

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - SPECIAL SESSION**

COMMITTEE ON TAXATION

Call to Order: By Senator Halligan, Chair, on December 1, 1993,
at 8:11 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)

Members Excused: None.

Members Absent: Senator Yellowtail

Staff Present: Jeff Martin, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 2, SB 8
Executive Action: SB 2, SB 8

HEARING ON SB 2

Opening Statement by Sponsor:

Senator Gage, Senate District 5, said the Department of Natural Resources (DNRC) had requested SB 2 which would extend the current deadline for acting on the reserve water in both the Missouri River Basin below Fort Peck Dam and the Little Missouri River Basin. He noted that extension would allow DNRC to revert about \$200,000 to the General Fund in the current biennium.

Proponents' Testimony:

Mark Simonich, Director, DNRC. expressed DNRC's support of SB 2. He identified SB 2 as a "department bill" which was a portion of

DNRC's ten percent General Fund budget cut and included in Governor Racicot's budget. He read from prepared testimony designed both to give the Committee background on the issues SB 2 addressed and to present why SB 2 was a reasonable cost reduction measure for the current biennium (Exhibit #1). He noted during their meetings November 17-19, the Natural Resources Appropriations Subcommittee had already adopted this portion of the DNRC proposal contingent upon the passage of SB 2. Mr. Simonich introduced Gary Fritz, Administrator, Water Resources Division, DNRC, and Larry Dolan, DNRC.

Opponents' Testimony:

Mike Volesky, Montana Association of Conservation Districts (MACD), said conservation districts were opposed to SB 2 primarily because postponing the reservations could result in the complete elimination of conservation districts. He stated good reasons exist for keeping the reservation process intact and enumerated four such reasons. One, he stated Montana should quantify its water in as timely a manner as possible in order to prepare for and address concerns from downstream states and interstate compacts. Two, he stated having its water quantified would help Montana better respond to federal recommendations and federal concerns, such as those associated with the Endangered Species Act (ESA). Three, Mr. Volesky spoke against the argument that the data already compiled for water reservations could be used for provisional water use permits; he stated not only was the information necessary for water reservations and water permits different, but so was the priority associated with both. Four, he stated just over \$900,000 had already been spent between the DNRC, the counties, the conservation districts involved, and the Department of Fish, Wildlife and Parks (FWP) on the process.

Mr. Volesky stated the conservation districts had not requested the reservation process but have taken their job in that process very seriously. He noted that SB 2 was a prime example of why government received a "black eye for many of its actions"; not only would SB 2 unfairly change the rules in mid-process, it would also support the public's negative perception of government fiscal responsibility since an extra \$135,000 to \$200,000 would be required to complete the process. He noted halting the Environmental Impact Statement (EIS) would also require additional funds because all the data would have to be updated. He said conservation districts statewide had adopted a resolution supporting the Little and Lower Missouri River Basin Reserved Water Council's position that funding should be maintained and that the final decision be extended no later than December 31, 1995.

Questions From Committee Members and Responses:

Senator Towe asked Mark Simonich to respond to the concern that a three year postponement would be very expensive for conservation districts. Mr. Simonich agreed the postponement might cost

conservation districts additional money. He expressed, however, his hope that it would be more a matter of "dusting off the material and refamiliarizing", and would not require bringing "a whole bunch of new people" into the process. He said DNRC planned to reallocate the full time equivalents (FTEs) currently involved in the process to other higher priority positions, but keep the "same expertise on board". He said he hoped DNRC would be able to work with the conservation districts to help bring people back on the process, so that regrouping after three years "would not be a large step".

Senator Towe inquired as to the need and cost associated with reviewing the work and/or updating the data collected on the EIS. **Mr. Simonich** replied that DNRC has put together a draft EIS and the next step would be to organize public meetings and review of that draft. He explained SB 2 would allow DNRC to simply put the draft EIS "on a shelf", delaying the public comment process for two years. According to **Mr. Simonich**, a final review of the information and public comment would be necessary before putting out a final EIS anyway; any new information which arose during the two years could easily be considered in that review.

Senator Towe asked how much impact the current uncertainty about downstream dams and use of water would have on the process. **Mr. Simonich** said downstream use was not an important factor in the water reservation process. He explained DNRC had identified the problem as the operation of the dams on the main stem of the Missouri and how much water can be maintained in Montana reservoirs before they are drained. He noted the Army Corp of Engineers (Corp), a federal agency, regulated both those areas and, as a result of concerns voiced by Montana, Wyoming, North and South Dakota, had entered into a "review of their master manual" which delineates the operation of the dams on the Missouri river. According to **Mr. Simonich**, DNRC has been involved with that review process and the Corp has agreed to give the upper basin equal footing in the consideration of all water use issues when they redo their master manual. **Mr. Simonich** noted, however, that the ESA could very well affect operation and water use on the Missouri River. He stated neither economic concerns nor Montana water rights would outweigh the influence of the ESA in determining the Corp's operation. Instead, he said, Montana needs to work with federal agencies in order to have reasonable management for the protection of endangered species while still allowing for the protection of Montana water rights. He said DNRC had identified working with the Corp on their master manual review as currently the best way to facilitate that.

Senator Towe asked **Mr. Simonich** whether an endangered species would take precedence if a conflict arose between the water needs of Montana's municipalities and protecting an endangered species under the ESA. **Mr. Simonich** replied in light of history and the current situation with salmon on the west coast, it seems that the endangered species and the ESA would take precedence.

Senator Grosfield asked why the deadline in SB 2 was set at June 30 instead of December 31, 1996. He noted June 30 would fall after the legislative session and asked if that were the point of the additional six month delay. **Mr. Simonich** replied evading the Legislature was not the intent. He explained the Board of Natural Resources had commented that the existing deadlines had rushed the final decisions during the upper Missouri reservation process. He noted that the conservation districts' statement proposed extending the deadline an additional year for the same reason.

Senator Grosfield said during the regular session a delay had also been proposed. He asked if a DNRC representative could refresh his memory on the reasons for that delay. **Gary Fritz, DNRC,** replied the conservation districts were unsure whether they would receive their grant funds early enough in the biennium to participate in the public hearing process and wanted to delay those hearings until a point when they were certain they would have the funds. He said HB 608 firmed up the funding for their participation in the process so the delay was no longer a concern. He noted that the conservation districts were now suggesting an extension of an additional year, which, he said, would cost more money than SB 2.

Senator Grosfield asked whether different priorities were attached to a reservation versus a permit. **Mr. Fritz** replied the difference in priority would depend upon the amount of competition for water. He said in the lower basin, which was under discussion, the difference would not be "a practical or realistic concern" as it would in other parts of the state where water use is highly controversial. He also addressed **Mr. Volesky's** statement that the information needed for a permit was different than that for a reservation application. **Mr. Fritz** stated the information required for a reservation was much more detailed and extensive than that required for a permit. He agreed that the information was different, but added that the information collected for a reservation could be put together and "very quickly" applied to a permit.

Chair Halligan asked whether the summer flooding downstream could result in any legal action which might threaten Montana's ability to reserve water. **Gary Fritz** replied that the concept of equitable apportionment really did not have much to do with the water rights established in each the state. He noted that the US Supreme Court would eventually define equitable apportionment by looking at how the water could be fairly distributed between the states involved. He explained that the US Supreme Court would not adjudicate water rights between the states as it was done instate, but would instead examine how much water Montana could fairly use in comparison to the other states in the process.

Senator Towe asked how any one could know what the US Supreme Court might "pounce on and use". **Mr. Fritz** noted it was possible to determine how the US Supreme Court had historically handled

equitable apportionment. He said the information that had been collected in the water reservation process might be applicable to equitable apportionment. He stated, however, converting those to actual water rights would not add very much to Montana's arguments. He expressed his opinion that the US Supreme Court would not make a decision for a "very long time", and even if the US Supreme Court decided to hear the case, the process would take "decades and decades and decades". Mr. Fritz stated the issue at hand was the operation of the dams, not equitable apportionment.

Senator Eck noted that DNRC had reported it would not be very difficult for the department to resume and update its work after two years. She asked what kind of a hassle and cost such a delay would cause conservation districts which have to work with volunteers and personnel changes. Mr. Fritz replied DNRC was convinced it would cost nothing to dust the draft off. He noted, that the conservation districts had initially been concerned that the grant money they had this biennium would not be able to be used for the same purpose in the next biennium, but that money can indeed be carried over into the next biennium. He said the conservation districts would be able to participate in the public hearing process, but he could not say whether their costs would be higher.

Senator Eck asked Mr. Volesky to respond to her question. Mr. Volesky said that within the conservation districts there was "quite a bit" of turnover in elected supervisors, who basically serve as volunteers, and district clerks, who do a majority of the "leg-work" in any conservation district. He stated the transition would cost the conservation districts both time and money and would "definitely come into play" in a three year period. As far as the resources and time already expended and invested, he said conservation districts have spent almost one-half of the \$900,000 he had mentioned and some districts have been involved in the process for ten years.

Senator Eck asked how much did \$200,000 represent of the amount DNRC was expected to contribute to deficit reduction. Mr. Simonich replied DNRC's ten percent share was about \$600,000 so the money in SB 2 was one-third of that amount.

Senator Eck asked whether the remaining \$400,000 represented true cuts in DNRC, or if they were cuts that were postponed or assigned to somebody else. Mr. Simonich stated the department's administration believed that money represented true cuts. He said those cuts included a reduction of nine FTEs, including a reduction of efforts in the adjudication program which would comprise four FTEs, one attorney position in the director's office, a graphic artist position in the centralized services division, and one energy specialist position. He explained DNRC programs had been categorized in order to determine lower priorities that could perhaps be either eliminated or postponed. He stated the delay in SB 2 would not be too costly or too cumbersome for anyone involved.

Senator Eck asked about the cuts **Mr. Simonich** had mentioned in the adjudication program. **Mr. Simonich** explained that DNRC's adjudication program was currently processing about 9,000 water rights claims per year in preparation for the Water Court. He stated it had been ascertained that DNRC would be able to slow down the number of cases processed and still keep up with the Water Court and work toward the completion of the adjudication program. He said reducing those 4 FTEs would extend DNRC work on those claims by about 3 years to 12-13 years. He noted the Water Court had determined it would need 15 years before it finished.

Senator Towe asked that the geographic area of the Lower Missouri Basin be described. **Mr. Simonich** responded the Lower Missouri River Basin would include everything on the Missouri below Fort Peck Dam.

Closing by Sponsor:

Senator Gage closed.

HEARING ON SB 8

Opening Statement by Sponsor:

Senator Bartlett, Senate District 23, said SB 8 would give the State Auditor's Office (SAO) authority to collect bad debts for counties and for the Internal Revenue Service (IRS). She noted that the SAO currently collected bad debts for state agencies by offsetting warrants issued through the warrant system and had been conducting a successful trial run of the same program for the past year with the IRS. She said the SAO had also successfully tried a "dry run" on delinquencies reported by Lewis and Clark County in order to ascertain what level of matches could be made between county delinquencies and warrants being issued by the state which might be used to offset those delinquencies. **Senator Bartlett** said the experience with the Lewis and Clark County trial run and the program with the IRS formed the foundation for the information in the fiscal note (Exhibit #2). She stated that the interest in enabling the SAO to use this program with the counties was not entirely selfless, because counties collect property tax revenues, 40 percent of which ultimately go toward the state equalization account or the General Fund for the six mill levy for the university system.

Senator Bartlett emphasized that the program would be optional; each county in the state would have the opportunity to determine both whether or not they wished to participate as well which delinquencies to turn over to the SAO. She said SB 8 would provide that neither protested taxes nor real property taxes currently in the tax deed process could be turned over. She said counties would most likely use the program in those instance where they have no other means for collecting delinquencies with existing mechanisms. She stated both the counties, the state,

and the federal government would benefit from SB 8, the latter because SB 8 would clarify the SAO's authority to help the IRS with collections. She concluded SB 8 would raise revenue without raising taxes and would provide an additional tool for the collection of taxes.

Proponents' Testimony:

Mark O'Keefe, State Auditor, said that the program of offsetting warrants through the warrant system had generated about \$1.5 million in General Funds in the last year, an amount, he added, which SB 8 could increase. He said the program in SB 8 had been developed by the SAO in conjunction with the Governor's Office of Budget and Program Planning (OBPP), and would allow counties to obtain help in collecting bad debts. He noted that the trial run using the computer tapes that Lewis and Clark County had loaned to the SAO showed that about \$250,000-\$500,000 per year could be collected if a "fair number" of counties chose to participate in the program.

Mr. O'Keefe explained that currently every warrant issued by SAO was matched against the computer tape of tax payer identification numbers; if there was a valid debt the warrant was stopped and the debt was collected. He stated SB 8 would allow counties the option of bringing debts on real property and personal property and entering those taxpayers IDs into the computer system as well. He said under SB 8 when there was a match that warrant could be stopped and 60 percent of the debt would be paid to the counties and 40 percent would go to the General Fund. He agreed that the SAO's costs would increase some, but explained the administrative fee the SAO currently charged would cover those costs. **Mr. O'Keefe** explained that the administrative fee would be reduced commensurate to an increase in the number of matches, which could be achieved by having better taxpayer numbers and more debts to collect; currently that fee was 12 percent, two years ago it was 18 percent and in two years it should be at 9 percent. He then introduced **Tom Crosser, Administrator, Fiscal Management and Control Department,** and **Ken Rudio, Supervisor, Bad Debts Collections.**

Cort Harrington, County Treasurers Association (CTA), stated CTA supported SB 8 but would like to propose a few amendments, the majority of which would address some potential problems county treasurers had identified in SB 8 (Exhibit #3). He said one amendment would replace references to taxes "due a county" with the phrase "usually collected by the county treasurer"; the amendment would ensure that the language would also include taxes due cities and towns, school districts, and the state. Another amendment, he said, would clarify that collection costs would be distributed among those entities receiving the money. **Mr. Harrington** noted that the only substantive change the amendments would make would be to eliminate real property tax from this process. He explained that CTA had worked five to six years on the tax deed process and now believed that it was a good process

for collecting delinquent property taxes. He said county treasurers were concerned that some small counties might use the process in SB 8 instead of the tax deed process which might corrupt the integrity of the tax deed process for some of the larger counties. He reiterated CTA's overall support for SB 8 and added SB 8 would provide a good vehicle to collect delinquent gross proceeds taxes, which was currently very difficult for counties.

Dennis Burr, Montana Taxpayers' Association (MTA), indicated his group's support of SB 8.

Gordon Morris, Montana Association of Counties (MACo), expressed MACo's support of SB 8.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe asked **Mr. O'Keefe** his opinion of CTA's suggestion to exclude real property taxes from SB 8. **Mr. O'Keefe** replied he had a problem with that particular amendment but the other amendments proposed by CTA would provide helpful clarification. He explained the problem in excluding real property was twofold: first, the impact of such action on the fiscal note would be difficult to ascertain and the appropriations committee had already taken those numbers into consideration; and second, since the counties could choose whether or not to submit real property, an exclusion was unnecessary. He noted if real property were excluded that would eliminate an option for a county where the tax deed process might not be working.

Senator Towe stated the questionable accuracy of property records in county courthouses would pose a problem with collecting delinquent taxes on real property. He explained if a county did not keep accurate records of real property transfers, a new buyer could be delinquent on their property taxes and the old owner could have their warrant stopped and be denied access to that money. **Mark O'Keefe** replied that kind of a mix-up currently happened with bad debts. He said **Ken Rudio** could explain how the SAO currently handled those situations and how he would envision handling them if SB 8 were adopted.

Ken Rudio stated when his office matched a state debt against a refund, a letter was sent to that person giving them 30 days to respond. He said in the scenario **Senator Towe** posed, if the person came to his office and explained the situation, the money would be released and a warrant cut the next day. He emphasized that the money was not taken until the SAO was certain that the listed debtor had actually incurred the debt.

Senator Towe noted that it was a real problem for counties to get and keep accurate records on real property. He asked **Cort Harrington** if that problem would be monumental. **Cort Harrington** said there would be a problem if the taxes were so high that they were more than the property would be worth. He added, however, that the real property was typically sufficient to satisfy any tax lien, and noted it had never been a problem to collect through the taxing process. He agreed that problems would occur in those situations when somebody had purchased property on a contract or deed and a subsequent purchaser was delinquent on the taxes, but the original seller was the owner of record. He noted, however, that the people selling the property often like to know when property taxes are delinquent, and SB 8 might actually benefit the person who had sold.

Senator Towe asked **Cort Harrington** what percentage of the people would be affected by errors that would need to be corrected, if SB 8 were adopted. **Cort Harrington** replied he could not even "ball park" a figure. He stated that in the taxing process, most counties go to a title company and pay anything from \$75 to \$100 per parcel for an interested parties search. He noted the fact that counties go to that expense would suggest that finding the current owner was "not a matter of spending 10 minutes".

Senator Towe said his general impression would indicate that probably 70 to 80 percent of the names would be incorrect if counties were to send off their "first list". He stated that would be an absolute burden the SAO could not handle. He asked **Ken Rudio** to comment. **Ken Rudio** said the SAO currently collected for child support where determining what at person actually owed was always a problem because the agency had about 10 other ways they collected that money. He repeated that his office did not actually take anyone's money without first making sure that the money was actually owed. He said he had wondered about the accuracy of the records his office could expect to receive from counties, but stated the problems which would arise would most likely be manageable.

Senator Gage asked **Senator Bartlett** what kind of access a county had to an individual's \$1000 income tax refund if that individual owed \$1000 in property taxes under current law as compared to the access they would have if SB 8 were adopted. **Senator Bartlett** replied counties currently had no access to that income tax refund; it would be completely outside the county's knowledge or ability to attach that money to pay off delinquent property taxes. She said if SB 8 were adopted, however, that money would be available to the county through the SAO.

Senator Doherty noted that SB 8 would also allow the SAO to cooperate with the IRS. He asked if there had been a request for that cooperation. **Mark O'Keefe** said his office already had been cooperating with the IRS for the last year. He said Montana statute seemed to indicate that the SAO could enter into that relationship. He noted the last administration had actually laid

the groundwork with the IRS. The current problem, he explained, was that the IRS really did not like to pay its bills; SB 8 would put the SAO in the position to clearly demand the administrative fee. He stated until that authority was statutorily defined, the federal government did not want to pay.

Closing by Sponsor:

Senator Bartlett said she had conducted the tax deed process for Lewis and Clark County and pointed out two substantial differences between the tax deed process and the proposal in SB 8. She said the interested party search only went to the property owner, whereas a county had a tax deed process which obligated it to identify everyone who might have a lien or a mortgage or judgement against that property. She said title searches were done because of the requirement to let interested parties, people with a financial interest in that property in addition to the property owner, know about the tax deed process. She stated **Senator Towe's** belief that 70 to 80 percent of the property owners information in a county was incorrect was grossly exaggerated; citing her experience in Lewis and Clark County, she said it would be surprising if that number approached five percent. She also noted that the same problem could just as easily exist with personal property.

Senator Bartlett stated SB 8 contained real safeguards for the counties to use their discretion in the accounts they turn over. She said many instances exist in which there are very small amounts of delinquent real property taxes. She stated counties would turn those accounts over to the SAO because putting them through the tax deed process would not be cost-effective if a different, cheaper mechanism were available. She encouraged the Committee to leave real property taxes in SB 8 and give counties the opportunity to decide for themselves whether they want to turn any of their real property delinquencies over to the SAO for collection.

EXECUTIVE ACTION ON SENATE BILL 8

Discussion:

Senator Gage asked whether SB 8 contained a requirement that debtors be notified that their debt was being turned over to the SAO. **Tom Crosser** replied SB 8 did not currently contain any provision requiring counties to notify individuals that they were turning a debt over to the SAO.

Senator Towe explained why he was so pessimistic about the accuracy of counties' records on real property. He said had repeatedly written letters to the Yellowstone County Treasurer informing that office that he and his wife were the owners of their residence and asking that the former owner's name be taken off the list. He stated his letters had not yet had any results. He noted that a partner who had left his law firm in 1976 was

still listed on the tax notices for his law office even though he has repeatedly asked to have that name removed. **Senator Towe** noted that counties might be motivated to clean up their records before sending their lists to the SAO since SB 8 would make it voluntary. He concluded, however, he was concerned that some county which had not kept accurate records on real property transfers would get 50 to 60 percent of the names wrong.

Senator Doherty asked **Mark O'Keefe** to identify the CTA amendments which dealt with the real property issue. **Mr. O'Keefe** responded that the second, and seventh amendments and the words "other than a tax on real property" in the sixth amendment dealt with real property (Exhibit #3).

Motion/Vote:

Senator Doherty moved TO AMEND SB 8 (Exhibit #3, excluding amendments two and seven, and the words "other than a tax on real property" in amendment six). The MOTION CARRIED UNANIMOUSLY.

Motion:

Senator Doherty moved SB 8 DO PASS AS AMENDED.

Discussion:

Senator Gage stated he would like to amend SB 8 to require that a county inform debtors when their debt was going to be turned over the SAO. He gave two reasons for such an amendment: one, a person should know with whom they were dealing; and two, such a letter might cause people to pay their debts and would save the county the 12 percent administrative fee.

Senator Towe agreed.

Chair Halligan asked **Mr. O'Keefe** if he would like to respond to the suggested amendment. **Mark O'Keefe** replied it would probably be a good idea to have the counties notify people, and agreed that such a letter might provide an incentive to pay delinquent taxes. He expressed interest in whether or not **Cort Harrington** thought it necessary to consider the expense to counties.

Cort Harrington said he did not think putting that requirement in statute would be a burden because such notification would be a good practice and something counties might do anyway. He noted that before county treasurers begin the tax deed process most send out a letter explaining the process and many people pay just upon receipt of that letter. He stated most treasurers would agree those letters were "real helpful".

Senator Stang asked whether notification was required when DOR turned something over to the SAO. **Mr. O'Keefe** replied no. **Senator Stang** stated he would like to have the notification requirement extended to any debt turned over to the SAO.

Chair Halligan noted that action might expand the title of SB 8 beyond its scope. **Senator Stang** replied that action might have to wait until the 1995 regular session. He supported **Senator Gage's** idea.

Mark O'Keefe stated many state agencies, like Child Support, and Social and Rehabilitative Services (SRS) already notified debtors when they turned debts over to the SAO. He noted the Committee could simply request that DOR notify people in order to have that occur until the statute could be changed.

Senator Towe said he did not think **Senator Stang's** suggestion was outside the scope of SB 8's title.

Senator Van Valkenburg noted that **Mick Robinson, Director, DOR,** was in the room. **Chair Halligan** asked **Mr. Robinson** to enlighten the Committee both on DOR's current practice, and the burden of such a requirement. **Mr. Robinson** said a lot of letters were exchanged to an individual in an attempt to collect the money due before DOR turned a debt over for collection by the SAO. He stated DOR's collection staff could "certainly" indicate to debtors in the final letter, that if they did not respond, their debt will be turned over to the SAO for collection.

Chair Halligan stated the minutes would contain **Director Robinson's** statement and the Committee would consider them as indicative of DOR's future practice. He noted the issue might require no further action.

Motion:

Senator Doherty withdrew his motion SB 8 DO PASS AS AMENDED. **Senator Gage** moved TO AMEND SB 8 TO PROVIDE IN STATUTE FOR NOTICE BY THE COUNTIES TO THE TAXPAYER PRIOR TO TURNING THE DEBT OVER TO THE STATE AUDITOR'S OFFICE (Exhibit #4, amendments 2 and 7).

Discussion:

Senator Towe asked if the motion should be amended to cover the IRS as well. **Mark O'Keefe** noted that provision had already been made.

Vote:

The MOTION TO AMEND SB 8 CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Doherty moved SB 8 DO PASS AS AMENDED. The MOTION CARRIED WITH **Senator Stang** voting NO.

EXECUTIVE ACTION ON SENATE BILL 2

Motion:

Senator Gage moved SB 2 DO PASS.

Discussion:

Senator Towe said he had received a letter from the Yellowstone Conservation District which pointed out that SB 2 would waste the money they had spent on consultants in preparation for the hearing since the consultants' work would probably be dated. He stated the letter also indicated SB 2 would cost the state more money in the long-run.

Senator Gage noted that the conservation districts had almost \$0 dollars in this whole process, since they had been funded by Resource Indemnity Tax (RIT) grants. He stated disagreed with the conservation districts claim that they had been investing their money in the process.

Senator Eck noted the question was whether conservation districts would need more RIT money. Senator Gage agreed. He reiterated, however, that the conservation districts were "flying under a false flag" by indicating they had "been putting out all of this money for this purpose".

Vote:

Senator Gage's MOTION SB 2 DO PASS CARRIED with Senators Eck, Grosfield, and Towe voting NO.

ADJOURNMENT

Adjournment: 9:26 a.m.



SENATOR MIKE HALLIGAN, Chair



BETH E. SATRE, Secretary

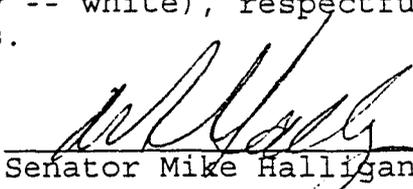
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
December 1, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 2 (first reading copy -- white), respectfully report that Senate Bill No. 2 do pass.

Signed: 

Senator Mike Halligan, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
December 1, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 8 (first reading copy -- white), respectfully report that Senate Bill No. 8 be amended as follows and as so amended do pass.

Signed: 
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 7.

Strike: "DUE A COUNTY"

Insert: "USUALLY COLLECTED BY THE COUNTY TREASURER"

2. Title, line 8.

Following: "SO;"

Insert: "REQUIRING THE BOARD OF COUNTY COMMISSIONERS TO NOTIFY A DELINQUENT TAXPAYER OF ITS INTENTION TO REQUEST THE STATE AUDITOR TO COLLECT DELINQUENT TAXES;"

3. Page 1, line 24.

Strike: "they request"

4. Page 1, line 25.

Following: "the state auditor"

Insert: "is requested"

Strike: "for them, counties"

Insert: ", state and local entities whose taxes are collected by the county treasurer"

5. Page 4, line 17.

Following: "assistance."

Insert: "The cost of assistance for collecting taxes that would otherwise be collected by the county treasurer must be allocated in the same manner in which the taxes are distributed."

6. Page 4, line 18.

Strike: "due a county"

Insert: "usually collected by the county treasurer"

7. Page 4, line 23.

Following: "delinquency."

Insert: "The board of county commissioners shall also provide proof that, at least 30 days before making the request, the county has notified the delinquent taxpayer by mail of the board's intention to request assistance from the state auditor."

-END-

TESTIMONY OF THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
ON SENATE BILL 2, FIRST READING

BEFORE THE SENATE TAXATION COMMITTEE

DECEMBER 1, 1993

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME FOR THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO ACT ON APPLICATIONS FOR RESERVATIONS OF WATER IN THE MISSOURI RIVER BASIN BELOW FORT PECK DAM AND IN THE LITTLE MISSOURI RIVER BASIN; AMENDING SECTION 85-2-331, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

The Department of Natural Resources and Conservation (DNRC) supports Senate Bill 2. The bill delays until next biennium the deadline for Board of Natural Resources and Conservation action on water reservation applications in the Lower and Little Missouri River Basins. This delay will result in a general fund savings this biennium of \$126,445 in FY94 and \$75,390 in FY 95.

The Montana Legislature, in 1985, mandated that a water reservation process be implemented in the Missouri River Basin. The process was completed by the Board for the upper basin above Fort Peck Dam in June 1992. Existing legislation requires the Board act on applications in the lower basin and the Little Missouri River Basin by December 31, 1994. Senate Bill 2 postpones this deadline until June 30, 1997. Applications to reserve water in the lower basin have been submitted by 14 municipalities, 11 Conservation Districts, and the Department of Fish, Wildlife and Parks.

The Department believes the lower Missouri basin water reservation proceeding should be postponed for the following reasons:

1. The Missouri River Water Reservation Program was established by the legislature in 1985 in response to a concern that Montana needed to protect its right to use water from the threat of downstream states. It is now clear that any threat from downstream states relates to the operation of the mainstem reservoirs and not to an equitable apportionment of water.
2. The legislature has established priority dates for any water reservations adopted by the BNRC; delaying the Board action will not harm the reservants because the priority dates will not change.

3. Controversy between applicants who wish to keep water instream and those wanting to divert water for consumptive use is insignificant as compared to that generated by this issue in the upper Missouri basin. There is no urgency associated with completing the process in the lower basin to resolve this type of issue.
4. The conservation district applications identified and analyzed irrigation projects. Project designs included in these applications can be used to encourage landowners to put new irrigation in place even if water reservations are not adopted by the BNRC. A landowner could obtain a water right permit for these developments. In the unlikely event that an interstate apportionment of water does occur, these applications would be used to defend Montana water claims.
5. Information from the Sheridan County Conservation District application and groundwater study can be used to encourage prudent development of local groundwater resources. In fact, that information might be used to establish a controlled groundwater area largely managed by the local people.
6. The money received by the conservation districts to participate in the hearing (\$55,000) can be carried over to the next biennium to be used for the same purpose.
7. The Environmental Impact Statement prepared by the DNRC can merely be dusted off next biennium and the process continued from that point. Additional costs due to the postponement would be minimal.

Senate Bill 2 is a responsible mechanism to reduce general fund expenditures this biennium. Indeed, the Natural Resources Appropriations Subcommittee has already adopted this measure and has reduced the Department's general fund appropriation by \$200,835. I urge your support of this legislation.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for ~~SB 88~~ ^{SB 88} introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act providing for the State of Montana, through the state auditor, to collect back taxes owed to the counties, upon request by the governing body of the requesting county, and owed to the Department of Treasury-Internal Revenue Service, authorizing the county treasurer to transmit the necessary information to the state auditor.

ASSUMPTIONS:

1. Currently, 50% of the warrants issued through the state auditor's warrant writer program have identification numbers that can be used to offset the warrant for valid tax debts.
2. About 40% of revenue generated by local property taxes goes to offset general fund requirements of funding the school equalization account and the university six-mill levy account.
3. Counties or the state auditor's office will be able to cross-match identification numbers between those owing county government and those receiving state warrants.
4. Recovery of debts to counties will be comparable to those estimated in Lewis and Clark County.
5. Counties, in general, will request that debts be collected as allowed under this legislation.
6. Approximately 50% of county tax debts will be referred to the bad debt collection program.
7. The bad debt offset process is already in place in the state auditor's office. This addition will create some additional indeterminable expense in the state auditor's office. The additional operating expenses will depend on how many counties participate and what level of information is available at the county level. Language added to HB2 authorizes the agency, contingent upon the passage and approval of this bill, to submit a budget amendment during the 1995 regular session in an amount equal to the total administrative fee revenue received by the agency attributable to this bill (estimated to be \$54,000 in FY95).

FISCAL IMPACT:

Revenue:	FY '94		FY '95		Difference
	Current Law	Proposed Law	Current Law	Proposed Law	
General Fund (SEA & 6 Mill Levy) (01)	0	0	176,000,000	176,100,000	100,000
12% bad debt collection fees (06)	0	0	200,000	254,000	54,000
Total state revenue	0	0	176,200,000	176,354,000	154,000
County property tax-bad debts collection	0	0	0	150,000	150,000
Revenue collected for the IRS	0	0	0	200,000	200,000
Total revenue-all sources	0	0	176,200,000	176,704,000	504,000

(continued)

David Lewis 11/30

DAVID LEWIS, BUDGET DIRECTOR / DATE
Office of Budget and Program Planning

Sue Bartlett

SUE BARTLETT, PRIMARY SPONSOR DATE
Fiscal Note for SB0008, as introduced

EXHIBIT
12-1-93
SB 8

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

County property tax revenue should increase by about \$150,000 per year, depending on the number of counties participating. Increased expenses at the county level will be incurred for the costs of providing the data on delinquent taxpayers.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Long-term impacts may include a reduction in the number of delinquent county taxpayers. This would help local government maintain existing programs with revenue currently assessed but not collected. The state would benefit because 40% of local property taxes offset general fund for schools and universities.

The extent that these new revenues reduce the bad debt collection administrative fee, additional revenue collected will go to participating agencies. For each percentage point reduction in the fee (currently 12%), approximately \$15,000 in additional revenue will be returned to the agencies using the bad debt system. Half of this amount is from general fund resources. This increased revenue should allow the 12% administrative fee to be reduced to about 9% in future years if revenue remains steady for other areas of the program.

PROPOSED AMENDMENTS TO SB 8
PROPOSED BY THE MONTANA COUNTY TREASURERS ASSOCIATION

Page 1 Line 7

Following: "TAXES"

Strike: "DUE A COUNTY"

Insert: "USUALLY COLLECTED BY THE COUNTY TREASURER"

Page 1 Following line 9

Insert: "AND"

Following: "15-16-113,"

Strike: "AND 15-16-301"

SENATE TAXATION

EXHIBIT NO. 3

DATE December 1, 1993

BILL NO. SB 8

Page 1 line 24

Following: "taxes that"

Strike: "they request"

Page 1 line 25

Following: "the state auditor"

Insert: "is requested"

Following: "to collect"

Strike: "for them, counties"

Insert: ",state and local entities whose taxes are collected by the county treasurer"

Page 4 line 17

Following: "assistance."

Insert: "The cost of assistance of collecting taxes that would otherwise be collected by the county treasurer will be allocated in the same manner that the taxes are distributed."

Page 4 line 18

Following: "A delinquent tax"

Strike: "due a county"

Insert: "usually collected by the county treasurer ~~other than a tax on real property~~"

Page 11 lines 3 through 25

Delete Section 7 and renumber subsequent sections.

Amendments to Senate Bill No. 8
First Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
December 1, 1993

1. Title, line 7.

Strike: "DUE A COUNTY"

Insert: "USUALLY COLLECTED BY THE COUNTY TREASURER"

2. Title, line 8.

Following: "SO;"

Insert: "REQUIRING THE BOARD OF COUNTY COMMISSIONERS TO NOTIFY A
DELINQUENT TAXPAYER OF ITS INTENTION TO REQUEST THE STATE
AUDITOR TO COLLECT DELINQUENT TAXES;"

3. Page 1, line 24.

Strike: "they request"

4. Page 1, line 25.

Following: "the state auditor"

Insert: "is requested"

Strike: "for them, counties"Insert: ", state and local entities whose taxes are collected by
the county treasurer"

5. Page 4, line 17.

Following: "assistance."

Insert: "The cost of assistance for collecting taxes that would
otherwise be collected by the county treasurer must be
allocated in the same manner in which the taxes are
distributed."

6. Page 4, line 18.

Strike: "due a county"

Insert: "usually collected by the county treasurer"

7. Page 4, line 23.

Following: "delinquency."Insert: "The board of county commissioners shall also provide
proof that, at least 30 days before making the request, the
county has notified the delinquent taxpayer by mail of the
board's intention to request assistance from the state
auditor."

DATE 12/1/93

SENATE COMMITTEE ON TAXATION

BILLS BEING HEARD TODAY: SB 2 - SB 8

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
MARK Simeonich	DNRC	SB 2	X	
Gordon Morris	MAG	SB 8		
Gov Harrington - County Treasurers	County Treasurers	SB 8	X	
DENNIS BURK	MONTANA	SB 8	✓	
Mike Volosky AAED	Montana Association of ^{Gen} l	SB 2		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

