SENATE TAXATION
EXHIBIT NO. 7
DATE 4-16-07
BILL NO. HB-833

TAXING MULTNATIONAL BUSINESSES IN MONTANA
HB 721 from the 2003 session

Montana is one sixteen states that uses "combined reporting" to apportion the income of multistate and multinational corporations. This means that we combine together the income of jointly owned companies that operate together in a mutually beneficial manner (referred to as a "unitary relationship"). The company determines the percentage of its sales, personnel, and property in Montana. We simply tax the portion of their combined income in Montana.

Until HB 721 was passed in 2003, Montana applied combined reporting on a "waters edge" or U.S. basis only. Only companies based in the United States were combined for corporate income tax purposes. Under "waters edge" reporting, companies were able to shift income in Montana to affiliated companies in international locations.

Such income shifting was (and is) widely understood. An international organization, OECD (the Organization for Economic Cooperation and Development) has studied this phenomenon and published a list of countries and territories that are tax havens. What HB 721 did was to require that a corporation that elects to file its tax return under the "waters edge" method must apportion income for any corporation that is in a unitary relationship with the filing corporation and that is also incorporated in a tax haven. The bill listed 38 such countries or territories.

Determining the fiscal note for HB721 was difficult. How does anyone know how much income is being hidden in tax havens? Applying a "reasonableness" test, Budget Director Swysgood determined that $375,000 would be collected if the bill were passed.

In fact, the Department of Revenue reports that about $3,500,000 was collected in 2004-2005 as a result of the new law.