

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on January 13, 1989,
at 9:00 a.m.

ROLL CALL

Members Present: 16

Members Excused: 2

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 90

Presentation and Opening Statement by Sponsor: Rep. Ralph Eudaily, District 60, Missoula stated he is sponsoring this bill at the request of several of his constituents. Currently, saddles are taxed even though they are used for recreational purposes only. The assessor's form for this states "farm equipment" and a \$50.00 minimum value for saddles, \$25.00 for bridles and \$10.00 for halters. This is in class 16, 11% tax. HB 90 will exempt saddles and other tack equipment used solely for recreational purposes and not for farm or rental. Rep. Eudaily stated he asked for a fiscal statement on this and found the taxable amount to be \$305,310.00 for 1988. The fiscal statement also states that it is assumed all tack equipment will be declared recreational and therefore the maximum must be applied. The fiscal impact to local school districts would be a maximum of \$60,000.00; for cities and towns, a maximum of \$367.00. He stated he doubted the bill would exempt every saddle in Montana but since the assessor's office did not know exactly how many saddles would be exempt under HB 90, they gave him the maximum figures on the fiscal statement. If the committee would like to amend the bill to exempt all saddles, he would concur.

List of Testifying Proponents and What Group They Represent:

Ken Norddvelt, Director, Department of Revenue
Dennis Burr, Montana Taxpayer's Association
Bill Maloit, Vice Chairman of Back Country Horsemen of
America
Tia Fehleg, Last Chance Chapter of the Back Country
Horsemen of Montana

List of Testifying Opponents and What Group They Represent:

Gordon Morris, Montana Association of Counties
Kim Enkerud, Montana Stockgrowers Association, Montana
Cattlemen, and the Montana State Grazing District
Ron De Young, Montana Farmer's Union

Testimony:

Ken Norddvelt supports exempting all tac equipment under this bill. The code is taxing items that are very expensive to verify. There is no equitable enforcement of this provision throughout the state. He stated he preferred an amendment to exempt all tac equipment from the tax codes entirely and he would support such an amendment. (Exhibit 1) Additionally, he said that unless this bill could be implemented very quickly, the effective date should be changed to one year later than presently stated.

Dennis Burr agreed that all tac equipment should be exempt. The effect on revenue is very minor. The DOR would have difficulty determining whether or not tac equipment is recreational plus this would be very expensive.

Bill Maloit spoke in favor of the bill. (Exhibit 2).

Gordon Morris spoke against HB 90 stating it was another in a long line of steady erosion of the property tax by legislative action. He believes this piecemeal restructuring is inappropriate when top to bottom restructuring is needed.

Kim Enkerud spoke against the bill. (Exhibit 3).

Ron De Young agreed with the previous testimony. He stated all tac equipment should be taxed or exempted entirely.

Tia Fehleg submitted testimony in support of the bill as she arrived too late to speak. (Exhibit 4).

Questions From Committee Members: Rep. Ream stated his property is classified as residential but since he has acreage and some farm animals, he must fill out a form on

equipment and after appraisal, pay a \$6.00 tax. He asked Mr. Nordtveltdt if the farm classification could be eliminated when the property is classed as residential. Mr. Nordtveltdt replied that many taxes are in the nuisance category for both the taxpayer and the collector. He stated there could be a deductible. He would be willing to work with Rep. Ream to draft legislation to accomplish this.

Rep. Hoffman stated he understood the Administration is planning to eliminate the personal property tax. He asked Mr. Nordtveltdt if this was true. He replied that there would be an attempt to reduce the rates and consolidate them into a common rate on the great bulk of personal property tax. Nuisance taxes would also be identified and eliminated.

Closing by Sponsor: Rep. Eudaily agreed that all tax equipment should be exempted. The bill is narrow as written, so it would only be necessary to repeal 14, 15, and 16 of the bill. He agrees the effective date should also be changed as proposed by the DOR.

DISPOSITION OF HOUSE BILL 90

Motion: None

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 92

Presentation and Opening Statement by Sponsor: Rep.

Eudaily, District 60, Missoula introduced this bill at the request of the Missoula County Commissioners. The bill deals with property tax deadlines. The county commissioners wrote a letter to the Department of Revenue stating they did not believe the department was following the legislative intent or proper procedures in this regard. A letter was received from the DOR in reply. (Exhibit 5). The DOR is requiring an application be renewed each year since this concerns the low income property tax and income does change from year to year. There are problems with the March 1 application deadline. People with health and age problems cannot always file their applications on time or sometimes not at all. HB 92 essentially gives the DOR the power to grant a reasonable extension of the

deadline if the taxpayer can establish the failure to apply was due to good cause.

List of Testifying Proponents and What Group They Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Ken Nordtveltdt, speaking for the Department of Revenue, suggested amendments be made to the bill. (Exhibit 6). He stated the department does have a rule currently that states applications filed after March 1 will not be considered for that tax year unless the agent for the department determines the following conditions are met: (1) The applicant's failure to apply was due to medical reasons, and (2) The applicant successfully qualified during the preceding 12 months. The bill does contain a general trend for which there should be concern which is the liberalization of tax relief. There must be control at some point so taxes are paid on time. He proposed additional amendments to the bill for this area. The DOR does have the authority to grant these extensions but he would not like it to become a routine exercise. Extensions should be granted no later than July 1.

Questions From Committee Members: Rep. Hoffman asked Mr. Nordtveltdt if he wanted a waiver put into the title of the bill. Mr. Nordtveltdt replied he would.

Rep. Driscoll stated that if the application was postmarked May 1, would this be granted for the next year or would the taxpayer have to reapply. Mr. Nordtveltdt answered that income changed from year to year. One year the taxpayer may be eligible, another year they may not. Therefore, they must apply each year.

Rep. Ellison asked Mr. Nordtveltdt if the statute should be changed to comply with the rule on page 2, lines 1, 2, and 3. Mr. Nordtveltdt stated that unless their situation changes, the application remains in effect. Perhaps the only way to keep an account of this is by some means of verification but if the taxpayer's situation does not change, they should not have to reapply.

Rep. Ellison stated that the language in this regard was unclear as to whether or not the taxpayer had to reapply. Mr. Nordtveltdt replied the rules should be changed, not the statute.

Rep. Hoffman asked Mr. Nordtveltdt would the assessor be given discretionary authority to grant a waiver. Mr. Nordtveltdt replied that the interpretation is all people working for the department have this authority. Rep. Hoffman asked who would be responsible, the assessor or the department. Mr. Nordtveltdt replied that lawyers attempt to sue everyone from the agent all the way up to the Director of the Department so everyone is responsible.

Rep. Driscoll asked Mr. Nordtveltdt if the rule should be changed or the law. He responded it should be the rule.

Rep. Giacometto asked Rep. Eudaily if he was aware of the administrative rule regarding the extension and if so, why is the bill necessary. Rep. Eudaily replied he was not aware of this and asked Mr. Nordtveltdt if this was a recent rule. Mr. Nordtveltdt replied it had been in effect since June 30, 1988. Rep. Eudaily said the part stating the taxpayers must reapply the second year has not been changed. However, he has no problem if the committee feels this rule covers everything concerned with the bill.

Closing: Rep. Eudaily stated he had no problem with the amendments proposed by the DOR. If the committee believes that the current rule suffices and extension will be granted to deserving people, then he is satisfied.

DISPOSITION OF HOUSE BILL 92

Motion: None

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 83

Presentation and Opening Statement by Sponsor: Rep. Harrington, District 68, is sponsoring this bill at the request of the DOR. The bill concerns restrictive

endorsements on tax payments. Conditional endorsements would be allowed only with the approval of the department.

List of Testifying Proponents and What Group They Represent:

Jeff Miller, Department of Revenue

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jeff Miller cited a court decision in favor of a man who had sent the department a check with a restrictive endorsement of "paid in full" for his taxes which was less than the actual amount due. Mr. Miller stated that there is a large volume of payments coming into the department. Clerical personnel do not have the time to review every payment for restrictive endorsements. Procedures have been put into effect so that if a clerk sees a restrictive endorsement, he or she can put this aside and clear it with an administrator later on, but to have the clerks check every payment would bring the work to a complete halt. HB 83 is a reasonable solution and does state that restrictive endorsements are not binding on the department unless so authorized.

Questions From Committee Members: Rep. Ellison asked Mr. Miller if a similar system is in place for property tax. Mr. Miller replied that it was.

Rep. Ream asked if a check that is not the full amount is returned to the taxpayer. Mr. Miller responded it was but it did delay processing.

Rep. Gilbert stated that some individuals are not aware of the law and asked Mr. Miller if this was taking away their right of protest. Mr. Miller replied that this is not the intent. Restrictive payments delay the processing of all returns. The taxpayers do have avenues of appeal throughout the statutes. He stated they are trying to avoid having to screen every check received but this in no way takes away the right of appeal.

Rep. Ellison asked under what obligations are restrictive endorsements received. Mr. Good answered for the DOR stating that it can be anything such as taxes, child support, many different types of payments.

Rep. Good asked if a tax is \$200.00 and the taxpayer pays \$100.00, is this deposited. Mr. Miller replied yes, if it has no restrictive endorsement. The taxpayer would be billed for the remainder. However, if there is a restrictive endorsement, it is taken to the administrator of that tax division who writes to the taxpayer, returning the check, and stating it cannot be accepted with this endorsement.

Rep. Patterson added if the endorsement states "payment in full" what is done. Mr. Miller answered. The check would be returned unless approved by the administrator.

Rep. Koehnke asked if the bill passed, will checks with restrictive endorsements be accepted and the taxpayer notified. Mr. Miller replied they would be accepted if this was agreed to in advance. Otherwise, the DOR is not obligated to do so. This is the essence of the bill.

Closing by Sponsor: Rep. Harrington stated the bill is to protect the DOR from loss of revenue through restrictive endorsements on checks.

DISPOSITION OF HOUSE BILL 83

Motion: None

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

ADJOURNMENT

Adjournment At: 10:00 a.m.



REP. DAN HARRINGTON, Chairman

DH/lj

1115.min

DAILY ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date January 13, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben			✓
Driscoll, Jerry	✓		
Eliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted			✓
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		

from DOR
EXHIBIT 1
DATE 1/13/89
HB 90
Rep. R. Eudaly

Proposed Amendments to HB 90, as Introduced

1. Page 1, Line 6.
Strike: "used solely for recreational purposes"
2. Page 1, Line 8.
Strike: "retroactive"
3. Page 1, Lines 14 and 15.
Strike in entirety
4. Page 4, Lines 23-25.
Strike: "used solely for recreational purposes and not
for farm, ranch, or rental purposes"
5. Page 6, Lines 11 and 12.
Strike: "retroactively, within the meaning of 1-2-
109,"
6. Page 6, Line 12.
Strike "1988"
Insert "1989"

EXHIBIT 2
DATE 11/13/89
HB 90
Rep. R. Endaile

Testimony of Bill Maloit, Back Country Horsemen Of Montana

Mr. Chairman, Members of the Committee, Ladies and Gentlemen:

I am Bill Maloit, Vice Chairman for the Back Country Horsement of Montana.

The Back Country Horsemen of Montana is incorporated under the laws of the State of Montana as a non-profit educational corporation.

We are here to support HB 90, an act to exempt from property tax all harness, saddlery and other tack equipment used solely for recreational purposes. This tax is discriminatory as it places harness, saddlery and tack in class 16 at 11% of fair market value. Other recreational equipment of comparable value is not taxed at this rate or is not taxed at all.

For example, a \$5,000.00 boat and motor is taxed on length of boat and such a boat under 14 foot, the tax would amount to approximately \$40.00 annually. In comparison, a \$500.00 saddle would be taxed at \$55.00 annually.

Other recreational equipment such as cameras, akis, fishing tackle, and guns are not taxed at this rate.

The Back Country Horsemen of Montana request your repeal of this section.

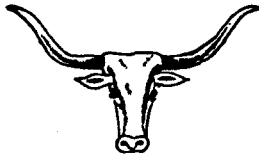
Thank you for your consideration.

MONTANA STOCKGROWERS ASSOCIATION, INC.

P.O. BOX 1679 — 420 NO. CALIFORNIA ST. — PHONE (406) 442-3420 — HELENA, MONTANA 59624

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JAMES COURTNEY ALZADA FIRST VICE PRESIDENT
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BILL CHRISTENSEN HOT SPRINGS KNUTE HEREIM MARTINSDALE
LYNN CORNWELL GLASGOW EARL LINDGREN JOLIET
M.E. EDDLEMAN WORDEN ROLAND MOSHER AUGUSTA
NANCY ESPY BOYES GREG RICE HARRISON

EXHIBIT 3
DATE 1/13/89
HB 90

Rep. R. Eadaily

January 13, 1989

TO: House Taxation Committee

SUBJECT: House Bill 90

Mr. Chairman, Members of the Committee:

My name is Kim Enkerud. I am representing the Montana Stockgrowers Association, Montana Cattlemen, and the Montana Association of State Grazing Districts. These Associations represent about 4000 ranch families in Montana.

I am here before you today to oppose House Bill 90. "An act exempting from property taxation all harness, saddlery, and other tack equipment used solely for recreational purposes.

The Associations feel the Department of Revenue can't and shouldn't have to differentiate between what is recreational use tack and tack used for business. Both recreational and work harnesses, saddlery, and other tack ^{equipment} should be taxed together, or completely eliminated off both categories.

We feel it is a bad concept to tax the use of harnesses, saddlery, and tack equipment, not the value.

We oppose the bill as written, but would support if all tack & equipment were eliminated

TIA Fealey
I am Tina Fealey. I am a member of the Last Chance
Chapter of the Back Country Horsemen of Montana and am
here presenting testimony on their behalf.

The Back Country Horsemen support House Bill 90.

Harness, saddlery and tack used ~~only~~ solely for recreational
purposes has been unfairly and unequally subjected
to taxation, while other comparable personal sporting
goods such as skis, guns, cameras or golf clubs are exempted
from taxation as household goods.

Muchly because harness, saddlery and tack are used with
livestock does not create a material basis to tax them differently
from other personal sporting goods.

It's a matter of fairness to tax all similar property in a
similar manner. House Bill 90 simply extends to the
recreational horsemen the same treatment extended to
other sportsmen in this state.

The Back Country Horsemen respectfully ^{fully} requests that
this Committee and this Legislature correct this unequal
and unfair treatment and approve House Bill 90.

Room 437, 9 a.m.

TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING



STATE OF MONTANA

HELENA, MONTANA 59620

The department attempted to correct that deficiency by standardizing the income tax and property tax definitions of low income. That standardization would have allowed the income tax filer to

EXHIBIT 5, Pg. 2

DATE 11/13/89

HB 92

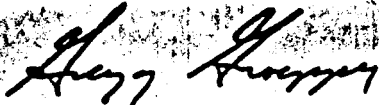
Rep. R. Endersby

receive automatic property tax relief. Unfortunately that legislative change was rejected by the 50th Legislature and did not cure the March 1 application deadline in statute.

Perhaps as we get closer to the next session we could discuss the merits of that type of change with your board of commissioners and other members of the Montana Association of Counties to see if that legislative avenue is worth reconsidering.

Thanks again for your valuable suggestions. Once we get the administrative rules to a final draft I will send you a copy. If you have any additional suggestions at that time I would appreciate hearing from you.

Sincerely,



Gregg Groepper, Administrator
Property Assessment Division

GG:kc

ggl21

cc: John LaFaver
Missoula County Legislative Delegation
Governor Ted Schwinden
Jim Fairbanks

from DOR 6
EXHIBIT
DATE 1/13/89
HB 92
Rep. R. Eudaly

Proposed Amendment to HB 92, as Introduced

1. Page 2, Line 8.
Strike: "reasonable extension"
Insert: "waiver"
2. Page 2, Line 10.
Insert following "apply": "in a timely manner"
3. Page 2, Line 11.
Strike: "."
Insert: ", but in no case may the department grant an
extension later than July 1 of the same year."

MISSOULA COUNTY

BOARD OF COUNTY COMMISSIONERS

• Missoula County Courthouse • Missoula, Montana

(406) 721-5700

EXHIBIT 7

DATE 1/13/89

HB 59802 92

Rep. R. Eudaly

BCC-87-504

November 16, 1987

Gregg Groepper
Department of Revenue
Steamboat Block Building, Helena Avenue
Helena, MT 59620

RE: Department policy requiring annual renewal of applications for classification of property under Section 15-6-134(c), MCA

Dear Gregg,

It has come to our attention that the D.O.R., by policy statement, now requires annual renewals of applications for classification of property under Section 15-6-134(c), MCA.

While we believe that there may be serious legal objections to the implementation of this policy on a blanket basis, our principal objection is to the disastrous consequences this policy can impose on the truly needy.

An example which was called to our attention is indicative of the problems which result from the current policy. The individual involved is 90 years old, blind and infirm. Notwithstanding his infirmities, he has continued to live independently with some home nursing visits and the assistance of relatives on an annual income of approximately \$4,000. He depends on his daughter-in-law to deal with payment of his bills including taxes. During the first part of this year she was ill, and somehow the renewed application for the Section 15-6-134, MCA, tax reduction was not made. As a result, his taxes this year are \$713.62, or more than twice last year's \$348.86. The increase represents more than one month's income and makes what had been a hardship a near impossibility.

If the requirement of an annual renewal application was legislatively imposed, we would not seek your assistance in solving this problem. However, the requirement for annual renewals is not legislatively imposed. In fact, the legislature specifically provided in Section 15-6-151(2), MCA, that: "The application remains in effect in subsequent years unless there is a change in the applicant's eligibility." Section 15-6-151(2), MCA, then goes on to make it the taxpayer's duty to report changes and to authorize the department to inquire regarding the eligibility and to require new applications.

Since the requirement for annual renewals is a creation of Department policy, we would request your assistance in revising that policy so that property tax relief can be afforded the truly needy as intended by the legislature notwithstanding their inadvertent failure to renew their application for property tax relief under Sections 15-6-134(C) and 15-6-151, MCA.

EXHIBIT 7 pg. 2
DATE 11/13/89
HB 92
Rep. R. Eudaily

Our suggestion would be that a taxpayer be allowed the benefit of Section 15-6-134(c), MCA, even though a renewed application was not filed for the tax year 1987, if the taxpayer can show: (a) that failure to renew the application either was not the fault of the taxpayer or resulted from excusable neglect on the part of the taxpayer; and (b) that taxpayer is in fact still eligible for the benefits of Section 15-6-134(c), MCA.

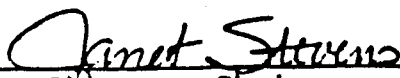
While the above procedure will serve in some measure to solve this year's problems, we would further request the Department to reconsider its policy on this matter for future years. As we noted earlier, there appear to be serious legal objections to the manner in which the Department has implemented the blanket requirement for annual renewals. First, the blanket requirement for annual renewals appears to fly in the face of the clear legislative mandate that: "That the application remains in effect in subsequent years...." Second, what has been adopted and enforced by the Department as a policy appears to be a "Rule" as the same is defined by Section 2-4-102(10), MCA. As such to be enforceable under the Montana Administrative Procedure Act (MAPA), it must be adopted with the notice and opportunity for a hearing provided for in the MAPA and subjected to review of the Legislative Administrative Code Committee as provided in MAPA. Rules which are not adopted in accordance with MAPA prescribed procedures are not enforceable.

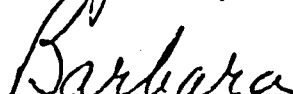
While Missoula County does not wish to become embroiled in a dispute with the Department over this issue, we believe that these are serious problems which must be addressed both to solve this year's problems for needy and deserving taxpayers and to prevent problems from arising in future years.

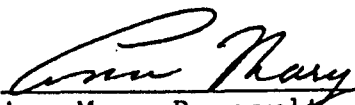
Please give us your thoughts on possible solutions to these problems.

Sincerely,

BOARD OF COUNTY COMMISSIONERS


Janet Stevens, Chairwoman


Barbara Evans, Commissioner


Ann Mary Dussault, Commissioner

BCC/MS:ss

cc: John LaFaver, Director, Department of Revenue
Governor Ted Schwinden
Missoula County Legislative Delegation
Jim Fairbanks, Missoula County Appraiser/Assessor

VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. HB 90

DATE January 13, 1989

SPONSOR Ralph Eudaily

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Marvin Barber	Mt. Assessor		✓
Bill Maloich	BCN of M. Helena	✓	
Long Maloich	5361 Kinn-Helena	✓	
Turn Enkerud	Mt. State Grazing District MT Stockgrowers, MT Cattlewomen		✓
Don de Yong	Mt. Farmers Union		✓
Earl Reitzke	Back Country Horsemen	✓	
Dennis Burr	MONITAX	✓	
Gail Williams	Helena, MT	✓	
Gordon Morris	MACo.		X
Via Fekky	Helena B.C.H.	✓	
Alan Jantzen	Helena MT	✓	
Steven W. Dempsey	4453 Lombardy Helena	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. HB 92DATE January 13, 1989SPONSOR Ralph Eudaily

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Marvin Barber</i>	<i>MT Assessor</i>	<i>✓</i>	<i> </i>

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

TAXATION

BILL NO. HB 83

DATE January 13, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.