

SENATE BILL 458

Introduced by Eck, et al.

2/28	Introduced
2/28	Referred to Taxation
3/01	Fiscal Note Requested
3/07	Fiscal Note Received
3/08	Fiscal Note Printed
3/09	Hearing
3/22	Committee Report--Bill Passed as Amended
3/27	2nd Reading Passed as Amended
3/29	3rd Reading Passed

Transmitted to House

3/29	Referred to Taxation
4/05	Hearing
4/10	Committee Report--Bill Concurred as Amended
4/11	2nd Reading Concurred as Amended
4/13	3rd Reading Concurred

Returned to Senate With Amendments

4/15	2nd Reading Amendments Not Concurred
4/17	Conference Committee Appointed
4/20	Conference Committee Report No. 1
4/20	2nd Reading Conference Committee Report No. 1 Adopted
4/20	3rd Reading Conference Committee Report No. 1 Adopted

House

4/19	Conference Committee Appointed
4/20	Conference Committee Report No. 1
4/20	2nd Reading Conference Committee Report No. 1 Indefinitely Postponed
	Died in Process

1 *Senate* BILL NO. *458*
2 INTRODUCED BY *Sen. Kelly Rasmussen Smith Mayhew*
3 *TH*
4 A BILL FOR AN ACT ENTITLED: "AN ACT REALLOCATING THE
5 CORPORATION LICENSE AND INCOME TAX RECEIPTS FROM BANKS AND
6 SAVINGS AND LOAN ASSOCIATIONS; CREATING A LOCAL GOVERNMENT
7 ASSISTANCE ACCOUNT IN THE STATE SPECIAL REVENUE FUND;
8 PROVIDING FOR THE ALLOCATION OF FUNDS IN THE LOCAL
9 GOVERNMENT ASSISTANCE ACCOUNT; PROVIDING FOR STATUTORY
10 APPROPRIATION OF THE ACCOUNT; AMENDING SECTIONS 15-1-501,
11 17-5-408, 17-7-502, AND 20-9-343, MCA; REPEALING SECTIONS
12 15-31-701 THROUGH 15-31-703, MCA; AND PROVIDING AN IMMEDIATE
13 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16 NEW SECTION. Section 1. Local government assistance
17 account -- source of funds -- use of funds. (1) There is a
18 local government assistance account within the state special
19 revenue fund.
20 (2) The local government assistance account is
21 comprised of 10% of all money received from corporation
22 license and income taxes under Title 15, chapter 31, and as
23 distributed under 15-1-501.
24 (3) Funds in the local government assistance account
25 must be used to provide payments to local governments as

1 provided in [section 2].
2 NEW SECTION. Section 2. Distribution of local
3 government assistance money. (1) The funds deposited in the
4 local government assistance account in [section 1] are
5 statutorily appropriated, as provided in 17-7-502, to be
6 allocated by the state treasurer proportionately to each
7 county in the state based on the proportion that each
8 respective county's population bears to the total population
9 of the state.
10 (2) The allocations to the counties must be made on
11 June 30 in each year.
12 (3) For the purposes of this section, the population
13 of each county, consolidated government, and the state is
14 the most recent population estimate available from the
15 department of commerce.
16 NEW SECTION. Section 3. Local government assistance
17 money -- allocation. (1) Except as provided in subsection
18 (2), upon receipt of the funds allocated under [section 2],
19 the county treasurer shall further allocate the funds as
20 follows:
21 (a) to each incorporated municipality, a proportionate
22 share based on the proportion that each respective
23 incorporated municipality's population bears to the total
24 population of the county, to be deposited in the general
25 fund of the incorporated municipality; and

(b) the remainder to the credit of the general fund of the county.

(2) If the county is a consolidated government, all funds received under subsection (1) must be credited to the general fund of the consolidated government.

(3) For the purposes of this section, the population of each county, consolidated government, and incorporated municipality is the most recent population estimate available from the department of commerce.

Section 4. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of moneys from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all moneys received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone [company] license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72,

chapter 16.

(2) All moneys received from the collection of income taxes under chapter 30 of this title shall be deposited as follows:

(a) 58.2% to the credit of the state general fund;

(b) 10% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) 31.8% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) All moneys received from the collection of corporation license and income taxes under chapter 31 of this title, ~~except as provided in 15-31-702,~~ shall be deposited as follows:

(a) ~~64%~~ 57.6% to the credit of the state general fund;

(b) ~~11%~~ 9.9% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~25%~~ 22.5% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and

(d) 10% to the credit of the local government assistance account described in [section 1].

(4) The state treasurer shall also deposit to the

1 credit of the state general fund all moneys received by him
2 from the collection of license taxes, fees, and all net
3 revenues and receipts from all other sources under the
4 operation of the Montana Alcoholic Beverage Code.

5 (5) After the distribution provided for in 15-36-112,
6 the remainder of the oil severance tax collections shall be
7 deposited in the general fund."

8 **Section 5.** Section 17-5-408, MCA, is amended to read:

9 "17-5-408. Percentage of income, corporation license,
10 and cigarette tax pledged. (1) (a) The state pledges and
11 appropriates and directs to be credited as received to the
12 debt service account 10% of all money received from the
13 collection of the individual income tax and ~~11%~~ 9.9% of all
14 money, ~~--except--as--provided--in--15-31-702,~~ received from the
15 collection of the corporation license and income tax as
16 provided in 15-1-501, and such additional amount of said
17 taxes, if any, as may at any time be needed to comply with
18 the principal and interest and reserve requirements stated
19 in 17-5-405(4).

20 (b) No more than the percentages described in
21 subsection (1)(a) of such tax collections may be pledged for
22 the purpose of 17-5-403(2). The pledge and appropriation
23 herein made shall be and remain at all times a first and
24 prior charge upon all money received from the collection of
25 said taxes.

1 (2) The state pledges and appropriates and directs to
2 be credited to the debt service account 79.75% of all money
3 received from the collection of the excise tax on cigarettes
4 which is levied, imposed, and assessed by 16-11-111. The
5 state also pledges and appropriates and directs to be
6 credited as received to the debt service account all money
7 received from the collection of the taxes on other tobacco
8 products which are or may hereafter be levied, imposed, and
9 assessed by law for that purpose, including the tax levied,
10 imposed, and assessed by 16-11-202. Nothing herein shall
11 impair or otherwise affect the provisions and covenants
12 contained in the resolutions authorizing the presently
13 outstanding long-range building program bonds. Subject to
14 the provisions of the preceding sentence, the pledge and
15 appropriation herein made shall be and remain at all times a
16 first and prior charge upon all money received from the
17 collection of all taxes referred to in this subsection (2)."

18 **Section 6.** Section 17-7-502, MCA, is amended to read:

19 "17-7-502. Statutory appropriations -- definition --
20 requisites for validity. (1) A statutory appropriation is an
21 appropriation made by permanent law that authorizes spending
22 by a state agency without the need for a biennial
23 legislative appropriation or budget amendment.

24 (2) Except as provided in subsection (4), to be
25 effective, a statutory appropriation must comply with both

1 of the following provisions:

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

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

7 (3) The following laws are the only laws containing
8 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
9 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
10 15-25-123; ~~15-31-702~~; 15-36-112; 15-65-121; 15-70-101;
11 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
12 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
13 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
14 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
15 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501;
16 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101;
17 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136;
18 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103;
19 [section 2]; section 13, House Bill No. 861, Laws of 1985;
20 and section 1, Chapter 454, Laws of 1987.

21 (4) There is a statutory appropriation to pay the
22 principal, interest, premiums, and costs of issuing, paying,
23 and securing all bonds, notes, or other obligations, as due,
24 that have been authorized and issued pursuant to the laws of
25 Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state
2 treasurer, for deposit in accordance with 17-2-101 through
3 17-2-107, as determined by the state treasurer, an amount
4 sufficient to pay the principal and interest as due on the
5 bonds or notes have statutory appropriation authority for
6 such payments. (In subsection (3): pursuant to sec. 15, Ch.
7 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
8 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
9 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
10 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
11 1987, terminates July 1, 1988.)"

12 **Section 7.** Section 20-9-343, MCA, is amended to read:
13 "20-9-343. Definition of and revenue for state
14 equalization aid. (1) As used in this title, the term "state
15 equalization aid" means ~~those-moneys~~ the money deposited in
16 the state special revenue fund as required in this section
17 plus any legislative appropriation of money from other
18 sources for distribution to the public schools for the
19 purpose of equalization of the foundation program.

20 (2) The legislative appropriation for state
21 equalization aid ~~shall~~ must be made in a single sum for the
22 biennium. The superintendent of public instruction ~~has~~
23 ~~authority-to~~ may spend ~~such the~~ appropriation, together with
24 the earmarked revenues provided in subsection (3), as
25 required for foundation program purposes throughout the

1 biennium.

2 (3) The following ~~shall~~ must be paid into the state
3 special revenue fund for state equalization aid to public
4 schools of the state:

5 (a) 31.8% of all money received from the collection of
6 income taxes under chapter 30 of Title 15;

7 (b) 25% 22.5% of all money~~---except-as-provided-in~~
8 ~~15-31-702~~, received from the collection of corporation
9 license and income taxes under chapter 31 of Title 15, as
10 provided by 15-1-501;

11 (c) 100% of the money allocated to state equalization
12 from the collection of the severance tax on coal;

13 (d) 100% of the money received from the treasurer of
14 the United States as the state's shares of oil, gas, and
15 other mineral royalties under the federal Mineral Lands
16 Leasing Act, as amended;

17 (e) interest and income money described in 20-9-341
18 and 20-9-342;

19 (f) income from the education trust fund account; and

20 (g) in addition to these revenues, the surplus
21 revenues collected by the counties for foundation program
22 support according to 20-9-331 and 20-9-333.

23 (4) Any surplus revenue in the state equalization aid
24 account in the second year of a biennium may be used to
25 reduce the appropriation required for the next succeeding

1 biennium."

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

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

10 NEW SECTION. **Section 10.** Repealer. Sections 15-31-701
11 through 15-31-703, MCA, are repealed.

12 NEW SECTION. **Section 11.** Effective date --
13 retroactive applicability. [This act] is effective on
14 passage and approval and applies retroactively, within the
15 meaning of 1-2-109, to taxable years beginning after
16 December 31, 1988. The first allocation of local government
17 assistance money from the state to the counties must be made
18 on June 30, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB458, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act reallocating the corporation license and income tax receipts from banks and savings and loan associations; creating a local government assistance account in the state special revenue fund; providing for the allocation of funds in the local government assistance account; providing for statutory appropriation of the account; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

- 1) Tax receipts from corporation taxes are estimated to be \$49,207,000 in FY90 and \$49,503,000 in FY91.(REAC)
- 2) Local government's share of the corporation taxes is estimated to be \$4,121,000 in FY90 and \$4,175,000 in FY91.(REAC)
- 3) It is estimated that 50% of corporation tax receipts in any fiscal year are from those corporations that have a tax year ending on or after December 31st. The proposal would affect 50% of receipts in FY90.
- 4) There is no impact on revenue or Department of Revenue expenditures.

FISCAL IMPACT:Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Corporation Tax	\$49,207,000	\$49,207,000	\$ 0	\$49,503,000	\$49,503,000	\$ 0
<u>Fund Information:</u>						
General Fund	\$28,854,764	\$28,598,998	\$(255,766)	\$29,009,994	\$28,513,728	\$ (496,266)
Foundation Program	11,271,392	11,171,484	(99,909)	11,332,029	11,138,175	(193,854)
Sinking Fund	4,959,413	4,915,453	(43,960)	4,986,093	4,900,797	(85,296)
Counties	4,121,431	2,060,715	(2,060,716)	4,174,885	0	(4,174,885)
Loc. Gov. Assist. Acct	0	2,460,350	2,460,350	0	4,950,300	4,950,300
Total	\$49,207,000	\$49,207,000	\$ 0	\$49,503,000	\$49,503,000	\$ 0

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 11. Effective date -- retroactive applicability.

The first allocation of local government assistance money from the state to the counties must be made on June 30, 1989, but no revenue would have been deposited into the local government assistance account by that time. The first revenue deposited into the account would be from corporations that had a tax year ending on December 31, 1989. The receipts from these corporations are not due until May 15, 1990. The receipts from corporations on May 15 and June 15 are estimated to be 50% of total fiscal year receipts.

There is no provision in the proposal to direct the department regarding the net operating loss carryback as it applies to financial corporations. A financial corporation whose tax year begins after December 31, 1988 would fall within the applicability of this proposal. It is unclear whether the refund for taxes paid in prior years would come from the general fund, the local government assistance account, or the local government which originally received the taxes under current law.

Ray Shackleford DATE 3/7/89
 RAY SHACKLEFORD, BUDGET DIRECTOR
 Office of Budget and Program Planning

Dorothy Eck DATE 3/7/89
 DOROTHY ECK, PRIMARY SPONSOR

Fiscal Note for SB458, as introduced

SB 458

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 458

INTRODUCED BY ECK, HALLIGAN, REAM,

SMITH, MAZUREK, THAYER

A BILL FOR AN ACT ENTITLED: "AN ACT REALLOCATING THE CORPORATION LICENSE AND INCOME TAX RECEIPTS INCLUDING RECEIPTS FROM BANKS AND SAVINGS AND LOAN ASSOCIATIONS; CREATING A LOCAL GOVERNMENT ASSISTANCE ACCOUNT IN THE STATE SPECIAL REVENUE FUND; PROVIDING FOR THE ALLOCATION OF FUNDS IN THE LOCAL GOVERNMENT ASSISTANCE ACCOUNT; ~~PROVIDING FOR STATUTORY APPROPRIATION OF THE ACCOUNT~~; AMENDING SECTIONS 15-1-501, 17-5-408, 17-7-502, AND 20-9-343, MCA; REPEALING SECTIONS 15-31-701 THROUGH 15-31-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Local government assistance account -- source of funds -- use of funds. (1) There is a local government assistance account within the state special revenue fund.

(2) The local government assistance account is comprised of 10% of all money received from corporation license and income taxes under Title 15, chapter 31, and as distributed under 15-1-501.

(3) Funds in the local government assistance account must be used to provide payments to local governments as provided in [section 2].

NEW SECTION. Section 2. Distribution of local government assistance money. (1) The funds deposited in the local government assistance account in [section 1] are ~~statutorily appropriated, as provided in 17-7-502,~~ to be allocated by the state treasurer proportionately to each county in the state based on the proportion that each respective county's population bears to the total population of the state.

(2) The allocations to the counties must be made on June 30 in each year.

(3) For the purposes of this section, the population of each county, consolidated government, and the state is the most recent population estimate available from the department of commerce.

NEW SECTION. Section 3. Local government assistance money -- allocation. (1) Except as provided in subsection SUBSECTIONS (2) AND (3), upon receipt of the funds allocated under [section 2], the county treasurer shall further allocate the funds as follows:

(a) to each incorporated municipality, a proportionate share based on the proportion that each respective incorporated municipality's population bears to the total

1 population of the county, to be deposited in the general
2 fund of the incorporated municipality; and

3 (b) the remainder to the credit of the general fund of
4 the county.

5 (2) If the county is a consolidated government, all
6 funds received under subsection (1) must be credited to the
7 general fund of the consolidated government.

8 (3) (A) IF A CLAIM FOR A REFUND IS FILED BY A
9 FINANCIAL INSTITUTION FOR A TAX YEAR BEGINNING ON OR BEFORE
10 DECEMBER 31, 1988, THE COUNTY IN WHICH THE FINANCIAL
11 INSTITUTION IS LOCATED SHALL ISSUE 80% OF THE REFUND AND THE
12 STATE SHALL ISSUE 20%.

13 (B) IF ADDITIONAL TAX IS PAID BY A FINANCIAL
14 INSTITUTION FOR A TAX YEAR BEGINNING ON OR BEFORE DECEMBER
15 31, 1988, 80% OF THE PAYMENT MUST BE ALLOCATED TO THE COUNTY
16 IN WHICH THE FINANCIAL INSTITUTION IS LOCATED.

17 (3)(4) For the purposes of this section, the
18 population of each county, consolidated government, and
19 incorporated municipality is the most recent population
20 estimate available from the department of commerce.

21 **Section 4.** Section 15-1-501, MCA, is amended to read:

22 "15-1-501. Disposition of moneys from certain
23 designated license and other taxes. (1) The state treasurer
24 shall deposit to the credit of the state general fund all
25 moneys received by him from the collection of:

1 (a) fees from driver's licenses, motorcycle
2 endorsements, and duplicate driver's licenses as provided in
3 61-5-121;

4 (b) electrical energy producer's license taxes under
5 chapter 51;

6 (c) severance taxes allocated to the general fund
7 under chapter 36;

8 (d) liquor license taxes under Title 16;

9 (e) telephone [company] license taxes under chapter
10 53; and

11 (f) inheritance and estate taxes under Title 72,
12 chapter 16.

13 (2) All moneys received from the collection of income
14 taxes under chapter 30 of this title shall be deposited as
15 follows:

16 (a) 58.2% to the credit of the state general fund;

17 (b) 10% to the credit of the debt service account for
18 long-range building program bonds as described in 17-5-408;
19 and

20 (c) 31.8% to the credit of the state special revenue
21 fund for state equalization aid to the public schools of
22 Montana as described in 20-9-343.

23 (3) All moneys received from the collection of
24 corporation license and income taxes under chapter 31 of
25 this title, ~~except as provided in 15-31-702,~~ shall be

deposited as follows:

(a) ~~64%~~ 57.6% to the credit of the state general fund;

(b) ~~11%~~ 9.9% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~25%~~ 22.5% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343; and

(d) 10% to the credit of the local government assistance account described in [section 1].

(4) The state treasurer shall also deposit to the credit of the state general fund all moneys received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections shall be deposited in the general fund."

Section 5. Section 17-5-408, MCA, is amended to read:

"17-5-408. Percentage of income, corporation license, and cigarette tax pledged. (1) (a) The state pledges and appropriates and directs to be credited as received to the debt service account 10% of all money received from the collection of the individual income tax and ~~11%~~ 9.9% of all money,--except--as--provided--in--15-31-702, received from the

collection of the corporation license and income tax as provided in 15-1-501, and such additional amount of said taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405(4).

(b) No more than the percentages described in subsection (1)(a) of such tax collections may be pledged for the purpose of 17-5-403(2). The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of said taxes.

(2) The state pledges and appropriates and directs to be credited to the debt service account 79.75% of all money received from the collection of the excise tax on cigarettes which is levied, imposed, and assessed by 16-11-111. The state also pledges and appropriates and directs to be credited as received to the debt service account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed, and assessed by law for that purpose, including the tax levied, imposed, and assessed by 16-11-202. Nothing herein shall impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, the pledge and

appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of all taxes referred to in this subsection (2)."

Section 6. ~~Section 17-7-502, MCA, is amended to read:~~

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

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

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

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

~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202, 2-17-105, 2-18-812, 10-3-203, 10-3-312, 10-3-314, 10-4-301, 13-37-304, 15-25-123, 15-31-702, 15-36-112, 15-65-121, 15-70-101, 16-1-404, 16-1-410, 16-1-411, 17-3-212, 17-5-404, 17-5-424, 17-5-804, 19-8-504, 19-9-702, 19-9-1007, 19-10-205, 19-10-305, 19-10-506, 19-11-512, 19-11-513, 19-11-606, 19-12-301, 19-13-604, 20-4-109, 20-5-406, 20-8-111~~

~~23-5-610, 23-5-1027, 33-31-212, 33-31-401, 37-51-501, 39-71-2504, 53-6-150, 53-24-206, 67-3-205, 75-1-1101, 75-7-305, 76-12-123, 80-2-103, 80-2-228, 82-11-136, 90-3-301, 90-3-302, 90-3-412, 90-4-215, 90-9-306, 90-15-103, (section 2), section 13, House Bill No. 861, Laws of 1985, and section 17, Chapter 454, Laws of 1987.~~

~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3) pursuant to sec. 15, Ch. 607, B. 1987, the inclusion of 15-65-121 terminates June 30, 1989, pursuant to sec. 10, Ch. 664, B. 1987, the inclusion of 39-71-2504 terminates June 30, 1991, and pursuant to sec. 67, Ch. 454, B. 1987, the inclusion of sec. 17, Ch. 454, B. 1987, terminates July 1, 1988.)"~~

Section 6. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state

1 equalization aid" means ~~those-moneys~~ the money deposited in
 2 the state special revenue fund as required in this section
 3 plus any legislative appropriation of money from other
 4 sources for distribution to the public schools for the
 5 purpose of equalization of the foundation program.

6 (2) The legislative appropriation for state
 7 equalization aid ~~shall~~ must be made in a single sum for the
 8 biennium. The superintendent of public instruction ~~has~~
 9 ~~authority-to~~ may spend ~~such~~ the appropriation, together with
 10 the earmarked revenues provided in subsection (3), as
 11 required for foundation program purposes throughout the
 12 biennium.

13 (3) The following ~~shall~~ must be paid into the state
 14 special revenue fund for state equalization aid to public
 15 schools of the state:

16 (a) 31.8% of all money received from the collection of
 17 income taxes under chapter 30 of Title 15;

18 (b) ~~25%~~ 22.5% of all money, ~~--except-as-provided-in~~
 19 ~~15-31-702,~~ received from the collection of corporation
 20 license and income taxes under chapter 31 of Title 15, as
 21 provided by 15-1-501;

22 (c) 100% of the money allocated to state equalization
 23 from the collection of the severance tax on coal;

24 (d) 100% of the money received from the treasurer of
 25 the United States as the state's shares of oil, gas, and

1 other mineral royalties under the federal Mineral Lands
 2 Leasing Act, as amended;

3 (e) interest and income money described in 20-9-341
 4 and 20-9-342;

5 (f) income from the education trust fund account; and

6 (g) in addition to these revenues, the surplus
 7 revenues collected by the counties for foundation program
 8 support according to 20-9-331 and 20-9-333.

9 (4) Any surplus revenue in the state equalization aid
 10 account in the second year of a biennium may be used to
 11 reduce the appropriation required for the next succeeding
 12 biennium."

13 NEW SECTION. **Section 7.** Codification instruction.
 14 [Sections 1 through 3] are intended to be codified as an
 15 integral part of Title 7, chapter 6, and the provisions of
 16 Title 7, chapter 6, apply to [sections 1 through 3].

17 NEW SECTION. **Section 8.** Extension of authority. Any
 18 existing authority to make rules on the subject of the
 19 provisions of [this act] is extended to the provisions of
 20 [this act].

21 NEW SECTION. **Section 9.** Repealer. Sections 15-31-701
 22 through 15-31-703, MCA, are repealed.

23 NEW SECTION. **Section 10.** Effective date --
 24 retroactive applicability. (1) [This act] is effective on
 25 passage and approval and applies retroactively, within the

SB 0458/02

1 meaning of 1-2-109, to taxable years OF FINANCIAL
2 INSTITUTIONS beginning after December 31, 1988.

3 (2) BEGINNING JULY 1, 1989, ALL CORPORATION TAX
4 REVENUE MUST BE DEPOSITED AS REQUIRED BY 15-1-501(3).

5 (3) The first allocation of local government
6 assistance money from the state to the counties must be made
7 on ~~June-30-1989~~ JULY 15, 1990.

-End-

SENATE BILL NO. 458

INTRODUCED BY ECK, HALLIGAN, REAM,

SMITH, MAZUREK, THAYER

A BILL FOR AN ACT ENTITLED: "AN ACT REALLOCATING THE CORPORATION LICENSE AND INCOME TAX RECEIPTS INCLUDING RECEIPTS FROM BANKS AND SAVINGS AND LOAN ASSOCIATIONS; CREATING A LOCAL GOVERNMENT ASSISTANCE ACCOUNT IN THE STATE SPECIAL REVENUE FUND; PROVIDING FOR THE ALLOCATION OF FUNDS IN THE LOCAL GOVERNMENT ASSISTANCE ACCOUNT; PROVIDING FOR STATUTORY APPROPRIATION OF THE ACCOUNT; AMENDING SECTIONS 15-1-501, 17-5-408, 17-7-502, AND 20-9-343, MCA; REPEALING SECTIONS 15-31-701 THROUGH 15-31-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Local government assistance account -- source of funds -- use of funds. (1) There is a local government assistance account within the state special revenue fund.

(2) The local government assistance account is comprised of 10% of all money received from corporation license and income taxes under Title 15, chapter 31, and as distributed under 15-1-501.

(3) Funds in the local government assistance account must be used to provide payments to local governments as provided in [section 2].

NEW SECTION. Section 2. Distribution of local government assistance money. (1) The funds deposited in the local government assistance account in [section 1] are statutorily appropriated, as provided in 17-7-502, to be allocated by the state treasurer proportionately to each county in the state based on the proportion that each respective county's population bears to the total population of the state.

(2) The allocations to the counties must be made on June 30 in each year.

(3) For the purposes of this section, the population of each county, consolidated government, and the state is the most recent population estimate available from the department of commerce.

NEW SECTION. Section 3. Local government assistance money -- allocation. (1) Except as provided in subsection SUBSECTIONS (2) AND (3), upon receipt of the funds allocated under [section 2], the county treasurer shall further allocate the funds as follows:

(a) --to each incorporated municipality, a proportionate share based on the proportion that each respective incorporated municipality's population bears to the total

1 ~~population of the county, to be deposited in the general~~
 2 ~~fund of the incorporated municipality, and~~
 3 ~~(b) the remainder to the credit of the general fund of~~
 4 ~~the county~~ TO EACH TAXING JURISDICTION LOCATED IN THE
 5 COUNTY, INCLUDING THE COUNTY, THAT IS AUTHORIZED BY LAW TO
 6 IMPOSE A MILL LEVY. A TAXING JURISDICTION'S SHARE OF THE
 7 ALLOCATION MUST BE IN THE SAME PROPORTION THAT THE TAXING
 8 JURISDICTION'S MILL LEVY BEARS TO THE TOTAL MILL LEVY OF ALL
 9 AUTHORIZED TAXING JURISDICTIONS IN THE COUNTY, INCLUDING THE
 10 COUNTY.

11 (2) If the county is a consolidated government, all
 12 funds received under subsection (1) must be credited to the
 13 general fund of the consolidated government.

14 (3) (A) IF A CLAIM FOR A REFUND IS FILED BY A
 15 FINANCIAL INSTITUTION FOR A TAX YEAR BEGINNING ON OR BEFORE
 16 DECEMBER 31, 1988, THE COUNTY IN WHICH THE FINANCIAL
 17 INSTITUTION IS LOCATED SHALL ISSUE 80% OF THE REFUND AND THE
 18 STATE SHALL ISSUE 20%.

19 (B) IF ADDITIONAL TAX IS PAID BY A FINANCIAL
 20 INSTITUTION FOR A TAX YEAR BEGINNING ON OR BEFORE DECEMBER
 21 31, 1988, 80% OF THE PAYMENT MUST BE ALLOCATED TO THE COUNTY
 22 IN WHICH THE FINANCIAL INSTITUTION IS LOCATED.

23 ~~(3)(4)~~ For the purposes of this section, the
 24 population of each county, consolidated government, and
 25 incorporated municipality is the most recent population

1 estimate available from the department of commerce.

2 **Section 4.** Section 15-1-501, MCA, is amended to read:

3 "15-1-501. Disposition of moneys from certain
 4 designated license and other taxes. (1) The state treasurer
 5 shall deposit to the credit of the state general fund all
 6 moneys received by him from the collection of:

7 (a) fees from driver's licenses, motorcycle
 8 endorsements, and duplicate driver's licenses as provided in
 9 61-5-121;

10 (b) electrical energy producer's license taxes under
 11 chapter 51;

12 (c) severance taxes allocated to the general fund
 13 under chapter 36;

14 (d) liquor license taxes under Title 16;

15 (e) telephone [company] license taxes under chapter
 16 53; and

17 (f) inheritance and estate taxes under Title 72,
 18 chapter 16.

19 (2) All moneys received from the collection of income
 20 taxes under chapter 30 of this title shall be deposited as
 21 follows:

22 (a) 58.2% to the credit of the state general fund;

23 (b) 10% to the credit of the debt service account for
 24 long-range building program bonds as described in 17-5-408;
 25 and

1 (c) 31.8% to the credit of the state special revenue
2 fund for state equalization aid to the public schools of
3 Montana as described in 20-9-343.

4 (3) All moneys received from the collection of
5 corporation license and income taxes under chapter 31 of
6 this title~~---except---as---provided---in---15-31-702~~, shall be
7 deposited as follows:

8 (a) ~~64%~~ 57.6% to the credit of the state general fund;

9 (b) ~~11%~~ 9.9% to the credit of the debt service account
10 for long-range building program bonds as described in
11 17-5-408; and

12 (c) ~~25%~~ 22.5% to the credit of the state special
13 revenue fund for state equalization aid to the public
14 schools of Montana as described in 20-9-343; and

15 (d) 10% to the credit of the local government
16 assistance account described in [section 1].

17 (4) The state treasurer shall also deposit to the
18 credit of the state general fund all moneys received by him
19 from the collection of license taxes, fees, and all net
20 revenues and receipts from all other sources under the
21 operation of the Montana Alcoholic Beverage Code.

22 (5) After the distribution provided for in 15-36-112,
23 the remainder of the oil severance tax collections shall be
24 deposited in the general fund."

25 **Section 5.** Section 17-5-408, MCA, is amended to read:

1 "17-5-408. Percentage of income, corporation license,
2 and cigarette tax pledged. (1) (a) The state pledges and
3 appropriates and directs to be credited as received to the
4 debt service account 10% of all money received from the
5 collection of the individual income tax and ~~11%~~ 9.9% of all
6 money~~---except---as---provided---in---15-31-702~~, received from the
7 collection of the corporation license and income tax as
8 provided in 15-1-501, and such additional amount of said
9 taxes, if any, as may at any time be needed to comply with
10 the principal and interest and reserve requirements stated
11 in 17-5-405(4).

12 (b) No more than the percentages described in
13 subsection (1)(a) of such tax collections may be pledged for
14 the purpose of 17-5-403(2). The pledge and appropriation
15 herein made shall be and remain at all times a first and
16 prior charge upon all money received from the collection of
17 said taxes.

18 (2) The state pledges and appropriates and directs to
19 be credited to the debt service account 79.75% of all money
20 received from the collection of the excise tax on cigarettes
21 which is levied, imposed, and assessed by 16-11-111. The
22 state also pledges and appropriates and directs to be
23 credited as received to the debt service account all money
24 received from the collection of the taxes on other tobacco
25 products which are or may hereafter be levied, imposed, and

1 assessed by law for that purpose, including the tax levied,
 2 imposed, and assessed by 16-11-202. Nothing herein shall
 3 impair or otherwise affect the provisions and covenants
 4 contained in the resolutions authorizing the presently
 5 outstanding long-range building program bonds. Subject to
 6 the provisions of the preceding sentence, the pledge and
 7 appropriation herein made shall be and remain at all times a
 8 first and prior charge upon all money received from the
 9 collection of all taxes referred to in this subsection (2)."

10 **Section 6.** ~~Section 17-7-502, MCA, is amended to read:~~

11 ~~"17-7-502. Statutory appropriations--definition--~~
 12 ~~requisites-for-validity.--(1)-A-statutory-appropriation-is~~
 13 ~~an-appropriation-made-by-permanent-law-that-authorizes~~
 14 ~~spending-by-a-state-agency-without-the-need-for-a-biennial~~
 15 ~~legislative-appropriation-or-budget-amendment.~~

16 ~~(2)--Except-as-provided-in-subsection-(4),--to-be~~
 17 ~~effective,--a-statutory-appropriation-must-comply--with--both~~
 18 ~~of-the-following-provisions:~~

19 ~~(a)--The-law-containing-the-statutory-authority-must-be~~
 20 ~~listed-in-subsection-(3).~~

21 ~~(b)--The-law-or-portion-of-the-law-making-a-statutory~~
 22 ~~appropriation--must--specifically--state--that--a--statutory~~
 23 ~~appropriation-is-made-as-provided-in-this-section.~~

24 ~~(3)--The-following-laws--are-the-only-laws-containing~~
 25 ~~statutory-appropriations:--2-9-202;--2-17-105;--2-10-012;~~

1 ~~10-3-203;--10-3-312;--10-3-314;--10-4-301;--13-37-304;~~
 2 ~~15-25-123;--15-31-702;--15-36-112;--15-65-121;--15-70-101;~~
 3 ~~16-1-404;--16-1-410;--16-1-411;--17-3-212;--17-5-404;--17-5-424;~~
 4 ~~17-5-004;--19-0-504;--19-9-702;--19-9-1007;--19-10-205;~~
 5 ~~19-10-305;--19-10-506;--19-11-512;--19-11-513;--19-11-606;~~
 6 ~~19-12-301;--19-13-604;--20-4-109;--20-6-406;--20-8-111;~~
 7 ~~23-5-610;--23-5-1027;--33-31-212;--33-31-401;--37-51-501;~~
 8 ~~39-71-2504;--53-6-150;--53-24-206;--67-3-205;--75-1-1101;~~
 9 ~~75-7-305;--76-12-123;--80-2-103;--80-2-220;--82-11-136;~~
 10 ~~90-3-301;--90-3-302;--90-3-412;--90-4-215;--90-9-306;--90-15-103;~~
 11 ~~{section-2}; section-13; House-Bill-No; 061; Laws--of--1985;~~
 12 ~~and-section-1; Chapter-454; Laws-of-1987.~~

13 ~~(4)--There-is-a-statutory-appropriation-to-pay-the~~
 14 ~~principal, interest, premiums, and costs of issuing, paying,~~
 15 ~~and securing all bonds, notes, or other obligations, as due,~~
 16 ~~that have been authorized and issued pursuant to the laws of~~
 17 ~~Montana; Agencies that have entered into agreements~~
 18 ~~authorized by the laws of Montana to pay the state~~
 19 ~~treasurer, for deposit in accordance with 17-2-101 through~~
 20 ~~17-2-107, as determined by the state treasurer, an amount~~
 21 ~~sufficient to pay the principal and interest as due on the~~
 22 ~~bonds or notes have statutory appropriation authority for~~
 23 ~~such payments. (In subsection (3) pursuant to sec. 15, Ch.~~
 24 ~~607, B. 1987, the inclusion of 15-65-121 terminates June 30,~~
 25 ~~1989, pursuant to sec. 10, Ch. 664, B. 1987, the inclusion~~

~~of-39-71-2504-terminates-June-30-1991-and-pursuant-to-section-67-Chapter-454-By-1987-the-inclusion-of-section-17-Chapter-454-By-1987-terminates-July-1-1988-)~~"

Section 6. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means ~~those moneys~~ the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The legislative appropriation for state equalization aid ~~shall~~ must be made in a single sum for the biennium. The superintendent of public instruction ~~has authority to may~~ may spend such ~~the~~ appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following ~~shall~~ must be paid into the state special revenue fund for state equalization aid to public schools of the state:

(a) 31.8% of all money received from the collection of income taxes under chapter 30 of Title 15;

(b) ~~25%~~ 22.5% of all money ~~except as provided in 15-31-702~~ received from the collection of corporation

license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 100% of the money allocated to state equalization from the collection of the severance tax on coal;

(d) 100% of the money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income money described in 20-9-341 and 20-9-342;

(f) income from the education trust fund account; and

(g) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333.

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium."

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

NEW SECTION. **Section 8.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

SB 0458/03

1 [this act].

2 NEW SECTION. Section 9. Repealer. Sections 15-31-701
3 through 15-31-703, MCA, are repealed.

4 NEW SECTION. Section 10. Effective date --
5 retroactive applicability. (1) [This act] is effective on
6 passage and approval and applies retroactively, within the
7 meaning of 1-2-109, to taxable years OF FINANCIAL
8 INSTITUTIONS beginning after December 31, 1988.

9 (2) BEGINNING JULY 1, 1989, ALL CORPORATION TAX
10 REVENUE MUST BE DEPOSITED AS REQUIRED BY 15-1-501(3).

11 (3) The first allocation of local government
12 assistance money from the state to the counties must be made
13 on June-30, 1989 JULY 15, 1990.

-End-

STANDING COMMITTEE REPORT

April 10, 1989

Page 1 of 4

April 10, 1989
Page 2

Mr. Speaker: We, the committee on Taxation report that Senate Bill 458 (third reading copy -- blue) be concurred in as amended.

Signed: 

Dan Harrington, Chairman

[REP. Bob Ream WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 12.
Following: "~~17-7-502,~~"
Insert: "17-7-502,"
2. Page 1, line 23.
Strike: "of 10%"
3. Page 1, line 24.
Following: "taxes"
Insert: "paid by banks and savings and loan associations"
4. Page 2, line 5.
Strike: "The"
Insert: "After allowing for all refunds, the"
5. Page 2, line 7.
Following: "~~17-7-502,~~"
Insert: "statutorily appropriated, as provided in 17-7-502,"
6. Page 2, line 8.
Following: "treasurer"
Insert: "as follows:
(a) 80%"
7. Page 2, line 9.
Following: "that"
Insert: "the amount of corporation license and income taxes paid
by banks and savings and loan associations in"

8. Page 2, line 10.
Following: "respective"
Strike: "county's population"
Insert: "county"
Following: "total"
Strike: "population"
Insert: "amount of all corporation license and income taxes paid
by banks and savings and loan associations"
9. Page 2, line 11.
Following: "state"
Insert: "; and
(b) 20% to be distributed as corporation license and
income taxes are distributed under 15-1-501(3)"
10. Page 2, lines 14 through 17.
Strike: subsection (3) in its entirety
11. Page 5, line 4.
Strike: "All"
Insert: "Except as provided in subsection (4), all"
12. Page 5, line 8.
Strike: "57.6%"
Insert: "64%"
13. Page 5, line 9.
Strike: "9.9%"
Insert: "11%"
14. Page 5, line 11.
Following: "~~and~~"
Insert: "and"
15. Page 5, line 12.
Strike: "22.5%"
Insert: "25%"
16. Page 5, line 14.
Strike: "; and"
Insert: "."
17. Page 5, line 15.
Strike: "(d) 10%"
Insert: "(4) All money received from the collection of
corporation license and income taxes under chapter 31 of
this title from banks and savings and loan associations must
be deposited"

801323SC.HRT

RT

HOUSE

SB 458

RT

April 10, 1989
Page 3

April 10, 1989
Page 4

18. Page 6, line 5.

Strike: "9.98"

Insert: "116"

19. Page 9.

Following: line 3

Insert: "Section 6, Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing
statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
[section 2]; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-
304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-
305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301;
19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-
1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150;
53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-
103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-
4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861,
Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying,
and securing all bonds, notes, or other obligations, as due,
that have been authorized and issued pursuant to the laws of
Montana. Agencies that have entered into agreements
authorized by the laws of Montana to pay the state
treasurer, for deposit in accordance with 17-2-101 through
17-2-107, as determined by the state treasurer, an amount
sufficient to pay the principal and interest as due on the
bonds or notes have statutory appropriation authority for
such payments. (In subsection (3): pursuant to sec. 15, Ch.
607, L. 1987, the inclusion of 15-65-121 terminates June 30,
1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
1987, terminates July 1, 1988.)"

Renumber: subsequent sections

20. Page 9, line 24.

Strike: "22.58"

Insert: "258"

COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 458
Representative Ream

April 11, 1989 3:09 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 458 (third reading copy -- blue).

Signed:

Bob Ream

Representative Ream

And, that such amendments to Senate Bill 458 read as follows:

1. Page 3, line 23 through page 4, line 1.
Strike: subsection 4 in its entirety.

COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 458
Representative Glaser

April 11, 1989 2:52 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 458 (third reading copy -- blue).

Signed:

Art Glaser

Representative Glaser

And, that such amendments to Senate Bill 458 read as follows:

1. Page 3, lines 4 and 5.
Following: "JURISDICTION" on line 4
Strike: "LOCATED IN THE COUNTY, INCLUDING THE COUNTY,"
2. Page 3, lines 8 AND 9.
Following: "TOTAL MILL LEVY" on line 8
Strike: "OF ALL AUTHORIZED TAXING JURISDICTIONS"
3. Page 3, lines 9 and 10.
Following: "COUNTY" on line 9
Strike: ", INCLUDING THE COUNTY"

ADOPT

REJECT

SB 458. BRV
811508CW.HRT RT

ADOPT

REJECT

SB 458

HOUSE

811451CW.HRT R

SENATE BILL NO. 458

INTRODUCED BY ECK, HALLIGAN, REAM,

SMITH, MAZUREK, THAYER

A BILL FOR AN ACT ENTITLED: "AN ACT REALLOCATING THE CORPORATION LICENSE AND INCOME TAX RECEIPTS INCLUDING RECEIPTS FROM BANKS AND SAVINGS AND LOAN ASSOCIATIONS; CREATING A LOCAL GOVERNMENT ASSISTANCE ACCOUNT IN THE STATE SPECIAL REVENUE FUND; PROVIDING FOR THE ALLOCATION OF FUNDS IN THE LOCAL GOVERNMENT ASSISTANCE ACCOUNT; PROVIDING FOR STATUTORY APPROPRIATION OF THE ACCOUNT; AMENDING SECTIONS 15-1-501, 17-5-408, 17-7-502, 17-7-502, AND 20-9-343, MCA; REPEALING SECTIONS 15-31-701 THROUGH 15-31-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Local government assistance account -- source of funds -- use of funds. (1) There is a local government assistance account within the state special revenue fund.

(2) The local government assistance account is comprised of ~~10%~~ of all money received from corporation license and income taxes PAID BY BANKS AND SAVINGS AND LOAN ASSOCIATIONS under Title 15, chapter 31, and as distributed

under 15-1-501.

(3) Funds in the local government assistance account must be used to provide payments to local governments as provided in [section 2].

NEW SECTION. Section 2. Distribution of local government assistance money. (1) THE AFTER ALLOWING FOR ALL REFUNDS, THE funds deposited in the local government assistance account in [section 1] are ~~statutorily~~ appropriated, as provided in 17-7-502, STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, to be allocated by the state treasurer AS FOLLOWS:

(A) 80% proportionately to each county in the state based on the proportion that THE AMOUNT OF CORPORATION LICENSE AND INCOME TAXES PAID BY BANKS AND SAVINGS AND LOAN ASSOCIATIONS IN each respective ~~county's population~~ COUNTY bears to the total population AMOUNT OF ALL CORPORATION LICENSE AND INCOME TAXES PAID BY BANKS AND SAVINGS AND LOAN ASSOCIATIONS of the state; AND

(B) 20% TO BE DISTRIBUTED AS CORPORATION LICENSE AND INCOME TAXES ARE DISTRIBUTED UNDER 15-1-501(3).

(2) The allocations to the counties must be made on June 30 in each year.

~~(3) For the purposes of this section, the population of each county, consolidated government, and the state is the most recent population estimate available from the~~

1 ~~department-of-commerce.~~

2 NEW SECTION. Section 3. Local government assistance
3 money -- allocation. (1) Except as provided in subsection
4 SUBSECTIONS (2) AND (3), upon receipt of the funds allocated
5 under [section 2], the county treasurer shall further
6 allocate the funds as follows:

7 (a)--to each incorporated municipality, a proportionate
8 share--based--on--the--proportion---that---each---respective
9 incorporated--municipality's--population--bears--to--the--total
10 population--of--the--county,--to--be--deposited--in--the--general
11 fund--of--the--incorporated--municipality,--and

12 (b)--the remainder to the credit of the general fund of
13 the--county TO EACH TAXING JURISDICTION LOCATED--IN--THE
14 COUNTY,--INCLUDING--THE--COUNTY, THAT IS AUTHORIZED BY LAW TO
15 IMPOSE A MILL LEVY. A TAXING JURISDICTION'S SHARE OF THE
16 ALLOCATION MUST BE IN THE SAME PROPORTION THAT THE TAXING
17 JURISDICTION'S MILL LEVY BEARS TO THE TOTAL MILL LEVY OF ALL
18 AUTHORIZED TAXING JURISDICTIONS IN THE COUNTY,--INCLUDING--THE
19 COUNTY.

20 (2) If the county is a consolidated government, all
21 funds received under subsection (1) must be credited to the
22 general fund of the consolidated government.

23 (3) (A) IF A CLAIM FOR A REFUND IS FILED BY A
24 FINANCIAL INSTITUTION FOR A TAX YEAR BEGINNING ON OR BEFORE
25 DECEMBER 31, 1988, THE COUNTY IN WHICH THE FINANCIAL

1 INSTITUTION IS LOCATED SHALL ISSUE 80% OF THE REFUND AND THE
2 STATE SHALL ISSUE 20%.

3 (B) IF ADDITIONAL TAX IS PAID BY A FINANCIAL
4 INSTITUTION FOR A TAX YEAR BEGINNING ON OR BEFORE DECEMBER
5 31, 1988, 80% OF THE PAYMENT MUST BE ALLOCATED TO THE COUNTY
6 IN WHICH THE FINANCIAL INSTITUTION IS LOCATED.

7 (3)(4)--For--the--purposes---of---this---section,---the
8 population--of--each--county,--consolidated--government,--and
9 incorporated--municipality--is--the--most--recent--population
10 estimate available from the department of commerce.

11 Section 4. Section 15-1-501, MCA, is amended to read:

12 "15-1-501. Disposition of moneys from certain
13 designated license and other taxes. (1) The state treasurer
14 shall deposit to the credit of the state general fund all
15 moneys received by him from the collection of:

16 (a) fees from driver's licenses, motorcycle
17 endorsements, and duplicate driver's licenses as provided in
18 61-5-121;

19 (b) electrical energy producer's license taxes under
20 chapter 51;

21 (c) severance taxes allocated to the general fund
22 under chapter 36;

23 (d) liquor license taxes under Title 16;

24 (e) telephone [company] license taxes under chapter
25 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All moneys received from the collection of income taxes under chapter 30 of this title shall be deposited as follows:

(a) 58.2% to the credit of the state general fund;

(b) 10% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) 31.8% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) ~~All~~ EXCEPT AS PROVIDED IN SUBSECTION (4), ALL moneys received from the collection of corporation license and income taxes under chapter 31 of this title, ~~except as provided in 15-31-702,~~ shall be deposited as follows:

(a) ~~64% 57.6%~~ 64% to the credit of the state general fund;

(b) ~~11% 9.9%~~ 11% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and AND

(c) ~~25% 22.5%~~ 25% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343 ~~and~~.

(d) (4) 10% ALL MONEY RECEIVED FROM THE COLLECTION OF

CORPORATION LICENSE AND INCOME TAXES UNDER CHAPTER 31 OF THIS TITLE FROM BANKS AND SAVINGS AND LOAN ASSOCIATIONS MUST BE DEPOSITED to the credit of the local government assistance account described in [section 1].

(4) The state treasurer shall also deposit to the credit of the state general fund all moneys received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections shall be deposited in the general fund."

Section 5. Section 17-5-408, MCA, is amended to read:

"17-5-408. Percentage of income, corporation license, and cigarette tax pledged. (1) (a) The state pledges and appropriates and directs to be credited as received to the debt service account 10% of all money received from the collection of the individual income tax and ~~11% 9.9%~~ 11% of all money, ~~except as provided in 15-31-702,~~ received from the collection of the corporation license and income tax as provided in 15-1-501, and such additional amount of said taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405(4).

(b) No more than the percentages described in

subsection (1)(a) of such tax collections may be pledged for the purpose of 17-5-403(2). The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of said taxes.

(2) The state pledges and appropriates and directs to be credited to the debt service account 79.75% of all money received from the collection of the excise tax on cigarettes which is levied, imposed, and assessed by 16-11-111. The state also pledges and appropriates and directs to be credited as received to the debt service account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed, and assessed by law for that purpose, including the tax levied, imposed, and assessed by 16-11-202. Nothing herein shall impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of all taxes referred to in this subsection (2)."

Section 6. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations-----definition---
requisites-for-validity---(1)-A-statutory-appropriation-is

an--appropriation--made--by--permanent--law--that--authorizes
spending--by--a--state--agency--without--the--need--for--a--biennial
legislative--appropriation--or--budget--amendment.

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

(a)--The--law--containing--the--statutory--authority--must--be
listed--in--subsection--(3):

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

(3)--The--following--laws--are--the--only--laws--containing
statutory--appropriations:--2-9-202;--2-17-105;--2-18-812;
10-3-203;--10-3-312;--10-3-314;--10-4-301;--13-37-304;
15-25-123;--15-31-702;--15-36-112;--15-65-121;--15-70-101;
16-1-404;--16-1-410;--16-1-411;--17-3-212;--17-5-404;--17-5-424;
17-5-804;--19-8-504;--19-9-702;--19-9-1007;--19-10-205;
19-10-305;--19-10-506;--19-11-512;--19-11-513;--19-11-606;
19-12-301;--19-13-604;--20-4-109;--20-6-406;--20-8-111;
23-5-610;--23-5-1027;--33-31-212;--33-31-401;--37-51-501;
39-71-2504;--53-6-150;--53-24-206;--67-3-205;--75-1-1101;
75-7-305;--76-12-123;--80-2-103;--80-2-220;--82-11-136;
90-3-301;--90-3-302;--90-3-412;--90-4-215;--90-9-306;--90-15-140;
(section-2); section-13, House Bill No. 861; Laws of 1955
and section 1, Chapter 454, laws of 1987.

1 ~~{4}--There--is--a--statutory--appropriation--to--pay--the~~
 2 ~~principal, interest, premiums, and costs of issuing, paying,~~
 3 ~~and securing all bonds, notes, or other obligations, as due,~~
 4 ~~that have been authorized and issued pursuant to the laws of~~
 5 ~~Montana;--Agencies--that--have---entered---into---agreements~~
 6 ~~authorized---by--the--laws--of--Montana--to--pay--the--state~~
 7 ~~treasurer, for deposit in accordance with 17-2-101 through~~
 8 ~~17-2-107, as determined by the state treasurer, an amount~~
 9 ~~sufficient to pay the principal and interest as due on the~~
 10 ~~bonds or notes have statutory appropriation authority for~~
 11 ~~such payments;--{in subsection (3); pursuant to sec. 15, Ch.~~
 12 ~~607, L. 1987, the inclusion of 15-65-121 terminates June 30,~~
 13 ~~1989, pursuant to sec. 10, Ch. 664, L. 1987, the inclusion~~
 14 ~~of 39-71-2504 terminates June 30, 1991, and pursuant to sec.~~
 15 ~~6, Ch. 454, L. 1987, the inclusion of sec. 17, Ch. 454, L.~~
 16 ~~1987, terminates July 1, 1988.}~~"

17 **SECTION 6. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

18 "17-7-502. Statutory appropriations -- definition --
 19 requisites for validity. (1) A statutory appropriation is an
 20 appropriation made by permanent law that authorizes spending
 21 by a state agency without the need for a biennial
 22 legislative appropriation or budget amendment.

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

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

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

6 (3) The following laws are the only laws containing
 7 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
 8 [section 2]; 10-3-203; 10-3-312; 10-3-314; 10-4-301;
 9 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121;
 10 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
 11 17-5-421; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
 12 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 13 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406;
 14 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401;
 15 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205;
 16 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228;
 17 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306;
 18 90-15-103; section 13, House Bill No. 861, Laws of 1985; and
 19 section 1, Chapter 454, Laws of 1987.

20 (4) There is a statutory appropriation to pay the
 21 principal, interest, premiums, and costs of issuing, paying,
 22 and securing all bonds, notes, or other obligations, as due,
 23 that have been authorized and issued pursuant to the laws of
 24 Montana. Agencies that have entered into agreements
 25 authorized by the laws of Montana to pay the state

1 treasurer, for deposit in accordance with 17-2-101 through
 2 17-2-107, as determined by the state treasurer, an amount
 3 sufficient to pay the principal and interest as due on the
 4 bonds or notes have statutory appropriation authority for
 5 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 6 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
 7 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 8 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 9 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 10 1987, terminates July 1, 1988.)"

11 **Section 7.** Section 20-9-343, MCA, is amended to read:

12 "20-9-343. Definition of and revenue for state
 13 equalization aid. (1) As used in this title, the term "state
 14 equalization aid" means ~~these moneys~~ the money deposited in
 15 the state special revenue fund as required in this section
 16 plus any legislative appropriation of money from other
 17 sources for distribution to the public schools for the
 18 purpose of equalization of the foundation program.

19 (2) The legislative appropriation for state
 20 equalization aid ~~shall~~ must be made in a single sum for the
 21 biennium. The superintendent of public instruction ~~has~~
 22 authority to may spend such the appropriation, together with
 23 the earmarked revenues provided in subsection (3), as
 24 required for foundation program purposes throughout the
 25 biennium.

1 (3) The following ~~shall~~ must be paid into the state
 2 special revenue fund for state equalization aid to public
 3 schools of the state:

4 (a) 31.8% of all money received from the collection of
 5 income taxes under chapter 30 of Title 15;

6 (b) 25% ~~22.5%~~ 25% of all money, ~~except as provided in~~
 7 ~~15-31-702,~~ received from the collection of corporation
 8 license and income taxes under chapter 31 of Title 15, as
 9 provided by 15-1-501;

10 (c) 100% of the money allocated to state equalization
 11 from the collection of the severance tax on coal;

12 (d) 100% of the money received from the treasurer of
 13 the United States as the state's shares of oil, gas, and
 14 other mineral royalties under the federal Mineral Lands
 15 Leasing Act, as amended;

16 (e) interest and income money described in 20-9-341
 17 and 20-9-342;

18 (f) income from the education trust fund account; and

19 (g) in addition to these revenues, the surplus
 20 revenues collected by the counties for foundation program
 21 support according to 20-9-331 and 20-9-333.

22 (4) Any surplus revenue in the state equalization aid
 23 account in the second year of a biennium may be used to
 24 reduce the appropriation required for the next succeeding
 25 biennium."

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

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

9 NEW SECTION. **Section 10.** Repealer. Sections 15-31-701
10 through 15-31-703, MCA, are repealed.

11 NEW SECTION. **Section 11.** Effective date --
12 retroactive applicability. (1) [This act] is effective on
13 passage and approval and applies retroactively, within the
14 meaning of 1-2-109, to taxable years OF FINANCIAL
15 INSTITUTIONS beginning after December 31, 1988.

16 (2) BEGINNING JULY 1, 1989, ALL CORPORATION TAX
17 REVENUE MUST BE DEPOSITED AS REQUIRED BY 15-1-501(3).

18 (3) The first allocation of local government
19 assistance money from the state to the counties must be made
20 on ~~June-30,-1989~~ JULY 15, 1990.

-End-

Conference Committee Report
on SB 458
Report No.1 , April 20, 1989
page 1 of 3

CONFERENCE COMMITTEE REPORT, SB 458
4-20-89
Page 2 of 3

Mr President and Mr. Speaker:

We, your Conference Committee on SB 458 met and considered:

The House amendments to SB 458 (third reading copy -- blue) in their entirety.

We recommend that the House amendments be rejected in their entirety and that SB 458 (reference copy -- salmon) be amended as follows:

1. Title, line 12.
Strike: "17-7-502"
2. Page 1, line 23.
Following: "comprised"
Insert: "of 10%"
3. Page 1, lines 24 and 25.
Following: "taxes" on line 24
Strike: "PAID" through "ASSOCIATIONS" on line 25
4. Page 2, lines 6 and 7.
Strike: "AFTER" on line 6 through "THE" on line 7
Insert: "The"
5. Page 2, lines 9 and 10.
Following: "17-7-502," on line 9
Strike: "STATUTORILY" through "17-7-502," on line 10
6. Page 2, lines 11 and 12.
Strike: "AS" on line 11 through "80%" on line 12
7. Page 2, lines 13 through 15.
Strike: "THE" on line 13 through "IN" on line 15
8. Page 2, line 15.
Following: "respective"
Insert: "county's population"
Strike: "COUNTY"
9. Page 2, lines 16 through 18.
Strike: "AMOUNT" on line 16 through "ASSOCIATIONS" on line 18
Insert: "population"

10. Page 2, lines 18 through 20.
Strike: "AND" on line 18 through "15-1-501(3)" on line 20
11. Page 3, line 2.
Following: line 1
Insert: "(3) For the purposes of this section, the population of each county, consolidated government, and the state is the most recent population estimate available from the department of commerce."
12. Page 3, line 14.
Following: "COUNTY,"
Insert: "located in the county, including the county"
13. Page 3, line 18.
Following: "JURISDICTIONS"
Insert: "of all taxing jurisdictions"
14. Page 3, line 19.
Following: "COUNTY"
Insert: ", including the county"
15. Page 4, line 11.
Following: line 10
Insert: "(4) For the purposes of this section, the population of each county, consolidated government, and incorporated municipality is the most recent population estimate available from the department of commerce."
16. Page 5, line 13.
Following: "All"
Strike: remainder of line 13 in its entirety
Insert: "All"
17. Page 5, line 17.
Strike: "64%"
Insert: "57.6%"
18. Page 5, line 19.
Strike: "11%"
Insert: "9.9%"
19. Page 5, line 21.
Strike: "AND"

continued

CCSB458.420

continued

CCSB458.420

SB 458

(7)

CONFERENCE COMMITTEE REPORT, SB 458
4-20-89
Page 3 of 3

20. Page 5, line 22.

Strike: "~~25%~~"

Insert: "22.5%"

21. Page 5, line 24.

Strike: "~~1~~"

Insert: "; and"

22. Page 5, line 25 through page 6, line 3.

Strike: line 25 through "DEPOSITED" on page 6, line 3

Insert: "(d) 10%"

23. Page 6, line 18.

Strike: "~~11%~~"

Insert: "9.9%"

24. Page 9, line 17.

Strike: section 6 in its entirety

Re-number: subsequent sections

25. Page 12, line 6.

Strike: "~~25%~~"

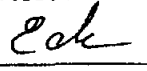
Insert: "22.5%"

And that this Conference Committee Report be adopted.

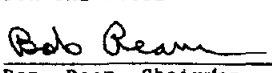
FOR THE SENATE


Sen. Gage, Chairman



Sen. Severson


Sen. Eck

FOR THE HOUSE


Rep. Ream, Chairman


Rep. Stang


Rep. Rehberg