

Montana Constitution
AS ADOPTED BY THE CONSTITUTIONAL CONVENTION MARCH 22, 1972
AND AS RATIFIED BY THE PEOPLE, JUNE 6, 1972, REFERENDUM NO. 68

ARTICLE VIII
REVENUE AND FINANCE

Section

1. Tax purposes.
2. Tax power inalienable.
3. Property tax administration.
4. Equal valuation.
5. Property tax exemptions.
6. Highway revenue non-diversion.
7. Tax appeals.
8. State debt.
9. Balanced budget.
10. Local government debt.
11. Use of loan proceeds.
12. Strict accountability.
13. Investment of public funds and public retirement system and state compensation insurance fund assets.
14. Prohibited payments.
15. Public retirement system assets.
16. Limitation on sales tax or use tax rates.

Section 3. Property tax administration. The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law.

Section 4. Equal valuation. All taxing jurisdictions shall use the assessed valuation of property established by the state.

DELEGATE McKEON: Mr. Chairman. I rise in opposition to Mr. Eskildsen's proposal and in support of the majority proposal. I served on the Revenue and Finance Committee and added, probably, more the exuberance of youth, as our Chairman said, than the expertise of my fellow colleagues. But I was impressed with certain facts and testimony before the committee. One is that we have a deplorable system of equalization and assessment in Montana. Of the reams of testimony which we heard concerning the equality of taxation among and between the counties, I can recall but one witness who testified that we had a fair and equal system between the counties. We were compelled to listen very strongly to the mandate of Serrano versus Priest. As you all know, Serrano versus Priest declared the present system of school financing in California to be unconstitutional. California's present system of school financing is based very similarly—on a system similar to ours. We were also aware—four other—and there are probably more now—cases throughout the states determining school financing at the

local level to be unconstitutional. One of these cases was ruled on by a federal panel of three judges in Texas. These cases are all on their way to the U.S. Supreme Court, and I am certain and all the members of the committee are certain and all the witnesses who testified at our committee are certain that the U.S. Supreme Court is going to rule definitively that the present system of school financing is unconstitutional. What we have, as we all know, is a system whereby counties who are blessed with perhaps a net proceeds tax from the oil or copper industry have the opportunity to lower their valuation and their mill—lower their valuation, bring their mill levy up to par, and then when they don't have enough revenue, drain the general fund. This is a burden on all of us. What our committee proposes is a system of financing whereby we all pay the same mill levy. The state, through our system, will do the assessment and appraisal. We also heard testimony of the inadequacies of the State Board of Equalization. I would dare to say that the witnesses were almost unanimous in declaring that the State Board of Equalization had created a rather shabby system of appraisal and equalization. We heard testimony concerning the local assessors. Local assessment, perhaps, is the greatest evil we have in our system. It's closest to the people, and consequently the local assessors have exerted on them great pressures for favoritism and things of this nature. This is something we must eliminate are—we're to have a fair and equal tax system. But as I mentioned before, the compelling case of Serrano versus Priest perhaps loomed heaviest on us when we were making our decision to open the doors for a system of state financing. I think this is something we cannot ignore, because it's coming. I think the committee realized it was coming, and the committee left the door open. For this reason, I urge the adoption of the majority report. I would like to point out one other problem—a problem I see in Mr. Eskildsen's amendment to our proposal. Mr. Eskildsen provides, and I am quoting, "The State Board of Equalization shall annually assess the property of all railroads, telegraphs, telephones, electric power and transmission lines, and all similar property constituting a single and continuous property operated in one—more than one county in the state, and the same shall be apportioned to the counties, cities, towns and school districts in which such property is located." This is the way it is presently, and this has to be changed again if we are to fund our schools in a manner which will be mandated by the U.S. Supreme Court in conformance with what Serrano

versus Priest stands for. Thank you very much, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Artz.

DELEGATE ARTZ: Mr. Chairman. One thing that's been bothering me—I'm on the Revenue and Finance Committee. The other morning—yesterday morning on the ham radio net, this committee was being chewed out royally that we were providing that all property was to be taxed at fair market value. Delegate Eskildsen has also indicated that. I got a telegram, just now, from Great Falls, Belt, and Stockett saying the same thing. Now, I want to get it in the record, loud and clear, that I am a strong advocate of taxing on productive value rather than fair market value. I have been assured by all the members of the committee that Section 3 does not make it mandatory that property be taxed at market value. The wording—it says, "is equalized". Mr. Eskildsen's amendment says "equalized" also. Therefore, I oppose the amendment. Thank you.

CHAIRMAN GRAYBILL: Mr. Furlong.

DELEGATE FURLONG: Mr. Chairman, fellow delegates. I, too, am a member of the Tax and Revenue Committee. I do not pose as a tax expert. I do rise in opposition to Mr. Eskildsen's proposal. What it will actually do is lock into the Constitution what we've had. It won't change it. I'm sure you're all aware—I know you're all aware—that the power to tax is an inherent power and it's inherent to the Legislature. I think it is fundamental that the Legislature must be able to devise and control and equalize and appraise the property in the State of Montana for the benefit of all Montanans. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Drum.

DELEGATE DRUM: Mr. Chairman. This looks like a parade of the members of the Finance and Revenue Committee. We've spent a good deal of time talking with Joe, and I feel a little bit guilty that he's being outnumbered at the front here, but I think he's pretty well able to take care of himself. I'd like to say a word about this committee. We're really pretty proud of the product that has come out of this committee. If you will look at the vote on this section in the back of our booklet, it was unanimous from the entire committee that this wording be used. There was no disagreement at all as to our vote. Now, our first conversations in our committee were not directed necessarily to taxes, not necessary to revenues; it was sort of a bull

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