

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - SPECIAL SESSION**

**COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **CHAIRMAN TOM ZOOK**, on December 8, 1993, at  
8:30 A.M.

**ROLL CALL**

**Members Present:**

Rep. Tom Zook, Chairman (R)  
Rep. Ed Grady, Vice Chairman (R)  
Rep. Francis Bardanouve (D)  
Rep. Ernest Bergsagel (R)  
Rep. John Cobb (R)  
Rep. Roger Debruycker (R)  
Rep. John Johnson (D)  
Rep. Royal Johnson (R)  
Rep. Mike Kadas (D)  
Rep. Betty Lou Kasten (R)  
Rep. Red Menahan (D)  
Rep. Linda Nelson (D)  
Rep. Ray Peck (D)  
Rep. Mary Lou Peterson (R)  
Rep. Joe Quilici (D)  
Rep. Dave Wanzenried (D)  
Rep. Bill Wiseman (R)

**Members Excused:** Rep. Marj Fisher (R)

**Members Absent:** None

**Staff Present:** Sandy Whitney, Legislative Fiscal Analyst  
Cathy Kelley, Committee Secretary

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

**Committee Business Summary:**

Hearing:	HB 57	
	HB 61	
Executive Action:	HB 39	Tabled
	HB 41	Tabled
	HB 50	Do Pass As Amended
	HB 57	Do Pass As Amended

HEARING ON HOUSE BILL 57Opening Statement by Sponsor:

REP. CHASE HIBBARD, House District 46, Helena, said this bill would refund \$14,768,495 to federal retirees as well as provide \$7,812,000 in income tax credits.

In March of 1989, the U. S. Supreme Court ruled in Davis v. Michigan that states could not treat state retirees more favorably than they treated federal retirees. At that time, Montana and 23 other states were treating those two classes of retirees differently, Montana by allowing the exclusion of all state retiree pensions, while only allowing exclusion of the first \$3,600 of federal pension monies. Following the Davis decision, there was extensive litigation across the nation. Montana has settled litigation on the question of taxation of pension income from the year 1988 forward. It has not settled whether the precedent in the Davis case should be applied retroactively to create refunds for federal retirees taxed on their pension income for the five years 1983-1987.

The lawsuit, Sheehy et al. v. Montana, is complicated. Sheehy has now been remanded to the district court which will be asked to apply a recent U. S. Supreme Court decision in Harper v. Virginia to Montana circumstances. Rather than continue this litigation, it is the Governor's hope in requesting this bill that Montana can close this litigation in a fair and equitable manner by giving refunds and interest to those who have timely filed their refund claims and by allowing a future tax credit for those who missed the opportunity to file for refund in a timely fashion.

REP. HIBBARD continued by stating that prior to the session, legislators were given materials talking about a \$6 million price tag for court-ordered refunds. That should not be confused with this bill. The \$6 million figure related to the 1988 refunds only, which are currently in progress. This bill deals with the years from 1983 to 1987 for two groups of retirees. The first did file in a timely fashion for refunds and have claimed \$8.6 million in tax and \$6.2 million in interest, for a total of \$14.8 million. The other group includes people otherwise barred by the statute of limitations from obtaining a refund. They would be allowed to file a claim for credit for taxes to be filed from 1996 through 1999. The estimated total for that group is \$7.8 million to be taken as credits. The credits are not refundable and do not earn interest.

REP. HIBBARD said if we don't address this problem now, there are several problems including the possibility of continued and protracted litigation and increased expense. Montana statutes require the state to pay interest at the same rate it charges, in the case 9%. Given \$8.6 million in refunds claimed, this amounts to about \$64,000 per month in interest. It is difficult to

estimate how long the litigation will continue. Passing this bill would allow the state to take care of the problem and do it as cheaply as is possible under the circumstances. If the bill is not passed, the state may miss the opportunity to demonstrate good faith in dealing with taxpayers.

**Proponents' Testimony:**

**Rick Hill, Office of the Governor,** stated that Governor Racicot was a strong and enthusiastic supporter of this bill to return to federal retirees taxes illegally collected from them. The state has both a moral and ethical obligation to return the taxes. It is a matter of fairness and equity. Delaying the issue will only cost more money and break faith with the taxpayers of Montana.

**Jeff Miller, Administrator, Income and Miscellaneous Tax Division, Department of Revenue,** stated that the department had friendly amendments, EXHIBIT 1, dealing with tax credits.

**Ed Sheehy, Jr., Attorney for Plaintiffs, Sheehy et al. v. Montana,** supported the bill and proposed an amendment, EXHIBIT 2. He stated that the bill would not settle the litigation. Back in June when the U. S. Supreme Court reversed the Sheehy decision and remanded it to the Montana courts, Mr. Sheehy wrote the Governor and asked for a settlement meeting, but received no response. The Department of Revenue has spending the last six months in court disputing their legal obligation to pay the refunds. They could lose that battle. The department told the legislature two years ago the state would not have to pay refunds, but they were wrong. Two years ago, the department told the legislature when the tax policy for retirees is changed, a retirement adjustment benefit could be given to state retirees. The Montana Supreme Court, in a 6 to 1 decision two weeks ago said the department was wrong and that was discriminatory taxation.

Mr. Sheehy said the way to settle the litigation was to pay the people entitled to the money as well as their lawyer. Mr. Sheehy proposed that 10% of the money be provided as attorney's fees. If the attorney's fees are not paid, Mr. Sheehy will ask the court to attach the money appropriated for refunds until that issue is resolved.

**Herman Wittman, Vice President, Montana Federation of Retired Federal Employees and military retiree,** testified in support of the bill. He felt the bill was fair in addressing both those who had filed claims and those who had not. He stated that federal laws prohibiting unequal taxation of federal pensions have been on the books since 1939. They came to light in 1989 in the Davis v. Michigan decision. Mr. Wittman quoted from a letter by Jerry Santi, President, Military Retirees Association, in strong support of the bill.

**Larry Zimmerman, Legislative Chairman, Montana Federation of the**

**National Association of Retired Federal Employees**, thanked the administration for introducing this bill. He felt there were many people uncertain as to what the future Montana state income tax laws were going to be. If HB 671 is reinstated, taxes will be considerably reduced for retirees over age 65. Tax credits, therefore, will not be of much benefit to those people. He suggested that the tax credit provision be broadened to include other state taxes such as property taxes, for example. He stated that many federal retirees were not getting any younger, and asked for tax relief for them before they are laid to rest.

**John R. Milodragovich, Northern Rocky Mountain Retirees Association**, stated that his association includes former forest service employees. He is the chairman of a committee of that association working on the tax refund issue. His association has been involved since the Harper v. Virginia decision. His committee has been working with representatives of the administration, the Department of Revenue, and with various legislators to seek resolution to the problem without further litigation. Those who received the refund for 1988 were surprised at the amount of interest involved in that short period and recognize the problem to the state in terms of interest monies owed. His organization favors refunds over tax credits.

**Everett Woodgerd, Legislative Chairman, National Association of Retired Federal Employees (NARFE), Missoula**, stated that his organization had over 200 members. EXHIBIT 3 He pointed out that this illegal taxation of federal retirees had been going on for 40 years.

**Ed Sheehy, Helena**, gave a brief history of Sheehy et al. v. Montana litigation. He stated that a group of military retirees in Great Falls were unhappy following the Davis decision. They contacted several attorneys in Great Falls, but all of them demanded so much money up front that the retirees couldn't afford to hire one. His son, **Ed Sheehy, Jr.**, agreed to take the case. Prior to 1989, Paul Davis spent his own funds to fight this issue in the State of Michigan.

**Owen Warren, Helena, Local Chapter President, NARFE**, stated that the membership of his organization includes retirees of Fort Harrison, Post Office, Social Security, Forest Service, Geological Survey, Bureau of Mines, Bureau of Land Management, and Bureau of Reclamation, among others.

**Tony Wayland, federal and military retiree**, stated that he paid his taxes in good faith and wants his refund plus interest.

**Harry McNeil, Bozeman, Local Chapter President, NARFE**, stated his support of the bill and commended the Governor and his staff.

**SEN. BERNIE SWIFT, Senate District 32, Hamilton**, reiterated that federal retirees are not "fat cats." The average salary is about \$10,000 - \$11,000 per year.

**Dion W. Turner, Great Falls, retired military retiree, stated that the state had an obligation to pay back its debt.**

**Bernard Grainey, Helena, Local Chapter Past President, NARFE, emphasized that delay was costing the state money and urged the legislature to act promptly.**

**REP. ED GRADY, House District 47, Canyon Creek, stated his full support for the bill, saying the state needed to pay back the money people had coming.**

**Opponents' Testimony: None**

**Questions from Committee Members and Responses:**

**REP. WANZENRIED asked if the administration had a position on the amendment proposed by Mr. Sheehy regarding payment of a 10% attorney's fee. Mr. Hill stated that the administration would not support that amendment. Sandy Whitney, LFA, said the way the amendment was written would provide for an attorney's fee of 10% of the entire amount of tax refund plus interest, which comes closer to 20% of the amount of tax refund.**

**REP. WISEMAN asked Dave Woodgerd, Chief Legal Counsel, Department of Revenue, if there was a legal precedent providing that illegally collected state taxes had to be refunded. Mr. Woodgerd said there was some precedent, but it was not clear that it applied in the present situation. In this situation there is a U. S. Supreme Court case out of Virginia that addresses essentially the issue under discussion today. In that case, the Harper case, the U. S. Supreme Court specifically said that their decision did not require states to order refunds, and remanded the Sheehy case and the Harper case back to the state courts to determine whether or not refunds should be issued.**

**Mr. Woodgerd said therefore the case was back in Lewis and Clark County District Court to determine whether or not the state was legally required to issue refunds to federal retirees.**

**REP. WISEMAN asked why the precedents wouldn't apply. Mr. Woodgerd said that the reasoning of the U. S. Supreme Court in the Harper case was that if the state provided a remedy where the taxpayer could contest the tax without actually paying the tax first, that would preclude the state from being required to issue refunds.**

**REP. WISEMAN asked, of the total number of federal retirees, how many actually filed taxes from 1983-1987 under protest. Mr. Woodgerd said there were none as far as he knew. However, the issue as far as the Supreme Court was concerned, was whether the remedy was available.**

**REP. BARDANOUVE stated that over the years there had been various attempts to require the state to pay refunds, but if there was**

ever a question as to whether the claim was legal, the state did not pay until the courts had settled that issue. He felt that the bill asked the legislature to make a legal judgment as to the propriety of the claims. He asked REP. HIBBARD to respond. REP. HIBBARD said he felt the question was how much risk the state was willing to take. It was true that no court has specifically ordered repayment, but looking at the 23 states affected by the Supreme Court decision, eight of those states have either settled or refunded the taxes to retirees. The other fifteen states have refused, but in light of Harper v. Virginia, it appears that it is only a matter of time before Montana and those other states will be required to refund the taxes.

REP. HIBBARD pointed out that if the state waits and the litigation continues, interest will be accruing at 9% per year, which is a very expensive way to borrow money.

REP. BARDANOUVE emphasized that the legislature was being asked to be a court making a judicial determination in passing this bill. The legislature could be held liable for making a wrong judicial decision. REP. HIBBARD stated that he was not qualified to give a legal opinion, but felt that the issue was primarily one of risk.

REP. BARDANOUVE stated that the Appropriations Committee had had to make terrible decisions. Repayment of retirees taxes may be a moral issue, but the committee had made decisions cutting funds for the mentally ill, handicapped, etc. He objected to having to do that and then paying out money that hadn't even been ordered to be paid yet. REP. HIBBARD said he could not disagree. However, it appeared to him and most knowledgeable people that this was an obligation of the state. There is a moral issue as well as a financial issue. If the state agreed that at some point it would have to pay the money, it would cost much more to wait. He stated that there was also the risk of another special session if the legislature decided not to pass the bill and there was a legal decision in the near future.

REP. BARDANOUVE questioned whether a special session would be necessary since the legislature would be back in 1995. He stated that he had talked to the chief legal counsel in the Legislative Council who felt that this was neither a moral nor legal obligation of the state. He felt that Montana had given the retirees an opportunity to claim their refunds which they had failed to do. He said that a rancher who failed to apply in time for a fuel rebate wouldn't get one. REP. HIBBARD deferred to Mr. Hill for a reply. Mr. Hill said that people who file for fuel rebates are aware of the process. It was his understanding that a number of the retirees weren't aware of the proper process.

CHAIRMAN ZOOK asked REP. BARDANOUVE if it was fair to place the responsibility for the decisions that the committee made regarding the needs of the poor, handicapped, etc. upon an obligation in another area such as the federal retirees. REP.

**BARDANOUVE** said it was hard to say, but the people he was concerned about were probably more needy than most of the retirees.

**REP. QUILICI** asked **REP. HIBBARD** if he was in favor of **Mr. Sheehy's** amendment. **REP. HIBBARD** stated that he hadn't specifically studied the amendment, but he felt that it was accurate to say he did not concur.

**REP. QUILICI** asked **REP. HIBBARD** if he had looked at the amendments proposed by the department. **REP. HIBBARD** said he hadn't seen them either. **REP. QUILICI** said he would like to have **REP. HIBBARD'S** opinion before the committee took executive action.

**REP. COBB** asked **REP. HIBBARD** the total amount owed. **REP. HIBBARD** said \$14,768,000 is the principal and the interest. This does not include the tax credits. There is an additional \$7.8 million in tax credits from 1988 forward.

**REP. KASTEN** stated that the committee had heard testimony that tax credits were not an acceptable way to go. She asked for clarification on testimony claiming that the retirees won't owe enough tax to make the credit worth anything. She asked **Mr. Miller** how they claimed the refund in the first place if their income is so low. **Mr. Miller** said the amount of tax retirees paid in the years 1983-1987 would be applied against the amount of tax they owe in the years 1996, 1997, 1998, and 1999. It may be true that their liability won't be great enough to enjoy the credit. He emphasized, however, that this is a special consideration given to people who missed the opportunity to file for refund. Rather than close them out entirely, this proposal is an attempt to give them some relief.

**REP. JOHN JOHNSON** said the **Mr. Sheehy** stated that the money was being held by the State of Montana. He wondered if anyone could tell the committee where this money is. **Mr. Miller** stated that the money is netted against current year collections. This would in effect be a reduction to general fund type collections that would occur in FY94. If the bill were approved, the state would attempt to refund the \$14.7 million immediately.

**REP. KADAS** asked **Mr. Miller** to explain the difference between the \$14 million for rebates and the \$8 million for credits. **Mr. Miller** said the \$14 million is a cash refund that includes \$8.6 million in tax and \$6.2 million in interest to go to people who did file timely claims for refunds. At the time the U. S. Supreme Court decision was made in March of 1989, people had an opportunity to amend their previous five years returns. People did do that, and the department has held those claims pending a resolution through the courts. The credits apply to those people who had claims but did not file timely. This bill opens a window of opportunity for them between now and June 30, 1994 to file for a tax credit in the amount of the tax they paid in the years

1983-1987. That credit is non-refundable, would not accrue interest, and would be applied to tax years, 1996, 1997, and 1998. Any unused credit would be lost.

REP. KADAS asked if any of the court decisions already made distinguish between people who did file and those who didn't. Mr. Miller said he didn't think there was any decision that made that distinction. Other states have used the credit mechanism as opposed to a tax refund.

REP. KADAS asked if other states were using the credit mechanism for people who did file or for those who didn't. Mr. Miller said it was his understanding they were using it as a combination of both. There are a number of creative solutions being applied.

REP. KADAS asked Mr. Miller what he thought would happen if this bill failed. Mr. Miller said the department would be in district court to consider whether or not Montana citizens had the right to challenge the law without having to pay the tax first. If the court rules in favor of the state, Mr. Miller suspected that the decision would be appealed again. Mr. Miller said the department's attorneys were arguing that the state did meet the standard under the predeprivation remedy.

REP. KADAS asked Mr. Woodgerd when he expected the district court decision. Mr. Woodgerd stated that it would be June or July at the earliest.

REP. KADAS asked if the state intended to appeal if it lost. Mr. Woodgerd said there had been no decision made on that.

REP. KADAS recapped the state's position as not owing either the \$14 million or the \$8 million. He asked Mr. Woodgerd if the state had a stronger position regarding the \$8 million than the \$14 million. Mr. Woodgerd said that it did.

REP. KADAS asked if both groups, i.e. those who did timely file and those who did not, were being tested in the current case in court. Mr. Woodgerd said that they were in Mr. Sheehy's opinion. In the state's opinion, there is some question because the state felt that Mr. Sheehy failed to appeal that issue the first time around in the Montana Supreme Court, and therefore that issue should no longer be before the court.

REP. KADAS recapped that the state was paying 9% on the original \$8.6 million which has accumulated \$6.2 million in interest. The state would continue to pay 9% on the original \$8.6 million until the case is decided. Mr. Woodgerd said that was accurate.

REP. KADAS asked if the state would be required to pay interest on the other \$8 million for people who didn't file timely. Mr. Woodgerd said it was difficult to know what the court would do regarding people who did not timely file. He said there was a possibility the state would have to pay interest.

REP. KADAS asked Mr. Woodgerd what his basis was for claiming \$8 million of potential liability. He deferred to Mr. Miller, who said the state had looked at actual experience to date in order to estimate additional liability. They had done selective runs on their data base, i.e. all those federal retirees who excluded \$3,600 from their taxes. Based on experience, the department estimated that about 80% of those people would come in for tax credits. In terms of dollars, the department looked at average claims filed by year and it came to about \$7.8 million.

REP. KADAS recapped that the \$7.8 million has no interest cost attached at this point. He asked Mr. Woodgerd, regardless of whether the state won or lost the suit, if the people in that category could then sue the state for interest. Mr. Woodgerd said that was correct, and there was also a possibility that they could sue for refunds.

REP. KADAS asked if the state strengthened the case of that group of people by giving them access to a tax credit. Mr. Woodgerd said he didn't think that strengthened their legal position.

REP. PECK asked REP. HIBBARD if one of the primary reasons for this legislation was the issue of equity. REP. HIBBARD said that was correct. REP. PECK asked if the federal retirees have equity in terms of their retirement, i.e. if military and non-military retirees have the same retirement benefits. He said that a non-military retiree would not have access to veterans' hospitals, PX privileges, etc. Therefore there is not equity among the people affected by this bill. REP. HIBBARD replied that retirement programs are different. REP. PECK said he wouldn't have any problem with this bill if the federal government would reverse it and say that every American citizen is entitled to every benefit that federal retirees have. REP. PECK said, therefore, he didn't think equity would be complete as a result of this legislation.

REP. HIBBARD said he didn't disagree with the logic of that position, but he felt the equity decision was made by others a long time ago, and the legislature was now dealing with the consequences of that decision and the facts of the matter in front of it. The court decisions suggest that regardless of built-in inequities it looks as though the state collected benefits improperly and it will be necessary to refund those benefits.

REP. PECK repeated his contention that equity cannot be total, and that we do not have equity in retirement programs, even among federal retirees.

REP. BARDANOUVE asked what was happening in the other states where this issue had not been settled. He also wanted to know if any other state had settled before the issue was judicially decided. Mr. Woodgerd said there were many different things going on. There are four or five states that are continuing to contest the matter in the courts. There are at least that many

who have decided to give paid refunds, credits, or some combination thereof. The state statutes that exist play an important role in the determination of this issue. Some states do not have the kinds of statutes that Montana has.

REP. BARDANOUE asked if there were any states where people had an opportunity to file and didn't. Mr. Woodgerd said there were. REP. BARDANOUE wanted to know what happened in those states. Mr. Woodgerd couldn't say whether there was any state that extended the tax credit to people who didn't timely file.

REP. BARDANOUE recapped that Montana attorneys were now in court opposing the action suggested by this legislation. REP. HIBBARD said that the Department of Revenue is in opposition. REP. BARDANOUE said that Montana was also supporting the action by this legislation. He felt the state was therefore on both sides of the issue. REP. HIBBARD said that the Department of Revenue has taken the position that we might have had the predeprivation remedy in the state and that we didn't need to make the refunds. In 1988 the U. S. Supreme Court stated that Montana was wrong and the state had to make \$6 million worth of refunds for that year. REP. HIBBARD felt that as the law evolves the risk is higher and higher, and that the Department of Revenue is probably not correct in its interpretation of the law.

REP. BARDANOUE said it seems difficult for state attorneys to be able to justify opposing the federal retirees on this issue when the Governor is saying that the state should pay. REP. HIBBARD stated that this legislation would end that argument.

REP. KADAS asked if there had been any court-enforced settlements in other states. Mr. Woodgerd said there were states who have lost this issue in court and the court has ordered that they pay refunds. Those states may not have had the kind of remedies that are available in Montana. He said it was the opinion of the department attorneys that there have been no state supreme court cases that have addressed the same kind of statute that Montana has.

REP. MENAHAN asked if federal retirees receive health insurance paid by the federal government. Mr. Wittman stated that the federal government contributed to their insurance. REP. MENAHAN pointed out that state retirees have no health insurance benefits. He said that federal employees also probably get 40% more in pay than state workers.

CHAIRMAN ZOOK said he thought the equity issue was settled by the court who said the state was not treating federal employees equitably with state employees. He stated that the legislature tried to compensate for that in a previous session. REP. PECK pointed out that the court has said that can't be done. He again mentioned the difference between military retirees, federal employees, and public employees.

REP. DEBRUYCKER asked if private retirees paid taxes on their pensions. Mr. Miller stated that all retirees drawing a pension from a qualified retirement plan are allowed to exclude the first \$3,600 of that pension income. That exclusion is phased out for people who have adjusted gross income above \$30,000. That law was put into place in the 1991 legislative session in SB 226, equalizing the taxation of pension income. There was also a section increasing the state contribution toward the pension deficit and to pay off that percentage. The court recently said that increased percentage was not an appropriate adjustment. They did agree with the fact that everyone should be treated the same for Montana income tax purposes by being allowed to exclude the first \$3,600 of pension income.

REP. MENAHAN stated that in addition to social security, the state employee contributes approximately 7% of his income and the state contributes 7% toward a pension program that does not come close to being as good as the federal pension. REP. MENAHAN said he would like to see state employees get the same benefits as federal employees.

REP. KADAS asked Mr. Woodgerd what kind of a case the people had who did not file timely as opposed to those who did. Mr. Woodgerd said the people who filed claims for refund can say they followed state law and therefore are entitled to a refund. The people who didn't file timely are essentially making an equity case that the court should, in equity, allow them refunds even though they failed to comply with state law. He felt there was a significant difference.

REP. KADAS asked why the state was offering tax credits. Mr. Hill said it had been determined by the courts that the tax was collected illegally. The courts have not yet determined what the state's obligation is in regards to repaying the money. The Governor believes that the state has a moral and ethical obligation to refund the taxes to the taxpayers. Even though some did not file in a timely fashion, they should not be excluded from equitable treatment. Tax credits (excluding interest and cash) would still be an equitable treatment. REP. KADAS asked if lack of a timely file made their equity go down. Mr. Hill said there was a lesser legal obligation to those people as well. He said that this bill proposed to deal with the moral obligation.

REP. KADAS asked Mr. Hill whether, if the bill passed and provided tax credits to people who did not file timely, those people would still be able to sue for interest and for cash. Mr. Hill declined to address that legal question. He said the Governor believes this bill would settle the legal questions. Mr. Woodgerd said he thought the state had good legal ground on the issue of the people who did not file claims. He felt that issue would be resolved in the Sheehy case. He felt it was too late for anyone to bring an action outside that case.

REP. KADAS asked whether, in the case of people who did not file timely, the state's case was affected in any way by the providing of tax credits. Mr. Woodgerd said he believed this bill would settle the issue. He thought the court would say if the state had any obligation at all, the credit should resolve that.

REP. KADAS asked if the tax credit method would work for the people who filed timely. Mr. Woodgerd said a policy decision had been made. REP. KADAS asked for an answer based on legal issues. Mr. Woodgerd said the most likely court decision, from a legal standpoint, would be a refund.

REP. BARDANOUE asked Mr. Hill if the issue wasn't political, as well as ethical and moral. Mr. Hill said that the Governor has always framed this issue in terms of what is ethical.

**Closing by Sponsor:**

REP. HIBBARD stated that he had made a misstatement in responding to REP. COBB. The additional \$7.8 million is for people who did not timely file. He stated in response to REP. QUILICI that he had looked at the department's amendments and felt that they simply clarified the intent of the bill, so he would support them. REP. HIBBARD said he felt the focus on equity was a little off base. The issue was not to decide how equitable retirement programs are. The issue was that the tax was collected illegally and the state has a moral and ethical obligation to repay. He again urged the committee to consider the element of risk and pay now before it cost more in the future.

**HEARING ON HOUSE BILL 61**

**Opening Statement by Sponsor:**

REP. BILL REHBEIN, House District 21, Lambert, stated that this was a bill authorizing and requiring the Department of Transportation to contract for repair and maintenance services to private contractors when practicable unless it is demonstrated that the cost would be greater than having the work done by the department. He said his intent was to provide some direction to the department, as there had been concern that the state was not "getting a lot of bang out of their buck."

**Proponents' Testimony:**

Tom Barnard, Administrator, Highways Division, Department of Transportation, said that the department was in general agreement with this bill. They have been looking into privatization issues for several years and will continue to do so. In FY91, approximately \$4.8 million of the department's maintenance budget was privatized. In FY92, \$5.6 million was privatized; in FY93, \$7.8 million; in FY94 an estimated \$12 million. He said that the following areas have been privatized in varying degrees: signal maintenance, lighting maintenance, underground storage tank

removal/replacement/clean up, mowing, crack sealing, striping, total maintenance within some cities, sign construction, noxious weed control, etc.

Mr. Barnard stated that the bill clarified the authority of the department personnel to do what they had been doing. Their major concern with the bill was who decides and how do they define what "practicable" is. They feel it is important for the department to decide what is practicable. A key issue they consider in making that decision is balancing the work load. If one piece of work is privatized, but the department still must maintain equipment and personnel to perform other functions, that privatization is not practicable. He stated that it would be very difficult, for example, to privatize winter maintenance. He felt it would be easier to privatize a number of summer maintenance activities.

Mr. Barnard referred to a number of nationwide studies on privatization. British Columbia, for example, totally privatized and it cost them money. He pointed out the major liability issue in privatizing winter maintenance. Studies say that liability is a prime concern. Studies also say that feasible areas to privatize are those where the amount of work and the timing of that work can clearly be identified. Winter maintenance would be difficult to privatize because no one can predict winter storms. He also pointed out the amount of training and experience required to operate snow plows.

James Tutweiler, Montana Chamber of Commerce, Montana Contractors Association, stated his support of the bill. He felt this kind of legislation would enable the privatization process to go forward. He said that he didn't know exactly how many contractors were interested in performing work for the department, but this legislation would help to find out. There was good potential for saving the state money and building on the ability of the private sector to compete.

#### Opponents' Testimony:

John Manzer, business representative, Teamsters Union, said he looked at the bill as a Pandora's box as far as who will determine what should be privatized. He felt the system was working well; the department had made great strides in privatization. Privatization costs the people he represents jobs, but felt the department was doing a good job in what they have done. He felt highway maintenance workers were doing a good job, giving the state a good "bang for the buck." He said this legislation is unnecessary.

John Maze, American Federation of State, County, and Municipal Employees (AFSCME), agreed with Mr. Manzer and Mr. Barnard. He said that private contractors were often more expensive than state maintenance workers. He felt that state training was superior to that in the private sector. He was concerned about

the possibility of work being awarded to out of state contractors, costing Montana taxpayers jobs.

**Questions from Committee Members and Responses:**

REP. PECK asked Mr. Barnard if the department had mixed emotions about the bill. Mr. Barnard reiterated their concern about the definition of practicable and who would make the determination.

REP. PECK said he was concerned about the language in the last paragraph of page 2 of the bill which says, "the department shall, when practicable . . ." He felt that this would allow private contractors to make demands on the department to demonstrate that it could do work better and cheaper. Mr. Barnard said he felt it would encourage that kind of pressure, but he didn't know if anyone could force the department into a contract.

REP. QUILICI asked how interaction between private contractors and the department could be affected by this bill. He thought there could be a problem of disorganization and morale in the department. Mr. Barnard stated that this bill could result in department employees being laid off, the department hiring "off the street," and the quality of employees going down.

REP. BERGSAGEL asked Mr. Barnard if the department had standards for privatization. Mr. Barnard replied that, in most cases, the department did. REP. BERGSAGEL asked why there would be any difference between those standards and those in the bill. Mr. Barnard said that those areas where the department had privatized, taking into consideration work load balance, had resulted in a better product. However, in the case of winter maintenance, he was not sure how to arrive at a privatization standard.

REP. BERGSAGEL said he had heard rumors about a "good old boy club" of consulting services being awarded work on a rotating basis. He asked why the department was not bidding that process out. Mr. Barnard denied that there was any "good old boy club." He said that consulting services come under a totally different set of circumstances. REP. BERGSAGEL asked if they went out for bid. Mr. Barnard said there was a formal selection process. REP. BERGSAGEL stated that he would like to see the specifics of the process.

REP. ROYAL JOHNSON asked Mr. Barnard whether the department currently made the decision as to when it was practicable to privatize. Mr. Barnard said that was correct. REP. JOHNSON asked if this bill would change that. Mr. Barnard said he didn't know that it would change that.

**Closing by Sponsor:**

REP. REHBEIN said that his intent was not to in any way tie the

department's hands. He wanted to reinforce what the department was doing.

**EXECUTIVE ACTION ON HOUSE BILL 57**

**Motion/Vote:** REP. GRADY MOVED AMENDMENT EXHIBIT 1. Motion carried unanimously.

**Motion:** REP. GRADY MOVED HB 57 DO PASS AS AMENDED.

**Discussion:** REP. PECK said he felt this was a political bill, and he was bothered by the equity argument. He was bothered most by the fact that even if the bill passed, people could still sue over the issue of one group of people being given cash and one group being given tax credits. The question of attorney's fees would still be open to litigation. REP. PECK felt this expenditure could not be balanced against some of the cuts that were having to be made. He also stated that he didn't think any retirement fund should be supported by the general fund. He felt that the bottom line was that the state of Montana did not have the money at this time. He wanted to let the issue be decided in the courts.

REP. BERGSAGEL sympathized with REP. PECK'S position, but he stated that the courts had determined that the taxes were illegally collected, and he felt the state had an obligation to pay the monies back. He stated his reluctant support of the bill.

REP. WISEMAN felt that past legislatures had refused to deal with the problem. He felt that it was significant that not a single federal retiree filed his 1983-1987 taxes under protest. He felt the department's argument relating to the available remedy was weak. He reminded the committee that there was precedent for states being required to pay back illegally collected taxes, i.e. Jim Beam v. State of Georgia. He stated his concern about the 9% interest accumulating.

CHAIRMAN ZOOK said he didn't see this as a political bill. The court has made a ruling, so there is a legal obligation. He wouldn't want his government to sit on a technicality, i.e. lack of timely file, when it took something with no basis. He said that government is meant to serve the people.

REP. BARDANOUE stated that any time any high administration official made a decision, it was political. He said the courts had not yet said the state had to do anything. He felt this was not a good time to pay money the state didn't have.

CHAIRMAN ZOOK said he thought the court had ruled the state took the \$14.7 million illegally while the \$7.8 million had not. REP. KADAS said the court had ruled the state took the money illegally, but it hadn't said the state had to pay it back. CHAIRMAN ZOOK said he felt that was a technicality.

REP. GRADY agreed with CHAIRMAN ZOOK. He felt this legislation was part of why the special session was called, i.e. to straighten out state finances. He didn't like the cuts that had been made better than anyone else, but he felt retiree refunds had been counted as a debt from the beginning of the special session. He emphasized that this bill would probably solve the problem.

**Vote:** HB 57 DO PASS AS AMENDED. Motion carried 13-5 with REPS. BARDANOUE, DEBRUYCKER, JOHN JOHNSON, NELSON, and PECK voting no.

**EXECUTIVE ACTION ON HOUSE BILL 39**

**Motion:** REP. MENAHAN MOVED HB 39 DO NOT PASS.

**Discussion:** REP. BERGSAGEL said there was an amendment to this bill as well as a revised fiscal note.

REP. PECK asked REP. BERGSAGEL if a major rewrite of the bill was involved. REP. BERGSAGEL said the problem was explaining to OBPP how the savings would occur. He stated that DOT and DOA would issue the RFP and if the program were not cost-effective, it would not be instituted. He said they were not counting into projected savings the potential sale of vehicles. He said he knew the state could save money on a per mile basis. REP. PECK said that the OBPP fiscal note said the opposite. REP. BERGSAGEL said OBPP was working from 1990 numbers based on a leasing agreement from a leasing company which artificially inflated the cost of leasing. REP. BERGSAGEL said the figures he looked at estimated saving anywhere from 1 to 5 cents per mile.

REP. PECK asked REP. BERGSAGEL if he was convinced the data showing cost savings was good data. He felt the special session was not the right time to do something like this. REP. BERGSAGEL said he was convinced they have moved budget fund profits in the motor pool and have reduced the rates that were explained to the committee. He was also convinced that OBPP, in the haste of the special session, put together numbers based on 1990 figures which were not the right figures. He stated that one of the reasons he was pushing this legislation was so the regular session would have some accurate data to go by in making cuts in an area other than human services and education.

REP. BARDANOUE said he had asked the Legislative Council for some information, but they couldn't provide anything. He felt that even though it may be possible to save money in this area, the special session was not the time to do it. He felt the committee should ask the legislative auditor and the fiscal analyst for a concrete, solid report.

REP. BERGSAGEL said that the entire intent of issuing an RFP was to find out whether there is a potential cost savings to the state.

REP. PETERSON asked REP. BERGSAGEL if he had met with the department about statistical information they can provide before issuing RFPs. REP. BERGSAGEL said when DOT issues the RFP they will issue those standards that they want to be met. He said the Highway Department saw the possibility of potential savings. REP. PETERSON asked REP. BERGSAGEL if he had talked with the Department of Commerce and OBPP. REP. BERGSAGEL said he had had conversations with DOT and limited conversations with OBPP.

REP. WISEMAN asked REP. BERGSAGEL if this bill provided for the sale of state vehicles before going out for bid. REP. BERGSAGEL said the bill was back in Legislative Council to turn that process around. The DOT will issue the RFP and if the RFP shows a cost savings, they will proceed.

REP. GRADY asked if there were any guarantees that Montana automobile dealers will be able to bid on the vehicles. REP. BERGSAGEL said the leasing companies they talked to indicated it was to their advantage to buy the vehicles locally. Currently, local dealers receive a request from an agency to purchase a vehicle; they call the factory for the cost; the local dealer adds \$50-\$75 onto the factory cost. The leasing companies indicated that process would continue. REP. GRADY said he felt the proposal needed more study.

**Motion/Vote:** REP. GRADY MADE A SUBSTITUTE MOTION TO TABLE HB 39. Motion carried 16-2 with REPS. COBB and DEBRUYCKER voting no.

#### EXECUTIVE ACTION ON HOUSE BILL 41

**Motion:** REP. MENAHAN MOVED HB 41 DO PASS.

**Discussion:** REP. ROYAL JOHNSON pointed to page 1, line 21, of the bill which said 1/4 of the coal severance tax would go to maintaining state-owned buildings, and not less than 1/4 of the tax to a trust fund. However, page 2, line 3 indicates that the 1/4 will be distributed 1/3, 1/3, and 1/3 in three places. The language doesn't indicate the money will be put in a trust fund. He said that one procedure gives \$5 million, where the other gives the interest on \$5 million.

Jane Hamman, OBPP, said their assumption was that 1/4 of the flow would be diverted, which amounted to approximately \$1.625 million per year to each of those three entities.

REP. ROYAL JOHNSON asked about the 1/4 on page 1, line 21. Ms. Hamman said that the bill stated that "not less than one-fourth (1/4) of the coal severance tax [will go] to school finance and the maintenance of state-owned buildings. . ." and then the other 1/4 to the trust fund.

REP. KASTEN asked if this bill takes from school finance or gives to school finance. She said when you take 1/4 of the 1/2 that is now going into the trust, most of the interest from which goes

into school financing, you are actually decreasing in the long run the money that goes to school financing.

**REP. KADAS** said that the bill would slow the growth of the trust. The bill would also have a significant impact on the Treasure State Endowment program which would also grow much slower. The bill may endanger the ability of the state to do water bonds, because the water bonding program depends on the flow. Regarding Section 5 (2) (a) and (b) the money will essentially be put into those budgets in the same way the six mill levy is put into the university system budget. He felt it was unlikely that any of the money in either (a) or (b) would end up directly in maintenance, thus leaving only \$1.6 million per year for maintenance of state-owned buildings. **REP. KADAS** felt that the bill was mechanically wrong by endangering other funds and ethically wrong as far as dealing with the trust.

**REP. BARDANOUVE** said the legislature had been criticized that the Treasure State Endowment didn't provide enough money. This bill would reduce it even further.

**REP. ROYAL JOHNSON** said he agreed with **REP. KADAS**.

**REP. GRADY** asked **Ray Beck, Administrator, Conservation and Resource Development Division, Department of Natural Resources and Conservation**, to comment. **Mr. Beck** stated that his office administered the coal severance tax loan program. As far as the funds that flow into the permanent trust, they read the bill in the same way as **Ms. Hamman** in that it would take 1/4 of the flow away. The flow that goes into the permanent trust first of all goes through the coal tax bond fund. If this bill in its current form is passed, **Mr. Beck** stated that it would jeopardize the department's contract with current bond holders and also probably violate the bonds test adopted by the Board of Examiners.

**Mr. Beck** said there was currently \$33.7 million dollars in projects that the last legislature approved. This bill would eliminate those projects because there wouldn't be enough bond authority in the program to fund them.

**REP. ROYAL JOHNSON** asked if current bonding in the coal tax bond fund requires \$5.6 million for the backing of the bonds. **Mr. Beck** said it required about \$6.2 million. **REP. JOHNSON** asked if they financed \$33 million more, how much more it would take for the backing of those bonds. **Mr. Beck** said they had figured if this bill were to pass, the flow would be cut down to about \$9.4 million. The annual debt service would be about \$3.1 million, so the total would be about \$12.6 million. They need about \$12.5 million. He stated he would have to look up how much more it would take to back the bonds that **REP. JOHNSON** had asked about.

**REP. JOHNSON** asked at what rate they backed the bonds. **Mr. Beck** said the law required enough money in the bond account for one year's debt service. Right now that figure is \$6.2 million.

**Motion:** REP. WANZENRIED MADE A SUBSTITUTE MOTION HB 41 DO NOT PASS.

**Discussion:** REP. KADAS said if REP. WANZENRIED would withdraw his motion, REP. KADAS would make a substitute motion to table.

REP. WANZENRIED withdrew his motion.

**Motion/Vote:** REP. KADAS MADE A SUBSTITUTE MOTION TO TABLE HB 41. Motion carried 11-7 with REPS. GRADY, COBB, DEBRUYCKER, FISHER, MENAHAN, PETERSON, and QUILICI voting no.

**EXECUTIVE ACTION ON HOUSE BILL 50**

**Motion:** REP. JOHN JOHNSON MOVED HB 50 DO PASS.

**Discussion:** CHAIRMAN ZOOK noted that there were some amendments to the bill.

**Motion/Vote:** REP. COBB MOVED AMENDMENT EXHIBIT 5. Motion carried unanimously.

**Motion/Vote:** REP. COBB MOVED AMENDMENT EXHIBIT 6. Motion carried unanimously.

**Motion:** REP. COBB MOVED AMENDMENT EXHIBIT 7.

**Discussion:** REP. BERGSAGEL asked Ken Morrison, Administrator, Property Assessment Division, Department of Revenue, to comment. Mr. Morrison said the amendment changed the date for livestock assessment to February 1 from the suggested January 1. The present March 1 date for reporting will stay the same for 1994, with the change to be made in February, 1995.

REP. DEBRUYCKER said he never voted for anything that gave a department rule-making authority. He asked Mr. Morrison if the department would have any objection to striking that provision. Mr. Morrison said they believed the rule-making process allowed for public input, but they had no objection to striking that language.

REP. PETERSON liked the fact that some counties had already consolidated and wanted to be sure that plan remained in the bill.

Mick Robinson, Director, Department of Revenue, stated that it was and called the committee's attention to the statement of intent added in the amendment.

REP. BARDANOUE asked Mr. Robinson when the bill's projected savings would begin. Mr. Robinson said the state would start saving money as of July 1, 1994.

REP. JOHN JOHNSON asked if the statement of intent changed any provisions of the bill. Mr. Robinson said the statement of

intent dealt with the continuation of the elected assessor in the future once the incumbent was no longer in office. The language says the department may continue into that type of agreement if the counties continue with the elected assessor office. The reason for the change is to allow the transition in the continuation of the elected assessor office after the incumbent is no longer in that position.

**REP. BARDANOUE** asked what the situation was in Great Falls in Cascade County. **Mr. Robinson** said that county had made the decision to consolidate the offices of assessor and deputy assessor as Department of Revenue employees. The county assigned the title of assessor to the clerk and recorder.

**REP. NELSON** asked **Mr. Morrison** if the counties couldn't already consolidate without this bill. **Mr. Morrison** said there were consolidations in place at the present very close in nature to this bill. The department didn't presently sign a contract, but had a letter of understanding.

**REP. NELSON** asked what kind of hardship would be created if the bill did not pass. **Mr. Morrison** stated that the bill was needed in order to realize the \$1.2 million savings.

**REP. NELSON** asked again for specifics as to where the money would be saved. **Mr. Robinson** said the department had tried to maintain flexibility while working on this legislation. The reason for doing that is to try to make sure that the department does not put out a theoretically correct regionalization concept and force assessors and deputy assessors into locational changes or staffing changes that would have an adverse impact on those individuals. He felt that the regional approach had to be structured on where the different people exist now. He stated that a 45 FTE reduction would be needed in order to realize the \$1.2 million savings. Their flexible approach was intended to avoid having to RIF people.

**REP. NELSON** stated her opposition to the bill.

**Vote:** AMENDMENT EXHIBIT 7. Motion carried 15-2 with REPS. BERGSAGEL and DEBRUYCKER voting no.

**Motion:** REP. WANZENRIED MOVED TO DELETE SECTION 9 OF HB 50, THUS RETAINING TRAINING QUALIFICATIONS FOR AN ELECTED ASSESSOR.

**Discussion:** REP. BARDANOUE asked the department to respond.

**Mr. Robinson** said his concern was that certification requirements were not placed upon the county office holder who received the title of assessor, but not the duties.

**REP. WANZENRIED** felt that whoever was overseeing the function should be qualified. **Mr. Robinson** said his concern was the situation where the title but no responsibilities reverted to

another office holder.

REP. NELSON asked REP. WANZENRIED if he knew of a way the certification requirements could be kept in the bill for the elected assessors only. REP. WANZENRIED said he felt the requirements were necessary in those counties who chose to retain the elected assessor position. He felt the bill could be amended to say that those counties who consolidated the office wouldn't be bound by the requirements.

REP. KASTEN asked Mr. Morrison if the requirements in the state's contract with a county who chooses to continue electing an assessor will be more or less stringent than the requirements in Section 9. Mr. Morrison said he didn't know the answer to that question, but the department was going to expect the assessor to be qualified to do the work.

REP. KASTEN asked, then, if an elected assessor in a county that chooses to retain one would still have to be qualified in order to have the department contract. Mr. Morrison said that was correct.

REP. ROYAL JOHNSON asked Mr. Morrison if section 15(8)(106) was still in the bill. Mr. Morrison said he would check, but he thought it was being deleted. When the department drafted this bill, they put the educational requirements for this type of work in another section.

REP. WANZENRIED stated that there was a possibility the department would have rules requiring an elected assessor to attain a higher standard than that set forth in Section 9. He felt the legislature should set the standards rather than have them set by a department's rule-making.

**Vote:** TO DELETE SECTION 9 OF HB 50, THUS RETAINING TRAINING QUALIFICATIONS. Motion carried 12-5 with REPS. GRADY, BARDANOUVE, BERGSAGEL, FISHER, and KASTEN voting no.

**Motion/Vote:** REP. JOHN JOHNSON MOVED HB 50 DO PASS AS AMENDED. Motion carried 13-5 with REPS. COBB, DEBRUYCKER, NELSON, PECK, and WANZENRIED voting no.

ADJOURNMENT

Adjournment: 3:15 P.M.

  
\_\_\_\_\_  
REP. TOM ZOOK, Chairman

  
\_\_\_\_\_  
Cathy Kelley, Secretary

TZ/cek

HOUSE OF REPRESENTATIVES  
 APPROPRIATIONS COMMITTEE

ROLL CALL

DATE 12/08/93

NAME	PRESENT	ABSENT	EXCUSED
REP. ED GRADY, VICE CHAIRMAN	X		
REP. FRANCIS BARDANOUE	X		
REP. ERNEST BERGSAGEL	X		
REP. JOHN COBB	X		
REP. ROGER DE BRUYCKER	X		
REP. MARJORIE FISHER			X
REP. JOHN JOHNSON	X		
REP. ROYAL JOHNSON	X		
REP. MIKE KADAS	X		
REP. BETTY LOU KASTEN	X		
REP. WM. "RED" MENAHAN	X		
REP. LINDA NELSON	X		
REP. RAY PECK	X		
REP. MARY LOU PETERSON	X		
REP. JOE QUILICI	X		
REP. DAVE WANZENRIED	X		
REP. BILL WISEMAN	X		
REP. TOM ZOOK, CHAIRMAN	X		



## HOUSE STANDING COMMITTEE REPORT

December 9, 1993

Page 1 of 4

Mr. Speaker: We, the committee on Appropriations report that House Bill 50 (first reading copy -- white) do pass as amended.

Signed: 

Tom Zook, Chair

And, that such amendments read:

1. Title, page 2, line 2.  
Strike: "7-4-3007,"

2. Title, page 2, lines 9 and 10.  
Strike: "15-8-105, 15-8-106,"

3. Page 3, line 13.

Insert: " STATEMENT OF INTENT

With the adoption of the 1972 Montana constitution, the state assumed responsibility for the appraisal, assessment, and valuation of property for property tax administration. Although the state was granted this new responsibility and authority by the constitution, county assessors were retained by local governments to assist the state in the assessment function, acting as agents of the department of revenue. Through the implementation and use of electronic data processing and other technological advances, many of the assessment functions previously performed by county assessors have changed dramatically.

Recognizing the need to make state and local government more responsive and efficient, it is the intent of the legislature that all appraisal and assessment duties relating to property taxation be assigned to the department of revenue. This action transfers from county assessors to the department the responsibility and authority to perform any assessment functions.

Acknowledging the talents and skills of county assessors, it is the intent of the legislature that current county assessors

Committee Vote:  
Yes 13, No 5.

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may choose to become employees of the department of revenue and that their respective counties may consolidate the office of county assessor with another county office.

If the current county assessor does not choose to become a state employee and the county chooses to retain the separate office of county assessor, the department of revenue shall, with the consent of the county assessor, contract with the county for the county assessor to perform specific duties as assigned by the department. If under this agreement the county assessor produces satisfactory work quality and output for the department, the department may continue the contract as long as the person currently serving as county assessor retains the position. The department may also contract for any successor county assessor in counties that retain the separate office of county assessor to perform duties assigned by the department.

It is further the intent of the legislature that all present deputy county assessors become employees of the department of revenue, with the same preferences and benefits as other state employees.

To allow for the efficient administration of the property tax appraisal and assessment, it is the intent of the legislature that the department of revenue use other efficiency measures, such as creating regional county appraisal and assessment offices, adjusting office hours of department field offices, and restructuring the organizational structure of the property assessment division.

The legislature grants to the department of revenue general rulemaking authority for the accomplishment of these administrative changes."

4. Page 4, line 17.

Following: "system."

Insert: "The department may not charge a fee to a local taxing jurisdiction for information provided from this data base for use in taxation and other governmental functions."

5. Page 8, line 23 through page 9, line 20.

Strike: section 9 in its entirety

Re-number: subsequent sections

6. Page 10, line 10.

Strike: "(1)"

7. Page 10, lines 20 through 25.

Strike: lines 20 through 25 in their entirety

8. Page 52, line 22 through page 54, line 16.

Strike: sections 51 and 52 in their entirety

Renumber: subsequent sections

9. Page 88, line 10.  
Page 99, line 9.  
Page 113, line 17.  
Page 115, line 9.

Strike: "160"  
Insert: "157"

10. Page 117, lines 3 and 6.  
Page 118, line 13.

Strike: "January"  
Insert: "February"

11. Page 117, line 15.  
Strike: "March"  
Insert: "February 1"

12. Page 119, line 10.  
Strike: "January"  
Insert: "February"

13. Page 171, lines 13 and 14.  
Strike: "newly discovered"

14. Page 176, lines 14 through 16.  
Following: "." on line 14  
Strike: remainder of line 14 through the first "the" on line 16  
Insert: "(1) The"

15. Page 176, line 16.  
Following: "department"  
Insert: "of revenue"

16. Page 176.  
Following: line 25  
Insert: "(2) As a condition for the continuation of a contract under this section, the contract must provide that the assessor meet the qualification and certification standards required for department assessment personnel who perform comparable duties."

17. Page 179, line 2.  
Following: line 1  
Insert: "

NEW SECTION. Section 166. Office hours. Notwithstanding the provisions of 2-16-117, the department of revenue may determine by rule the office hours for property appraisal and

assessment field offices located in the various counties. This section does not apply to any other offices of the department."  
Renumber: subsequent sections

18. Page 179, lines 21 and 24.

Strike: "160"

Insert: "157"

19. Page 179, line 25 through page 180, line 1.

Strike: "[Sections 161 through 167] apply"

Insert: "[Section 158] applies"

20. Page 180, lines 3 and 12.

Strike: "160, 168, and 170"

Insert: "157, 165, and 168"

21. Page 180, line 5.

Following: line 4

Insert: "(3) [Sections 38, 108, 110, 113, and 114] apply to tax years after December 31, 1994."

22. Page 180, line 14.

Strike: "161 through 167, 169, and 171 through 173"

Insert: "158 through 164, 167, and 169 through 171"

-END-

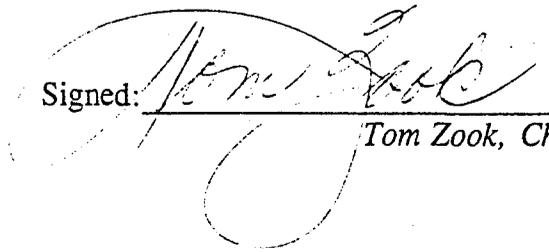


## HOUSE STANDING COMMITTEE REPORT

December 8, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Appropriations report that House Bill 57 (first reading copy -- white) do pass as amended.

Signed: 

Tom Zook, Chair

And, that such amendments read:

1. Title, line 14.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 4, line 10.

Following: "liability"

Insert: "in addition to the percentage amount that the taxpayer is eligible to claim"

3. Page 6, line 10.

Following: line 9

Insert: "NEW SECTION. Section 4. Applicability. The credit provided in [section 2] is applicable to and may be used only to reduce a taxpayer's income tax liability for the tax years 1995, 1996, 1997, and 1998. No unused credit may be carried over to any tax year beginning after December 31, 1998."

Renumber: subsequent section

-END-

Committee Vote:

Yes 13, No 5.

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*J.S.*  
12-8-93  
H.2

HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE  
ROLL CALL VOTE

DATE 12/08/93

BILL NO. HB 57

NUMBER 1

MOTION: REP. GRADY MOVED HB 57 DO PASS AS AMENDED.

NAME	AYE	NO
REP. ED GRADY, VICE CHAIRMAN	X	
REP. FRANCIS BARDANOUVE		X
REP. ERNEST BERGSAGEL	X	
REP. JOHN COBB	X	
REP. ROGER DE BRUYCKER		X
REP. MARJORIE FISHER	X	
REP. JOHN JOHNSON		X
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN	X	
REP. WM. "RED" MENAHAN	X	
REP. LINDA NELSON		X
REP. RAY PECK		X
REP. MARY LOU PETERSON	X	
REP. JOE QUILICI	X	
REP. DAVE WANZENRIED	X	
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIRMAN	X	

HR:1993

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CS-11

HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE  
ROLL CALL VOTE

DATE 12/08/93

BILL NO. HB 41

NUMBER 2

MOTION: REP. KADAS MADE A SUBSTITUTE MOTION TO TABLE HB 41.

NAME	AYE	NO
REP. ED GRADY, VICE CHAIRMAN		X
REP. FRANCIS BARDANOUE	X	
REP. ERNEST BERGSAGEL	X	
REP. JOHN COBB		X
REP. ROGER DE BRUYCKER		X
REP. MARJORIE FISHER		X
REP. JOHN JOHNSON	X	
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN	X	
REP. WM. "RED" MENAHAN		X
REP. LINDA NELSON	X	
REP. RAY PECK	X	
REP. MARY LOU PETERSON		X
REP. JOE QUILICI		X
REP. DAVE WANZENRIED	X	
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIRMAN	X	

HR:1993  
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HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE  
ROLL CALL VOTE

DATE 12/08/93

BILL NO. HB 50

NUMBER 3

MOTION: REP. COBB MOVED AMENDMENT EXHIBIT 7.

NAME	AYE	NO
REP. ED GRADY, VICE CHAIRMAN	X	
REP. FRANCIS BARDANOUE	X	
REP. ERNEST BERGSAGEL		X
REP. JOHN COBB	X	
REP. ROGER DE BRUYCKER		X
REP. MARJORIE FISHER	X	
REP. JOHN JOHNSON	X	
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN	X	
REP. WM. "RED" MENAHAN	X	
REP. LINDA NELSON	X	
REP. RAY PECK		
REP. MARY LOU PETERSON	X	
REP. JOE QUILICI	X	
REP. DAVE WANZENRIED	X	
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIRMAN	X	

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HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE  
ROLL CALL VOTE

DATE 12/08/93

BILL NO. HB 50

NUMBER 4

MOTION: REP. WANZENRIED MOVED TO DELETE SECTION 9 OF HB 50, THUS  
RETAINING TRAINING QUALIFICATIONS FOR AN ELECTED ASSESSOR.

NAME	AYE	NO
REP. ED GRADY, VICE CHAIRMAN		X
REP. FRANCIS BARDANOUE		X
REP. ERNEST BERGSAGEL		X
REP. JOHN COBB	X	
REP. ROGER DE BRUYCKER	X	
REP. MARJORIE FISHER		X
REP. JOHN JOHNSON	X	
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN		X
REP. WM. "RED" MENAHAN	X	
REP. LINDA NELSON	X	
REP. RAY PECK		
REP. MARY LOU PETERSON	X	
REP. JOE QUILICI	X	
REP. DAVE WANZENRIED	X	
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIRMAN	X	

HR:1993

wp:rlclvote.man

CS-11

HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE  
ROLL CALL VOTE

DATE 12/08/93

BILL NO. HB 50

NUMBER 5

MOTION: REP. JOHN JOHNSON MOVED HB 50 DO PASS AS AMENDED.

NAME	AYE	NO
REP. ED GRADY, VICE CHAIRMAN	X	
REP. FRANCIS BARDANOUE	X	
REP. ERNEST BERGSAGEL	X	
REP. JOHN COBB		X
REP. ROGER DE BRUYCKER		X
REP. MARJORIE FISHER	X	
REP. JOHN JOHNSON	X	
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN	X	
REP. WM. "RED" MENAHAN	X	
REP. LINDA NELSON		X
REP. RAY PECK		X
REP. MARY LOU PETERSON	X	
REP. JOE QUILICI	X	
REP. DAVE WANZENRIED		X
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIRMAN	X	

HR:1993

wp:rlclvote.man

CS-11

EXHIBIT 1  
DATE 12/8/93  
HB 57

AMENDMENTS

HOUSE BILL 57  
INTRODUCED BILL

The purpose of this amendment is to clarify that the unused portion of the credit which may be carried over to a succeeding tax year is in addition to the percentage amount of credit available for use in the year.

Page 4, line 10.

Following: "year's tax liability"

Insert: "in addition to the percentage amount which the taxpayer is eligible to claim"

The purpose of this amendment is to clarify that the credit and any amount of credit which remains unused cannot be applied to any tax liability for any year after 1998.

Title, line 13

Following: "MCA;"

Insert: "PROVIDING AN APPLICABILITY SECTION;"

Page 6, line 10.

Following: Line 9

Insert: "NEW SECTION. Section 4 Applicability. The credit provided in [Section 2] is applicable to and may only be used to reduce a taxpayer's income tax liability for the tax years 1995, 1996, 1997 and 1998. No unused credit may be carried over to any tax year beginning after December 31, 1998.

Renumber: Subsequent sections.

*Pans*

Law Offices

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(406) 442-9937 (FAX)  
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3115 RUSSELL  
MISSOULA, MT 59801  
(406) 549-8760

REPLY TO: P.O. Box 5717  
HELENA, MT 59604

EXHIBIT 2  
DATE 12/8/93  
HB 57

MEMORANDUM

TO: <sup>*House members*</sup> House Taxation Committee

FROM: Edmund F. Sheehy, Jr., Counsel for Edmund F. Sheehy, *et al.* and *Sheehy, et al. v. Department of Revenue*

DATE: December 7, 1993

RE: House Bill 57

This memo is being written to you to express the position of the parties plaintiff to the litigation in State court over the refunds of taxes illegally paid by federal retirees for the years 1983 through 1987.

Since the inception of this lawsuit, in 1989, it has been our position that the State of Montana owes refunds to all federal retirees from whom the State illegally collected income taxes for the years prior to 1989. This litigation was premised upon the United States Supreme Court decision in *Davis v. Michigan*. The claims for refunds were limited to the prior five years based on Montana's refund statutes, which allow refund claims, for income taxes, to go back five years.

In 1990, the district court ruled in favor of the State of Montana by holding that *Davis* did not apply retroactively and should only be applied prospectively. The Montana Supreme Court, in December of 1991, affirmed the district court's decision by likewise holding that *Davis* should only be applied prospectively. As a result of this decision by the Montana Supreme Court, the plaintiffs petitioned the United States Supreme Court for certiorari.

Taxation Committee Memo  
December 7, 1993  
Page 2

In June of 1993, the United States Supreme Court granted this petition for certiorari and vacated the decision of the Montana Supreme Court. The United States Supreme Court directed the Montana courts to reconsider the *Sheehy* case in light of *Harper v. Virginia*. In *Harper*, the United States Supreme Court specifically held that *Davis* had to be applied retroactively. The question was left open to the states, however, as to how to apply it retroactively.

In almost every state where this matter has been resolved between the Revenue Department and the litigating taxpayers, the states have agreed to make refunds of taxes. Those agreements have occurred as a result of settlement discussions between the litigants and the settlements are approved by the court. In Montana, there have not been any discussions between the plaintiffs and the Montana Department of Revenue about settling this litigation. The Department of Revenue has simply come to this special session of the legislature and requested an appropriation to make refunds for the years 1984 through 1987.

The plaintiffs in the *Sheehy* litigation, of course, do not object to the payment of refunds. However, in all of the cases that have been settled in court, the courts have approved and have ordered the payment of attorneys fees to the successful counsel for the plaintiffs out of the refunds. Montana should be no exception. Therefore, the plaintiffs in the *Sheehy* litigation, are hereby requesting that House Bill 57 be amended as proposed in the attached amendments.

These amendments would allocate ten percent (10%) of the \$14,768,490 in refunds for attorneys fees for counsel for the plaintiffs. Essentially, counsel for the plaintiffs has borne the costs of this litigation except for some small fees that have been paid to him by collections made by federal retirees. The monies counsel for the plaintiffs has been paid do not in any fashion adequately compensate him for the time and costs that he has expended in this litigation. In

Taxation Committee Memo

December 7, 1993

Page 3

all of the states where courts have approved settlements, the percentage of fees awarded to the attorneys range from 15% to 20% of the refunds. Counsel here is willing to accept a lesser amount and is proposing 10% as suggested in the attached amendments.

If House Bill 57 is amended as suggested, the litigation in front of the district court will become moot and the case can be dismissed.

If, however, House Bill 57 is passed without making any provision for payment of attorneys fees to plaintiffs' counsel, counsel for plaintiff will ask the district court to attach at least 10% of the monies allocated in House Bill 57 for payment of attorneys fees.

Counsel for plaintiffs is adamant that his attorneys fees must be paid out of these refunds because, without the effort he expended on behalf of the plaintiffs, no federal retiree in Montana would have received refunds for 1988 and this legislature would not have House Bill 57 in front of it. It is simply because of the work rendered by counsel for plaintiffs that this matter is now at a stage where it can be resolved.

EFS:pam

AMENDMENTS TO HB 57

1. Amend the Title on line 9, page 1, after ". . . FEDERAL PENSION INCOME:"

Insert: ". . .; ALLOCATING A PORTION OF THE REFUNDS AS ATTORNEY FEES;.."

2. Amend Page 3, Line 13, after "15-30-321(1)"

Insert: ". . . including attorney fees for plaintiffs in the Sheehy litigation, and, . . ."

3. Amend Page 3, after Line 16, and before Line 17,

Insert: "Less 10% of each refund to be paid to the law firm of Cannon & Sheehy as attorney fees."

EX 2  
12-8-93  
HB 57

*Law Offices*

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406/549-8760

REPLY TO: P.O. BOX 5717  
HELENA, MT 59604

June 30, 1993

Hon. Marc Racicot  
Governor  
Room 204  
State Capitol  
Helena, MT 59620-0801

RE: Sheehy v. Montana Department of Revenue

Dear Governor Racicot:

I have been reading with much interest the newspaper articles concerning your position on refunding tax money to my clients. While I do not agree with the legal position being asserted by Bruce McGinnis, on behalf of the Department, I do agree that it would be appropriate for the Department and its legal counsel; your Chief of Staff; and, myself, on behalf of my clients and all other similarly situated federal retirees, to discuss a means of resolving this matter without further legal battles.

One thing I believe Ms. Browning and Mr. McGinnis need to keep in mind is that, by stipulation, in the initial litigation, it was agreed the Department of Revenue would apply the decision of the court of final resort to all similarly situated tax payers. The issue that was being litigated was the question of refunds. A copy of the order approving that stipulation is enclosed. Also enclosed is a copy of a letter from the former Director of the Department of Revenue to my father advising that if the courts rule that the income should not have been taxed prior to 1989, the retired federal employees would be entitled to refunds of their taxes paid on their pensions if they file appropriate claims for refund.

Hon. Marc Racicot  
June 30, 1993  
Page 2

I would like the opportunity to discuss these matters with Ms. Browning and Mr. McGinnis and the appropriate Department officials and the members of your staff. Please advise.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Edmund F. Sheehy, Jr.", written in dark ink.

Edmund F. Sheehy, Jr.

EFS:pam  
Enclosures

12/8/93

EXHIBIT 3  
DATE 12/8/93  
HB 57

Everett Woodgerd  
Missoula, MT

MONTANA

CIVIL SERVICE/FERS ANNUITANTS AND MILITARY RETIREES  
(SURVIVORS INCLUDED)

CONGRESSIONAL DISTRICT	NUMBER CSRS ANNUITANTS	MONTHLY GROSS ANNUITY	NUMBER DOD RETIREES	MONTHLY GROSS RETIRED PAY
REPRESENTATIVE-AT-LARGE	8,983	\$ 11,039,525 1,229	5,677	\$ 6,567,000 1,158
TOTAL	8,983	\$ 11,039,525	5,677	\$ 6,567,000

TOTAL CSRS/FERS ANNUITANTS AND DOD RETIREES 14,660

TOTAL CSRS/FERS AND DOD MONTHLY GROSS \$17,606,525  
1,201

9/30/92  
NARFE

EXHIBIT 4  
DATE 12/8/93  
HB 61

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0061, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing and requiring the Department of Transportation to contract for repair and maintenance services to private contractors when practicable unless it is demonstrated that the cost would be greater than having the work done by department employees; and amending Section 60-2-201, MCA.

ASSUMPTIONS:

1. Currently, all Department of Transportation maintenance activities are periodically evaluated for privatization potential either in part or in whole.
2. The following maintenance activities have already been considered for privatization and have been privatized either in whole or in part where it has been practicable to do so: overhead lighting maintenance; underground storage tanks; mowing including chemical mowing; crack sealing; pavement striping; contractor produced materials -- road mix, sanding material, etc.; facility improvements -- including rest area caretaker contracts; traffic signal maintenance; contracts with cities for all maintenance of state-maintained routes within the city limits; and a term contract for completed highway signs.
3. Because of the specialty nature of some equipment, such as plow trucks, there is a limited quantity of like equipment in any other market, which therefore may be deemed impractical to privatize.
4. When determining what is or is not practical to privatize, the year round balance of work for both equipment and personnel would be considered.
5. The department would not be required to issue an RFP in making its determinations if sufficient information is already available.

FISCAL IMPACT:

Based on the assumptions stated above, there would be no adverse fiscal impact for the department of transportation. Insofar as the department, as a result of the proposed legislation, determines that additional aspects of its maintenance operations are cost effective to contract, the department would experience savings. However, there is no basis upon which to estimate any such savings.

NOT FOR  
DISTRIBUTION

*David Lewis* 12-7  
DAVID LEWIS, BUDGET DIRECTOR DATE

*William Rehbein Jr.*  
WILLIAM REHBEIN JR., PRIMARY SPONSOR DATE

Office of Budget and Program Planning

Fiscal Note for HB0061, as introduced

#1

EXHIBIT 5  
DATE 12/8/93  
HB 50

Amendments to House Bill 50  
Introduced Reading Copy

Prepared by Department of Revenue  
12/ 6/93

1. Page 176, line 14.  
Following: "assessor."  
Insert: "(1)"

2. Page 176, line 25.  
Following: line 25  
Insert: "(2) A contract under this section must provide as a condition for the continuation of the contract that the assessor shall meet the qualification and certification standards required for department assessment personnel performing duties comparable to those being contracted."

REASON FOR AMENDMENT:

This amendment retains the requirement that assessors performing assessment functions for the department meet the minimum competency levels manifested by certification.

*pass*

#2

EXHIBIT 6  
DATE 12/8/93  
HB 50

Amendments to House Bill 50  
Introduced Reading Copy

Prepared by Department of Revenue  
12/ 8/93 1:17pm

1. Page 4, line 17.

Following: "system"

Insert: "The department may not charge a fee to a local taxing jurisdiction for information provided from this data base for use in taxation and other governmental functions."

2. Page 10, line 10.

Following: "municipalities."

Strike: "(1)"

3. Page 10, lines 20 through 25.

Following: line 19

Strike: page 10, lines 20 through 25 in their entirety

**REASON FOR AMENDMENT:**

The Department could not charge any fee to a local taxing jurisdiction that obtains the data base for preparation of taxes or that is used to accomplish any other government function. Consistent with this restriction, § 7-6-4410, MCA, is amended to not allow the Department to charge cities and towns 5 cents per folio of 100 words for each copy of the assessment book (now called property tax record).

Amendments to House Bill 50  
Introduced Reading Copy

Prepared by Department of Revenue  
12/ 6/93 3:23pm

1. Page 3.  
Following: line 12  
Insert:

"STATEMENT OF INTENT

With the adoption of the 1972 Montana Constitution, the state assumed responsibility for the appraisal, assessment and valuation of property for property tax administration. Though the state was granted this new responsibility and authority by the Constitution, assessors were permitted to be retained by local governments to assist the state in the assessment function, acting as agents of the department of revenue. Through the implementation and use of electronic data processing and other technological advances, many of the assessment functions previously performed by county assessors have changed dramatically.

Recognizing the need to make state and local government more responsive and efficient, it is the intent of the legislature that all appraisal and assessment duties relating to property taxation be assigned to the department of revenue. This action transfers from county assessors to the department of revenue the responsibility and authority to perform any assessment functions.

Acknowledging the talents and skills of assessors, it is the intent of the legislature that current assessors may choose to become employees of the department of revenue and their respective counties may consolidate the office of assessor with another county office.

If the current acting assessor does not choose to become a state employee and the county chooses to retain the separate office of assessor, the department of revenue will, with the consent of the assessor, contract with the county for the assessor to perform specific duties as assigned by the department. If under this agreement the assessor produces satisfactory work quality and output for the department, the department will continue the contract as long as the person currently serving as county assessor retains the assessor position. The department may also contract for any successor county assessor in counties that retain the separate office of assessor to perform duties assigned by the department.

It is further the intent of the legislature that all present deputy assessors will become employees of the department of revenue with the same preferences and benefits as other state employees.

To allow for the efficient administration of the property tax appraisal and assessment, it is the intent of the legislature that the department of revenue utilize other efficiency measures such as consolidating neighboring county appraisal and assessment offices, adjustment of office hours of department field offices, and restructuring the organizational structure of the property

#3  
Pass

assessment division.

The legislature grants to the department of revenue general rule making authority for the accomplishment of these administrative changes."

2. Page 116.

Following: line 23

Insert: "Section 112. Section 15-24-902, MCA, is amended to read:

"15-24-902. Assessment of livestock. The department of ~~revenue or its agent~~ shall assess all nonexempt livestock in each county where they are located on March 1 of each year. The livestock must be assessed to the person by whom they were owned or claimed or in whose possession or control they were at midnight of March 1 in that year."

Renumber: subsequent sections

3. Page 117, line 3.

Page 117, line 6.

Page 118, line 13.

Following: "March"

Strike: "January"

Insert: "February"

4. Page 117, line 15.

Following: "March"

Insert: "1,"

5. Page 117.

Following: line 22

Insert: "Section 115. Section 15-24-903, MCA, is amended to read:

"15-24-903. Duty of owner to assist in assessment. (1) The owner of livestock, as defined in 15-24-901, or his the owner's agent, at the time of assessment shall make and deliver to the department of revenue or its agent in for the county or counties where his the owner's livestock were located on March February 1, a written statement, under oath, showing the listing the owner's different kinds of his livestock within the county or counties belonging to him or under his charge, together with a listing of their marks and brands.

(2) As used in this section, "agent" means any person, persons, company, or corporation, including a feedlot operator or owner of grazing land, who has charge of livestock on the assessment date."

Renumber: subsequent sections

6. Page 118.

Following: line 6

Insert: "Section 117. Section 15-24-905, MCA, is amended to read:

"15-24-905. Livestock brought into state -- notice to department of revenue or its agent. The owner or the agent, manager, or foreman supervisor of any person, corporation, or

association bringing livestock into this state after March 1 shall immediately after ~~said the~~ livestock cross the state line forward to the department of revenue ~~or its agent in the county into which the livestock are moved~~ a registered or certified letter, which letter shall contain the name of the owner of such livestock, the number thereof, the brand thereon, and the ages of the same, together with the time and place at which ~~said the~~ livestock were brought across the state line, and the county or counties into which the livestock are moved. ~~provided that the~~ The department of livestock shall furnish at least once each month ~~furnish~~ from its own records to the department of revenue ~~or its agent in the county into which such livestock are moved~~ a list of the number and kind of livestock so moved, together with the name of the owner thereof.""

Renumber: subsequent sections

7. Page 119, line 10.

Following: "after"

Strike: "January"

Insert: "February"

8. Page 52.

Following: line 21

Strike: sections 51 and 52 in their entirety

Renumber: subsequent sections

9. Page 171, line 13 through 14.

Following: "on"

Strike: "newly discovered"

10. Page 176, lines 14 through 15.

Following: "assessor."

Strike: "In any county in which the county assessor does not become an employee of the department of revenue, the"

Insert: "The"

11. Page 176, line 16.

Following: "department"

Insert: "of revenue"

12. Page 179.

Following: line 1

Insert: "NEW SECTION. Section 170. Notwithstanding 2-16-117, the department of revenue may determine by rule the office hours for property appraisal and assessment field offices located in the various counties. This section does not apply to any other offices of the department of revenue."

Renumber: subsequent sections

13. Pages 179 and 180, lines 25 through 1.

Following: "(1) "

Strike: "[Sections 161 through 167] apply"  
Insert: "[Section 131] applies"

14. Page 180, line 3.

Following: "Sections"

Strike: "1 through 160, 168, and 170"

Insert: "1 through 38, 40 through 110, 112, 114 through 115, 118 through 130, 132 through 161, 169 through 170, and 172"

15. Page 180.

Following: line 4

Insert: "(3) [Sections 39, 111, 113, and 116 through 117] apply to tax years after December 31, 1994."

16. Page 180, line 12.

Following: "Sections"

Strike: "1 through 160, 168, and 170"

Insert: "1 through 130, 132 through 161, 169 through 170, and 172"

17. Page 180, line 14.

Following: "Sections"

Strike: "161 through 167, 169, and 171 through 173"

Insert: "131, 162 through 168, 171, and 173 through 175"

**REASON FOR AMENDMENT:**

The amendments make the changes in assessing livestock as of March 1 to February 1 applicable for tax years starting after December 31, 1994.

A new section is added allowing the Department of Revenue flexibility to set the office hours in county field offices to times other than 8:00 a.m. to 5:00 p.m. Under this new section the Department could reduce the office hours from the normal 8 hours per day.

These amendments allow the Department to contract with any county for assessor assistance and not just limited to those counties in which the current assessor does not elect to become any employee. This amendment permits the Department to contract in the future with counties that have had a change in assessors from the current time.

The other changes are corrections to typographical errors.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Appropriations COMMITTEE BILL NO. HB 57  
 DATE 12-8-93 SPONSOR(S) Chase Hibbard

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Tony Wayland 10 LINCOLN RD W. HELENA, MT	SELF	57		✓
HERMAN WITTMAN 1159 SEAGULL, HELENA, MT	NARFE	57		✓
Everett Woodgett 611 LIVINGSTON 74, SPOONER, MT 59901	NARFE	57		✓
AARON L ZIMMERMAN 578 FAIRWAY DR. HAMILTON, MT 59840	NARFE	57		✓
DION W. TURNER 1008 25th SW GTF Falls 59104	SELF	57		✓
MARION H. RUSHING 3620 6th Aves. Great Falls, MT 59405	SELF	57		✓
JOHN R. MILODRAGOVICH P.O. Box MISSOULA, Mi. 59806	NORTHWEST ROCKY MT RETIREE ASSOC. NRMRA	57		✓
GARY NELSON 3653 Silverthorn Dr. Stevensville, Mt. 59879	NRMRA	57		✓
ED SHEEHY 731 FIFTH AVE HELENA	SELF	57		✓
Ed Sweeney, Jr. P.O. Box 5717 Helena	Attorney - Sweeney J. Dock	57		✓
TOM G. FOLEY PO Box 5356	AFSCME			
Bernard P. Prainey 2163 Alpine Dr - Helena	NARFE	57		✓
Arthur F. Shaw	NARFE	57		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Harry McNeal

NARFE

57

✓

OK or

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

APPROPRIATIONS COMMITTEE BILL NO. H.B. 57

DATE 12-8-93 SPONSOR(S) CHASE HIBBARD

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Owen Warren	Local Chapter Fed Retirees	✓	
<del>Harry H. Hall</del>	<del>NARFE</del>	<del>✓</del>	
Bernie Swift	Leg-Retirees NARFE	✓	
Edwin B. Pluhar	NARFE - Billings	✓	
Rick Hill	Gov Office	✓	

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Appropriations COMMITTEE BILL NO. HB 61  
 DATE 12-8-93 SPONSOR(S) B. Rehbein

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
JOHN MAZE BX 5356	A.F.S. C.M.E.	61	✓	
Tom Foley Box 5356	A.F.S. C.M.E.	61	✓	
<del>XXXXXXXXXXXX</del>	<del>XXXXXXXXXXXX</del>			
John Manzer	Teamsters local #2	61	✓	
JIM TWILGER	MCCLAMBEL			✓

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