





## SENATE STANDING COMMITTEE REPORT

April 15, 2005

Page 1 of 1

Mr. President:

We, your committee on **Taxation** recommend that **Senate Joint Resolution 33** (first reading copy -- white) **do pass**.

Signed: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "J. Elliott", written over a horizontal line.

*Senator Jim Elliott, Chair*

- END -

**Committee Vote:**  
Yes 7, No 4.

810927SC.ssc

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## SENATE STANDING COMMITTEE REPORT

April 15, 2005

Page 1 of 1

Mr. President:

We, your committee on **Taxation** recommend that **House Bill 535** (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

A handwritten signature in cursive script, appearing to read "J. Elliott", written over a horizontal line.

*Senator Jim Elliott, Chair*

To be carried by Senator Jerry Black

**And, that such amendments read:**

1. Page 7, line 22.

**Strike:** "(i)"

2. Page 7, line 26 through line 29.

**Strike:** "." on line 26 through "taxation" on line 27

**Strike:** "only" on line 27 through "barrel" on line 29

- END -

**Committee Vote:**

Yes 8, No 1.

810928SC.ssc

Handwritten initials, possibly "AJ", in the bottom right corner of the page.



## SENATE STANDING COMMITTEE REPORT

April 15, 2005

Page 1 of 5

Mr. President:

We, your committee on **Taxation** recommend that **House Bill 592** (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "J. Elliott", written over a horizontal line.

*Senator Jim Elliott, Chair*

To be carried by Senator Jim Elliott

**And, that such amendments read:**

1. Title, page 1, line 7.

**Following:** "USING"

**Insert:** "THE GREATER OF 8 PERCENT OR"

2. Title, page 1, line 8.

**Following:** "TAXPAYERS;"

**Insert:** "IMPOSING A HIGHER INTEREST RATE ON CERTAIN TAXPAYERS UNDER CERTAIN CONDITIONS; ESTABLISHING A UNIFORM INTEREST RATE APPLIED TO THE OVERPAYMENT OF TAXES OR FEES; REVISING THE ACCRUAL OF INTEREST ON UNPAID TAXES;"

3. Title, page 1, line 10.

**Following:** "15-30-142,"

**Insert:** "15-30-149,"

4. Title, page 1, line 11.

**Following:** "15-31-510,"

**Insert:** "15-31-531,"

5. Page 2.

**Following:** line 7

**Insert:** "Section 2. Section 15-1-216, MCA, is amended to read:  
"15-1-216. Uniform penalty and interest assessments for violation of tax provisions -- applicability -- exceptions.

**Committee Vote:**

Yes 9, No 0.

810929SC.ssc

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(1) (a) A person who fails to file a required tax return or other report with the department by the due date, including any extension of time, of the return or report must be assessed a late filing penalty of \$50 or the amount of the tax due, whichever is less.

(b) A person who purposely fails to file a required return, statement, or other report must be assessed an additional late filing penalty of \$200 or the amount of the tax due, whichever is less.

(c) A person who fails to pay a tax when due must be assessed a late payment penalty of 1.5% a month or fraction of a month on the unpaid tax. The penalty may not exceed 18% of the tax due.

(d) A person who purposely fails to pay a tax when due must be assessed an additional penalty equal to 25% of the tax due or \$200, whichever is less, plus interest as provided in subsection (2).

(2) Interest on taxes not paid when due must be assessed at the rate of 12% a year, ~~accrued at 1% a month or fraction of a month, on the unpaid tax.~~ Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing the return.

(3) (a) Except as provided in subsection (3) (b), this section applies to taxes, fees, and other assessments imposed under Titles 15 and 16.

(b) This section does not apply to:

- (i) property taxes;
- (ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15, chapter 70; or
- (iii) taxes, fees, and other assessments subject to other penalty or interest charges as provided by law."

**Renumber:** subsequent sections

6. Page 2, line 11.

**Following:** "exceptions"

**Insert:** "-- uniform provision for interest on overpayments"

7. Page 2, line 18.

**Strike:** "9%"

**Insert:** "15%"

8. Page 3, line 2.

**Strike:** "EXCEPT AS PROVIDED IN SUBSECTION (4) (A) (I), INTEREST"

**Insert:** "Interest"

9. Page 3, line 4.

Following: "RATES"

Insert: "established under subsection (4) (a) (i) "

10. Page 3, line 9.

Strike: "IF THE TAXPAYER ASSESSES AND PAYS THE INTEREST OWING ON"

Insert: "For individual income"

Following: "DUE,"

Insert: "including delinquent taxes and deficiency assessments,"

11. Page 3, lines 13 and 14.

Strike: "EXCEPT" on line 13 through "ON" on line 14

Insert: "For all taxes other than individual income"

12. Page 3, line 16 through line 18.

Strike: subsection (iii) in its entirety

13. Page 4.

Following: line 2

Insert: "(9) Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the interest rate determined in subsection (4) (a) (i)."

14. Page 5.

Following: line 24

Insert: "Section 6. Section 15-30-149, MCA, is amended to read:

"15-30-149. Credits and refunds -- period of limitations.

(1) If the department discovers from the examination of a return or upon a claim duly filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess must be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-146 and 15-30-147, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the taxable tax year of the net operating loss if that period expires later than 5 years from the due date

of the return for the year to which the net operating loss is carried back.

(3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review of the determination of the department may be pursued as provided in 15-1-211.

(4) Interest is allowed on overpayments at the same rate as charged on delinquent taxes as provided in 15-1-216. Interest is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment is the date on which the return for the taxable tax year was due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's estimated tax for the succeeding taxable year. Interest does not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed if:

(a) the overpayment is refunded within 45 days from the date the return is due or the date the return is filed, whichever date is later;

(b) the overpayment results from the carryback of a net operating loss; or

(c) the amount of interest is less than \$1.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable."

**Renumber:** subsequent sections

15. Page 16.

**Following:** line 17

**Insert:** "Section 16. Section 15-31-531, MCA, is amended to read:

"15-31-531. **Credit for overpayment -- interest on overpayment.** (1) If the department of ~~revenue~~ determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment ~~shall~~ must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as hereinafter provided for in subsection (3), interest ~~shall~~ must be allowed on overpayments at the same rate as is charged on delinquent taxes, as provided in 15-1-216, due

from the due date of the return or from the date of overpayment, ~~(whichever date is later)~~, to the date the department approves refunding or crediting of the overpayment.

~~(3)~~ (a) Interest ~~shall~~ may not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. ~~No interest shall be~~

~~(b)~~ Interest is not allowed:

~~(a)~~ (i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

~~(b)~~ (ii) if the amount of interest is less than \$1.

~~(3)~~ (4) A payment not made incident to a bona fide and orderly discharge of an actual corporation license tax liability or one reasonably assumed to be imposed by this ~~law~~ shall chapter is not be considered an overpayment with respect to which interest is allowable."

**Renumber:** subsequent sections

16. Page 28, line 10.

**Strike:** "5"

**Insert:** "7"

17. Page 28, line 15.

**Strike:** "2"

**Insert:** "3"

18. Page 28, line 19.

**Strike:** "2"

**Insert:** "3"

19. Page 28, line 21.

**Strike:** "2"

**Insert:** "3"

- END -



## SENATE STANDING COMMITTEE REPORT

April 15, 2005

Page 1 of 1

Mr. President:

We, your committee on **Taxation** recommend that **House Bill 700** (third reading copy -- blue) be concurred in.

Signed: \_\_\_\_\_

A handwritten signature in cursive script, appearing to read "J. Elliott", written over a horizontal line.

*Senator Jim Elliott, Chair*

To be carried by Senator Dan Harrington

- END -

**Committee Vote:**  
**Yes 6, No 5.**

810930SC.ssc

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## SENATE STANDING COMMITTEE REPORT

April 15, 2005

Page 1 of 1

Mr. President:

We, your committee on **Taxation** recommend that **House Bill 703** (third reading copy -- blue) be **concurring in**.

Signed: \_\_\_\_\_

A handwritten signature in cursive script, appearing to read "J. Elliott", written over a horizontal line.

*Senator Jim Elliott, Chair*

To be carried by Senator Jon Tester

- END -

**Committee Vote:**  
Yes 7, No 4.

811128SC.ssc

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**COMMITTEE FILE COPY**

**TABLED BILL**

The **SENATE TAXATION COMMITTEE** TABLED **HB 475, HB 569, HB 674**, by motion, on **Thursday, April 14, 2005**.

K. Ely  
(For the Committee)

Kf  
(Secretary of Senate)

8:30, 4-15  
(Time) (Date)

April 15, 2005

Kathleen C. Ely, Secretary

Phone: 444-4814

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MONTANA STATE SENATE  
2005 LEGISLATURE

ROLL CALL VOTE

TAXATION COMMITTEE

DATE 4-14-05 BILL NO. ST 33 NUMBER 1

MOTION: TOOLE

NAME	AYE	NO
SEN. JIM ELLIOTT (D), CHAIRMAN	✓	
SEN. KEN TOOLE (D), VICE CHAIRMAN	✓	
SEN. JERRY BLACK (R)		✓
SEN. JON ELLINGSON (D)	⊙	
SEN. JEFF ESSMANN (R)		✓
SEN. KELLY GEBHARDT (R)		⊙
SEN. KIM GILLAN (D)	✓	
SEN. DAN HARRINGTON (D)	✓	
SEN. SAM KITZENBERG (R)	✓	
SEN. TRUDI SCHMIDT (D)	⊙	
SEN. ROBERT STORY (R)		✓
LEE HEIMAN, LSD		
KATHLEEN ELY, COMMITTEE SECRETARY		
TOTAL	7	4

**MONTANA STATE SENATE  
2005 LEGISLATURE**

**ROLL CALL VOTE**

**TAXATION COMMITTEE**

DATE 4-14-05 BILL NO. HB 569 NUMBER 1

MOTION: HARRINGTON: To Table

NAME	AYE	NO
SEN. JIM ELLIOTT (D), CHAIRMAN	✓	
SEN. KEN TOOLE (D), VICE CHAIRMAN	✓	
SEN. JERRY BLACK (R)	✓	
SEN. JON ELLINGSON (D)	⊙	
SEN. JEFF ESSMANN (R)		✓
SEN. KELLY GEBHARDT (R)		⊙
SEN. KIM GILLAN (D)		✓
SEN. DAN HARRINGTON (D)	✓	
SEN. SAM KITZENBERG (R)	✓	
SEN. TRUDI SCHMIDT (D)	✓	
SEN. ROBERT STORY (R)		✓
LEE HEIMAN, LSD		
KATHLEEN ELY, COMMITTEE SECRETARY		
TOTAL	7	4

**MONTANA STATE SENATE  
2005 LEGISLATURE**

**ROLL CALL VOTE**

**TAXATION COMMITTEE**

DATE 4-14-05 BILL NO. HB 592 NUMBER 1

MOTION: STORY: Be Concurred In As Amended

NAME	AYE	NO
SEN. JIM ELLIOTT (D), CHAIRMAN	✓	
SEN. KEN TOOLE (D), VICE CHAIRMAN	✓	
SEN. JERRY BLACK (R)		✓
SEN. JON ELLINGSON (D)		ⓧ
SEN. JEFF ESSMANN (R)	✓	
SEN. KELLY GEBHARDT (R)	ⓧ	
SEN. KIM GILLAN (D)		✓
SEN. DAN HARRINGTON (D)		✓
SEN. SAM KITZENBERG (R)		✓
SEN. TRUDI SCHMIDT (D)		✓
SEN. ROBERT STORY (R)	✓	
LEE HEIMAN, LSD	X	
KATHLEEN ELY, COMMITTEE SECRETARY	X	
TOTAL	5	6

**MONTANA STATE SENATE  
2005 LEGISLATURE**

**ROLL CALL VOTE**

**TAXATION COMMITTEE**

DATE 4-14-05 BILL NO. HB 703 NUMBER 1

MOTION: STORY: To Amend

NAME	AYE	NO
SEN. JIM ELLIOTT (D), CHAIRMAN		✓
SEN. KEN TOOLE (D), VICE CHAIRMAN		✓
SEN. JERRY BLACK (R)	✓	<del>✓</del> <i>Corrected</i>
SEN. JON ELLINGSON (D)	[	✓
SEN. JEFF ESSMANN (R)	✓	
SEN. KELLY GEBHARDT (R)	Ⓟ	
SEN. KIM GILLAN (D)		✓
SEN. DAN HARRINGTON (D)	[	✓
SEN. SAM KITZENBERG (R)		✓
SEN. TRUDI SCHMIDT (D)		✓
SEN. ROBERT STORY (R)	✓	
LEE HEIMAN, LSD	X	
KATHLEEN ELY, COMMITTEE SECRETARY	X	
TOTAL	4	7

**MONTANA STATE SENATE  
2005 LEGISLATURE**

**ROLL CALL VOTE**

**TAXATION COMMITTEE**

DATE 4-14-05 BILL NO. HB 703 NUMBER 2

MOTION: STORY: To Table

NAME	AYE	NO
SEN. JIM ELLIOTT (D), CHAIRMAN		✓
SEN. KEN TOOLE (D), VICE CHAIRMAN		✓
SEN. JERRY BLACK (R)		✓
SEN. JON ELLINGSON (D)		ⓧ
SEN. JEFF ESSMANN (R)	✓	
SEN. KELLY GEBHARDT (R)	ⓧ	
SEN. KIM GILLAN (D)	✓	
SEN. DAN HARRINGTON (D)		✓
SEN. SAM KITZENBERG (R)		✓
SEN. TRUDI SCHMIDT (D)		✓
SEN. ROBERT STORY (R)	ⓧ	
LEE HEIMAN, LSD	X	
KATHLEEN ELY, COMMITTEE SECRETARY	X	
TOTAL	4	7

**MONTANA STATE SENATE  
2005 LEGISLATURE**

**ROLL CALL VOTE**

**TAXATION COMMITTEE**

DATE 4-14-05 BILL NO. HB 703 NUMBER 3

MOTION: Toole: Do Pass

NAME	AYE	NO
SEN. JIM ELLIOTT (D), CHAIRMAN	✓	
SEN. KEN TOOLE (D), VICE CHAIRMAN	✓	
SEN. JERRY BLACK (R)	✓	
SEN. JON ELLINGSON (D)	⓪	
SEN. JEFF ESSMANN (R)		✓
SEN. KELLY GEBHARDT (R)		⓪
SEN. KIM GILLAN (D)		✓
SEN. DAN HARRINGTON (D)	✓	
SEN. SAM KITZENBERG (R)	✓	
SEN. TRUDI SCHMIDT (D)	✓	
SEN. ROBERT STORY (R)		✓
LEE HEIMAN, LSD	X	
KATHLEEN ELY, COMMITTEE SECRETARY	X	
<b>TOTAL</b>	<b>7</b>	<b>4</b>

PROXY VOTE

I, the undersigned, hereby authorize Senator Storv to

vote my proxy on any issue before the Senate Taxation

Committee held on 4-14-05, 2005.

HB 535 Amended Yes

HB 700 - Pass Yes

SJ 33 NO

HB 703 Amended Yes Table Yes  
Do Pass No!

HB 569 Table - No

Rebecca Stubbart

HB 592 Took Amend No

SENATOR

HB As Amended Aye

STATE OF MONTANA

HB 674 Table No

Ellingson

**PROXY VOTE**

I, the undersigned, hereby authorize Senator Harrington to

vote my proxy on any issue before the Senate Taxation

Committee held on April 14, 2005.

  
\_\_\_\_\_  
SENATOR  
STATE OF MONTANA