

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 3, 1983

The eighteenth meeting of the Taxation Committee was called to order at 9 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 242: Senator Gage, the sponsor of the bill, said the amendments in this bill make it more understandable by enumerating in new section 2 the kinds of income that will be taxable in estates and trusts and enumerating in new section 3 the deductions allowed. It also plugs a loophole in the existing statutes where administrative expenses can be deducted for both inheritance tax purposes and estates and trust income tax purposes. The proposed change will allow the deduction for either estates and trust tax purposes or for inheritance tax purposes, but not for both. This conforms to federal law. See Exhibit A.

PROPOSERS

Ken Morrison, administrator of the Income Tax Division of the Department of Revenue, said they have received information from tax practitioners that they would like to see a separate fiduciary income tax return in Montana. The bill doesn't change the revenue; it just clarifies what is in the codes now.

OPPOSERS

There were no opposers to SB 242.

Questions from the committee were called for.

Senator Norman remarked that there was no fiscal note and asked if it was safe to say we don't need one. Mr. Morrison stated that the changes are so minor that the bill did not require a fiscal note.

Senator Towe said that the IRS allows only a \$100 exemption on complex trusts. He wondered if that could be changed for Montana. Mr. Morrison stated that it was okay with him to change it to \$940, which is the personal exemption this year on individual income tax returns.

The hearing was closed on SB 242.

CONSIDERATION OF SENATE BILL 254: Senator Harry Berg, Senate District 21, was the sponsor of this bill. Last summer, a Fish, Wildlife & Parks (FWP) boat took him to Wild Horse Island in Flathead Lake. The FWP deputy standing next to him sighted eight good-sized boats along the shore that were not registered. He said the present \$10 fine is not enough incentive for people to go license their boats. One individual has been cited eight different times, and he would rather pay the fines than buy a boat license. Initially, Senator Berg set out in this bill to increase the fines and then thought boats should be treated the same as snowmobiles, motor homes, and other recreational vehicles. This bill will accomplish three things: (1) increase the fines for failing to register, (2) treat licensure of boats the same as licensure of other recreational vehicles, and (3) expedite the licensing process.

Senator Berg did point out that there is an error in the introduced bill on page 26, line 24, that needs correction. He said that following "motorboat", "less than" should be inserted; and following "feet", "or less" should be deleted.

PROPOSERS

Senator Matt Himsl, Senate District 9, approved of the concept of the bill. The valuation right now is subjective, he said, and a lot of boats are not registered at all.

Ken Hoovestall, representing the Montana Marina Trade Association, gave a breakdown of how much in fees would come from the various sizes of boats:

- 40% - under 14 feet
- 40% - 14 feet to less than 19 feet
- 17% - 19 feet to less than 25 feet
- 3% - 25 feet and over.

The proposed law will bring in \$456,168 on motorboats (a \$118,499 increase over the present law) according to the fiscal note. Counties and school trust funds would benefit because of additional registrations and because of lower fees. Mr. Hoovestall felt it would be a convenience for boat owners not to have to have their boats assessed. The books available on boat values are basic guidelines. A boat doesn't necessarily depreciate. And an owner has the income tax deduction of the fees paid. Under this bill, the new owner would have a 20-day grace period in which to register his boat and could thus operate his boat the weekend that he buys the boat. It proposes an increase in fines ranging from \$20 to \$100 which allows a variance for repeat offenders.

Bill Christiansen, a retired state employee, also supported the bill. He mentioned HB 204 from the 1981 session, which apparently had an unreliable fiscal note with it. Additional information generated from the Coast Guard guide on boat lengths enforces this year's fiscal note, and he thinks it is very reliable, with good facts supporting it. He felt the increase in fines was good, and hoped the counties would use some of that money for compliance.

They are spending awfully close to nothing on compliance now, he said. This will be extra revenue, and they should use some of it for compliance.

Robert Miller, representing the Department of Fish, Wildlife & Parks (FWP), submitted a written statement and it is attached as Exhibit B.

Tom Hanson, representing the Montana Boat and Ski Club, said they favor the flat fee system. He said he called the assessor's office, and a 1982 Cadillac can be licensed for \$95.33 a year, but a 1982 Blaston Carlson boat, which they sell, costs \$1,265 to license.

Bob Stockton, representing the Canyon Ferry Yacht Club, sells sailboats. He has a boat purchased in 1973 which is now assessed at a higher value than he paid for it. Forty boats are represented by the yacht club, only one of which is under 21 feet. They would like to see the burden shared by all boat owners. He also mentioned that the leading boat in a race was once pulled down by the Coast Guard for inspection.

OPPONENTS

Mike Stephen, representing the Montana Association of Counties, said that going to the flat fee system will continue to erode the tax base. He provided a list, marked Exhibit C, showing items on which the legislature has removed or lowered the taxable value during the past five sessions. We are in a quandry as to how to maintain the property tax base, he said. They are criticized by taxpayers for compliance, too, he said. In Lewis and Clark County, this is handled in the sheriff's department's general fund. They are strapped for money. The legislature passes bills and then asks the counties to put manpower into them. He heard testimony on another compliance bill where a deputy will have to check school buses, etc., for a decal to see whom they are transporting in the vehicle. They have about two deputies per shift patrolling. Their priorities change and they can put some time in, but they can't be checking for decals all the time.

NEUTRAL

Larry Majerus, administrator of the Motor Vehicle Division, supported the increase in fines section of the bill, but he questioned the 20-day provision regarding the bill of sale.

Questions from the committee were called for.

Senator Severson stated that seven of the categories on Mr. Stephens' list have three book values and are valued at "middle" rather than "low" book (ag machinery and trucks, aircraft, trucks over 3/4 ton, construction equipment, motor boats, boat trailers and motorcycles).

Senator Turnage, quoting some figures from the Department of Revenue report, said Flathead County only has one boat; Petroleum County has 4, Lake County has 1,731, and Silver Bow County has no boats, but does show market and taxable values.

Gregg Groepper, administrator of the Property Assessment Division of the Department of Revenue, said that if the boats are not registered, their division does not receive the information.

Senator Berg added that sailboats without kickers are not included in this bill.

Senator Turnage thought registration responsibilities should stay with the county treasurer.

Mr. Majerus stated that there are no provisions to title boats in Montana now, but SB 257 in the FWP committee deals with titling of boats.

Senator Towe stated that the average market value of a 15-foot boat is \$1,109. Taxes on that would be \$36 now, and under this bill, the taxes would be \$15.

Senator Berg stated that small boats would pay a little more than they have in the past. There are 30,369 boats registered right now. The fiscal note does not change that figure. (Exhibit D)

Ken Morrison gave a breakdown of income from the different sized boats. The average fee per boat would be \$14.01.

Senator Berg said he would work with the committee on any changes they felt would be necessary.

The hearing was closed on SB 254.

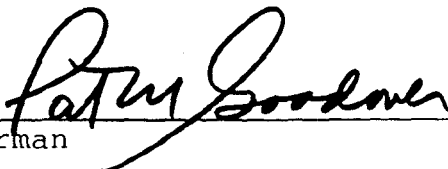
DISPOSITION OF HOUSE BILL 133: Senator Elliott thought the \$50 minimum fine was a proper amount and would take care of administrative costs of the Department of Revenue. Senator Turnage agreed with him. (See Exhibit E amendments)

Senator Towe moved that after "failure" on page 2, line 8, the following be inserted: ", provided that the minimum penalty for failure to file the statements required on or before February 15 of each year shall be \$50." The motion was seconded and unanimously carried.

Senator Elliott moved that after "law" in line 5 on page 2, "for failure to pay a tax when due" be inserted. He withdrew his motion.

Senator Towe moved that HB 133 DO PASS AS AMENDED. The motion was seconded and carried, with Senators Crippen and Severson voting no.

The meeting adjourned at 10 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 2/3/83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

COMMENTS ON THE BILL TO REVISE THE LAWS CONCERNING THE
INCOME TAXATION OF ESTATES AND TRUSTS.

This bill is a direct result of requests from accountants and other tax practitioners for more specific income tax laws for beneficiaries and fiduciaries of estates or trusts.

The current tax on beneficiaries or fiduciaries of estates or trusts, 15-30-135, MCA, has remained virtually unchanged since it was enacted in 1933. The statute has become increasingly out of date. In particular, as federal tax laws and regulations concerning the income taxation of trusts and estates has become more refined, the state's approach has diverged more and more from federal practice. The federal government, for example, provides a special income tax form tailored to the particular circumstances of estates and trusts. The state law, in effect, requires the continued use of the regular individual income tax return for these specialized financial entities.

The bill would generally clarify the income tax treatment of estates and trusts. It would update the statute by incorporating the current legal and accounting terms and arrangements generally associated with estates and trusts. Finally, it would conform the law more closely to the federal law.

With this bill, a statutory base would exist for the Department to provide a special income tax form for estates and trusts. The form would be similar to the federal form and should make the filing of a fiduciary return easier.

The proposal is primarily a housekeeping measure and would not significantly affect the amount of revenue collected.

SPECIAL NOTE ON MATERIALS AVAILABLE FOR HANDOUT:

Attached is a comparison of the existing law and the proposed bill for taxation of estates and trusts. A comparison between the provisions of the proposed bill and the federal law is also provided.

"TAXATION OF ESTATES AND TRUSTS"

Proposed Changes

With the proposed revision to Section 15-30-135, MCA, "Tax on beneficiaries of fiduciaries of Estates or Trusts," there would be no significant change in the amount of taxes collected. The following changes would result:

EXISTING LAWS

1 Tax Return

The tax on Estates and Trusts is presently figured using the Montana Individual Income Tax form.

2 Computation of Income

The computation of income is presently computed the same as the Montana individual income tax.

3 Personal Exemptions

Presently the Estate or Trust is allowed one personal exemption of \$880.00.

4 Administrative Expenses

The present law allows the deduction of Administrative Expenses for both Inheritance tax purposes and Estates and Trusts Income Tax purposes.

PROPOSED REVISION

Tax Return

Under the proposal a separate form would be specifically designed for Estates and Trusts. The form would correspond to the federal form.

Computation of Income

Under the proposal the computation of taxable income is the same as for individuals except for the variances listed in #3 and #4:

Personal Exemptions

Under the proposal the exemption for an Estate or Trust would be broken down into \$600 for an Estate, \$300 for a Simple Trust and \$100 for a Complex Trust. This is in conformance with federal law.

Administrative Expenses

Under the proposal the Administrative Expenses are allowed for either Estates and Trusts tax purposes or Inheritance tax purposes, but not for both. This conforms to federal law.

Proposed Bill for Taxation of Estates and Trusts

The proposed bill differs from federal law on the taxation of estates and trusts in the following ways:

	<u>Federal Law</u>	<u>Proposed Bill</u>
*Federal Income Tax	Not Deductible	Deductible
*Federal Income Tax Refund	Not Reportable Income	Reportable Income
*Montana Income Tax	Deductible	Not Deductible
*Montana Income Tax Refund	Reportable	Not Reportable
*Teachers Retirement	Partially Taxed	Not Taxed
*Montana Public Employees	Partially Taxed	Not Taxed
*Montana Highway Patrol	Partially Taxed	Not Taxed
*Policeman's Retirement	Partially Taxed	Not Taxed
*Federal Employees Retirement	Taxed	\$3,600 Not Taxed
*Private Retirement	Partially Taxed	\$360 Exempt
*Interest Exclusion-Elderly	Not Exempt	Exempt
*Regular Mont. Corporation electing SUB "S"	Not Taxable	Income, Gains, etc. taxable
60% Capital Gain Deduction	Not Allowed	Allowable

*This treatment conforms with state and federal individual income tax laws.

FEBRUARY 3, 1983

SB 254

Testimony Senate Bill 254

I am Robert M. Miller, Safety Administrative Officer in the Enforcement Division of the Department of Fish, Wildlife and Parks.

In this position as administrator of boat safety programs I have been asked to present data on the number of arrests for failure to register motorboats and how many times we have repeated violations.

The number of violations indicated on the fiscal note are for the year of 1981. We do not have the complete statistics for 1982 but a review of the violations of '82 showed that the arrests increased to 297, mainly by the effort of concentrated enforcement in high boat use areas. During the year we had 15 two time repeaters and one 3rd time repeater. I might add there was 24 Courtesy Citations issued.

I was also asked about the percentages of different length boats used in the fiscal note. The Coast Guard survey of boats nationwide indicated that 62% of all boats are 16 feet and under, 34% are 16-20 feet and 3%, 20-65 feet.

By surveying boat dealers and wardens throughout the state we broke down the 62% to meet the requirements of the bill.

In addition to long-standing exemptions from property taxation (such as public buildings, charity and religious property and public art galleries), the legislature has removed or lowered the taxable value of other properties during the past five sessions, including the following:

Household goods

Freeport merchandise

Unprocessed fruits and vegetables

Unprocessed agricultural products

Livestock under nine months

Swine under three months

Bankshares

One-half of coal contracts if producer extracts less than 20,000 tons annually

Pickup toppers less than 300 pounds

Property of nonprofit community service organizations

Sprinkler irrigation systems

Senior citizen centers

Business inventories

Automobiles and light trucks

Livestock and poultry (from 8% to 4%)

100% disabled veterans (depending on adjusted gross income)

Rollback taxes

Agricultural machinery and trucks (from high book to low book)

Aircraft (to low book)

Trucks over 3/4 ton (to low book)

Construction Equipment (to low book)

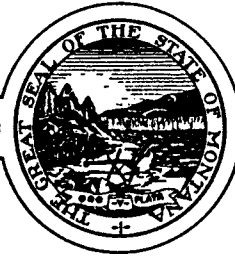
Motor boats (to low book)

Boat trailers (to low book)

Motorcycles (to low book)

Windfall profits tax (deducted from net proceeds tax)

EXHIBIT D
OFFICE OF THE GOVERNOR FEBRUARY 3, 1983
BUDGET AND PROGRAM PLANNING SB 254



TED SCHWINDEN, GOVERNOR

SB 254
CAPITOL BUILDING

STATE OF MONTANA

(406) 449-3616

HELENA, MONTANA 59620

February 3, 1983

*Rec'd 1:20 p.m.
2/3/83
from Harry
Berg.
- lje.*

Capitol Station
Representative Harry Berg
Box 7
Helena, Montana 59620

Dear Representative Berg:

In regards to your bill, Senate Bill 254, the fiscal note has been prepared. However, our office has been notified that the figures for the property tax revenues on motorboats are slightly incorrect. On the note, the estimated increase is \$118,499 when it should have been \$119,137. We do not intend on filing a revised fiscal note for this rather small amount, but we shall if you so request.

Sincerely,

Susan Bloom

SUSAN BLOOM
Fiscal Note Coordinator

SUSAN1:S/1

Number of boats per county
registered in 1982

Silver Bow	1040	Teton	329
Cascade	3168	Stillwater	177
Yellowstone	2193	Treasure	37
Missoula	3132	Sheridan	136
Lewis & Clark	2046	Sanders	428
Gallatin	1171	Judith Basin	93
Flathead	4730	Daniels	66
Fergus	342	Glacier	227
Powder River	56	Fallon	82
Phillips	244	Sweetgrass	113
Ravalli	673	McCone	147
Lake	2176	Carter	19
Dawson	417	Broadwater	271
Roosevelt	274	Wheatland	84
Beaverhead	216	Prairie	38
Choteau	251	Granite	150
Valley	532	Meagher	107
Toole	200	Liberty	125
Big Horn	307	Park	393
Musselshell	160	Garfield	109
Blaine	80	Jefferson	226
Madison	263	Wibaux	18
Pondera	300	Golden Valley	24
Richland	427	Mineral	113
Powell	236	Petroleum	33
Rosebud	372	Lincoln	1259
Deer Lodge	397	State	162

30369 total

FEBRUARY 2, 1983

AMENDMENTS TO HOUSE BILL NO. 133

1. Page 2, line 8.

Following: "of"

Strike: "\$20"

Insert: "\$5"

Passed 2/2/83

2. Page 2, line 8.

Following: "failure"

Insert: ", provided that the minimum penalty for failure
to file the statements required on or before February 15
of each year shall be \$50."

Amendment (1) was passed on 2/2/83; amendment (2) is proposed
language for the committee to consider and vote on as the
second half of Senator Elliott's motion to amend made on 2/2/83.

February 3 19 83

MR. **PRESIDENT**We, your committee on **taxation**having had under consideration **House** Bill No. **133****Williams (Elliott)**Respectfully report as follows: That **House** Bill No. **133****third reading, be amended as follows:**

1. Page 2, line 8.

Following: "of"

Strike: "\$20"

Insert: "\$5"

Following: "failure"

Insert: ", provided that the minimum penalty for failure to
file the statements required on or before February 15 of each
year shall be \$50."

And, as so amended,

BE CONCURRED IN~~EX-155~~