

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Bob Brown, on Tuesday, January 31, 1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Hager, Senator Norman, Senator Eck, Senator Bishop, Senator Halligan, Senator Walker, Senator Harp, Senator Gage, Senator Severson, Senator Mazurek, Senator Crippen

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council  
Jill Rohyans, Committee Secretary

Announcements/Discussion: Superintendent of Public Instruction, Nancy Keenan, briefly addressed the Committee regarding the impact on educational funding of legislation passed by the Taxation Committees of both houses. (Exhibits 1, 2, 3, 4)

HEARING ON HOUSE BILL 55

Presentation and Opening Statement by Sponsor:

Representative Dan Harrington, District 68, sponsor of the bill, said the bill was requested by the Department of Revenue. Currently, the Department does not have the authority to estimate unclaimed property assessments in cases where a firm has failed to maintain records of ownership required by law. This gives the DOR the capability of estimating liability from the available records.

List of Testifying Proponents and What Group they Represent:

Steve Bender, Acting Deputy Director, Department of Revenue

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Steve Bender, DOR, said the bill cleans up a problem with the existing law. Any property held by a business which has had no activity for five years is to be turned over to the Department. In turn, the Department must take charge of the property and attempt to locate the owner. If there are no records, it becomes very difficult to connect the asset with the owner. This legislation would allow the Department to estimate the value of the unclaimed property. It would also help to eliminate the incentive for sloppy record keeping.

Questions From Committee Members: None

Closing by Sponsor: Representative Harrington closed.

## DISPOSITION OF HOUSE BILL 55

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Gage moved HB 55 Be Concurred In. The motion CARRIED unanimously. Senator Gage will carry the bill on the floor.

## HEARING ON HOUSE BILL 83

Presentation and Opening Statement by Sponsor:

Representative Dan Harrington, District 68, sponsor, said a recent Supreme Court decision creates the potential for a large loss of revenue due to the acceptance of unauthorized conditional payments of taxes such as those marked "paid in full". A new section is added to the codes which would state that any conditional or restrictive endorsement of a negotiable instrument does not apply to the tax payments preceding. This would keep an individual from writing a \$100 check, marking it "paid in full", and paying a \$200 tax bill with the restrictively endorsed \$100 check.

List of Testifying Proponents and What Group they Represent:

Steve Bender, Acting Deputy Director, Department of Revenue

List of Testifying Opponents and What Group They Represent:

None

Testimony: Steve Bender, DOR, said this is a housekeeping which will prevent loss of tax revenue due to conditional endorsements. With receipts of up to 1800 checks a day, it becomes very difficult to review each one. This bill would help streamline administrative procedures.

Questions From Committee Members: Senator Halligan asked for a clarification between a restrictive endorsement in a legitimate dispute and a situation where there is no valid dispute.

Steve Bender answered that this has gone to the Supreme Court which held that a conditional endorsement satisfied the liability.

Senator Crippen said it is very important that the statutory authority clearly defines the liability.

Closing by Sponsor: Representative Harrington closed.

## DISPOSITION OF HOUSE BILL 83

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Mazurek moved HB 83 Be Concurred In. The motion CARRIED unanimously. Senator Mazurek will carry the bill on the floor.

## HEARING ON HOUSE BILL 53

Presentation and Opening Statement by Sponsor:

Representative Ramirez, District 87, sponsor, said this bill was also introduced at the request of the Department of Revenue. The bill extends the reappraisal cycle for two years. The current cycle is due to expire at the end of 1990. He stated the DOR will need another two years to finish the reappraisal cycle. If not extended, it is estimated it will cost another \$1.9 million for additional staffing to finish by the end of 1990. Director Nordtvedt wants to finish getting the computer appraisal system in place and simplify the process itself. Once this is done, and the current cycle is completed, it is felt an annual

reappraisal system could be in place. Although it is unfortunate to delay longer, Mr. Ramirez felt it would result in efficiency savings in the long run.

List of Testifying Proponents and What Group they Represent:

Ken Nordtvedt, Director, Department of Revenue

List of Testifying Opponents and What Group They Represent:

None

Testimony: Director Nordtvedt, DOR, said there are a variety of reasons to extend this cycle. First, it is necessary to get the computer assisted appraisal system on line by mid-year. Also, the Department is three years into the cycle and it is clear they have fallen behind. The property division has had added responsibilities in the last three years and is short-staffed if it must finish in two years. He said he hopes to be able to rely on sales studies to keep appraisals current with market value. He stated the plan for the new simplified system will be presented to the Revenue Oversight Committee for their review.

Questions From Committee Members: Senator Crippen asked what year was used for the last appraisal cycle.

Director Nordtvedt said they used the 1982 manual.

Senator Crippen asked if the Department would use the fair market value as of 1987 if the committee takes no action.

Director Nordtvedt said that is correct.

Senator Crippen said his concern is that 1987 was a down year in the economy of the state. He said there are instances where the tax liability of taxpayers went up 100% between 1985 and 1986. He asked what year would be used as a base if the cycle is extended for two years.

Director Nordtvedt said the important thing is to update to the latest market conditions. Ideally, a manual would be used for a reappraisal cycle which is updated annually for changes in market conditions. He felt there was not a big issue of what manual to use if it is updated for market trends.

Senator Crippen expressed concern that the appraiser

and tax appeal boards will be bound by set figures in the annuals, not the updated market figures.

Director Nordtvedt said if timely sales figures aren't used, the system just will not work.

Representative Ramirez said he felt if the two year extension is enacted and the Department can get the computer system on line and the process simplified, then the appraisals should be on a two year cycle. The base year would then be as close to the norm as possible.

Senator Crippen said not enough people understand the enormity of this situation. He asked if manuals or fair market values are to be used if HB 435 is adopted.

Representative Ramirez replied then are using sales assessment ratio studies in HB 436.

Senator Eck asked what numbers are required to be statistically valid. She felt in Montana there are wide variations.

Director Nordtvedt explained the state must be broken up into enough regions to catch the different trends. He has asked the property division to identify more economically homogeneous urban and rural regions than are required under HB 436. Following some sophisticated statistical analysis, it should be possible to do a yearly upgrade of appraisals. It generally takes at least 1000 sales to have a statistically significant pool of information. It is important to have statistical significance and economic homogeneity.

Senator Crippen asked Mr. Nordtvedt if he will direct the appraisers to use 1989 data, i.e. current market value, sales in the area, etc., rather than 1982 figures.

Director Nordtvedt said as soon as there is a good HB 436 sales assessment ratio done, all present appraisers should be upgraded, even within the current cycle.

Senator Crippen posed the following question: Suppose a taxpayer is taxed at \$4 a square foot on his property in the preceding year. He then comes in and shows that through sales of his property or comparable sales that the value is substantially less. Will the Department then use the lower value?

Director Nordtvedt said the Department will be directed

to accept and use the evidence of the present market value.

Senator Crippen noted that is a critical point.

Senator Mazurek said that is fine for the taxpayer who takes the time and effort to protest. However, there is no consistency. The rest of the taxpayers are paying on the base year.

Representative Ramirez said he doesn't think Director Nordtvedt will be able to do what Senator Crippen is hoping for. He agreed with Senator Mazurek, saying those who protest get an advantage and those who don't are stuck with the base year calculation. Also, when the adjustments are made under HB 436 and an adjustment is made based on a sales assessment ratio study, the taxpayer who protested will get another adjustment on his already accurate appraisal. He disparity continues. He felt a base year was the only fair way to proceed.

Director Nordtvedt said if you start out with accurate appraisals based on some year, then a taxpayer cannot come in and get an individual correction at present market value and get a sales assessment ratio driven adjustment at present market value. He pointed out two problems with the current appraisal system: 1. it is not current and not brought up to date by the sales studies for classes of property, and 2. there are intrinsic inaccuracies, and in some cases gross inaccuracies, in the appraisal process of individual pieces of property. He said an appeal mechanism must be maintained which gives the taxpayer an appeal opportunity based on the law which says market value is a criteria. Mr. Nordtvedt said if the taxpayer can prove it, he is not going to fight him.

Senator Mazurek said the question is what market value at what point in time.

Director Nordtvedt replied as the law presently reads it is necessary to go to great efforts to correctly upgrade as frequently as possible. In the absence of that, if the legislature wants it another way, they better change the way the law reads. He said he interprets market value as the most common market value that can be efficiently determined by upgrades.

Senator Gage said he hoped Mr. Nordtvedt would include Indian reservations in the revised appraisal areas in HB 436 as there are tremendous differences in property

values on reservations as compared to other areas of the state.

Closing by Sponsor: Representative Ramirez closed.

#### DISPOSITION OF HOUSE BILL 53

Discussion: Senator Norman said the more the cycle is extended, the more the inequity will increase and the more people will get hurt. He said it doesn't make sense to go backwards to get to a current position.

Senator Brown asked Mr. Bender if there is any realistic hope of getting to a three year cycle.

Mr. Bender said he feels Director Nordtvedt can do it. He pointed out California does it yearly on everything that isn't capped by Proposition 13. It can be done and is being done in other states.

Senator Brown asked Mr. Bender what will happen in the next few months which will make the computer system come on line.

Mr. Bender said the new computer system is to be on line by this summer which will be a quantum leap ahead of the current system.

Amendments and Votes: None

Recommendation and Vote: Senator Mazurek moved House Bill Be Concurred In. The motion CARRIED with Senator Crippen voting no. Senator Norman will carry the bill on the floor.

#### HEARING ON HOUSE BILL 145

Presentation and Opening Statement by Sponsor:

Representative Ramirez, District 87, sponsor, said this bill was requested by the Revenue Oversight Committee. Under TEFRA, airlines are treated the same as all other commercial and industrial property in the state. That means taking an average of the taxable percentage rate of all other property and then go to a formula calculation. In the statutes, airline property has to use the 4R's formula for railroads. Technically, that cannot be done. This simply corrects the situation and makes it comply with federal law based on the correct formula.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

None

Questions From Committee Members: Senator Eck asked if there is any way to easily determine what effect there will be on airline and railroads when rates are lowered on commercial property.

Representative Ramirez said it will automatically lower those taxes, which is a function of the formula based on a weighted mean.

Closing by Sponsor: Representative Ramirez closed.

DISPOSITION OF HOUSE BILL 145

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Mazurek moved HB 145 Be Concurred In. The motion CARRIED unanimously. Senator Crippen will carry the bill on the floor.

EXECUTIVE SESSION

Discussion of Proposed Committee Bill: The Committee reviewed the proposed committee bill (Exhibit #5) requested by the Revenue Oversight Committee during the interim. The Legislative Reorganization Committee recommended the establishment of an interim legislative committee which would monitor revenue estimates over the interim and give the legislature a revenue estimate at the beginning of the session. For a revenue estimate to have real credibility, the revenue estimate should be developed during the interim and presented at the beginning of the session, rather than being devised during the session itself. That process is subject to too much political maneuvering and instability in the 90 days. It was felt the Revenue Oversight Committee would be the logical committee and a new committee



would not have to be created. Therefore, this bill has been drawn up to give the Revenue Oversight Committee the responsibility of estimating the revenue for the upcoming session. Senator Brown quoted the language on pages 2 and 3.

Senator Gage said there is some concern that some people who serve on the ROC during the interim may not be back for the session and they should not be setting the revenue.

Senator Eck suggested it would be better if there was not an immediate effective date. Rather, the ROC could start working on it after July 1. She suggested the way to address Senator Gage's concern is to appoint subcommittee composed of members who will be back next session.

Senator Crippen said there will be some problems such as the House being adamant that the Chairman of the committee being a House member. He said that argument is probable because of the budget originating in the House.

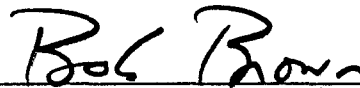
Senator Brown pointed out that revenue bills can originate in the Senate and this is a revenue estimating committee.

Amendments and Votes: Senator Eck moved to strike the immediate effective date and insert July 1. The motion CARRIED unanimously.

Recommendation and Vote: Senator Eck moved to adopt the proposed committee bill. The motion CARRIED unanimously with Senator Halligan absent.

#### ADJOURNMENT

Adjournment At: 9:58 a.m.



\_\_\_\_\_  
SENATOR BOB BROWN, Chairman

ROLL CALL

TAXATION

COMMITTEE

50<sup>th</sup> LEGISLATIVE SESSION -- 1989

Date 1/31/89

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NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 31, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 55 (third reading copy -- blue), respectfully report that HB 55 be concurred in.

Sponsor: Harrington (Gage)

BE CONCURRED IN

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

*Bob Brown*  
Bob Brown, Chairman

*H.C. 1/89  
1/31/20  
11:00 a.m.*

SENATE STANDING COMMITTEE REPORT

January 31, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 83 (third reading copy -- blue), respectfully report that HB 83 be concurred in.

Sponsor: Harrington (Mazurek)

BE CONCURRED IN

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

*Bob Brown*  
Bob Brown, Chairman

*4/1/89  
11:20  
11:20*

SENATE STANDING COMMITTEE REPORT

January 31, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 53 (third reading copy -- Blue), respectfully report that HB 53 be concurred in.

Sponsor: Ramirez (Norman)

BE CONCURRED IN

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

*Rob Brown*  
Rob Brown, Chairman

H.C.  
11/31/89  
11:20  
11:20 a.m.

SENATE STANDING COMMITTEE REPORT

January 31, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 145 (third reading copy -- blue), respectfully report that HB 145 be concurred in.

Sponsor: Ramirez (Crippen)

BE CONCURRED IN

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

*Bob Brown*  
Bob Brown, Chairman

*Rec. 1/31/89  
11:20  
11:00*



OPI SCHOOL IMPACT REPORT

Heard	Bill #	Title	General Fund Schools		Local Schools		Total Education Impact	
			FY90	FY91	FY90	FY91	FY90	FY91
1/11	SB2	Clears up 105 interpretation (In Committee)			7,689,000	7,689,000	7,689,000	7,689,000
1/9	SB50	Refund property tax if proprietor moves out of state (Tabled 1/11)	no fiscal information				no fiscal information	
1/10	SB65	Similar to SB2 (In Committee)			7,689,000	7,689,000	7,689,000	7,689,000
1/16	SB90	Repeals an unconstitutional bill (Passed out of Committee 1/16) (Transmitted to House 1/20)	no fiscal information				no fiscal information	
TOTAL			-0-	-0-	15,378,000	15,378,000	15,378,000	15,378,000

SENATE TAXATION

EXHIBIT NO. 1

DATE 1/31/89

BILL NO. \_\_\_\_\_

OPI SCHOOL IMPACT REPORT

Heard	Bill #	Title	General Fund Schools FY90	Local Schools FY90	Total Education Impact FY90
1/12	SB1	Private coal royalty to be saved as federal and state (In Committee)	(61,000) <sup>1</sup>		(61,000)
1/5	SB17	Property tax less on old cars (Passed Senate; in House 1/11)	(33,000)	(59,000)	(92,000)
1/19	SB97	Exempting certain class 14 property and additions or expansions to class 14 & 4 (In Committee)	(224,000)	(470,000)	(694,000)
1/24	SB118	Revise property tax protest laws (In Committee)	no fiscal information		no fiscal information
1/25	SB137	Election to forego carryback of NOL's of corporations (Committee Report--do pass)	no fiscal information		no fiscal information
1/25	SB184	Eliminate tax on livestock and agricultural products (In Committee)	(1,030,000) <sup>2</sup>	(1,689,000)	(2,719,000)
		TOTAL	(1,348,000)	(2,218,000)	(3,566,000)

\*an additional 1.8768 mills  
2.1979 mills  
necessary to offset this loss or 1.55% income tax surcharge  
necessary to offset this loss or 1.82% income tax surcharge

SENATE TAXATION

EXHIBIT NO. 2  
DATE 1/31/89  
BILL NO. \_\_\_\_\_

1 (Approximately 3.8% of coal tax royalties go to foundation program)  
2 (Due to retroactive date, local school district revenues will be reduced by \$552,000 in FY89)

\* at 1.9m/mill  
at 2.3m/1% general income tax charge



OPI SCHOOL IMPACT REPORT

Heard	Bill #	Title	General Fund Schools FY90	General Fund Schools FY91	Local Schools FY90	Local Schools FY91
1/12	HB4 <sup>1</sup>	Lowers tax for some coal (Will act on 1/18) (Transmitted to Senate)	(6,000)	(14,000)		
1/10	HB10	Oil tax cuts education trust fund (Tabled 1/11)		no fiscal note		
1/4	HB15	Exempt motorboats 5 HP or less (Tabled 1/12)	(9,000)	(9,000)	(14,000)	(14,000)
1/4	HB30	Changing tax on "old vehicles" (Being held)		no fiscal information		
1/11	HB35	Change personal property assessment tax on livestock, "coal & oil hauling trucks," etc. (Still in Committee)	(31,000)	(31,000)	(62,000)	(62,000)
1/13	HB90	<i>Exempt</i> Exempt trucks, etc. from property tax (Amended for recreational & comm.) (Passed out of Committee 1/17) (Referred to S Agriculture)	(16,000)	(16,000)	(28,000)	(28,000)
1/17	HB95	Exempt lottery prizes from state income tax (Adverse Committee Report)	(27,000)	(108,000)		
1/24	HB181	Method to appropriate coal tax proceeds to public school trust fund (In Committee)		no fiscal note		
TOTAL			(89,000)	(178,000)	(104,000)	(104,000)

Total Education Impact FY90	Total Education Impact FY91
(6,000)	(14,000)
	no fiscal note
(23,000)	(23,000)
	no fiscal information
(93,000)	(93,000)
(44,000)	(44,000)
(27,000)	(108,000)
	no fiscal note
(193,000)	(282,000)

\*an additional  
.1016 mills  
necessary to  
offset this  
loss or .08%  
income tax  
surcharge

\*an additiona  
.1484 mills  
necessary to  
offset this  
loss or .12%  
income tax  
surcharge

SENATE TAXATION  
EXHIBIT NO. 3  
1/31/89

<sup>1</sup>(87,096) in 92; (44,914) in 93

\* at 1.9m/mill  
at 2.3m/1% general income tax charge

OPI SCHOOL IMPACT REPORT

	<u>General Fund Schools</u>	<u>Local Schools</u>	<u>Total Education Impact</u>
	<u>FY90</u>	<u>FY91</u>	<u>FY90</u>
	5,533,000	11,804,000	17,337,000
	11,537,000	24,612,000	36,149,000
	5,533,000	11,804,000	17,337,000
	11,537,000	24,612,000	36,149,000

	<u>General Fund Schools</u>	<u>Local Schools</u>	<u>Total Education Impact</u>
	<u>FY90</u>	<u>FY91</u>	<u>FY90</u>
	5,533,000	11,804,000	17,337,000
	11,537,000	24,612,000	36,149,000
	5,533,000	11,804,000	17,337,000
	11,537,000	24,612,000	36,149,000

Title

Bill #

Heard

Revise property tax freeze-  
inflation, mandated costs,  
voted charge  
(in Committee)

HB125

1/20

TOTAL:

SENATE TAXATION

EXHIBIT NO. 4

DATE 1/31/89

BILL NO. \_\_\_\_\_

1 BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_

3 BY REQUEST OF ~~THE REVENUE OVERSIGHT~~ <sup>SENATE TAXATION</sup> COMMITTEE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE REVENUE  
6 OVERSIGHT COMMITTEE TO ESTIMATE FOR THE LEGISLATURE THE  
7 AMOUNT OF REVENUE PROJECTED TO BE AVAILABLE FOR  
8 APPROPRIATION; REQUIRING THE REVENUE OVERSIGHT COMMITTEE TO  
9 INTRODUCE A HOUSE JOINT RESOLUTION SETTING FORTH THE  
10 COMMITTEE'S CURRENT REVENUE ESTIMATE; REQUIRING THE  
11 COMMITTEE TO ISSUE PERIODIC REPORTS TO THE LEGISLATURE  
12 INDICATING THE COMMITTEE'S CURRENT REVENUE ESTIMATE;  
13 AMENDING SECTION 5-18-107, MCA; AND PROVIDING AN IMMEDIATE  
14 EFFECTIVE DATE."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 5-18-107, MCA, is amended to read:

18 "5-18-107. Powers and duties of the committee -- duty  
19 to review revenue rules -- legislative oversight of the  
20 department of revenue -- committee reports -- revenue  
21 estimating. (1) The committee shall review all proposed  
22 rules of the department of revenue filed with the secretary  
23 of state.

24 (2) The committee may:

25 (a) prepare written recommendations for the adoption,



1 amendment, or rejection of a rule and submit the  
2 recommendations to the department of revenue whenever a  
3 rulemaking hearing will not be held in accordance with the  
4 provisions of 2-4-302 through 2-4-305;

5 (b) prepare recommendations for the adoption,  
6 - amendment, or rejection of a rule and submit oral or written  
7 testimony at a rulemaking hearing;

8 (c) require that a rulemaking hearing be held in  
9 accordance with the provisions of 2-4-302 through 2-4-305;

10 (d) recommend to the legislature the repeal,  
11 amendment, or adoption of a rule as provided in 2-4-412.

12 (3) The committee shall exercise legislative oversight  
13 of the department of revenue, including without limitation  
14 the review of:

15 (a) proposed budgets;

16 (b) proposed legislation;

17 (c) pending litigation; and

18 (d) major contracts and personnel actions of the  
19 department.

20 (4) The committee may investigate and issue reports on  
21 any matter concerning taxation or the department of revenue.

22 (5) The committee shall estimate the amount of revenue  
23 projected to be available for legislative appropriation. The  
24 committee shall introduce a house joint resolution setting  
25 forth the committee's current revenue estimate in each

#5

LC 0406/01  
1/3/89  
BILL NO. SB341

1 regular session and each special session in which a revenue  
2 bill is under consideration. The committee shall issue  
3 periodic reports to the legislature in regular session and  
4 in the interim between regular sessions, indicating the  
5 committee's current revenue estimate. The committee's  
6 - introduced version of the joint resolution and subsequent  
7 periodic reports constitute the legislature's current  
8 revenue estimate until final adoption of the joint  
9 resolution by both houses."

10 NEW SECTION. Section 2. Effective date. [This act] is  
11 effective on passage and approval.

-End-

