

SENATE BILL 337

Introduced by Jacobson, et al.

2/03	Introduced
2/03	Referred to Agriculture, Livestock & Irrig.
2/06	Fiscal Note Requested
2/10	Rereferred to Taxation
2/13	Fiscal Note Received
2/14	Fiscal Note Printed
2/16	Hearing
	Died in Committee

1 Senate BILL NO. 337
2 INTRODUCED BY Jacobson, D. C. Monahan
3 Sen. Calkins
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A TAX ON THE
5 SALE OF REAL ESTATE; ALLOCATING THE PROCEEDS OF THE TAX TO
6 THE CONTROL OF NOXIOUS WEEDS AND TO LOCAL ECONOMIC
7 INFRASTRUCTURE DEVELOPMENT; REQUIRING THE ESTABLISHMENT OF
8 AN ECONOMIC INFRASTRUCTURE DEVELOPMENT FUND IN EACH COUNTY;
9 AMENDING SECTIONS 7-22-2142, 15-7-302, 15-7-305, AND
10 15-7-307, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

13 **Section 1.** Section 7-22-2142, MCA, is amended to read:

14 "7-22-2142. Sources of money for noxious weed fund.

15 (1) The commissioners may create the noxious weed fund by:

16 (a) appropriating money from the general fund of the
17 county;

18 (b) crediting to the noxious weed fund all funds
19 provided for in [section 6];

20 ~~(b)~~(c) at any time fixed by law for levy and
21 assessment of taxes, levying a tax not exceeding 2 mills on
22 the dollar of total taxable valuation in such county; and

23 ~~for~~(d) levying a tax in excess of 2 mills if
24 authorized by a majority of the qualified electors voting in
25 an election held for this purpose pursuant to 7-6-2531

1 through 7-6-2536.

2 (2) The proceeds of the tax collected under subsection
3 (1)(c) shall be used solely for the purpose of managing
4 noxious weeds in said county and shall be designated to the
5 noxious weed fund.

6 (3) Any proceeds from work or chemical sales shall
7 revert to the noxious weed fund and shall be available for
8 reuse within that fiscal year or any subsequent year.

9 (4) The commissioners may accept any private, state,
10 or federal gifts, grants, contracts, or other funds to aid
11 in the management of noxious weeds within the district.
12 These funds must be placed in the noxious weed fund."

13 **Section 2.** Section 15-7-302, MCA, is amended to read:

14 "15-7-302. Purpose. The primary purpose of this part
15 is to obtain sales price data necessary to the determination
16 of statewide levels and uniformity of real estate
17 assessments by the most efficient, economical, and reliable
18 method. A secondary purpose of this part is to derive
19 revenue from the sale of real estate, to be used by local
20 governments to stimulate economic infrastructure development
21 and to control noxious weeds."

22 **Section 3.** Section 15-7-305, MCA, is amended to read:

23 "15-7-305. Certificate of county clerk and recorder.

24 (1) The county clerk and recorder shall cause to be executed
25 by the parties to the transaction or their agents or

1 representatives a certificate declaring the consideration
2 paid or to be paid for the real estate transferred.

3 (2) (a) No instrument or deed evidencing a transfer of
4 real estate may be accepted for recordation until the tax
5 imposed by [section 5] has been paid in full and the
6 certificate has been received by the county clerk and
7 recorder.

8 (b) If a transfer of real estate is exempt from the
9 requirement to file a certificate under the provisions of
10 15-7-307, proof that the tax on the real estate transfer has
11 been paid must be received by the county clerk and recorder
12 before he may accept and record the instrument or deed
13 evidencing the transfer.

14 (c) The validity or effectiveness of an instrument or
15 deed as between the parties to it shall not be affected by
16 the failure to comply with the provisions in this part.

17 (3) The form of certificate shall be prescribed by the
18 department of revenue, and the department shall provide an
19 adequate supply of such forms to each county clerk and
20 recorder in the state.

21 (4) The clerk and recorder shall prepare a like
22 certificate for each contract for deed filed for recording.

23 (5) The clerk and recorder shall transmit each
24 executed certificate to the department."

25 **Section 4.** Section 15-7-307, MCA, is amended to read:

1 "15-7-307. Certificate -- exceptions. (1) The
2 certificate imposed by this part shall not apply to:

3 (1)(a) an instrument recorded prior to July 1, 1975;

4 (2)(b) the sale of agricultural land when the land is
5 used for agricultural purposes;

6 (3)(c) the sale of timberland when the land is used
7 for producing timber;

8 (4)(d) the United States of America, this state, or
9 any instrumentality, agency, or subdivision thereof;

10 (5)(e) an instrument which (without added
11 consideration) confirms, corrects, modifies, or supplements
12 a previously recorded instrument;

13 (6)(f) a transfer pursuant to court decree;

14 (7)(g) a transfer pursuant to mergers, consolidations,
15 or reorganizations of corporations, partnerships, or other
16 business entities;

17 (8)(h) a transfer by a subsidiary corporation to its
18 parent corporation without actual consideration or in sole
19 consideration of the cancellation or surrender of subsidiary
20 stock;

21 (9)(i) a transfer of decedents' estates;

22 (10)(j) a transfer of a gift;

23 (11)(k) a transfer between husband and wife or parent
24 and child with only nominal actual consideration therefor;

25 (12)(l) an instrument the effect of which is to

1 transfer the property to the same party or parties;
 2 {13}(m) a sale for delinquent taxes or assessments,
 3 sheriff sale, bankruptcy action, or mortgage foreclosure;
 4 {14}(n) a transfer made in contemplation of death.
 5 (2) The tax imposed in [section 5] applies to all
 6 sales of realty, including the sales exempted from the
 7 requirement to file a certificate under subsection (1).
 8 (Subsection {3} (c) terminates January 1, 1991--sec. 10, Ch.
 9 681, L. 1985.)"

10 NEW SECTION. Section 5. Tax imposed on the sale of
 11 realty. (1) There is imposed on the sale of real estate, a
 12 tax of one-tenth of one percent of the value of the real
 13 estate.

14 (2) The tax must be collected by the county treasurer
 15 of the county where the real estate sold is located.

16 (3) All sales of real estate are subject to the tax
 17 imposed by subsection (1). The exceptions listed in 15-7-307
 18 exempting certain transactions from the requirement for
 19 executing a real estate transfer certificate do not affect
 20 the tax imposed in subsection (1).

21 NEW SECTION. Section 6. Disposition of proceeds. The
 22 proceeds of the tax imposed in [section 5] are allocated as
 23 follows:

24 (1) 3% of the proceeds must be retained by the county
 25 treasurer for the costs of collecting the tax, which

1 proceeds must be credited to the county general fund;

2 (2) 14% of the proceeds must be forwarded to the state
 3 treasurer and be credited to the noxious weed management
 4 trust fund established in 80-7-811;

5 (3) an additional 14% of the proceeds must be
 6 forwarded to the state treasurer to be credited to the
 7 noxious weed management trust fund established in 80-7-811
 8 until the principal of the trust fund exceeds \$2,500,000, at
 9 which time the 14% of the proceeds referred to in this
 10 subsection must be deposited in the special revenue fund as
 11 provided in 80-7-814 for the projects described in
 12 80-7-814(3)(f);

13 (4) 15% of the proceeds must be deposited in the
 14 noxious weed fund, established in 7-22-2141, of the county
 15 in which the real estate transfer tax is collected; and

16 (5) 54% of the proceeds must, in any proportion
 17 considered appropriate by the board of county commissioners,
 18 be:

19 (a) credited to the economic infrastructure
 20 development fund, as established in [section 7], of the
 21 county in which the real estate transfer tax is collected;
 22 or

23 (b) appropriated for planning or subdivision review
 24 functions that were, on [the effective date of this act],
 25 funded from the general fund or from a levy for planning in

1 each of the incorporated areas within the county.

2 NEW SECTION. Section 7. Economic infrastructure
3 development fund -- sources of revenue. (1) The
4 commissioners of each county in this state shall create a
5 fund to be designated as the "economic infrastructure
6 development fund".

7 (2) This fund must be kept separate and distinct by
8 the county treasurer.

9 (3) The commissioners may create the economic
10 infrastructure development fund by:

11 (a) appropriating money from the general fund of the
12 county;

13 (b) levying a tax, if authorized by a majority of the
14 qualified electors voting in an election held for this
15 purpose pursuant to 7-6-2531 through 7-6-2536;

16 (c) depositing in the fund all proceeds allocated in
17 [section 6(5)] for economic infrastructure development; and

18 (d) accepting any private, state, or federal gifts,
19 grants, contracts, or other funds to aid in fostering,
20 stimulating, or enhancing economic infrastructure
21 development.

22 NEW SECTION. Section 8. Use of fund. The funds
23 deposited in the economic infrastructure development fund
24 may be expended on any project designated by the
25 commissioners as an improvement to or as maintenance of

1 infrastructure supporting economic development, provided
2 that the development is within the county.

3 NEW SECTION. Section 9. Extension of authority. Any
4 existing authority to make rules on the subject of the
5 provisions of [this act] is extended to the provisions of
6 [this act].

7 NEW SECTION. Section 10. Effective date. [This act]
8 is effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB337, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act imposing a tax on the sale of real estate; allocating the proceeds of the tax to the control of noxious weeds and to local economic infrastructure development; requiring the establishment of an economic infrastructure development fund in each county; and providing an effective date.

ASSUMPTIONS:

1. It is estimated that there were 66,174 real estate transactions in the state in 1988. The average appraised value for each transaction was approximately \$42,600. This value is assumed constant over the next biennium. (Based on realty transfer sales data tape). The proposed tax rate is one tenth of one percent of property value.
2. Total revenue generated by the tax would be \$2,819,012 in FY90 and FY91.
3. The Noxious Weed Management Trust Fund had a balance of \$1,070,972 at the end of FY88 and is estimated to have a balance of \$1,250,000 at the end of FY89.
4. The Noxious Weed Trust Fund will reach the \$2,500,000 level in FY91 and trigger the shift of 14% of realty transfer tax to the state special revenue account as outlined in Section 6 (3), page 6, of the proposed law.
5. Assume the executive budget modified request recommended for the Noxious Weed Control Program will be approved to ensure the capability of handling the increased workload.

FISCAL IMPACT:

	Current	FY90		Current	FY91	
State Revenue:	Law	Proposed	Difference	Law	Proposed	Difference
Noxious Weed Management Trust Fund	\$309,375	\$1,098,699	\$789,324	\$405,511	\$ 800,173	\$394,662
State Special Revenue						
Noxious Weed Account	572,000	572,000	-0-	572,000	966,662	394,662
TOTAL	\$881,375	\$1,670,699	\$789,324	\$977,511	\$1,766,835	\$789,324

Expenditure:

Department of Agriculture						
Local Assistance/Grants	\$522,029	\$ 522,029	\$ -0-	\$523,705	\$ 918,367	\$394,662

Funding:

State Special Revenue						
Noxious Weed Account	\$522,029	\$ 522,029	\$ -0-	\$523,705	\$ 918,367	\$394,662

Ray Shackelford

DATE 2/11/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Judy H. Jacobson

DATE 2/13/89

JUDY H. JACOBSON, PRIMARY SPONSOR

Fiscal Note for SB337, as introduced

SB 337

Fiscal Note Request, SB337 as introduced

Form BD-15

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EFFECT ON COUNTY REVENUE:

The Act would provide to counties each fiscal year \$84,570 for administration; \$422,852 for County Noxious Weed Funds and \$1,522,266 for the Economic Infrastructure Development Fund or planning and subdivision review.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The Noxious Weed Management Trust Fund will reach \$2,500,000 in FY91 allowing any excess to be utilized as outlined in 80-7-814 in future years.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 80-7-811 MCA, may need to be amended to include Section 5 of this Act.

SB 337