

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

January 17, 1985

The sixth meeting of the Taxation Committee was called to order in room 312-1 of the state capitol building by Chairman Gerry Devlin on January 17, 1985 at 8:05 a.m.

ROLL CALL: All members were present as was Dave Bohyer, Legislative Researcher for the Legislative Council and Alice Omang, Secretary.

CONSIDERATION OF HOUSE BILL 73: Representative Holliday, District 31, stated that this is an act to exempt for inheritance tax purposes property that is distributed or is passing to a decedent's parents or siblings. She indicated that six months ago, she thought it was one of the greatest bills that came along, but now she thinks it may be one of the worst. She said that neither she nor Senator Turnage anticipated the enormous impact as shown on the fiscal note.

PROPOSERS: Alan Eck, representing the Montana Farm Bureau, testified that the Farm Bureau supports any effort that would reduce the burden of the inheritance tax, and they believe in the rights of a person to pass on the fruits of their labor. See Exhibit 1.

There were no further proponents.

OPPOSERS: Dan Bucks, Deputy Director of the Department of Revenue, advised that there were three points he would like to discuss - (1) to explain the provisions in the existing law that are designed to help make sure that family farms and businesses are passed on even when there are no exemptions in the law; (2) to show that this bill goes beyond the family farm and business; and (3) to explain how they put the fiscal note together. He also introduced Dewey Johnson, Chief of the Inheritance Tax Bureau of the Department of Revenue, who was there to answer any questions.

There were no further opponents.

QUESTIONS ON HOUSE BILL 73: Representative Zabrocki asked if there were any way that the money could be gotten into local government as that money was made in the county and that is where it should stay.

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Mr. Bucks responded that he felt there were a couple of ways this could be done - (1) would be to take the money you receive from inheritance tax and have a formula distribution to local government and (2) to try somehow to break down the estates on the basis of where the property was located. He explained that if there was an estate that involved property in more than one county, you could break it down according to where the property was located.

Representative Switzer noted that Mr. Bucks had said that they had valued ten estates on productivity and used that in the valuation of the estate and he asked if he had any recollection of what the value of that productivity was.

Mr. Bucks answered that he would not have that information. He referred the matter to Mr. Johnson.

Mr. Johnson informed the committee that he could not give them a down and out figure, but the formula is that you take the fair market value, then take the value of comparable land in the same area, average them, then subtract the real estate taxes from that figure and then capitalize it by dividing what the federal land bank interest rate is, which currently is 11.4% and this gives you the special use evaluation. He continued that the limitation on this as of the 1983 legislature is \$750,000.00 and it may reduce the amount of this type of property in an estate by \$750,000.00.

Representative Switzer indicated that he does not believe that it has followed the productive value and that they are getting into market value. The first figure in the formula was market value and then leases.

Mr. Johnson replied that the leases give you the productive value - what you pay for a lease is what you expect to receive from the land plus profit.

Representative Switzer asked if the state regulations follow the annual changes that are built into the federal regulations.

Mr. Bucks responded that they have in the past, but they lag somewhat because of our two-year situation.

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Representative Switzer asked if the \$750,000.00 cap is in effect at this time.

Mr. Johnson replied that it was.

Representative Switzer asked if that is what the federal level is at this time.

Mr. Johnson replied yes.

Representative Asay noted that in 1986, the fiscal note showed the inheritance taxes estimated at \$6,656,000.00 and he asked if that included inheritance taxes paid in 1986.

Mr. Bucks responded that that is the total anticipated tax under the law as it sits here today.

Representative Asay said that on number 1, he indicated 57% of inheritance taxes will be paid by brothers and sisters and would they take 57% of \$6 million.

Mr. Bucks replied that the calculations have been reduced by another factor - they only took one-half of the revenue loss for that year because of the time it takes to process estates.

Representative Asay asked if this is the figure that will be paid under existing law.

Mr. Bucks responded that it was.

Representative Asay asked if they would add back \$1 million.

Mr. Bucks said he believed they added back \$1 million.

Representative Asay said that you would take 57% of \$6 million or \$600,000.00 and subtract \$1 million from that figure, that would be how much loss they would anticipate.

Mr. Bucks replied that is how he understands that figure there, except that they may have rounded the 57% to 50%.

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Representative Switzer asked what the rate of tax is.

Mr. Johnson replied that it varies by the relationship of the deceased - for the parent on the first \$25,000.00, it is 2%, 4% on the next \$25,000.00, 6% on the next \$50,000.00 and 8% on anything over \$100,000.00. He noted that on siblings, it starts at 4% and goes to 8%, 12% and 16%.

Representative Switzer asked if he thought that inheritance tax seems to be confiscation of property.

Mr. Johnson said that he would have to see the history of the bills and compare it to the federal.

Representative Patterson asked how many of the estates have been settled in the last year or two that resulted in the heirs having to sell their property for payment of the taxes or to obtain a mortgage in order to pay the inheritance taxes.

Mr. Bucks responded that he could not fully answer that question, especially the part about securing mortgages. He indicated that they are not aware (and he is not certain they would have perfect information on this) of any forced sale of property because of state inheritance taxes. He continued that there are broad exemptions in the law and they have a liberal deferred payment plan.

Representative Patterson asked if the Montana inheritance taxes are patterned after the federal government, where they have a long time to pay the inheritance taxes.

Mr. Bucks answered that they follow the federal government and in the deferred payment rights, they have two plans - a five-year plan and a fifteen-year plan.

Representative Patterson asked if they inform the heirs of the possible ways they can pay the inheritance tax.

Mr. Johnson replied that they do not advertise it and they do not know who would need this information, but they usually call them and they fill them in.

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Representative Patterson asked if the department does not provide the information unless it is asked by the attorneys or by the estate.

Mr. Bucks answered that that is correct - they would have to send it to every person in the state and they are not aware of the need of it, and with 1400 attorneys in the state, they should be able to inform their clients.

Representative Switzer asked what the sale is that he mentioned that had some effect on the five or fifteen-year period.

Mr. Johnson responded that on the five-year plan, there is no limitation and what the requirement says is that the inheriting relatives sign a statement that they are aware of this limitation and they agree to it, and if it is sold two years later, the value goes back from special use to fair market value.

Representative Switzer asked if they sold it the eighth year, would the tax become due on the whole property at that time.

Mr. Bucks replied that there is a salvation clause.

Chairman Devlin asked if there was a flexibility from switching from one plan to the other - if someone decided to take the five-year plan, got two years into it and found they were getting financially strapped and decided to go to the fifteen-year plan, would there be any provisions for this.

Mr. Bucks answered that there was none at this point, but he thought the main conflict that they might run into there, is that the code calls for an election to be made within eighteen months from the date of death as to which plan they would wish to go on. He said that, at that point, he doesn't believe that the code makes that irrevocable, but he is not sure whether there would be leeway to switch from the lesser plan to the greater plan.

Chairman Devlin asked if they have had a case where after a couple years, through a hardship thing, such as drought, that they could go to a fifteen-year plan just because they couldn't make those payments.

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Mr. Bucks replied that they have not.

Representative Sands said that he did not understand why they would lose \$3 million on this one where they exempt parents and siblings and only lose \$2 million when they exempt all the other descendants.

Mr. Johnson went back into history, explaining how inflation and standard procedures affected this.

Representative Sands asked who was paying this tax.

Mr. Johnson responded they were parents, siblings, and all others.

Representative Sands indicated that there has not been a lot of inflation since 1981 and he thought the revenue loss was greater in this bill than the revenue loss was in the other, but they are saying that there are fewer people receiving inheritance as descendants than there are as people who are parents and siblings and he thought this seemed incredible.

Mr. Bucks replied that those are the assumptions in most fiscal notes and his conclusion is correct. He explained that the fiscal note that he referred to from 1981 assumes that there are approximately 20% of all the inheritances that are passing to lineal descendants and this fiscal note, by the actual count in 1983, would indicate that something in the order of over 30% of estates are passing to the parents or siblings, so the accounts of the returns indicate that the number of estates passing to siblings and parents are greater than the number passing to lineal descendants. He explained that there are some differences too - the inheritance tax does have variations from year to year and they used the most recent year. He said he would prefer a ten-year record that is all computerized, but they do not have that.

There were no further questions.

Representative Holliday stated that she would accept whatever recommendation the committee comes to.

The hearing on this bill was closed.

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CONSIDERATION OF HOUSE BILL 25: Representative Ramirez, District 87, indicated that he was shown as the only sponsor on the prefiled bill, but other sponsors have been added and this bill is at the request of the Revenue Oversight Committee. He said that this bill would exempt church-owned passenger vehicles from taxation and license fees and that passenger vehicles would be limited to light vehicles and buses or other motor vehicles designed for carrying more than six passengers and they must be used for the transportation of persons and must be used by a church and be used for religious purposes.

PROPOSERS: There were none.

OPPOSERS: There were no opponents.

QUESTIONS ON HOUSE BILL 25:

Representative Williams noted that in the Revenue Oversight Committee, they had the question come up as to what they would define "religious purposes", because of some of the activities that are going on by some of the people who have come into Montana and bought land. He asked if this would define it strictly enough so there would not be a problem with that.

Representative Ramirez replied that he thought it was tight enough and they do strictly construe these exemptions and they have created hard feelings because of that.

Representative Zabrocki asked if this would exclude buses that were run by the parochial schools or those who haul basketball and football teams to other towns.

Representative Ramirez replied that it has to be owned by a church.

Representative Zabrocki indicated that the church in our area owns a parochial school.

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Representative Ramirez answered that they would get an exemption under 'property used for educational purposes'.

Representative Sands asked if Representative Ramirez had any objections to adding the word "exclusively" on page 2, line 4, after the word, "used".

Representative Ramirez responded that they had that in the proposed bill at one time and it was taken out because if you did have a church that had a passenger bus that just used it for one other purpose for some other occasion, the concern of the Revenue Oversight Committee was that the department might jerk their exemption. He indicated that he would leave that up to the committee's judgment.

Representative Sands said that the way it is written - "as long as it is used for any religious purposes" then it could be used for any other purposes.

Representative Ramirez said that they might want to put the word, "primarily".

Representative Raney indicated that there is a church in his district that is quite wealthy, owns a tremendous amount of land, has a lot of lawyers that work for them and they have a ranch that covers over 20 miles and all through their ranch, they have religious areas of their church. He said it is so easy for them to transport their people all over the county and at the same time transport their produce, gasoline and everything else.

Representative Ramirez stated that he understood his concern and there will be abuse by some groups, but if they are transferring their people from their main church to some retreat, then he thought the vehicle should be exempt if it is used primarily for that purpose regardless of how a person feels personally about that church.

Representative Raney explained that it is the practice in lots of these churches to have the people in the



church turn their vehicles over to the ownership of the church - there are motorhomes, etc. - and then these are used to transport people from Livingston to Hamilton or maybe all the way to California.

Representative Ramirez answered that if you start trying to pass judgment on a particular church and they shouldn't be exempt, you are going to exempt other particular activities.

Representative Raney said that another bill that came along put fraternal organizations under an exemption and he wondered if they would have to exempt the passenger vehicles of fraternal organizations as well.

Representative Ramirez replied "Not by this bill." He continued that these vehicles are not being exempt right now unless the church can show they are using them exclusively for religious education purposes; i.e., if they have Sunday school, and with a passenger vehicle, they use this just for their Sunday school and for their educational purposes, they can get exemptions. He said that it was really a policy decision that the committee has to make as to whether they want to expand it.

Representative Ream noted that the fiscal note indicates that approximately 145 motor vehicles have been denied an exemption.

Mr. Gregg Groepper, Administrator of the Property Assessment Division of the Department of Revenue, explained that of all of those that have applied for an exemption, 145 did not meet the requirements and some of those appealed their decision.

Representative Ream asked how they were going to make their determination.

Mr. Groepper replied that he thought the language that Representative Ramirez proposed is good language because it will prohibit the individual who uses it part time for work and part time for recreational purposes and the test here says "owned by and used for" and that is a very good test, but "exclusive use" is kind of tough.

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Representative Cohen asked if there were 1,000 churches in the state and each applied, what would the fiscal impact be.

Mr. Groepper replied that if they were a light vehicle the impact would be the fee and the fee is about \$40.00, so in that case, it would be \$40,000.00 in fees, but a lot of churches don't own vehicles and they don't own a bus.

Representative Gilbert explained that he lived in a community of 6,000 people and he could count about 18 school buses owned by the churches and he asked if this was indicative across the state, and then wouldn't the fiscal note be off.

Mr. Groepper answered that he did not think that was the case as they know what the major churches across the state have, but he could not speak to the small communities. He commented that in the situation where a church is using the vehicle for educational purposes, they are exempt under existing law.

Representative Gilbert asked if they are going to remove the burden of taxation from the churches, then wouldn't they have a transfer of the tax burden to the citizens as a whole.

Mr. Groepper replied that any time you eliminate a particular tax on one group, you shift the tax to another, but he does not see this as a significant shift because he thinks that most of the vehicles out there are used right now for educational purposes.

Representative Williams asked if the title has to be held by the church.

Mr. Groepper responded that that is correct as he reads the bill.

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Representative Raney mentioned that it is very easy for individuals to turn their vehicles over to the church, so they might be talking about 100 vehicles on one ranch and may be going to California and they might end up losing an incredible amount of revenue in Park County.

Mr. Groepper replied that he does not agree in total with that statement - there is the possibility for that situation - but that is why the bill was limited to passenger vehicles.

There were no further questions.

Representative Ramirez said that they already exempt certain property but it is very inconsistent - they exempt religious buildings, but not the personal property; they exempt all educational property basically. He thought the bill would make what they are doing somewhat consistent.

The hearing on this bill was closed.

EXECUTIVE SESSION:

DISPOSTION OF HOUSE BILL 25:

Representative Switzer said that he would like to echo the interest that Representative Ramirez indicated was in the Revenue Oversight Committee - there were several churches represented and lots of letters and documents.

Representative Sands moved to amend the bill on page 2, line 4, following "used" by inserting the word, "primarily". He stated that this would provide that the vehicle has to be used primarily for religious purposes and the way it is written now is that as long as it is used for religious purposes, it can be used as well for any other purposes.

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The motion to adopt the amendment carried with Representative Harrington voting no.

Representative Raney stated that he thought they might be creating more inconsistencies in these exemption laws and he thought that certain churches are going to take advantage of what they are doing. He also noted that they have a similar bill before them concerning fraternities and giving them the same exemptions, so if they give churches exemptions on vehicles, they are going to have to give fraternities exemptions. He declared that he was going to turn his vehicle over to his church and get an exemption.

Chairman Devlin replied that they might not let him use it on weekends.

A question was called for and the vote was taken. The motion to DO PASS, AS AMENDED carried with Representatives Raney, Ream, Ellison and Cohen voting no.

DISPOSITION OF HOUSE BILL 54:

Representative Iverson moved that this bill DO PASS.

Representative Sands said that he understood that this bill would prevent the county from disposing of property by assignment and the property goes back on the tax rolls when it disposes of the property by assignment. He wondered if this bill is passed, would they be denying the local governments of some tax revenue and by this bill, aren't they requiring local government to be in the property management business.

Representative Zabrocki said that he thought Representative Sands is right in that respect as the county would have to maintain it, cut the weeds on it and insure it against liability.

Representative Williams commented that he felt there was no real conclusion reached in the testimony that was heard from both proponents and opponents. He

concluded that the final recommendation from the opponents was that they have an interim committee to make a thorough study of the situation because there is problems either way they go. He stated that the assignment situation is the only tool right now that the cities and counties have to put pressure on the taxpayers to try and collect their taxes.

Chairman Devlin said that he had some notations that indicated that maybe the bill did not go far enough, but was a step in the right direction and instead of trying to expand this bill, it was thought to take this step and then maybe the problem could be taken up in the Revenue Oversight Committee or some other way.

Representative Iverson said that this bill just says that the county cannot assign the property and it is designed to make sure that the county cannot assign someone's property without their knowledge. He continued that a situation could exist whereby someone forgets to pay their taxes, someone else pays some of his taxes, he can then come back and pay them himself for a couple of years and that person has only paid part of his taxes.

Representative Ellison indicated that if they pay one installment, they (the owner) does not receive any delinquent notice, then if they don't read the legals in the papers, this could be assigned and they won't know it, particularly if they are out of state or moved from the last recorded address.

Representative Raney stated they they suggested that the notice be sent by registered mail and that it be mandatory that the clerk and recorders send out delinquent notice with the first tax notice to inform them that their land can be claimed.

Representative Cohen said that the problem was that they didn't receive notice of an attempted assignment.

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Representative Iverson stated that they are talking about two separate questions and in order to accomplish these two different things, they would have to have a different bill.

Representative Sands referred to section 15-17-208 and section 15-17-203 and deduced that the property could only be assigned after the tax sale and he thought they would be prohibiting the county from disposing of land and apparently if they don't want it, no one else wants it.

Representative Zabrocki advised that after the taxes are delinquent for three years, then they are advertised for tax sale and he had never heard of them running in there and getting an assignment.

Representative Sands said that he thought this bill addresses an important issue, but he wondered the way it is written if it does what the author intended it to and he suggested that a subcommittee be appointed to look into this.

Chairman Devlin appointed a subcommittee consisting of Representative Iverson, Chairman; Representative Sands; Representative Williams; and Representative Cohen.

DISPOSITION OF HOUSE BILL 62:

Representative Keenan moved that this bill DO PASS for the purpose of moving it to the Appropriations Committee.

Representative Asay said that he thought there is not too much question about the validity of this problem, but he would question the desirability of a new committee and he felt the Revenue Oversight Committee could handle this.

Representative Ellison made a substitute motion of DO NOT PASS. He felt this bill was a little premature and they should wait until the feds decide what they are doing and he thought the Revenue Oversight Committee could do just as good a job without spending so much money.

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Representative Keenan said that she would oppose the substitute motion as what happens in the interim is that the Revenue Oversight Committee gets all sorts of studies to contemplate and since it has an appropriation on it, Representative Bardanouve may take care of it there.

Representative Raney indicated that he opposed the substitute motion as well and they should be working on this type of thing right now.

Representative Harp stated that if they thought they were going to get a handle on tax problems, they are just fooling themselves and he felt another study of income tax quite frankly was a waste of time.


Representative Gilbert spoke in favor of the motion and he thinks the idea of a study is too early.

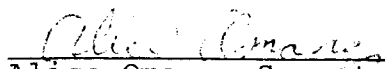
Representative Williams indicated that he would oppose the substitute motion and they should take a look at the state's income tax setup.

Representative Switzer stated that he was a member of the Revenue Oversight Committee and they dealt long and extensively with reclassification and even after 1½ years, there still wasn't agreement and he would support the do-not-pass motion.

A roll call vote was taken and the motion of DO NOT PASS carried with 11 voting aye and 9 voting no.  
See Roll Call Vote.

ADJOURNMENT: There being no further business, the meeting adjourned at 10:01 a.m.

  
GERRY DEVLIN, Chairman

  
Alice Omang, Secretary

# DAILY ROLL CALL

HOUSE TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 17, 1985

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, GERRY, Chrm.	X		
WILLIAMS, MEL, V. Chrm.	X		
ABRAMS, HUGH	X		
ASAY, TOM	X		
COHEN, BEN	X		
ELLISON, ORVAL	X		
GILBERT, BOB	X		
HANSON, MARIAN	X		
HARRINGTON, DAN	X		
HARP, JOHN	X		
IVERSON, DENNIS	X		
KEENAN, NANCY	X		
KOEHNKE, FRANCIS	X		
PATTERSON, JOHN	X		
RANEY, BOB	X		
REAM, BOB	X		
SANDS, JACK	X		
SCHYE, TED	X		
SWITZER, DEAN	X		
ZABROCKI, CARL	X		



# STANDING COMMITTEE REPORT

January 17,

1925

SPEAKER:  
MR. ....

We, your committee on TAXATION .....

having had under consideration HOUSE ..... Bill No. 25 .....

first ..... reading copy ( white )  
color

Exempting church-owned passenger vehicles from taxation

Respectfully report as follows: That HOUSE ..... Bill No. 25 .....

Be amended as follows:

1. Page 2, line 1.  
Following: "used"  
Insert: "primarily"

AND AS AMENDED

DO-PASS

# STANDING COMMITTEE REPORT

January 17 19 45

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 62

FIRST reading copy ( WRITE color )

ESTABLISH A BLUE RIBBON INCOME TAX STUDY COMMISSION TO EVALUATE  
ALTERNATIVE METHODS FOR STRUCTURING AND ADMINISTERING MONTANA'S  
INCOME TAX LAWS

Respectfully report as follows: That HOUSE Bill No. 62

DO NOT PASS

XXXX  
DO PASS

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE January 17, 1985 BILL NO. HB 62 TIME \_\_\_\_\_

NAME	DO NOT PASS MOTION	AYE	NAY
DEVLIN, GERRY, Chrm.		X	
WILLIAMS, MEL, V.Chrm.			X
ABRAMS, HUGH			X
ASAY, TOM		X	
COHEN, BEN		X	
ELLISON, ORVAL		X	
GILBERT, BOB		X	
HANSON, MARIAN		X	
HARRINGTON, DAN			X
HARP, JOHN		X	
IVERSON, DENNIS		X	
KEENAN, NANCY			X
KOEHNKE, FRANCIS			X
PATTERSON, JOHN		X	
RANEY, BOB			X
REAM, BOB			X
SANDS, JACK		X	
SCHYE, TED			X
SWITZER, DEAN		X	
ZABROCKI, CARL			X

Alice Omang  
Secretary Alice Omang

Gerry Devlin  
Chairman Gerry Devlin

Motion: Do not pass.

Vote 11 ayes - 9 nos.

Exhibit 1



502 South 19th

Bozeman, Montana 59715

Phone (406) 587-3153

TESTIMONY BY: Alan Eck, Montana Farm Bureau Federation

BILL # HB-73 DATE 1/17/85

SUPPORT XXX OPPOSE \_\_\_\_\_

Mr. Chairman and members of the Committee:

For the record my name is Alan Eck and I am representing the Montana Farm Bureau Federation. Montana Farm Bureau supports any effort this legislature would make to remove the unfair burden of inheritance tax. It seems wrong that when a man decides to pass on his holdings that he may actually harm more than help his inheritors. The Farm Bureau beleives it is a person's inherent right to pass on the fruit of his labor to whomever he chooses. We ask you to support this right by giving House Bill 73 a do-pass recommendation.

Alan Eck  
SIGNED

— FARMERS AND RANCHERS UNITED —

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## VISITOR'S REGISTER

HOUSE \_\_\_\_\_ TAXATION \_\_\_\_\_ COMMITTEE \_\_\_\_\_

BILL House Bill 73DATE January 17, 1985SPONSOR Representative Holliday

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Lavina Lubious	Lewistown	WIFE		
Soyce Spicher	Hingham	WIFE		
Alan Eck	Bozeman	Form Bureau	✓	
Joseph W Upshaw	Helena	AARP	✓	
<del>Charles Brantley</del>	<del>Helena</del>	<del>Co Ass, Co Treas.</del>		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITOR'S REGISTER

HOUSE TAXATION

COMMITTEE

BILL HB 25

DATE January 17, 1985

SPONSOR Ramirez

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.