidated government.22 NEW SECTION. Section 2. Authorization of local option
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24 approved by the electorate, as provided in this section, a
25 local government may impose a tax:

1 (a) on the retail sale of goods and services within
2 its jurisdiction, at a rate not exceeding ~~0.5% of the sales~~
3 ~~price, provided that~~ TO EXCEED 3% IF THERE IS NO STATEWIDE
4 SALES TAX, OR IF a general sales tax has been enacted and is
5 in effect statewide, AT A RATE NOT TO EXCEED 1%; or

6 (b) on the income of its residents and ~~other persons~~
7 ~~earning or receiving income from activities carried out~~
8 ~~within its jurisdiction,~~ provided that it does not exceed
9 10% of the person's state income tax liability; OR

10 (C) AS PROVIDED IN 7-6-4461 THROUGH 7-6-4467.11 (2) THE PROPOSAL MUST STATE:12 (A) THE SPECIFIC TYPE OF TAX THE LOCAL GOVERNMENT
13 PROPOSES TO IMPOSE;14 (B) THE PROPOSED TAX RATE;15 (C) PROPOSED EXCLUSIONS AND EXEMPTIONS, IF ANY;16 (D) THE PROPOSED DURATION OF THE TAX; AND17 (E) THE PURPOSE FOR WHICH THE PROCEEDS OF THE PROPOSED
18 TAX WOULD BE USED.

19 ~~(2)(3)~~ (3) The proposal to enable a local government to
20 impose a local option tax authorized by this section may be
21 initiated by a petition of the electorate, as provided in
22 7-5-131 through 7-5-135, or by a resolution of the governing
23 body.

24 ~~(3)(4)~~ (4) ~~(a)~~ A local sales tax may be ~~proposed only if a~~
25 ~~general sales tax has been enacted by the legislature, and~~

1 ~~it must be imposed on the same categories of goods and~~
 2 ~~services, with the same exclusions and exemptions, as the~~
 3 ~~general sales tax. A proposal to impose a local sales tax~~
 4 ~~must state in terms of decimal fractions of a percentage,~~
 5 ~~not exceeding 0.5%, the amount by which the general sales~~
 6 ~~tax would be increased in the local government's~~
 7 ~~jurisdiction. IMPOSED:~~

8 (A) ONLY BY ANY ONE LOCAL GOVERNMENT IN CONFORMANCE
 9 WITH [SECTION 7];

10 (B) ON THE RETAIL SALE OF ITEMS OF TANGIBLE PERSONAL
 11 PROPERTY OR SERVICES, BUT THE TAXING PROPOSAL MAY EXEMPT
 12 SALES IN THE FOLLOWING CATEGORIES:

13 (I) UNPREPARED FOOD;

14 (II) PRESCRIPTION AND NONPRESCRIPTION DRUGS;

15 (III) AGRICULTURAL MACHINERY, EQUIPMENT, AND SUPPLIES;

16 (IV) THE VALUE IN EXCESS OF \$500 OF ANY ITEM COSTING
 17 MORE THAN \$500;

18 (V) BASIC NECESSITIES AS SPECIFIED IN THE TAXING
 19 PROPOSAL UNDER SUBSECTION (3); OR

20 (VI) SERVICES.

21 (5) IF A GENERAL SALES TAX HAS BEEN ENACTED AND IS IN
 22 EFFECT STATEWIDE, ANY 1% LOCAL OPTION TAX MUST BE IMPOSED ON
 23 THE SAME CATEGORIES OF GOODS AND SERVICES, WITH THE SAME
 24 EXCLUSIONS AND EXEMPTIONS AS THE GENERAL SALES TAX.

25 {5}{6} A LOCAL GOVERNMENT MAY PLEDGE FOR REPAYMENT OF

1 BONDS UP TO ONE-THIRD OF THE REVENUES DERIVED FROM A 3%
 2 SALES TAX OR ALL OF THE REVENUE DERIVED FROM A 1% SALES TAX.
 3 SUCH BONDS DO NOT CONSTITUTE DEBT FOR PURPOSES OF ANY
 4 STATUTORY DEBT LIMITATION, PROVIDED THAT IN THE RESOLUTION
 5 AUTHORIZING THE ISSUANCE OF THE BONDS THE LOCAL GOVERNMENT
 6 DETERMINES THAT THE SALES TAX REVENUES, SPECIAL ASSESSMENTS
 7 LEVIED FOR AND REVENUES FROM SUCH FACILITIES, IMPROVEMENTS
 8 OR UNDERTAKINGS, OR OTHER SOURCES OF REVENUE, IF ANY,
 9 PLEGGED TO THE PAYMENT OF THE BONDS WILL BE SUFFICIENT IN
 10 EACH YEAR TO PAY THE PRINCIPAL THEREOF AND INTEREST THEREON
 11 WHEN DUE.

12 ~~{b}{6}{7}~~ A local governing body may:

13 ~~{+}{A}~~ use a portion of the proceeds of a local sales
 14 tax for administration of the tax; and

15 ~~{++}{B}~~ contract or enter into agreements with other
 16 local governments or state agencies for the administration
 17 of a local sales tax authorized by this section.

18 ~~{4}{7}{8}~~ A proposal to impose a local income tax must
 19 state:

20 ~~{+}~~ the proposed tax as a percentage of the person's
 21 state income tax liability, and,

22 ~~{b}~~ proposed exclusions and exemptions, if any.

23 ~~{5}{8}{9}~~ In addition to the provisions required by
 24 subsections ~~{3}~~ {4} and ~~{4}~~ {7} {8}, the proposal must grant
 25 the governing body authority to establish administrative

1 procedures, rules, penalties, and other powers not
2 inconsistent with the approved enabling authority.

3 ~~(7)~~~~(9)~~~~(10)~~ Upon approval by the electorate in
4 accordance with 7-5-136, the proposal becomes the local
5 governing body's enabling authority to impose the local
6 sales or income tax subject to all provisions of the
7 enabling authority.

8 ~~(7)~~~~(10)~~~~(11)~~ (A) Except as provided in [section 7], the
9 enabling authority may not be amended or repealed by the
10 governing body without a vote of the electorate.

11 (B) A LOCAL OPTION TAX MAY BE REPEALED PURSUANT TO A
12 PROPOSAL INITIATED BY RESOLUTION OF THE GOVERNING BODY OR BY
13 PETITION AND SUBMITTED TO THE ELECTORATE, AS PROVIDED IN
14 7-5-131 THROUGH 7-5-137.

15 (12) A TAXING PROPOSAL AUTHORIZING AN EXEMPTION
16 DESCRIBED IN SUBSECTION (4)(B)(IV) MAY NOT EXEMPT FROM THE
17 SALES TAX THE FIRST \$500 OR LESS OF VALUE OF AN ITEM COSTING
18 MORE THAN \$500.

19 NEW SECTION. Section 3. Local option income tax --
20 special provisions. (1) A local option income tax must be
21 administered by the department. The department shall adopt
22 rules that are compatible with its rules for administering
23 state income taxes. The rules must govern:

- 24 (a) provision for the tax on state income tax forms;
- 25 (b) determination of residence for purposes of

1 allocating tax revenue to one or more local governments; and

2 (c) enforcement of the local income tax.

3 (2) Proceeds of a local income tax authorized under
4 [section 2] must be credited to a local income tax account
5 in the fiduciary fund of the state treasury. The department
6 shall make withdrawals from this account to return the tax
7 proceeds to the jurisdictions in which they were collected,
8 except:

9 (a) the amount of refunds;

10 (b) a reserve for anticipated refunds; and

11 (c) reimbursement for the cost of administering the
12 tax, not to exceed 5% of the proceeds collected in each
13 jurisdiction.

14 (3) The reimbursement provided for in subsection
15 (2)(c) must be deposited in an account in the state special
16 revenue fund to the credit of the department. These
17 reimbursements are statutorily appropriated, as provided in
18 17-7-502, for the purpose of paying the costs of collecting
19 a local income tax authorized under [section 2].

20 (4) A local income tax becomes effective on the first
21 day of the calendar year following the election in which it
22 was approved. The proceeds of the tax must be returned to
23 the jurisdiction in which they were collected on a quarterly
24 basis, beginning the first day of April in the following
25 year.

1 Section 4. Section 17-7-502, MCA, is amended to read:
 2 "17-7-502. Statutory appropriations -- definition --
 3 requisites for validity. (1) A statutory appropriation is an
 4 appropriation made by permanent law that authorizes spending
 5 by a state agency without the need for a biennial
 6 legislative appropriation or budget amendment.
 7 (2) Except as provided in subsection (4), to be
 8 effective, a statutory appropriation must comply with both
 9 of the following provisions:
 10 (a) The law containing the statutory authority must be
 11 listed in subsection (3).
 12 (b) The law or portion of the law making a statutory
 13 appropriation must specifically state that a statutory
 14 appropriation is made as provided in this section.
 15 (3) The following laws are the only laws containing
 16 statutory appropriations:
 17 (a) 2-9-202;
 18 (b) 2-17-105;
 19 (c) 2-18-812;
 20 (d) 10-3-203;
 21 (e) 10-3-312;
 22 (f) 10-3-314;
 23 (g) 10-4-301;
 24 (h) 13-37-304;
 25 (i) 15-31-702;

1 (j) 15-36-112;
 2 (k) 15-70-101;
 3 (l) 16-1-404;
 4 (m) 16-1-410;
 5 (n) 16-1-411;
 6 (o) 17-3-212;
 7 (p) 17-5-404;
 8 (q) 17-5-424;
 9 (r) 17-5-804;
 10 (s) 19-8-504;
 11 (t) 19-9-702;
 12 (u) 19-9-1007;
 13 (v) 19-10-205;
 14 (w) 19-10-305;
 15 (x) 19-10-506;
 16 (y) 19-11-512;
 17 (z) 19-11-513;
 18 (aa) 19-11-606;
 19 (bb) 19-12-301;
 20 (cc) 19-13-604;
 21 (dd) 20-6-406;
 22 (ee) 20-8-111;
 23 (ff) 23-5-612;
 24 (gg) 37-51-501;
 25 (hh) 53-24-206;

1 (ii) 75-1-1101;
 2 (jj) 75-7-305;
 3 (kk) 80-2-103;
 4 (ll) 80-2-228;
 5 (mm) 90-3-301;
 6 (nn) 90-3-302;
 7 (oo) 90-15-103; and
 8 (pp) Sec. 13, HB 861, L. 1985; and
 9 (qq) [section 3]; AND
 10 (rr) [SECTION 5].
 11 (4) There is a statutory appropriation to pay the
 12 principal, interest, premiums, and costs of issuing, paying,
 13 and securing all bonds, notes, or other obligations, as due,
 14 that have been authorized and issued pursuant to the laws of
 15 Montana. Agencies that have entered into agreements
 16 authorized by the laws of Montana to pay the state
 17 treasurer, for deposit in accordance with 17-2-101 through
 18 17-2-107, as determined by the state treasurer, an amount
 19 sufficient to pay the principal and interest as due on the
 20 bonds or notes have statutory appropriation authority for
 21 such payments."
 22 NEW SECTION. Section 5. Administration of tax --
 23 penalties for nonpayment. (1) Subject to any restrictions in
 24 the enabling authority, a governing body may enforce its
 25 provisions pertaining to the imposition and collection of

1 the tax by establishing:
 2 ~~(1)(A)~~ criminal penalties, not to exceed the penalties
 3 for violating an ordinance as set forth in 7-5-109; and
 4 ~~(2)(B)~~ civil penalties that are monetary amounts,
 5 either fixed or in percentages, enforceable in a justice's,
 6 city, or municipal court.
 7 (2) A EXCEPT AS PROVIDED IN [SECTION 3] AND SUBSECTION
 8 (3), A GOVERNING BODY MAY CONTRACT OR ENTER INTO INTERLOCAL
 9 AGREEMENTS WITH OTHER LOCAL GOVERNMENTS OR STATE AGENCIES
 10 FOR THE ADMINISTRATION OF A TAX AUTHORIZED BY [SECTION 2].
 11 (3) (A) A LOCAL OPTION SALES TAX IMPOSED AFTER A
 12 GENERAL SALES TAX HAS BEEN ENACTED AND IS IN EFFECT
 13 STATEWISE MUST BE ADMINISTERED BY THE DEPARTMENT UNDER RULES
 14 ADOPTED BY THE DEPARTMENT FOR ADMINISTERING THE GENERAL
 15 SALES TAX.
 16 (B) PROCEEDS OF A LOCAL OPTION SALES TAX IMPOSED AFTER
 17 A GENERAL SALES TAX HAS BEEN ENACTED AND IS IN EFFECT
 18 STATEWISE MUST BE CREDITED TO A SPECIAL LOCAL OPTION SALES
 19 TAX ACCOUNT IN THE FIDUCIARY FUND OF THE STATE TREASURY. THE
 20 DEPARTMENT SHALL DISTRIBUTE THE PROCEEDS TO THE
 21 JURISDICTIONS IN WHICH THEY WERE COLLECTED ON A QUARTERLY
 22 BASIS, BEGINNING THE FIRST DAY OF APRIL IN THE YEAR
 23 FOLLOWING THE ELECTION IN WHICH THE TAX WAS APPROVED.
 24 (C) THE DEPARTMENT MAY DEDUCT FROM THE MONEY COLLECTED
 25 AN AMOUNT NOT EXCEEDING 1% TO COVER THE COST OF

1 ADMINISTERING THE TAX. THIS DEDUCTION IS STATUTORILY
 2 APPROPRIATED, AS PROVIDED IN 17-7-502, FOR THE PURPOSE OF
 3 PAYING THE COSTS OF COLLECTING A LOCAL OPTION SALES TAX
 4 IMPOSED AFTER A GENERAL SALES TAX HAS BEEN ENACTED AND IS IN
 5 EFFECT STATEWIDE.

6 NEW SECTION. Section 6. Distribution of tax proceeds.
 7 A local option sales or income tax imposed by a county must
 8 be levied countywide, and unless otherwise provided by
 9 agreement with municipalities, the county shall distribute
 10 the proceeds based on the point of origin of the tax
 11 revenue. After a pro rata deduction for its administrative
 12 expenses, the county shall distribute tax revenue collected
 13 within each municipality to the municipality and shall
 14 retain tax revenue not collected within any municipality.

15 NEW SECTION. Section 7. Double taxation prohibited.
 16 (1) A local option sales or income tax may not be levied on
 17 the same person or transaction by more than one local
 18 government.

19 (2) If the electorate of a county approves a local
 20 option sales or income tax after the electorate of a
 21 municipality in the county has approved a local option tax
 22 on the same person or transaction at the same or a higher
 23 rate, persons and transactions in the municipality are
 24 exempt from the county tax as long as the municipal tax is
 25 in effect, but if the municipal tax is at a lower rate than

1 the county tax, the governing body of the municipality shall
 2 repeal its tax without a vote of the electorate.

3 NEW SECTION. SECTION 8. EXEMPTION FROM PUBLIC
 4 UTILITIES. NO PUBLIC UTILITY SUBJECT TO RATE REGULATION BY
 5 THE MONTANA PUBLIC SERVICE COMMISSION OR OWNED BY A
 6 GOVERNMENTAL ENTITY, INCLUDING A RURAL COOPERATIVE ORGANIZED
 7 UNDER TITLE 35, CHAPTER 18, IS SUBJECT TO A TAX LEVIED UNDER
 8 [THIS ACT].

9 NEW SECTION. Section 9. Codification instruction.
 10 Sections 1 through 3 and 5 through 7 8 are intended to be
 11 codified as an integral part of Title 7, chapter 6, and the
 12 provisions of Title 7, chapter 6, apply to sections 1
 13 through 3 and 5 through 7 8.

-End-

STANDING COMMITTEE REPORT

HB 782
Page 1 of 3

HB 782
Page 2 of 3

April 11 19 87

SENATE

April 11 19 87

MR. PRESIDENT

We, your committee on TAXATION
having had under consideration House Bill No. 782

third reading copy (blue color)

SANDS (HAGER)

LOCAL OPTION SALES OR INCOME TAX

Respectfully report as follows: That House Bill No. 782

- 1. Title, lines 4 through 6.
Following: "AN ACT"
Strike: "AUTHORIZING A LOCAL GOVERNMENT TO IMPOSE A LOCAL INCOME TAX IF APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT;"
- 2. Page 2, line 16.
Strike: "through 3 and 5"
Insert: ", 2, and 4"
Strike: "7"
Insert: "6"
- 3. Page 1, line 23.
Strike: "or income tax"

- 4. Page 2, line 5.
Following: "ex"
Insert: "or"
- 5. Page 2, lines 6 through 9.
Strike: subsection (b) in its entirety
Renumber: subsequent subsection
- 6. Page 3, line 9.
Strike: "7"
Insert: "6"
- 7. Page 4, lines 18 through 21.
Strike: lines 18 through 21 in their entirety
Renumber: subsequent subsections
- 8. Page 4, line 24.
Strike: "(8)"
Insert: "(7)"
- 9. Page 5, line 6.
Strike: "or income"
- 10. Page 5, line 8.
Strike: "7"
Insert: "6"
- 11. Page 5, line 12.
Strike: "RESOLTUION"
Insert: "resolution"
- 12. Pages 5 and 6.
Following: line 18 on page 5
Strike: section 3 in its entirety
Renumber: subsequent sections
- 13. Page 9, line 10.
Strike: "5"
Insert: "4"
- 14. Page 10, line 7.
Strike: "[SECTION 3] AND"

XXXXXX

XXXXXXXX

BE CONCURRED IN AS AMENDED

George McCalburn
George McCalburn

Chairman.

4-1

George McCalburn

4-11-87
24
7:15

15. Page 10, line 13.
Strike: "STATEWISE"
Insert: "statewide"

April 11 19*87*

16. Page 11, lines 7, 16, and 20.
Strike: "or income" on all three lines

17. Page 12, line 10 and 13.
Following: "7" on both lines
Strike: "8" on both lines
Insert: "7" on both lines

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AND AS AMENDED

BE CONCURRED IN

George M. Sullivan 4-11