

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on March 29, 1989, at  
8:00 a.m.

#### ROLL CALL

Members Present: 17

Members Excused: None

Members Absent: 1

Staff Present: Greg Petesch, Legislative Council

Announcements/Discussion: None.

#### HEARING ON HOUSE BILL 791

#### Presentation and Opening Statement by Sponsor:

Rep. Jack Ramirez, District 87, stated HB 791 is to assist Big Sky Airlines which is currently in a Chapter 11 reorganization. He said the airline cannot restructure its tax liability. Rep. Ramirez stated the indebtedness amount was \$800,000.00 dating back to 1983. He said the airline had paid their taxes for November of 1987 plus May and November of 1988. He stated without the assistance, the airline will be unable to stay in business.

#### Testifying Proponents and Who They Represent:

Jayce Norsworthy, President, Big Sky Airlines  
Jim Van Arsdale, Mayor, Billings

#### Proponent Testimony:

Jayce Norsworthy stated Big Sky was an eleven year old incorporated Montana airline that serves seventeen cities, two in North Dakota, one in Washington and the balance in Montana. He said the airline had experienced a profit in only two of their eleven years of operation. Mr. Norsworthy stated the airline did not owe \$800,000.00 in back taxes. He said this figure is taxes and airport fees combined. Mr. Norsworthy stated only 12 people had been terminated from the airline and his employees had asked to take a 15% cut in salary. He said they must devise a plan to pay all of the taxes owed within 72 months after the date of assessment. Mr. Norsworthy stated currently the company owes approximately \$355,000.00 in delinquent taxes plus penalty

and interest. He said this bill would provide \$175,000.00 in tax relief. He stated this amount is the tax preceding the year 1986. Mr. Norsworthy said the airline has a \$5,000,000.00 payroll annually and 90% of their employees are in the state of Montana. He said the assistance was badly needed in order for the airline to survive. He thanked the committee for their time.

Jim Van Arsdale stated he supported the airline. He said it is very necessary to link many small towns in the state. He stated the airline is also needed for the economy and for emergency travel. He urged support of the bill.

Testifying Opponents and Who They Represent:

Gordon Morris, Montana Association of Counties

Opponent Testimony:

Gordon Morris stated he had worked with Mr. Norsworthy for ten months to try to resolve the airline's problems. He said the bill would send the wrong message in regard to delinquent taxes. Mr. Morris suggested giving county commissioners the authority to look at the merits of the public interest involved and make a local decision to waive the tax funds. He stated this is a difficult issue and the air services are essential but he suggested that Rep. Ramirez or the airline should have contacted his office since they had previously worked on Big Sky's problems.

Questions From Committee Members: Rep. Rehberg asked Mr. Morris about the larger counties holding the smaller ones hostage because they would not need the airline as much as the smaller counties. Mr. Morris stated he did not think so since all of the counties have been working together to try to resolve this problem.

Rep. Driscoll asked Mr. Norsworthy if any other creditors had agreed to take less than the full value of the debts owed. Mr. Norsworthy stated they had not so far. He said they had the right to devise a plan for payment that all of the creditors will vote on and if any one agrees, then the bankruptcy judge could rule they had accepted the plan. He stated if that included any agreement to take less than full value, then that would be the final agreement. Rep. Driscoll then asked if the airline would not ask the creditors to take less in their plan. Mr. Norsworthy stated they would. Rep. Driscoll then asked Mr. Van Arsdale if the city of Billings had agreed to take less than full value on the landing fees. Mr. Van Arsdale said he had not discussed this with the city council so he could not answer. Rep. Driscoll asked if this would be brought before the council to which Mr. Van Arsdale replied he hoped so.

Rep. Elliott asked Mr. Norsworthy if he could tell him the

viability of airlines in regard to size. Mr. Norsworthy stated the business was very fragile particularly in a sparsely populated area.

Mr. Norsworthy asked permission to make a comment. Chairman Harrington concurred. Mr. Norsworthy stated he wished to apologize to Mr. Morris for failing to notify him since they had worked together to try to resolve the airlines tax difficulties. He said he just learned of the requirement to pay the taxes last week. He said he immediately notified Rep. Ramirez and was surprised that the hearing was held so soon. He stated he did not expect such quick action.

Rep. Hoffman asked Rep. Ramirez if there should not be a sunset clause in the bill. Rep. Ramirez stated he had no objection to that. Chairman Harrington commented the bill is effective on the date it passes and sunsets itself.

Rep. Good asked Rep. Ramirez if he would comment on Mr. Morris's alternative plan giving the county commissioners additional authority. Rep. Ramirez stated he thought that would be fine in a broader context but the airline needs this assistance immediately.

Closing by Sponsor: Rep. Ramirez stated he did not intend to exclude Mr. Morris. He said he did not see other alternatives at the present time since the situation needed immediate attention.

#### DISPOSITION OF HOUSE BILL 791

Motion: DO PASS by Rep. Rehberg.

Discussion: Rep. Driscoll stated if the airline goes into Chapter 7 bankruptcy, there would be much less tax collected plus the airline service is needed. Chairman Harrington agreed stating it is essential to continue the air service.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: Motion CARRIED by a 14 to 3 voice vote with Reps. Stang, Elliott and O'Keefe voting no.

#### HEARING ON SENATE BILL 137

Presentation and Opening Statement by Sponsor:

Senator Dennis Nathe, District 10, stated under federal income tax law, a corporation can elect to carry their losses backward or forward but under the state income tax laws, a corporation can only carry their losses back and then forward. He said under SB 137, a corporation has the option to carry their losses either backward or forward on the state income tax.

Testifying Proponents and Who They Represent:

Tom Harrison, Montana Society of CPAs  
Kay Foster, Billings Chamber of Commerce

Proponent Testimony:

Tom Harrison stated the bill will bring the state income tax in line with the federal in regard to the carry forward or backward of losses. He said this will save the tax preparer time and make the taxes much simpler. He urged support of the bill.

Kay Foster urged support of the bill.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Senator Nathe stated the bill is just to eliminate costly mistakes in this respect.

DISPOSITION OF SENATE BILL 137

Motion: None.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: None. Action will be taken at a later date.

HEARING ON SENATE BILL 253

Presentation and Opening Statement by Sponsor:

Senator Sam Hofman, District 38, stated this bill was a matter of fairness and provides a special fuel tax exemption for private schools. He said this exempts their diesel operated school buses from taxation. He stated there is no fiscal impact.

Testifying Proponents and Who They Represent:

Norse Nichols, Administrator, Motor Fuels Tax Division,

## Department of Revenue

Proponent Testimony:

Norse Nichols stated the department supports the bill but their attorneys were concerned with the broadness of the school related purposes in the bill. He submitted proposed amendments and a photocopy of the particular section of the Montana code which defines private schools as those qualified to provide elementary and high school education. (Exhibits 1 and 2).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Cohen asked Mr. Nichols if private contractors were exempt from the tax. Mr. Nichols replied they were not. Rep. Cohen then asked Senator Hofman if this was a church school. Sen. Hofman replied this was a private school and had no connection with any church.

Rep. Schye asked Sen. Hofman about the amendments and if he agreed with them. The senator replied he had no problem with them at all.

Closing by Sponsor: Sen. Hofman stated this was primarily a fairness issue. He said he did not object to the amendments and he assured the committee the private school was not church related in any way.

## DISPOSITION OF SENATE BILL 253

Motion: DO PASS by Rep. Rehberg. Rep. Schye moved the amendment.

Discussion: Rep. Elliott stated Mr. Nichols had informed him the schools do pay tax on gasoline. He said the bill applies only to diesel and this would be an exemption for this school only. Rep. Schye then asked Mr. Nichols about the diesel buses for other schools. Mr. Nichols stated they were already exempt. Rep. Cohen stated there were other private schools and public schools that run buses and they pay taxes. He stated his major point of opposition to the bill was that private schools remove support from public schools. Rep. Good objected to this statement saying she sent her schools to private school and she paid taxes for public schools.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: At this point, Rep. Rehberg withdrew his motion to DO PASS since the committee had to return to hearings on additional bills. Action will be taken at a later date.

HEARING ON SENATE BILL 139

Presentation and Opening Statement by Sponsor:

Senator Tom Hager, District 48, stated the bill was introduced at the request of the Yellowstone County Recorder. He said a bill was passed two years ago allowing the sale of delinquent property which had no buildings on it. He said the bill allowed redemption of the property after eighteen months. Sen. Hager said under SB 139, the redemption time would have been 36 months but he received many objections from the counties so the time will be 24 months.

Testifying Proponents and Who They Represent:

Cort Harrington, Montana Association of Clerks and  
Recorders

Proponent Testimony:

Cort Harrington stated the concern with retaining the 36 month time period related to undeveloped land that could incur too large a delinquency and thus be unable to sell the land for the taxes due. He said the 24 month period was a compromise.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Senator Hager made no further comment.

DISPOSITION OF SENATE BILL 139

Motion: DO PASS by Rep. O'Keefe.

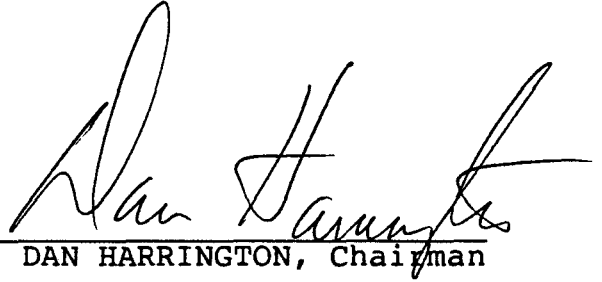
Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: Motion CARRIED by a unanimous voice  
vote.

ADJOURNMENT

Adjournment At: 8:55 a.m.

A handwritten signature in black ink, appearing to read "Dan Harrington", is written over a horizontal line. The signature is stylized with a large initial "D" and a long, sweeping underline.

REP. DAN HARRINGTON, Chairman

DH/lj

7015.min

## DAILY ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 29, 1989

| NAME                      | PRESENT | ABSENT | EXCUSED |
|---------------------------|---------|--------|---------|
| Harrington, Dan, Chairman | ✓       |        |         |
| Ream, Bob, Vice Chairman  | ✓       |        |         |
| Cohen, Ben                | ✓       |        |         |
| Driscoll, Jerry           | ✓       |        |         |
| Elliott, 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           | ✓       |        |         |
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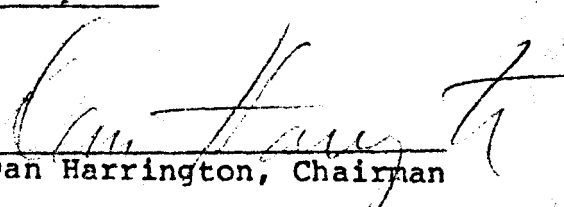
STANDING COMMITTEE REPORT

March 29, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE  
BILL 791 (first reading copy -- white) do pass.

Signed: \_\_\_\_\_

  
Dan Harrington, Chairman

STANDING COMMITTEE REPORT

March 29, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that SENATE  
BILL 139 (third reading copy -- blue) be concurred in .

Signed: \_\_\_\_\_

*Dan Harrington*  
Dan Harrington, Chairman

[REP. O'KEEFE WILL CARRY THIS BILL ON THE HOUSE FLOOR]

EXHIBIT 1

DATE 3/29/89

SB 253

*Sen. Sam Hoffman*

Amend line 11 on page 2 by adding the following after the word purposes.

For the purposes of this section private schools are defined as those which are qualified to provide elementary and high school education pursuant to section 20-5-109-140, MCA.

**Cross-References**

Cooperative agreements with Indian tribes,  
Title 18, ch. 11.

child is a member or the Indian reservation on which such child resides. When such a prohibition exists, the trustees of any district shall have the authority to accept from the tribal council or other governing body of the Indian tribe or the Indian reservation authorization to enforce the compulsory attendance provisions of this title and compel the school attendance of the Indian children belonging to the tribe or residing on the reservation.

History: En. 75-6309 by Sec. 122, Ch. 5, L. 1971; R.C.M. 1947, 75-6309(part).

**20-5-109. Nonpublic school requirements for compulsory enrollment exemption.**

To qualify its students for exemption from compulsory enrollment under 20-5-102, a nonpublic or home school shall:

(1) maintain records on pupil attendance and disease immunization and make such records available to the county superintendent of schools on request;

(2) provide at least 180 days of pupil instruction or the equivalent in accordance with 20-1-301 and 20-1-302;

(3) be housed in a building that complies with applicable local health and safety regulations;

(4) provide an organized course of study that includes instruction in the subjects required of public schools as a basic instructional program pursuant to 20-7-111; and

(5) in the case of home schools, notify the county superintendent of schools of the student's attendance at the school.

History: En. Sec. 2, Ch. 355, L. 1983.

**Cross-References**

Disease immunization, Title 20, ch. 5, part 4.

School enrollment procedures to aid identification of missing children, 44-2-511.  
Building codes and standards, Title 50, ch. 60.

**Part 2****Duties — Suspension and Expulsion****Part Cross-References**

University students — qualifications and rights, Title 20, ch. 25, part 5.

**20-5-201. Duties and sanctions.**

(1) Any pupil shall:

(a) comply with the policies of the trustees and the rules of the school which he attends;

(b) pursue the required course of instruction;

(c) submit to the authority of the teachers, principal, and district superintendent of the district; and

(d) be subject to the control and authority of the teachers, principal, and district superintendent while he is in school or on school premises, on his way to and from school, or during his intermission or recess.

(2) Any pupil who continually and willfully disobeys the provisions of this section, shows open defiance of the authority vested in school personnel by

places or damages any school property, equipment, or building, or causes or permits another person or his property shall be liable for punishment, suspension, or expulsion under the provisions of this title. When a pupil damages school property, as defined above, his parent or guardian shall be for the cost of repair or replacement upon the complaint of the principal, superintendent, or any trustee and the proof of such damage.

(3) In addition to the sanctions prescribed in this section, the trustee of a high school district may deny a high school pupil the honor of part in the graduation exercise or exclude a high school pupil from part in school activities. Such action shall not be taken until the infraction causing such consideration has been investigated and the trustee has determined that the high school pupil was involved in such infraction.

History: En. 75-6310 by Sec. 123, Ch. 5, L. 1971; R.C.M. 1947, 75-6310.

**Cross-References**

Penalty for disturbance of school, 20-1-206.

Liability of parent for property damage, 40-6-237, 40-6-238.

Power of teacher or principal over pupils, 20-4-302, 20-4-402, 20-4-403.

**20-5-202. Suspension and expulsion.**

As provided in 20-4-402, and 20-4-403, any pupil may be suspended by a teacher, student, or principal. The trustees of the district shall adopt a policy of authority and procedure to be used by a teacher, superintendent, or in suspending a pupil and to define the circumstances and procedures which the trustees may expel a pupil. Expulsion shall be a discipline available only to the trustees.

History: En. 75-6311 by Sec. 124, Ch. 5, L. 1971; R.C.M. 1947, 75-6311; and 135, L. 1981.

**20-5-203. Secret organization prohibited.**

(1) It shall be unlawful for any pupil to participate in or be a member of any secret fraternal secret organization that is in any degree a school organization. It shall be unlawful for any pupil or other person to solicit any pupil to join prohibited secret fraternity or other secret organization.

(2) Any person violating the provisions of this section shall be a misdemeanor and, if convicted by a court of competent jurisdiction, be fined not less than \$5 or more than \$25 for each violation.

History: En. 75-6312 by Sec. 125, Ch. 5, L. 1971; R.C.M. 1947, 75-6312.

**Part 3****Attendance Outside School District****Part Cross-References**

Rules for determining residence, 1-1-215.

Duty of trustees to provide transportation, 20-10-121.

**20-5-301. Elementary tuition with mandatory approval.**

Any child may be enrolled in and attend an elementary school outside the elementary district in which he resides when such elementary school is approved by the trustees of the district in which he resides.

(a) any other district of the county of his residence;

# VISITORS' REGISTER

## HOUSE TAXATION

COMMITTEE

BILL NO. HB 791

DATE March 29, 1989

SPONSOR Rep. Jack Ramirez

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## HOUSE TAXATION

BILL NO. SB 137

SPONSOR Sen. Dennis Nathe

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

CS-33

# VISITORS' REGISTER

## HOUSE TAXATION

COMMITTEE

BILL NO. SB 139

DATE March 29, 1989

SPONSOR Sen. Tom Hager

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.