

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 25, 1987

The forty-ninth meeting of the Senate Taxation Committee was called to order at 8:00 A.M. on March 25, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 743: Representative Sales, House District 76, presented this bill to the committee. This deals with bankruptcy subdivisions. There seem to be a surplus of them in Gallatin County. All this does it to cut down the redemption period which applies to vacant lots from 36 months to 12 months so that the city/county can get their hands on the property earlier and not be stuck. This is an effort to make it easier for the governmental units that have these subdivisions that are in bankruptcy. This allows them to get out from under that earlier and get those lots into private ownership and lets them pay the principal and interest on those lots.

PROPOSERS: Jim Wysocki, City Manager, Bozeman, gave testimony in support of this bill. There are problems in Gallatin County. They have a \$340,000 a year, a 19.5 mill problem. Under this proposal, where there is an improvement on a lot, the redemption period will remain the same at 3 years. To actually get to the point of delinquent, it is 4 years to when the governmental entity can do anything. They feel the one year redemption period for undeveloped land is reasonable when you take into consideration a year would have already passed when we get to the point in time to ask that the redemption period be enacted.

Chuck Stearns, Finance Officer, City of Missoula, gave testimony in support of this bill. A copy of his written statement is attached as Exhibit 1.

Janet Jessup, City of Helena, gave testimony in support of this bill. They do not have any problems currently but would like the recourse this bill allows in addressing the problem should it occur.

John Lawton, City of Billings, gave testimony in support

of this bill. In the city of Billings they have 133 active SID's with \$42 million worth in outstanding bonds. Of the 133 districts, 54 are more than 10% delinquent. The total amount of delinquent payments at this time is \$3.9 million. If it takes 3-4 years to begin to deal with the problem then it is too late.

Mary Van Hull, Commissioner, Bozeman, gave testimony in support of this bill. This is a huge concern in Bozeman and needs to be addressed to help the local taxpayers, not only in Bozeman but across the state.

Kreg Jones, D. A. Davidson and Company, gave testimony in support of this bill. This bill will greatly improve the cash flow to counties. We are looking at a two year time period in HB 743, which will allow the municipalities to turn around the land, mitigate losses and get it back on the tax rolls.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Lybeck asked Representative Sales why this land would sell under this procedure better than by the developer.

Representative Sales said this will put the city in a position to sell them with just the assessment and the buyer will get a good deal. The person who buys that lot for only what is against the lot will be in pretty good shape.

Senator Eck said we know what the situation is in Bozeman, but what happens in a situation where the owner is still there and there is still some possibility of selling a lot now and then.

Representative Sales said if there is any chance of working the thing out, you will give that person a chance to do that.

Senator Eck asked how that would be decided. Would the city adopt a resolution or would it be by hearing, or what.

Jim Wysocki said we would have to certify the delinquency, which is a formal process within counties, and has to be done through a resolution from the local board. Then, by separate action, we would advertise it for tax sale. It would be at the discretion of the local board as to when we would begin the process of redemption.

Senator Halligan asked if the developer would appear at the meetings.

Jim Wysocki said certainly the developer or the owner of the property has the opportunity to visit with the local entity prior to the time these actions take place. This would take place at a formal meeting, public meeting and there would be opportunity to discuss the matter if it was desirable to do so.

Senator Eck said it appears that you will look at the unencumbered value of the land less the debts owing against it. Will they be buying those lots for little more than the taxes on them.

Jim Wysocki said it is done on an auction process and goes to the highest bidder. Hopefully, when they are finished bidding, there will be enough to cover the taxes and SID taxes.

Senator Crippen said it seems to him that we are closing the barn door after the horse is out. The real problem is that it is easier than it should be to create an SID and SID's generally require a lot of unnecessary expense when you put in an SID.

John Lawton said he does not think he would agree with that. If there are unnecessary costs he does not think they relate to this problem.

Jim Wysocki said this is a choice on the part of the developer. The reason they choose this, in part, is because they can get 20 year financing.

Representative Sales closed.

CONSIDERATION OF HB 678: Representative Connelly, House District 8, presented this bill to the committee. All this bill does is increase the interest from 5/6th of 1% to 1% each month on delinquent property taxes. She has received a lot of letters from around the state and at the present time the delinquencies are running high, with Billings 50%, Columbia Falls 52%, with some at 43%, 46% and 49%. All around the state there has been a problem with delinquent property taxes. Originally the bill would have raised the penalty based on a staggered amount but that was changed in the House. There is a technical problem on the last page, the date should be changed to 1988. She does not think it is fair to go back retroactively to last year.

PROPONENTS: John Courtney, representing the Montana County Treasurers Assn., gave testimony in support of this bill.

As introduced in the House, with the graduated penalty system, this bill would have been difficult to administer. The way the bill is now, they support it.

Jim Wysocki, City of Bozeman, stood in support of this bill.

Alec Hansen, Montana League of Cities and Towns, gave testimony in support of this bill. This is a reasonable method of dealing with the serious problem of delinquent SID's affecting many of our cities.

Dan Bucks, Department of Revenue, gave technical comments concerning this bill. The effective date of this bill is July 1, 1987, and applies to property taxes that become delinquent during the 1987 fiscal year and thereafter. In talking with the sponsor of this bill, he thinks the intent is that 1987 should be 1988.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Mazurek said this was a hard fought battle back in 1983 getting these rates set. At that time people were not paying because the interest rate was so low people could make more money leaving it in the bank and not paying taxes. People who aren't paying now can't afford to pay and he doesn't think that raising the penalty will make any difference. He asked Representative Connelly to respond.

Representative Connelly said so much of the problem is with SID's and developers and the feeling was that this might force them to pay.

Senator Severson said we are bringing that up to 12% and questions whether that is wise.

Representative Connelly said if you don't pay your taxes it seems to her there should be a penalty for not paying. It is not fair for the people who do pay to carry those who do not pay.

Senator Halligan asked if this was a negotiable item.

Chuck Stearns said the penalty is not negotiable, it goes on automatically along with the interest. The only time interest and penalty are negotiated is when the developer submits bankruptcy forms. He furnished the committee with written testimony in support of this bill, attached as Exhibit 2. He did not testify in the proponent segment of the hearing.

Representative Connelly closed.

CONSIDERATION OF HB 409: Representative Miles, House District 45, presented this bill to the committee. This bill deals with deductions for child care expenses. The federal government, on their tax forms, allows a deduction for child care expenses when the parents are both employed. The state limits its deduction for child care expenses to married couples that are both full-time employed. All this bill does is to say that we should extend that deduction to less than full time employment. Obviously, one of the incentives for this is to get people off of welfare and back working. The expenses are just as legitimate if you are full-time employed or less than full-time employed. The Department of Revenue has some coordinating amendments to offer in relation to HB 842 and SB 307.

PROPOSERS: Jeanne-Marie Souvigney, League of Women Voters, gave testimony in support of this bill. This is an issue of fairness and equity. This would provide some consistency with the federal program and she would urge support.

Barbara Archer, Women's Lobbyist Fund, stood in support of this bill for the reasons already stated.

Dan Bucks, Department of Revenue, said we do have coordination instructions, attached as Exhibit 3, stating that if HB 842, SB 307, or any other bill repealing 15-30-121 is enacted, this bill is void.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Mazurek asked if there is a similar deduction in SB 307 or HB 842.

Dan Bucks said the deduction is specifically spelled out in statute now. If that section of law is repealed, as is the case in SB 307 or HB 842, we would be piggy-backing directly on federal taxable income, as opposed to the state having a specific deduction.

Senator Lybeck asked Representative Miles why she did not sign the fiscal note.

Representative Miles said she objected to all of the assumptions that were made.

Senator Eck has some concern that these married couples, who are both working, have to pick-up a disproportionate share.

Dan Bucks said we have tried to simplify our state form but there are specific deductions at the state level that does not follow the federal law. We have a specific state form that is unique to Montana because we follow old federal law. In general, the larger the family the more favorably any married couple is treated. The fewer the dependents and more income, the less favorably they are treated.

Representative Miles closed by stating if we are going to recognize day care expenses, she does not think we should limit it to full time employment.

CONSIDERATION OF HB 791: Representative Strizich, House District 41, presented this bill to the committee. This bill is intended to create a controlled substance tax. It would impose a tax on the possession or storage of any of those substances, defined under statute as dangerous drugs. Drug dealers, under this act, would be levied a tax equal to 10% of the market value of any substance falling under this category. He furnished the committee with an article from The Wall Street Journal in relation to this and a list of drugs and amounts confiscated in 1986, attached as Exhibit 4.

PROPONENTS: None.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Crippen asked Representative Strizich how would you prove ownership to tax it.

Representative Strizich said in a criminal case, there must be proof, beyond a reasonable doubt, that this person is carrying dangerous drugs. In a civil administrative proceeding you must show a preponderance of evidence that this person is storing dangerous drugs.

Senator Hirsch said the word tax bothers him and asked if a penalty could be used.

Representative Strizich when you are talking about a penalty you are talking about a punitive measure and he thinks that would be entering a whole new ball game. We want to have the effect of a tax and, therefore, allow the fairness of our tax system to enter into this.

Senator Halligan asked if there was a threshold amount before the tax would apply.

Representative Strizich said we left that open to any amount.

Senator Neuman asked if he had visited with members of the law enforcement community and are they in support of this law.

Representative Strizich said he has talked with the Department of Justice here and did offer some amendments that make it administratively more easy to handle. Three other states effectively use this law.

Senator Neuman asked John LaFaver if this is something we could legitimately do.

John LaFaver said the way the bill is amended, the only administrative cost that will incur will be paid for by the revenues that would come from the bill. He is somewhat acquainted with the Revenue Director in the state of Minnesota and he views this piece of legislation very seriously. We might get revenue from this specific tax, and in certain instances lead us to income that would otherwise not be taxed. He thinks it is worth a shot.

Senator Mazurek asked if there was any discussion in the House on the earmarking of the money.

Representative Strizich said there was some discussion on that and the feeling was they could go with that given the fact that we really don't know what revenue we are looking at and that is probably as appropriate a place as any to funnel the money.

Senator Eck asked if the illegal storing of prescription drugs would be covered under this.

Representative Strizich said yes.

Senator Halligan referred to page 3, lines 14-17, and asked if the individual at the Department would know the street value of these drugs.

Representative Strizich said that is there in the event we find a drug that isn't publicly contained in statute, so that we could somehow determine a street value of that.

Senator Halligan asked what if you're someone that has been picked up with drugs, but you do not have any money to pay the tax.

John LaFaver said there will be a number of instances where there won't be any revenue collected.

Representative Strizich closed.

FURTHER CONSIDERATION OF HB 583: John Alke, representing Montana Dakota Utilities Company, and was asked to stand in for the Montana Power Company, said that the Department of Revenue said that rulemaking authority was necessary for the Department to properly administer the PSC tax. That is absolutely incorrect. There is a distinction between sales for resale and sales to the ultimate consumer on the energy side. All of these subject areas are things that the PSC deals with every day as part of the regulation and determination of utility rates. When the PSC looks at a company rate, they have to account for every dollar of income and expense. They make a determination of the income for the sales and resale and all is worked into a rate making process. When the tax is levied, it is levied on information the PSC requires, not the Department of Revenue. The Department is asking for the power to make an independent study contrary to the determination made by the PSC. They feel that to give them the power to make an independent determination is totally unnecessary.

John LaFaver, Department of Revenue, furnished the committee with a copy of a memorandum from David Woodgerd, Chief Legal Counsel, Office of Legal Affairs, concerning the necessity of rulemaking authority to administer tax laws - PSC Tax and HB 583, attached as Exhibit 5. When the revenue is earmarked, whether for the PSC or the Consumer Counsel, we need rulemaking authority. We need rulemaking authority if the tax meets a legal challenge.

Senator Halligan said he could see what John Alke was saying on the PSC role and that all the Department is doing is collecting the tax. He asked John LaFaver how he would specifically define his role.

John LaFaver said what John Alke spelled out about how this tax is to be calculated, in his mind, is not in this legislation. He does not have any argument with that. The issue is how we make this tax work and how we administer it.

Senator Halligan said if we adopt a procedure by statute, do you still need rule making authority.

John LaFaver said there are examples where a law is so specific it does not need a rule. That is very seldom the case. Usually it is layed out broad enough so the mechanics on how to administer the tax has to be spelled out in rules. That is obviously the case with this bill.

Senator Halligan asked if the rules would deal with the PSC as they determine gross revenues.

John LaFaver said in this piece of legislation the rule would have to very clearly define how that deduction is calculated.

Senator McCallum said the PSC sets the amount of money they need to come from each one of the utilities.

John Alke said the amount of the tax is set by the legislature. The PSC brings the budget before the legislature and whatever the appropriated budget is, that is the total amount of the tax. The bill provides that the commission will provide a statement to the Department showing the gross operating revenue from all activities regulated by the commission. The Department determines the fee based on a percent of the gross operating revenue reported.

Senator Halligan asked John Alke if he had reviewed the decision furnished by John LaFaver.

John Alke said John LaFaver is entirely right in talking about a tax. This is not that kind of tax.

John LaFaver said on page 5, lines 17-19, we have to lay out the rules on how we are going to do that.

Senator McCallum asked if the rulemaking authority was proposed in the House.

John LaFaver said it was.

Senator Neuman asked if the Department receives any reimbursement for administering this.

John LaFaver said no, we do not.

Senator Mazurek asked if a statement of intent, clarifying what the Department would do, would help.

John Alke would prefer the language be stricken that John LaFaver referred to that would require rulemaking authority necessary.

Senator Hirsch made a motion that we strike "as determined by the department of revenue under 69-1-224" on page 2, lines 18 and 19.

Senator Neuman asked if the effect of that would be to take the Department of Revenue out of this.

Senate Taxation
March 25, 1987
Page Ten

Jim Lear said if you want to do what Mr. Alke suggested, you have to remove the rulemaking problem by not having the Department of Revenue "excluding gross revenues from sales to other regulated companies for resale".

Senator Hirsch would include that in his motion.

Senator Neuman asked if that would just take the Department of Revenue out of this.

Jim Lear said it would not take the Department of Revenue totally out of the collection of this tax.

Senator Eck made a substitute motion that we draft language that would give the Department rulemaking authority, but draft a statement of intent that ties it closely to the PSC determinations.

Jim Lear said the committee should be aware that a statement of intent must be adopted by all the bodies that consider a bill.

A roll call vote was taken on Senator Eck's motion. The motion failed 5-7, see attached roll call vote.

Consideration was given to Senator Hirsch's motion that we take out the Department's rulemaking problem by deleting the underlined language on page 5, lines 16-18. The motion carried with Senators Lybeck, Neuman, Eck and Crippen opposed.

ADJOURNMENT: The meeting adjourned at 10:07 A.M.


SENATOR GEORGE McCALLUM, Chairman

ah

ROLL CALLTAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-25-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

DATE March 25, 1987

COMMITTEE ON

Senate Taxation

VISITORS' REGISTER

HB's 409, 678, 743, 791

NAME

REPRESENTING

BILL #

Check One

Support Oppose

Greg Jackson

MTCIK & Nec Assn.

Chad Stearns

City of Missoula

678
743

✓

Janet Jessup

City of Helena

743

✓

Jann Marie Souvigny

MT League of Women Voters

409

✓

Mary Venti Hilde

City of Bozeman

743

✓

Jim Wysocki

City of Bozeman

743

X

Kay Foster

City of Billings

743

X

Barbara Becker

Women's Lobbyist Fund

409

✓

Jim Wysocki

City of BZN

678

X

Joe Morasio

Duane Ankney

S.O.S.

P. J. Leavelle



FINANCE OFFICE

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

FINANCE AND DEBT MANAGEMENT
BUDGET AND ANALYSIS
ACCOUNTING
CITY CLERK
UTILITY BILLING
RISK MANAGEMENT

March 31, 1987

The Honorable George McCallum
Chairman, Senate Taxation Committee
Montana State Capitol
Helena, Montana 59620

Members of Senate Taxation Committee
Montana State Senate
Montana State Capitol
Helena, Montana 59620

Re: Support of House Bill 743

Dear Senator McCallum and Members of the Senate Taxation Committee:

This letter of testimony is intended to express the City of Missoula's strong support of House Bill 743 which would decrease the redemption period for property sold at County tax sales from three years to one year for non-agricultural land and non-owner occupied residences. The redemption period would remain three years for owner occupied residences and agricultural land. The League of Cities and Towns has backed this bill as one of its priorities since last fall's convention.

I am enclosing a copy of an article from this morning's Missoulian newspaper describing the problems that Polson has had with a failed developer subdivision. The Committee heard no opposition to and strong support of HB 743 from Billings, Bozeman, Helena, Missoula, Gallatin County, and D.A. Davidson, & Co. Inc, at the March 25 hearing. The City of Missoula has also been contacted by the cities of Polson and Roundup regarding how to deal with developer delinquencies on SID's and Polson asked for a copy of our policy for approving SID's which now has stringent security provisions. Coupled with the well publicized problems of Columbia Falls, it would seem that the problem of developer delinquencies is widespread and needs to be addressed.

Shortening the redemption period for non-agricultural land and non-owner occupied residences would target the problem delinquencies while not changing the situation for farmers and homeowners. As the chart on the reverse indicates, the City of Missoula incurs a tremendous level of SID delinquencies each year. The major problem that the City has is with developers or landlords, many of whom are from out of town. Of the \$480,003.51 that was originally delinquent for last fall's first half billing, approximately \$273,149 or 57% is caused by developers or owners of multiple properties who are habitually delinquent.

The City of Missoula strongly supports House Bill 743. Thank you for your consideration.

Sincerely,

Chuck Stearns

Chuck Stearns
Fiscal Analyst

SENATE TAXATION

EXHIBIT NO. 1

DATE 3-25-87


BILL NO. HB 743

cc: Missoula Senate Delegation: William E. Farrell, Bill Norman, Fred Van Valkenburg, Representative Walter Sales, Alec Hansen.

City of Missoula Special Improvement Billing
vs. Delinquencies

BILLING	Amount Billed	Original Amount Delinquent	Original Delinquent (per cent of Total)
1981 (full year)	2,101,234.94	1,046,812.06	50%
1982 (full year)	1,895,091.93	976,176.61	52%
1983, 1st half	1,414,542.92	605,768.05	43%
1983, 2nd half	576,412.33	263,857.15	46%
1984, 1st half	1,371,820.12	570,588.87	42%
1984, 2nd half	531,577.95	258,779.77	49%
1985, 1st half	1,415,424.19	565,000.28	40%
1985, 2nd half	509,350.67	237,076.32	47%
1986, 1st half	1,263,992.74	480,003.51	38%

I CERTIFY THAT THESE AMOUNTS ARE TAKEN FROM THE RECORDS
OF THE CITY OF MISSOULA TREASURER


Edward A. Childers
Treasurer
City of Missoula

3/14/89

c:siddel%

Unsold lots provide headaches for Polson

By DON SCHWENNESEN
of the Missoulian

POLSON — "It hit at the wrong time."

That's how Joe Menicucci of the Polson Community Development Corp. sums up Woodbine Estates, an airy eight-year-old subdivision on the slope above Polson High School, with a splendid view of the city, Flathead Lake and the distant peaks of the northern Swan Range.

But the view from the city's ledger books is not as gratifying. Unsold lots in the project have stacked up more than \$200,000 in delinquencies in unpaid property taxes, assessments for subdivision improvements and irrigation fees for the Flathead Irrigation Project.

The Woodbine Corp., which created the 39-acre, 137-lot development in 1979, filed its last annual report and went belly up in 1981.

At that point, at least 44 unsold lots were transferred to a creditor called the Regency Art Corp., a company incorporated in Panama but headquartered in Ge-

neva, Switzerland.

Last June, Regency Art transferred the 44 lots to the city of Polson, so the city could try to sell them to cover the delinquent costs — costs that now average better than \$4,000 per lot and range up to \$10,000.

But the city has been unable to sell any lots, because title insurance companies won't guarantee titles to them.

So Polson has gone to district court, seeking a declaration that the city is the rightful owner of the lots.

City Attorney Keith Rennie says the court action should be just a formality, since a Los Angeles attorney for Regency Art has shown no interest in contesting the city over the lots.

"I think they kissed them off years ago," he said of Regency Art.

Though the company decided the lots to the city, title insurers wanted to see a copy of the corporate resolution that authorized the transfer, along with a certificate showing that the company was in good standing in Panama. Those were never sent, but

Rennie thinks it was just an oversight. He points to the city's communication problem with Spanish-speaking Panama and French-speaking western Switzerland.

In the meantime, the city is trying to work out a deal with local real estate brokers to sell the lots as soon as the court clears up the title problem.

To satisfy the bondholders who financed the streets, sewers and other improvements in the subdivision, annual assessments paid by lot owners are being used to cover the interest payments on the bonds.

A provision in the bond agreement allows the city to keep current by paying only interest, if it isn't collecting enough money to make payments toward the principal.

That means the bonds aren't being retired.

Rennie said the city hopes to sell the remaining lots over the next 10 to 12 years and recoup the money it will need to retire the bonds when they fall due.

If the strategy fails, city taxpayers could end up footing the bill for the improvements, a bill



Woodbine Estates subdivision in Polson is at a crossroads. Once a promising new residential neighborhood, the project has been taken over by the city because unsold lots have stacked up more than \$200,000 in unpaid taxes, assessments and fees.

that is ultimately guaranteed by the city. Such costs would be spread over all city taxpayers, not just those in the subdivision, he said.

But local real estate brokers were optimistic that the lots will gradually sell, especially if the prices are attractive.

The city was reportedly eyeing a price of around \$9,000 per lot.

DON SCHWENNESEN/Missoulian

Powell County sets pace in regional school levy

By JOHN STROMMEN
of the Missoulian

The amount voters are willing to tax themselves for local education varies dramatically among western Montana counties, a Missoulian analysis of state data reveals.

The reasons? A mix of historical, geographical and cultural factors influence the acceptance of voted levies, county education officials and school administrators say.

In Powell County, for example, voters have approved a 1.5 percent levy on the value of property in the county.

Proved more than \$1 million in supplementary property taxes last year for their schools. This amounted to about 34 percent of the total budget for all school districts in the county or \$934 per student. (For a county-by-county comparison, see accompanying graphic).

Powell County voters, like those in many other districts, have grown accustomed to special levies.

"People get indoctrinated," said Powell County's Smith. That situation contrasts with Ravalli County, where enroll-

VOTED SUPPORT FOR SCHOOLS

Polson	1.5%	\$1,200,000
Missoula	1.2%	\$1,100,000
Flathead	1.1%	\$1,000,000
Liberty	1.0%	\$900,000
Granite	0.9%	\$800,000
Sanders	0.8%	\$700,000
Butte	0.7%	\$600,000
Bozeman	0.6%	\$500,000
Great Falls	0.5%	\$400,000
Helena	0.4%	\$300,000
Billings	0.3%	\$200,000
Butte	0.2%	\$100,000
Bozeman	0.1%	\$50,000
Great Falls	0.0%	\$0

Source: Montana Department of Public Instruction, 1986-87.

money.

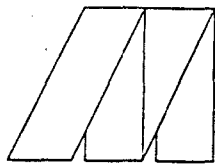
Most federal funds are payments "in lieu of taxes," and are most prominent in western Montana at schools within the boundaries of the Flathead Indian Reservation. These payments go directly to schools, whereas payments "in lieu of taxes" for federal forest lands are diluted throughout county government.

In many Lake County districts, school boards need not levy any local property taxes because of this federal money, said Lake County Superintendent of Schools Cleo Fer-

One broker said that would be a bargain, because lot prices were \$12,000 or more when the development was completed.

"It's not a total failure," said Menicucci. "It is a well laid-out subdivision," but he thinks it just happened to hit the local real estate market about the time interest rates soared and the market dried up.

Menicucci said that would be a bargain, because lot prices were \$12,000 or more when the development was completed.



MISSOULA COUNTY

OFFICE OF THE COUNTY TREASURER
P. O. BOX 7249
MISSOULA, MONTANA 59807

Date: January 22, 1987

To: Chuck Stearns, Fiscal Analyst
City of Missoula Finance Office

From: Beverly Hiday *bh*
Missoula County Treasurer-
Real Estate Supervisor

Ref: Hillview Heights #6 Subdivision

Attached are delinquent statements for the individual lots of the subdivision. The amounts indicated are taxes, penalty interest; city specials, penalty and interest for each year of delinquency. Summary totals are also indicated.

The total amount due by February 3, 1987 is:

Principal-taxes and city specials	\$604,665.76
Penalty	11,986.95
Interest	209,006.68
Total due	<u>\$825,659.39</u>

The date of the first "Treasurer's Tax Sale Certificate" is July 22, 1981. I have indicated the total principal amount within this sale on each printout to the far right. (*). The totals can be verified by adding those principal amounts due for 1980. (Taxes and city specials).

As agreed upon, the City check will not be deposited by us until we have exchanged our check to you for the City SID's. This exchange will occur when we have completed our receipting of the tax bills. Barring complications, the date of completion will hopefully be February 20, 1987. Efforts will be made to issue you the assignments within a few days of our receiving your payment check. These arrangements should meet with your approval.

Contact me should you have further questions regarding this transaction.

SENATE TAXATION

EXHIBIT NO. 1

DATE 3-25-87

BILL NO. 4.B. 74

BREAKDOWN

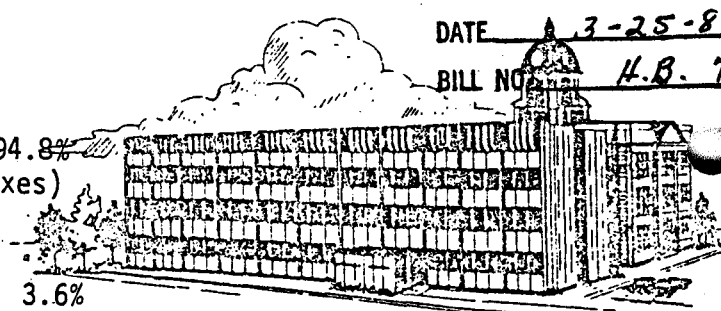
bh/me

APPROX

CITY SID'S \$782,659
CITY TAXES \$13,000
CITY RECEIVES \$795,659

(Returned Immediately) 94.8%
(Returned w/ monthly taxes) 96.4%

OTHER TAXES \$30,000 (City loses this money) 3.6%





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FINANCE AND DEBT MANAGEMENT
BUDGET AND ANALYSIS
ACCOUNTING
CITY CLERK
UTILITY BILLING
RISK MANAGEMENT

March 24, 1987

The Honorable Mary Ellen Connelly
Montana House of Representatives
Montana State Capitol
Helena, Montana 59620

The Honorable George McCallum
Chairman, Senate Taxation Committee
Montana State Capitol
Helena, Montana 59620

Re: Support of House Bill 678

Dear Representative Connelly and Senator McCallum:

This letter of testimony is intended to express the City of Missoula's strong support of House Bill 678.

As the chart on the reverse indicates, the City of Missoula incurs a tremendous level of SID delinquencies each year. Raising the interest rate on delinquencies should result in much fewer delinquencies because the major problem that the City has is with developers or landlords, many of whom are from out of town. Of the \$480,003.51 that was originally delinquent for last fall's first half billing, approximately \$273,149 or 57% is caused by developers or owners of multiple properties who are habitually delinquent. This problem is repeated in many other parts of Montana.

The City of Missoula strongly supports House Bill 678. Thank you for your consideration.

Sincerely,

Chuck Stearns
Fiscal Analyst

cc: Senate Taxation Committee Members

Missoula Senate Delegation: William E. Farrell, Mike Halligan, Bill Norman,
Fred Van Valkenburg

SENATE TAXATION

EXHIBIT NO. 2


DATE 3-25-87

BILL NO. H.B. 678

City of Missoula Special Improvement Billing
vs. Delinquencies

BILLING	Amount Billed	Original Amount Delinquent	Original Delinquent (per cent of Total)
1981 (full year)	2,101,234.94	1,046,812.06	50%
1982 (full year)	1,895,091.93	976,176.61	52%
1983, 1st half	1,414,542.92	605,768.05	43%
1983, 2nd half	576,412.33	263,857.15	46%
1984, 1st half	1,371,820.12	570,588.87	42%
1984, 2nd half	531,577.95	258,779.77	49%
1985, 1st half	1,415,424.19	565,000.28	40%
1985, 2nd half	509,350.67	237,076.32	47%
1986, 1st half	1,263,992.74	480,003.51	38%

I CERTIFY THAT THESE AMOUNTS ARE TAKEN FROM THE RECORDS
OF THE CITY OF MISSOULA TREASURER


Edward A. Childers
Treasurer
City of Missoula

3/19/87

c:siddel%

AMENDMENT TO HB409

Third Reading

1. Page 5, line 18.

Following: line 18.

Insert: "NEW SECTION. Section 4. Coordination instruction. If HB842, SB307, or any other bill repealing 15-30-121 is enacted, this bill is void."

rr/93
amendhb409

SENATE TAXATION

EXHIBIT NO. 3

DATE 3-25-81

BILL NO. H.B. 409

What's

Business and Finance

UNITED TECHNOLOGIES will take a \$592 million pre-tax charge for its restructuring program, resulting in a "substantial" fourth-quarter loss. The company said the reorganization, which includes shrinking its work force 6% and reducing operations, will allow it to focus on its "strong core businesses." (Story on Page 3)

The Supreme Court made it harder for companies to file antitrust suits to block actions by competitors, including proposed mergers. The justices ruled that a firm must face a real competitive threat and not simply hurt by stiffer competition. (Story on Page 2)

Goldman Sachs is considering issuing additional capital, possibly through a stock offering. Despite the recent injection of \$400 million from Citicorp Bank, many at the securities firm believe Goldman must boost capital further to stay competitive. (Story on Page 2)

Shearson Lehman chief Peter Cook said an SEC probe of trading in Wall Street is focusing on foreign investors and doesn't involve anyone at the securities firm. Cohen and 14

News

World-Wide

TRAN-CONTRA FIGURES REFUSED to testify, citing fear of self-incrimination. Former National Security Adviser Poindexter appeared voluntarily before a House Foreign Affairs panel hearing into arms sales to Iran and the diversion of profits to Nicaraguan rebels, but "regretfully" declined to answer questions. Lt. Col. North, a Poindexter aide, also declined to testify about the operation. Meanwhile, as Justice Department aides continued talks with Swiss officials to gain access to records of two secret bank accounts, retired Air Force Gen. Secord, in a closed session of the Senate Intelligence panel, also invoked his Fifth Amendment right. (Story on Page 3)

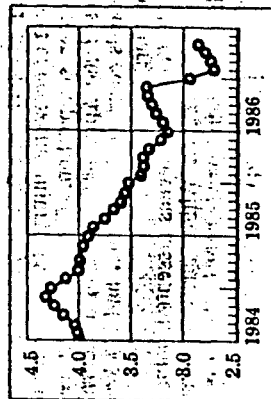
Shultz traveled to London to begin a "rebuilding job" of allied confidence over U.S. foreign policy, and Moscow and Tehran held their first high-level economic talks since 1979. (Story on Page 3)

CHIRAC CANCELED plans to hold a special parliamentary session next month. The move by the conservative French premier came in the face of widespread student protests over education legislation that critics said would increase tuition. Some legislative proposals—including the tightening of rules on acquiring French citizenship and allowing prisons to be built and operated by private firms—will be delayed until the regular April session because of Chirac's announcement. (Story on Page 34)

A Paris volunteer group plans to act as a buffer between police and demonstrators to try to avert violence at a student-led protest march today. The Philippine government resolved a dispute with communist rebels

Aluminum Production

Annual rate, in millions of metric tons



ALUMINUM PRODUCTION in the U.S. rose to an annual rate of 2,866,698 metric tons in October, from 2,805,998 metric tons in September, the Aluminum Association reports.

Communist or Not, East Europe Draws Some Exiles Home

Americans on Social Security Can Live Like Capitalists Back in the Old Country

By Barry Newman, Staff Reporter of THE WALL STREET JOURNAL
BUDAPEST, Hungary—What price liberty? In America, for the old and poor, it may sometimes seem more costly than it's worth. It cost too much for Anna and Zoltan Chikos. They had the choice between freedom on a low income amid high crime or retirement in totalitarian luxury. They picked Budapest over Bridgeport, Conn. In Connecticut, Mr. and Mrs. Chikos lived above their tailor shop. In Hungary, the country where both were born, they

Tax Report

A Special Summary and Forecast Of Federal and State Tax Developments

THE GOPHER STATE puts illegal-drug dealers in the hole with a stamp tax. Since Aug. 1, Minnesota has required dealers to buy tax stamps—\$3.50 a gram for marijuana, \$200 a gram for harder stuff—or pay double tax if caught stampless. Buyers are guaranteed anonymity as a constitutional safeguard, but enforcers see the tax as a tool for squeezing pushers. Only two people ("They may be stamp collectors," says revenue chief Triplett) have bought stamps voluntarily, paying \$900. But the state has assessed taxes of \$6.9 million against 33 persons arrested with unstamped drugs.

Its largest claim was \$3.2 million for half a ton of pot. It has collected only \$17,000 in cash but has seized a lot of property. Several suits claim the tax violates constitutional bars to self-incrimination, but officials believe they are about to win the first to be tried; they say the law avoids flaws that caused South Dakota's drug tax to be overturned. Arizona has required annual licenses for drug dealers and taxed them since 1984, but no licenses are in effect now; it has assessed taxes of \$5.4 million and collected \$219,509.

In July, Florida imposed a 20% tax and related penalties on illegal sales or use of drugs and is gearing up for enforcement.

A BIT OF BLUE shines through the 1987 ceiling on "401(k)" pay deferrals. The tax act generally trims the maximum amount of pay that an employee may defer in a Section 401(k) retirement plan to \$7,000 in 1987 from the current \$30,000. But many employees who expect 1986 bonuses to

Shopping Sp

Baby Bells Div Into Non-Phone Spark Much C Regional Firms A Of Unwise A Using Subsidie Growth Is Needed,

By JOHNNIE L. RO

Staff Reporter of THE WALL ST

Several months after U birth in the breakup of t two seasoned miners offer ing proposition: Would the telephone concern like to the Rocky Mountains?

The miners held preciou there and thought that a would be a good use of the land. Itching to diversify, U S West listened to the p spurning it.

"Just because they had sound offbeat didn't me them out the door," a U S West says, adding: "We aren't in iting ideas for diversifying. And diversity it has, along other regional Bell telephone panies that American Teleph graph Co. divested itself of. T the breakup on Jan. 1, 1984. Corp. announced a proposal ing company. That set off bing of acquisitions by the s companies. Those have

LIST OF DRUGS AND AMOUNT CONFISCATED IN 1986

Marijuana:	313,931 oz.
Hashish:	31 oz.
LSD:	833 doses
Precursor:	208 oz.
Cocaine:	66 oz.
Depressants:	953 doses
Stimulants:	6,194 doses and 5.46 oz.
PCP:	1 oz.
Morphine:	14.14 oz. and 20 doses
Opium:	38 oz.
Other Depressants:	787 doses
Other Hallucinogens:	40 doses and 2 oz.
Other Opiates:	517 doses and 5.6 oz.
Other Stimulants:	1 oz. and 440 doses
Unknown:	160 doses and 1.8 oz.

SENATE TAXATION

EXHIBIT NO. 4DATE 3-25-87BILL NO. H.B. 791

RECEIVED

MAR 2 1987

DEPARTMENT OF REVENUE

DIRECTOR'S OFFICE
DEPT. OF REVENUE

MITCHELL BUILDING



TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

HELENA, MONTANA 59620

MEMORANDUM

TO: John D. LaFaver, Director
Director's Office

FROM: David W. Woodgerd, Chief Legal Counsel *[Signature]*
Office of Legal Affairs

DATE: March 24, 1987

SUBJECT: Necessity of Rulemaking Authority to Administer
Tax Laws - PSC Tax and HB583

It is fundamental that state agencies cannot adopt legislative rules having the force of law without specific rulemaking authority from the Legislature. Further, legislative rules can only be adopted by a state agency through the formal process of notice and opportunity for comment set forth in the Montana Administrative Procedures Act. Title 2, ch. 4, MCA.

The courts have on a number of occasions considered the situation where an agency has tried to enact a policy or procedure without formally adopting an administrative rule. The decisions clearly indicate that formal adoption is required if the policy or procedure is to be enforceable. If the authority to adopt rules exists, the agency can correct the problem by adopting a rule. If no authority exists, then the problem cannot be corrected. This was the situation faced by the Montana Department of Labor in trying to administer the prevailing wage law (Little Davis-Bacon Act).

In that case, Judge Gordon Bennett stated as follows:

Unfortunately, this objective has been defeated somewhat by the operation of Section 2-4-102. The definitive distinction made between legislative and interpretive rules contained in this section was not in the original MAPA, nor is it contained in the federal APA. It was created in 1977 under a general amendment of MAPA. (See Laws 1977, Ch. 285,

SENATE TAXATION

EXHIBIT NO. 5

DATE 3-25-87

BILL NO. H.B. 583

John D. LaFaver, Director
March 24, 1987
Page - 2 -

Sect. 2) With this provision, the legislature, in effect, prevented an administrative agency with implied rulemaking authority from promulgating rules with the force of law, thus distinguishing Montana administrative law from federal law and that of many other states. This left the state agencies in an anomalous position. They had the duty to implement and enforce certain statutory provisions, but lacked the express rulemaking authority to do so. Because of this anomaly, they have resorted to informal and ad hoc decisions in order to implement and enforce the statutory duty imposed on them. These informal actions lack the force of law and are difficult for courts to review because of sparse or non-existent administrative records. The possibility of inconsistent and arbitrary decisions is accordingly very great. It is not, however, our function to cure this defect in the legislative scheme.

The result of this case was that the Department of Labor could not adopt a rule setting forth the prevailing wage. Instead, it had to make informal and ad hoc decisions in each individual case.

In the case of taxation statutes, there are always procedural requirements, forms, necessary information, ambiguities, and other problems which need to be addressed by rules. If no rulemaking authority exists, then the Department will simply not be able to administer the tax unless all of the taxpayers simply agree to pay their fair share without protest.

Specifically as to HB583, it amends the existing Public Service Commission tax in two ways which, in my view, necessitate rulemaking. First, it essentially adds a deduction to what was previously a relatively simple gross receipts tax. Any time that deductions are allowed in a tax act, complications begin. It may be very simple to determine the more obvious sales for resale which are deductible. It is much more difficult when the taxpayers begin to ask questions about shared facilities, rental of equipment, and other inputs into the manufacturing process.

Secondly, the revenue from this act now goes into the general fund. In the past, if the Department did an audit and determined that additional taxes were due, the additional collection simply

SENATE TAXATION

EXHIBIT NO. 5

DATE 3-25-87

FILE NO. 11 R 502

John D. LaFaver, Director

March 24, 1987

Page - 3 -

reduced the next reporting period's budget needs, and nobody complained. However, in essence, all other taxpayers paid too much tax in the prior year if one taxpayer did not pay enough. Now that this is a general fund tax, refund requests are likely.

As time goes on, experience dictates that other problems will arise. Without rulemaking authority, this tax could easily become impossible to effectively and efficiently administer.

/rr

SENATE TAXATION

EXHIBIT NO. 5

DATE 3-25-87

BILL NO. HB 583

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date March 25, 1987 Bill No. HB 583 Time 9:55 AM

NAME	YES	NO
SENATOR CRIPPEN		✓
SENATOR NEUMAN	✓	
SENATOR SEVERSON		✓
SENATOR LYBECK	✓	
SENATOR HAGER		✓
SENATOR MAZUREK	✓	
SENATOR ECK	✓	
SENATOR BROWN		✓
SENATOR HIRSCH		✓
SENATOR BISHOP		✓
SENATOR HALLIGAN, VICE CHAIRMAN	✓	
SENATOR McCALLUM, CHAIRMAN		✓

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Eck's substitute motion to give the
Department rulemaking authority, and draft a statement
of intent. Motion failed 5-7.