MINUTES OF THE MEETING
TAXATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 9, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on January 9, 1987, at 9 a.m. in Room 312B of the State Capitol.

ROLL CALL: All members were present. Also present was Dave Bohyer, Researcher, Legislative Council.

CONSIDERATION OF HOUSE BILL NO. 87: Rep. Gerry Devlin, House District 25, told the Committee his bill would extend elderly property tax credit to elderly persons who move residence. He said a problem occurred after the 1987 Legislative Session, when an elderly woman in Miles City moved on July 1, but could not receive property tax credit because she did not move on or before June 30 of that same year.

Rep. Devlin explained he would delete lines 24-25, on page 2, and lines 1-2, on page 3, concerning the six month occupancy period requirement.

PROPONENTS: There were no proponents of the bill.

OPPONENTS: There were no opponents of the bill.

QUESTIONS ON HOUSE BILL NO. 87: Rep. Ream asked if a fiscal note had been prepared for the bill. Rep. Devlin replied he had not originally requested a fiscal note as he believed the fiscal impact of the bill to be minimal, but had recently requested one.

CLOSING: Rep. Devlin told committee members if the fiscal note were too high, he would look closer at the bill. He added that he thought the situation still needed to be made more equitable.

CONSIDERATION OF HOUSE BILL NO. 47: Rep. Dan Harrington, House District 68, said the bill would essentially provide a 20% penalty for moving a mobile home on which there were unpaid property taxes. He said a $500 fine would be levied if the taxes were not paid and a declaration to move were not filed prior to such moves.

Rep. Harrington read from a prepared statement in support of the Bill (Exhibit #1). He said the bill had been worked on by the County Treasurer's Association and the Montana Association of County's and that he believed it to be a good bill.

PROPONENTS: Cort Harrington, Montana County Treasurer's Association, told committee members his organization supported the bill, with an amendment to provide for a penalty of up to 20% of the amount of delinquent taxes, or a $100 fine, whichever were greater. He explained this fee would help to cover collection costs incurred by counties.

Gordon Morris, Montana Association of Counties, could not be present, but asked Mr. Harrington to convey to the Committee, his organization's support of the bill.

Greg Groepper, Administrator, Property Tax Division, Department of Revenue (DOR), told the Committee his department supports the bill.

Chuck Crouse, Montana County Treasurer's, stated his organization supports the bill with the proposed amendments.

OPPONENTS: There were no opponents of the bill.

QUESTIONS ON HOUSE BILL NO. 47: Rep. Ream asked Greg Groepper if he foresaw any problems with the proposed amendment. Mr. Groepper replied his agency would handle the situation in whatever manner the Legislature chose to pass.

Rep. Asay asked if there were a charge for a moving declaration. Mr. Groepper replied there is not, that the declaration merely states the taxes are paid on the mobile home, and that it serves as a record-keeping measure for the counties.

Rep. Hoffman asked what fines, if any, are presently assessed. Mr. Groepper replied that Title 63, which contains the statutes on fines, provides that when a mobile home is moved without a declaration, a fine be assessed in addition to payment of delinquent taxes.

CLOSING: Rep. Harrington said he believed the bill would deal more adequately with problems the counties have had in this area, and asked committee members to support the bill.

CONSIDERATION OF HOUSE BILL NO. 55: Rep. Dan Harrington, House District 68, advised committee members there is presently no statute of limitations for the Public Service Commission (PSC) and the Consumer Counsel Tax. He said the bill was requested by the DOR.

PROPONENTS: Ken Morrison, Administrator, Withholding Tax, DOR, told the Committee that the statute of limitations for correcting tax returns is five years. He said the PSC and Consumer Counsel do not have such regulation and that HB 55 would simplify the audit process for DOR and be of benefit to taxpayers.

OPPONENTS: Michael Zimmerman, Montana Power Company, told the Committee he was opposed to the proposed statute of limitations as the present 2 year period is adequate time for DOR to conduct its audits. Mr. Zimmerman stated that a five year period could cause problems for companies such as Montana Power. He urged the Committee to give the bill a Do Not Pass recommendation (Exhibit #2).

John Alke, Montana-Dakota Utilities Company, (MDU), explained to the Committee, that if three years later, the DOR determined a deficit for one utility, the other utilities would have overpaid during that time period and would have to be refunded. He said the theory is that each year rate payers are to pay according to the rate determined by the PSC. Mr. Alke said MDU has a dispute going now over the net proceeds tax. He explained that in 1985, DOR came back with an audit for 1977 for insufficient net proceeds severance tax and that the Company now has an $8-9 million tax bill. He said that tax bill will hit taxpayers this year, when it should have been paid long ago.

Gene Phillips, Pacific Power and Light Company and Northwest Telephone Systems, told the Committee he believes the two year period is adequate and that there is no need for a five year statute of limitations.

Barry Hjort, Mountain Bell, stated he shared the same views as other opponents of the bill.

QUESTIONS ON HOUSE BILL NO. 55: Rep. Sands asked how important it was to have a uniform statute of limitations. Mr. Morrison replied it would be easier for the DOR.

Rep. Sands asked if Montana had uniformity in its various statutes of limitations. Mr. Morrison replied it did not, but that the majority of states had gone to a five year period.

Rep. Gilbert asked Mr. Morrison if it were necessary to make the changes retroactive, as indicated on page 3, lines 7-9. Mr. Morrison replied it was not absolutely necessary, but that he would prefer it be retroactive.

Chairman Ramirez asked what the principal hangup was with the bill, and if it would affect other rate increases. John Alke replied that if taxpayer liability changes in one area, it will affect all taxpayers. He explained that a budgeted amount is set by the PSC and then spread throughout the regular utilities.

Chairman Ramirez asked how much money was involved. John Alke advised that approximately $1.8 million had been approved for the PSC and about $.5 million for the Consumer Counsel, annually.

Rep. Williams said he wanted to hear on the same issue from Ken Morrison. Mr. Morrison replied that funds received from back audits go to the PSC. He said adjustments made for the past, might affect rates in the future.

Chairman Ramirez asked how long it took to perform such audits. Mr. Morrison replied that they are presently performed along with other audits of the same companies and that it would cost more if they had to be completed each two years.

Chairman Ramirez asked if the audits involved simple calculations.

Rep. Williams asked why the utilities had such problems when they had tax attorneys. John Alke replied that the Natural Gas Policy Act of 1978 regulated all inter and intrastate utilities. He said there were nine categories of gas, marketed at a set price, on which the companies paid vintage, royalties and taxes. He stated there is now a question as to whether the utilities should be taxed on Section 109 gas, or a price set.

Chairman Ramirez reminded committee members to remain with issues at hand, and not to discuss other taxes right now.

CLOSING: Representative Harrington made no further comments, but asked the Committee to give a bill a Do Pass recommendation.

DEPARTMENT OF REVENUE BIENNIAL REPORT: John LaFaver, Director, DOR, told the Committee the Report had been received from the printer this morning and that he had never made a presentation to the Taxation Committee on the Report prior to this meeting. He proceeded to explain the areas covered by the Report (Exhibit #3).

Rep. Williams said he wished to compliment the DOR on the quality of its report.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL NO. 46: Rep. Williams made a motion that HB 46 DO PASS.

Rep. Sands stated there is a fundamental question as to whether or not it is necessary to adopt such rules, as that is basically what the PSC and Consumer Council do. He said the audits are purely arithmetic computations by DOR and that it is his personal opinion the DOR does not need such rules.

Rep. Williams advised that without the statute of limitations the law is unstable and DOR could end up in court.

Rep. Harp told committee members he thought they were continuing to react out of fear when threatened with litigation, and that there doesn't seem to have been a problem since 1971, when the Consumer Council was formed. He added that the PSC should be able to work in the same manner.

The motion made by Rep. Williams failed, with 13 members voting no and 3 members voting aye (Roll Call Vote).

Rep. Gilbert made a motion that HB 46 DO NOT PASS. The motion CARRIED with 13 members voting aye, and 3 members voting no (reverse vote).

DISPOSITION OF HOUSE BILL NO. 55: Rep. Harrington made a motion that HB 55 DO PASS.

Rep. Gilbert made a substitute motion to amend HB 55, by striking lines 7-9, on page 3, to delete the retroactive date. The motion CARRIED with all members voting aye, except Rep. Williams.

Rep. Sands stated he thought HB 55 was a good bill, as it addressed the audit process. He said it doesn't make sense to him to perform such audits every two years.

Rep. Harrington said that as errors are found through audits, they should be addressed simultaneously.

Rep. Asay said he thought it unnecessary to change the statute of limitations to five years, as the audit process should be kept current and correct. He added that he did not believe there should be a retroactive date.

Rep. Gilbert stated that he agreed with Rep. Asay.

Rep. Ellison advised committee members he, too, agreed that the problem is not that great.

Rep. Sands explained that the bill was designed to reduce record-keeping, not to increase it.

Rep. Williams pointed out that the utility companies' testimony showed less record-keeping. He added that he believes the bill is a good move.

Rep. Gilbert stated that the DOR has not been performing the audits every two years as required, and that the statute should remain as it is.

Rep. Williams made a motion that HB 55 DO PASS AS AMENDED. The motion failed with 10 members voting no and 6 members voting aye (Roll Call Vote).

Rep. Ellison made a motion that HB 55 DO NOT PASS AS AMENDED. The motion CARRIED in a reverse vote, 10-6.

OTHER BUSINESS: Rep. Keenan advised committee members that it appeared the Appropriations Committee is hearing tax issues and that the power of the Taxation and Revenue Oversight Committees is shifting to Appropriations. She asked Chairman Ramirez to call this matter to the attention of the appropriate person, in order to determine whose authority is where.

Rep. Hoffman stated that he agreed with Rep. Keenan.

Rep. Patterson stated that he, too, agreed with Rep. Keenan, and said Appropriation Committee personnel do not appear to be informed on tax issues.

Rep. Williams added his agreement and said members of the Revenue Oversight Committee thought the Finance Committee was overstepping its prerogatives.

Chairman Ramirez advised he and Rep. Williams would talk with the appropriate chairpersons and the leadership on this issue.

Rep. Schye told committee members he is a member of the Interim Finance Committee, and that he sees no problem with ROC issues, but does see some with Finance and Claims. He agreed to bring the matter before the office of the Legislative Fiscal Analyst (LFA), and the Interim Finance Committee.

Rep. Keenan stated the LFA does appear to be overstepping its bounds in this area.

Rep. Williams stated it was the concern of the ROC to bring in promoters of 105 under the guise of tax reform.

Chairman Ramirez told committee members he hoped to have notebooks for reference information on Revenue Oversight Committee issues by Monday, January 12, 1987.

ADJOURNMENT: There being no further business before the Committee, the meeting was adjourned at 10:22 a.m.

Jack Ramirez

Representative Jack Ramirez,
Chairman

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-9-87

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP			
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

CS-30

STANDING COMMITTEE REPORT

January 9 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 46

- ☐ do pass
- ☒ do not pass
- ☐ be concurred in
- ☐ be not concurred in
- ☐ as amended
- ☐ statement of intent attached

Rep. Jack Ramirez, Chairman

(STATEMENT OF INTENT ATTACHED)

FIRST reading copy (WHITE)
color

STANDING COMMITTEE REPORT

January 9 1937

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 55

☐ do pass ☐ be concurred in ☒ as amended
☒ do not pass ☐ be not concurred in ☐ statement of intent attached

Rep. Jack Ramirez Chairman

BE AMENDED AS FOLLOWS:

1) Page 3
   Strike: lines 7-9

FIRST reading copy (WHITE)
color

ROLL CALL VOTE

HOUSE TAXATION COMMITTEE

DATE 1-9-86 BILL NO. HB55

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM			✓
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB			✓
HANSON, REP. MARION			✓
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN		✓	
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS			✓
PATTERSON, REP. JOHN			✓
RANEY, REP. BOB			✓
REAM, REP. BOB		✓	
SANDS, REP. JACK		✓	
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY		6	10

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion: ______________________

Form CS-31A
Rev. 1985

EX 1

EXH #1
DATE 1-9-82
HB 47

HOUSE BILL 47

Current law requires individuals moving a mobile home complete a Moving Declaration at the Treasurer's Office and pay their taxes before they move the mobile home.

If they move the mobile home without a Moving Declaration and are apprehended, they are liable for a $500 fine in addition to paying all back taxes owed.

If they move the mobile home without a Moving Declaration and are not apprehended they avoid paying the taxes. Statutorily it is difficult for the county treasurer to collect the delinquent taxes on property located in another county.

In summary, if you move your mobile home without a Moving Declaration and don't get caught, you can avoid paying your taxes. If you get caught you pay your taxes plus you are liable for a $500 fine.

All this bill does is ensure that people pay the taxes that are due them regardless of whether they take out a moving permit or not. It also makes it easy for the taxes to be collected and forwarded back to the county in which they are due. It eliminates the incentive to move a home without getting a Moving Declaration.

The Department of Revenue has been working for several years with representatives of the law enforcements agencies, treasurers, assessors others to resolve this problem. This bill provides an easy mechanism to collect the back taxes while avoiding the extra expense of going to court. Additionally, the 20% mandatory fine would in nearly every case be far less than the $500 fine associated with the present law.

gg57i

EXHIBIT #2
DATE 1-9-87
HB 55

1/6/87

House Bill No. 55: Statute-of-Limitation

House Bill No. 55 provides for a 5-year statute-of-limitation, relating to the Public Service Commission and Consumer Counsel fees. The 5-year statute of limitation is suggested as a replacement for the 2-year limitation that applies now.

A 5-year limitation is too long and would cause an inequity for ratepayers. The Consumer Counsel and PSC fees are paid quarterly by applying a percentage (calculated by the DOR) against the regulated company's gross operating revenue (calculated by the taxpayer). Two years is adequate time for the DOR to perform audits necessary to confirm proper payment of the tax. Further, given the PSC's oversight of the earnings of regulated companies, incorrect reporting of revenue is subject to early detection.

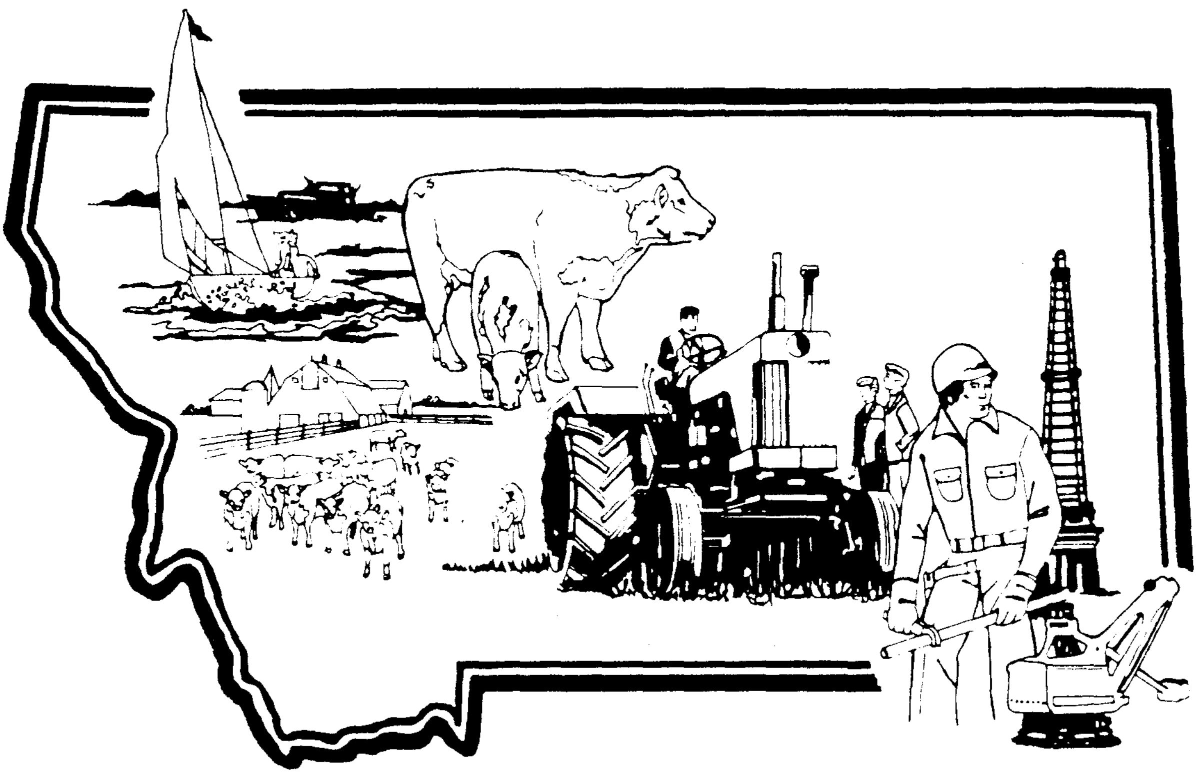
A 5-year limitation would also aggravate inequity caused to ratepayers by late assessment of a deficiency made in payment of either fee. If, 5-years after a fee is paid, the DOR determines the fee was underpaid and the regulated company paid the deficiency, the payment would be included in current rates. As a result, ratepayers would be required to pay a cost unrelated to the service they receive at the time the cost is recovered. This inequitable result should be mitigated by keeping the present 2-year statute-of-limitation.

The Montana Power Company
Michael E. Zimmerman

#3
1-9-87
DOR

Montana Department of Revenue

1984 - 1986



Biennial Report

VISITOR'S REGISTER

HOUSE TAXATION COMMITTEE

BILL HB 47

DATE 1-9-86

SPONSOR Harrington

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Cort Harrington	Helena	County Treasurers	✓	
Chuck Krause	Butte	County assessors	✓	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83

VISITOR'S REGISTER

HOUSE TAXATION COMMITTEE

BILL HB 55 DATE 1-9-86

SPONSOR Harrington

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Gene Phillips	Kalispell	Pacific Power		X
Mike Zimmerman	Butte	MPC		X
Barry L. Hjort	Helena	Mt. Bell		X
John Alke	"	MDU		X
Ken Morrison		DOR	X	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83

VISITORS' REGISTER

HOUSE TAXATION COMMITTEE

BILL HB87 Date 1-9-86

SPONSOR Devlin

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81