

**MINUTES**

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

**COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN BOB GILBERT**, on December 13, 1993, at  
8:30 a.m.

**ROLL CALL**

**Members Present:**

Rep. Bob Gilbert, Chairman (R)  
Rep. Dan Harrington, Minority Vice Chairman (D)  
Rep. Shiell Anderson (R)  
Rep. John Bohlinger (R)  
Rep. Ed Dolezal (D)  
Rep. Jerry Driscoll (D)  
Rep. Jim Elliott (D)  
Rep. Marian Hanson (R)  
Rep. Hal Harper (D)  
Rep. Chase Hibbard (R)  
Rep. Vern Keller (R)  
Rep. Ed McCaffree (D)  
Rep. Bea McCarthy (D)  
Rep. Tom Nelson (R)  
Rep. Scott Orr (R)  
Rep. Bob Raney (D)  
Rep. Bob Ream (D)  
Rep. Rolph Tunby (R)

**Members Excused:** Rep. Mike Foster, Vice Chairman (R)  
Rep. Gary Feland (R)

**Members Absent:** None

**Staff Present:** Lee Heiman, Legislative Council  
Jill Rohyans, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 77, HB 78, HB 79  
Executive Action: None

HEARING ON HOUSE BILL 79

Opening Statement by Sponsor: REP. SHEILA RICE, HD 36, Great Falls, asked that HB 79 be withdrawn from consideration. CHAIRMAN GILBERT agreed and the hearing was cancelled.

HEARING ON HOUSE BILL 77

Opening Statement by Sponsor: REP. Wm. RYAN, HD 38, Great Falls, said the bill imposes a realty transfer tax of 1% for funding an income tax credit for property taxes paid. The bill establishes a Montana Homeowner Protection Account into which the proceeds of the realty transfer tax are paid and out of which the income tax credit is reimbursed to the state. He estimated the proceeds from the realty transfer tax to be \$20 million and the increased taxes due to reappraisal to be \$18 million. REP. RYAN pointed out the title of the bill, line 14, should be amended by striking "increased" and inserting "non-voted." As more people buy property and values increase, the balance in the Montana Homeowners Protection Account will increase commensurately. He submitted a copy of the proposed fiscal note he received shortly before the hearing (Exhibit #1).

Proponents' Testimony: There were no proponents.

Opponents' Testimony:

Dennis Burr, Montana Taxpayers Association, noted the proposed amendment to the title of the bill would make a significant difference as the non-voted school levies were the reason for the increased property taxes in many areas of the state, particularly in eastern Montana. The Montana Taxpayers Association has opposed the realty transfer tax for many years. He said the bill includes agricultural and timber land which are not currently covered by the realty transfer certificate. He expressed concern about provisions in Section 10 in which the County Treasurer can make adjustments and assess penalties. However, Section 8 authorizes the Department of Revenue (DOR) to enforce and collect the penalties. He failed to see any relationship between the money collected from a 1% realty transfer tax and the amount of money needed for the homeowners reduction. He anticipated there would be considerably more income to the fund than would be returned to taxpayers because the amount of the credit declines in relationship to income. He said property owners will still have to come up with the money to pay their property taxes and, at a later date, would probably receive a tax credit. In that respect, the bill does not provide any real property tax relief. He said the residence eligibility language in Section 13 is

confusing and should be clarified.

**Tom Hopgood, Montana Association of Realtors,** said the short title of the bill should be "a bill to collect a tax for tax relief." The Realtors strenuously oppose the bill. He agreed with Mr. Burr that the real problem with the bill is the eligibility section; however, the bill is full of loopholes. He said the tax levied on the sale or transfer of agricultural and timber land creates a major dilemma as the owners of those lands would not be entitled to any sort of income tax credit.

**Steve Mandeville, Helena realtor,** said this is a simple case of robbing Peter to pay Paul. It is a tax on property to relieve a tax on property. The realty transfer tax is a regressive tax which singles out a very small group to pay for it. A real property owner is an investor and is already paying his or her share to the existing property tax program. It is extremely counterproductive to increase the tax and do it in a disproportionate manner.

**P. C. Musgrove, First Vice President, Montana Association of Realtors,** said the present real estate tax burden adversely affects the availability and affordability of residential, rental, and commercial property. The addition of a realty transfer tax will further affect the affordability of real property for purchasers as well as renters. The realty transfer tax is regressive and adds directly to the up front costs of a home purchase. It is hardest on those who can least afford to pay.

**Nancy Griffin, Executive Officer, Montana Building Industry,** submitted her testimony in opposition to the bill (Exhibit #2).

**Greg Van Horsen, Montana Landlords Association and the Income Property Managers Association,** said he echoed the previous testimony and asked the Committee not to pass the bill.

**David Owen, Montana Chamber of Commerce,** concurred with the previous testimony and expressed opposition to the bill.

**Jim Peterson, Montana Stockgrowers Association and the Montana Woolgrowers Association,** said the bill would tax the transfer and sale of agricultural land. He said it would be impossible for agricultural families to pass their farms and ranches to their children if the transfer tax was imposed. He noted the bill was debated thoroughly in the regular legislative session and then defeated, and he asked that it be defeated again.

**Questions From Committee Members and Responses:**

**REP. HARPER** said the realty transfer tax is a good idea. Everyone agrees that out-of-state purchasers and wealthy Montanans are buying land and driving up values. He asked Mr. Owen if there is a better plan than taxing the people who are

driving up the prices.

**David Owen** said the long term answer is that his organization is becoming more comfortable with the idea of purchase price setting the value. The short term answer is that comprehensive tax reform is the best solution.

**Closing by Sponsor:** **REP. RYAN** closed by asking the Committee to take a good hard look at the bill. He deferred to the expertise of the Taxation Committee and said he had no intention of going after agricultural and timber lands. His idea is to provide tax relief and establish the Montana Taxpayers Protection Act. He said all the money collected should go back to Montanans for tax relief and asked the Committee to amend the bill so that all the money would be distributed. He said the payment of the tax should be negotiated between the buyer and the realtor at the time of the sale. He urged the Committee to amend the bill to make it workable.

#### HEARING ON HOUSE BILL 79

**Opening Statement by Sponsor:** **REP. HOWARD TOOLE, HD 60, Missoula,** said the bill is a small modest tax relief gift to Montana taxpayers. He said the ad valorem tax should not be tampered with and he does not like the idea of a property tax freeze. A property tax system should be retained that provides for reappraisal and deals with associated problems in a modest way. HB 79 is a reverse mortgage approach that enables taxpayers to borrow from the state to pay the increased portion of taxes that result from reappraisal. Repayment would be made at the time of sale of the property or upon the death of the owner/borrower. He submitted a copy of the fiscal note (Exhibit #3). The formula in Section 3 provides that if property taxes increase beyond the inflation rate, the taxpayer is entitled to borrow the increased portion of the taxes from the state. Interest accrues on the borrowed portion at eight percent.

#### Proponents' Testimony:

**Dennis Burr, Montana Taxpayers Association,** said his organization supports the concept of a tax deferral bill. He said the Governor's advisory committee looked at the idea but did not adopt it in part because deferral programs are not widely utilized. He said the bill does not go far enough to entice the taxpayers to take full advantage of the loan program. A deferral program whereby the state pays all the property tax until the property is sold and redeemed and the taxes are paid back would be more attractive.

**Opponents' Testimony:** There were no opponents.

Questions From Committee Members and Responses:

REP. HIBBARD asked exactly who is eligible for the program.

REP. TOOLE said eligibility is spelled out in Section 2 of the bill. The means test is found in Section 3. The means test determines the percentage amount that can be deferred based on household income.

REP. BOHLINGER asked if the sponsor would be in favor of deferring the entire amount of the property tax bill as proposed by Mr. Burr.

REP. TOOLE said he did not have a problem with the proposal; however, he expressed concern that the \$5 million fund might be used up rapidly if there were large numbers of homeowners applying who would be staying in their homes for an extended length of time.

REP. BOHLINGER asked if the sponsor would consider a floating interest rate tied to the prime rate.

REP. TOOLE said he thought the eight percent rate might be high for this market and a floating rate would be better.

REP. DOLEZAL asked how widely this type of program had been utilized in other states.

Mr. Burr replied that number was quite low, perhaps about eight percent of the eligible taxpayers accessed the program. People are reluctant to put that type of lien on their property if it is not necessary.

REP. DOLEZAL asked about the technical problem in the fiscal note referring to Short Term Investment Pool funds.

REP. TOOLE said he had received the fiscal note only moments before the hearing and, although he had noted that there was a problem, he had not had the chance to pursue it further. He said he was sure the funding provision by the Board of Investments could be worked out by the Committee.

In answer to a question by REP. DRISCOLL, the sponsor said the owner would have to apply for the deferral every reappraisal cycle and then only for the amount of increase over the previous cycle.

REP. RANEY said he had sponsored a similar bill for senior citizens in a prior session. One concern was the impact of the

accrued amount of back taxes on children when a parent dies and leaves them property. He asked if there would be an objection to amending the bill extending the payback period for children over ten years following the death of the parent.

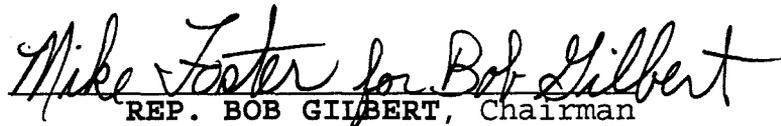
REP. TOOLE had no objection to such a provision.

Closing by Sponsor:

REP. TOOLE closed saying this is a modest proposal that addresses the property tax problem due to increased reappraisal values. It is a concept that can be adapted easily to bills that are currently being considered and is worthy of further consideration by the Committee.

ADJOURNMENT

Adjournment: The meeting adjourned at 9:40 a.m.

  
REP. BOB GILBERT, Chairman

  
JILL ROHYANS, Secretary

BG/jdr

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE 12/13/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER			✓
REP. HARRINGTON	<i>in at 9:30</i>		✓
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND			✓
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. MCCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0077, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing property tax relief by imposing a realty transfer tax on certain transfers of real property at the rate of 1 percent of the value recorded on the realty transfer certificate; providing penalties for providing false information on a certificate; establishing a homeowner protection account for funding the income tax credit for property taxes paid; depositing the proceeds of the realty transfer tax in the homeowner protection account; allowing a credit against individual income tax liability for the increase in property taxes paid due to reappraisal and increased mill levies, except for nonvoted school levies; requiring taxpayers to make application with the county assessor; directing the county assessor to determine the amount of property tax paid that may be eligible for the credit; and providing an immediate effective date and applicability dates.

ASSUMPTIONS:

1. In a calendar year, the value of all non-agricultural real property transferred in the state is estimated to be \$1.93 billion. The estimates included in this fiscal note will pertain to the transfer of non-agricultural property only. Data on the value of agricultural and timber property does not exist since these transactions are exempt from listing a sale value on the realty transfer certificate.
2. There are 206,000 owner occupied housing units in Montana (US Census). Of this number, 82.8% (170,568) are eligible for the credit (i.e., 82.8% are the same taxpayer against whom property taxes for the property were assessed in 1989, 1990, 1991, or 1992) (see technical note 1). Any property sold after December 31, 1991, is not eligible for the credit provided in this bill.
3. Of the 170,568 eligible for the credit, 57% (97,224) received an increase in assessed value due to reappraisal. The average increase was \$8,185. This is a total increase in assessed value of \$795,770,255, of which 45% (\$358,096,615) is within a city/town.
4. The credit would apply to mills levied for state (university 6 mill levy), county, and city/town nonvoted mill levies. Mills levied for the school foundation program (95 mills) are considered a nonvoted school levy (see technical note 2).
5. For the purposes of this fiscal note, it is assumed that the I-105 property tax freeze has resulted in nonvoted mills levied for state (university 6 mill levy), county, and city/town purposes remaining constant for 1989 thru 1994.
6. Average mill levies for residential property are 6.00 mills for universities, 95.00 mills for the school foundation program, 75.88 mills for counties, and 96.08 for cities and towns.
7. Application of the household income based percentage multipliers contained in the proposal results in 60% of the potential total credit being paid to taxpayers.

FISCAL IMPACT:

(see next page)

*Dave Lewis* 12-8

DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

BILL RYAN, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0077, as introduced

#1  
12-13-93  
HB 77

FISCAL IMPACT:

Revenues:

Impact to the Homeowner Protection Account:

	<u>FY94</u>	<u>FY95</u>
1% Realty Transfer Tax	\$ 0	\$ 19,300,000
Paid in Income Tax Credits	<u>0</u>	<u>(2,305,893)</u>
Balance	\$ 0	\$ 17,994,107

Expenditures:

There are expenditures associated with this bill. Divisions incurring expenditures are property assessment, income tax, and operations. For the sake of expediency, these costs are not calculated.

TECHNICAL NOTES:

1. In section 13, parts (1), (2), and (3), the proposal implies that individuals who acquired their primary residence in calendar year 1992 may be eligible for the credit. However, these individuals would not qualify for the credit under section 13(4) because they would not have been the same taxpayer against whom property taxes for the property were assessed in 1992.
2. Mills levied for the school foundation program in 1989 totaled 45 mills. Mills levied for the school foundation program for 1990 and beyond totaled 95 mills. If school foundation program mills are included in calculating the credit, those taxpayers who acquired their home prior to 1990 most likely would receive larger credits than those taxpayers who acquired their home in 1990 or 1991.

EXHIBIT 2  
DATE 12/13/93  
HB 77



**HB 77**  
**1% Realty Transfer Tax**

**Recommend:**  
**Do Not Pass**

Nancy Griffin, Executive Officer, Montana Building Industry Association.  
Representing 6 local associations, 720 members, registering 31,007 employees.

**1. Provides that families that change houses subsidize those who stay put.**

There has been much discussion on equitable taxation during this legislative session. Everyone has an idea to ease the property tax burden; yet here is another property tax.

To refresh your memories about the current taxes that housing pays:

<u>Existing Housing</u>		<u>New Housing</u>	
Property Tax	\$ 1,800/yr.	Property Tax	\$2,000/yr.
Service Fees	500/yr.	Hookup Fee	500
SID's	\$ 600 - 1,500	SID's	\$1,500
		Septic Tank & Drainfield	\$ 3,500 *
		Water Well & Pump	\$ 2,000*
		Building Permit	\$ 1,000 *
		Impact Fees	\$ 500 *
		Engineering Fee	\$ 500 *

(\* one time costs)

Housing supports the provision of local infrastructure services, water, sewer and roads. If you consider the jobs and support services housing provides, you will understand that it is the homebuilding industry that is providing economic growth within our Montana communities.

- OFFICERS:**
- Gene Graf III  
Bozeman, President
  - Stan Helgeson  
Billings, 1st Vice President
  - Bob Ross, Jr.  
Kalispell, 2nd Vice President
  - Mark Meek  
Helena, Treasurer
  - David Steen  
Great Falls, Past President
  - Tom Dean  
Bozeman, National Rep.
  - Jim Caras  
Missoula, Builder Rep.
  - Frank Armknecht  
Bozeman, Associate Rep.
- CHAPTERS:**
- Bozeman Building Assoc.  
752-2522
  - Missoula Building Industry Assoc.  
3-4423
  - Helena Building Industry Assoc.  
458-5380
  - Homebuilders Assoc. of Billings  
2-7533
  - N.W. Montana Building Industry Assoc.  
585-8181
  - Great Falls Homebuilders Assoc.  
2-HOME

Affiliated With



In compliance with a written request, there is hereby submitted a Fiscal Note for HB0078, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a property tax deferral program to reduce the impact of higher property taxes because of reappraisal; establishing the amount of tax-deferred property eligible for the property tax deferral program; providing state reimbursement to counties for property taxes deferred under the property tax deferral program; directing the Board of Investments to loan \$5 million for making initial payments for the property tax deferral program; granting rulemaking authority to the Department of Revenue; and providing an immediate effective date and an applicability date.

DEPARTMENT OF REVENUE

FISCAL IMPACT:

Expenditures:

The proposal will impact Department of Revenue administrative costs. However, the impact is not known, and for reasons of expediency are not provided at this time.

Revenues:

Over the long run this proposal has minimal impact on revenues. This is because the program does not relieve property tax burdens, but simply defers them to a future payment date. Local governments are made whole through provisions in the bill that allow the Department to reimburse them for property taxes deferred immediately. This payment is provided through a loan from the Board of Investments at the rate of 8 percent. Property tax deferrals, when paid, also require the payment of interest at the rate of 8 percent. To the extent that the timing of payments to local governments from the Board of Housing loan precedes repayments of property taxes deferred, there exists a one-time revenue loss of the interest differential due to this timing effect.

Revenue impacts are expected to be minimal also due to the fact that it is expected that use of a deferral program is likely to be very low. This has generally been the experience of other states. In addition, the Board of Housing currently has a similar program in place, the reverse annuity mortgage loan program, available to persons age 68 and over. In the first two and a half years of operation, only 14 loans have been granted statewide. The historically low participation rate in these types of programs is generally attributable to the fact that taxpayers do not like having liens placed on their properties.

TECHNICAL NOTE:

There are two typos in Section 3 of the bill that need to be changed to make it work as intended. First the equation in Section 3 should read: D=MV-A(I). Second, sub-section 1(d) should read June 1993 followed by June 1992, rather than vice versa.

BOARD OF INVESTMENTS: (see next page)

*Paul Lewis* 12-8  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

NOT FOR  
DISCUSSION

HOWARD TOOLE, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0078, as introduced

BOARD OF INVESTMENTS:

ASSUMPTIONS:

1. The Board of Investments would lend up to \$5.0 million from the Short Term Investment Pool (STIP) authorized in Section 17-6-203(3). The loan proceeds would be deposited in the "Property Tax Deferral Account" and used by the Department of Revenue to make payments to county treasurers. The loan would be re-paid to STIP with interest at 8.0% per annum.

FISCAL IMPACT:

- 1. Although the 8.0% interest required in this legislation is significantly greater than the current interest rate generated by STIP, it is not possible to determine the long-term fiscal impact on STIP for the following reasons:
  - a. The payback period for the loan (duration) is not specified;
  - b. The STIP interest rate fluctuates based on market conditions, while this loan would be fixed at 8.0%; and
  - c. The STIP interest rate cannot be accurately predicted during the loan payback period.

Expenditures:

- 1. This legislation would not increase Board of Investments expenditures.

Revenues:

- 1. The impact on STIP participant interest earnings cannot be determined

TECHNICAL NOTE:

1. This legislation requires that the Board of Investments make a loan from the "non-coal tax" portion of STIP. This is technically impossible because the Coal Trust is an active participant in STIP. If a \$5.0 million loan is made from STIP, the Coal Trust would participate in funding the loan.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Taxation COMMITTEE BILL NO. HB 77  
 DATE 12/13/93 SPONSOR(S) Ryan, Todd, S. Rice HB 78  
HB 79

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Steve Mandeville	MT Assoc Realtors	77	X	
Dennis Burr	MT TAXPAYERS ASSOC	77	X	
P.C. Musgrove	MT ASSOC REALTORS	77	X	
Gregory Van Horssen	Income Property Managers Montana Landlord Assn	77	X	
Tom K. Hopgood	MT ASSOC REALTORS	77	✓	
Jim Peterson	MSEA and Workgrowers	77	✓	
Gordon Morris	MALCO	77		✓
David Owen	MT Chamber	77	✓	
Nancy Co. Hein	MT Building Industry	77	✓	

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