

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Bob Brown, Chairman, on February 9, 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 Gage, Senator Severson, Senator Mazurek, Senator Crippen

Members Excused: None

Members Absent: Senator Harp

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

Announcements/Discussion: None

HEARING ON SENATE BILL 341

Presentation and Opening Statement by Sponsor:

Senator Brown, District 2, sponsor, introduced the bill at the request of the Senate Taxation Committee. The bill authorizes the Revenue Oversight Committee to estimate for the Legislature the amount of revenue projected to be available for appropriation.

List of Testifying Proponents and What Group they Represent:

Representative Ray Peck, District 15, Chairman, Legislative Finance Committee

Senator Matt Himsl, District 3, Vice Chairman, Legislative Finance Committee

Senator Del Gage, District 5.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Representative Ray Peck, District 15, Chairman of the Legislative Finance Committee, expressed support for the bill and presented proposed amendments and Statement of Intent for the committee's consideration Exhibit #1). The Legislative Finance Committee on September 16, 1988, unanimously adopted a motion by Representative Winslow that the Fiscal Analyst's Office continue to be involved in providing the revenue estimate and staff for whatever revenue estimating committee the Legislative Reorganization Committee deemed appropriate. Amendment #6 (Exhibit #1) amends the sections dealing with the Fiscal Analyst's Office by adding the language "assist the Revenue Oversight Committee in performing its revenue estimating duties". He felt the bill makes sense in that the Finance Committee already has staff in the LFA's office working on revenue estimating and the bill simply will eliminate duplication of time and effort. He said the same staff can perform the same function for both committees. Although he didn't feel the bill required a Statement of Intent, Representative Peck said the details needed to be specifically understood.

Senator Matt Himsl, District 3, Vice Chairman, Legislative Finance Committee, said he certainly supported Representative Peck's testimony. He urged the committee to pass the bill as it eliminates the duplication of services in revenue estimating.

Senator Del Gage, District 5, said the Legislative Fiscal Analyst, the Budget Office, the Board of Investments, and the Governor's Office have all prepared various estimates of the revenue. After reviewing all the assumptions and presumptions, the best course has seemed to be to choose the estimate that falls most nearly in the middle. He said this is a ridiculous way to proceed and feels the fiscal analyst is paid to do this and works on it year around and certainly the committees should proceed from that information in their revenue estimating duties.

There were NO OPPONENTS.

Questions From Committee Members:

Senator Norman said there was a problem with the Fiscal Analyst not releasing their information until the Finance Committee has heard and passed the report. He also questioned to whom the staff would be answerable under this bill.

Representative Peck said this was a particular incident where a subcommittee had requested a specific report and the Chairman made a ruling with the concurrence of the committee that the information could not be released until the report of the subcommittee was submitted to the full Legislative Finance Committee and subsequently approved. He said the staff in their primary assignment would be answerable to the Legislative Fiscal Analyst personally. In the assignment to the committee they would be responsible to the Chairman of that committee.

Judy Rippingale, Legislative Fiscal Analyst, replied as follows, "Mr. Chairman, Senator Norman, I would view it as you are putting it in law that the staff is assigned specifically to the Revenue Oversight Committee and that the staff would function under the direction of the Revenue Oversight Committee in carrying out their policies and procedures that committee chose to use in the dissemination of their information".

Senator Norman said it was his understanding, then, that the staff would be accountable to the Chairman of the Revenue Oversight Committee only, regardless of the LFA or Legislative Finance Committee.

Ms. Rippingale replied, "Yes, I am charged with serving all legislators and when I am specifically here assigned during the interim to work with the Revenue Oversight Committee, then I believe that the Revenue Oversight Committee for how they want their information handled sets their policy and tells me.

Senator Norman wondered if there isn't some danger in "serving two masters".

Ms. Rippingale said, "In terms of the information for the Welfare Committee that we were helping the Legislative

Council on during the interim, the staff worked directly with that committee, had actually presented a report to that committee that the Finance Committee had never seen. They presented it - everything we had to date when that committee was going to meet - was presented in a written report to the Welfare Committee. Then the subcommittee that was working on that issue with the Finance Committee had requested from our staff a different re - that committee requested a report. And that was the report that went to the Finance Committee and the rules followed that procedure but the report of the other committee requested and that we were jointly staffing that information was given directly to that committee".

Senator Crippen stated he did not like the language "any required staff support" in the proposed Statement of Intent. He said Revenue Oversight has their own staff that deals with taxation all along and he feared the language might preclude the committee from having their own staff available to them at all times. He said there has to be provision for the LFA staff to coordinate with the Revenue Oversight Committee staff keeping in mind that the committee staff is the primary staff.

Ms. Rippingale responded, "Mr. Chairman, Senator Crippen, Bob Person wrote these for me and we got together and we talked about it. And this is for the revenue estimating work that the principal staff person for revenue estimating work would be the LFA staff. The principal staff person for the other things that the Revenue Oversight Committee does would be the Legislative Council staff. And that is - we have a sentence that they shall cooperate in the provision of - so that we can have adequate support for the committee because Bob and I both recognize that we need to mesh and that neither do I want to staff every function that the Revenue Oversight Committee does. There's a number of things that are much more appropriate that he do and are different and more appropriate than my staff and we do think there needs to be cooperation and meshing and we have talked with each other about this. And then Bob drafted them.

Senator Brown confirmed with Ms. Rippingale that she had worked this language out with Bob Person.

Ms. Rippingale said, "Yes, Mr. Chairman, we did".

Senator Crippen again stated he did not like the language.

Senator Eck said she has always felt the revenue side is greatly understaffed relative to the budget side. She felt a clear understanding of what help their people can be and for what purpose is a very important component of the bill.

Senator Gage suggested amending amendment #6 by adding "information from which will be available to any legislator at any reasonable time upon request from a legislator".

Senator Peck said he had no problem with the language as long as the committee was happy with it.

Closing by Sponsor: Senator Brown closed.

#### HEARING ON SENATE BILL 301

Presentation and Opening Statement by Sponsor:

Senator Devlin, District 13, sponsor, said this same bill, HB 527, was introduced last session. It passed the House unanimously and was lost in committee in the Senate. In the past communities without television service formed television districts in which everyone who had a television paid a certain fee to belong to the district. The district in turn set up a translator for local reception. As time went by, cable television came in, and in most cases, paid the district for the signal which they would take off the translator. Through either a court decision or federal law the cable companies found that they did not really have to pay for that signal and the people in the district could also opt out of paying any dues to the district. The translator loses money if everyone opts out, however, if the translator is lost, the local feeds are discontinued. The bill provides for a limit on the exemption from taxation for the district television service to the subscribers that does not directly or indirectly use any signal repeated by the district.

List of Testifying Proponents and What Group they Represent:

Bob Saunders, White Sulphur Springs, Meagher County TV

List of Testifying Opponents and What Group They Represent:

Tom Harrison, Montana Cable TV Association  
Don DeShaw, Cable TV of Harlowtown  
Wes Murray, TCI Cablevision, Havre  
Ken Watts, President, Montana Cable Association,  
Billings  
Tom Glendenning, Bozeman Cable TV  
Wes Huffman, TCI Cablevision, Great Falls  
Graham Munsell, Micro TV, Miles City

Testimony:

Bob Saunders, White Sulphur Springs, Meagher County TV,  
presented his testimony in support of the bill (Exhibit  
#2).

Statements from Opponents:

Tom Harrison, Montana Cable TV Association, said he is concerned about lines 22 and 23 "directly or indirectly". It is his understanding that some people who favor the bill feel that if the same signal is broadcast by a cable television company that is available on air, even though the cable source may not be the translator district, that would constitute indirect use of that signal. He said he does not think this is the case but deferred to the committee counsel in the interpretation. On line 24, Mr. Harrison expressed concern that an exemption to a tax could be accomplished by a written agreement between two private parties. He said this is a very unique approach to taxation. He said there is a fairness issue as regards the fees and also a problem with the taxation that needs to be addressed.

Don DeShaw, Cable TV of Harlowtown, said he uses translators in both Harlowtown and Ryegate. He said 90% of the people pay in Harlowtown and 99% in Ryegate. He said he doesn't fight the taxing district as he needs the local feed from Billings. He said subscribers can file an affidavit if they want to be exempt.

Wes Murray, TCI Cablevision, Havre, said they have one fee for basic service and all the outlets are free. He urged the committee to leave it like it is and not to solicit affidavits.

Ken Watts, President, Montana Cable Association, Billings, said current cable systems are taxed in the highest bracket which is nothing more than a select sales tax. He said there is a lot of competition now with translators being able to pick up satellite transmissions, etc.

Tom Glendenning, Bozeman Cable TV, agreed with the previous testimony and said he feels it is unfair that a subscriber must pay a tax on a signal from the translator when the cable company does not use the translator and picks the signal up directly from the television station. He felt the exemption provision is not workable.

Wes Huffman, TCI Cablevision, Great Falls, expressed opposition to the bill.

Graham Munsell, Micro TV, Miles City, said if this bill passes he foresees a wholesale dumping of television districts and translators which will cause all sorts of complications. He urged the committee to reject the bill.

Questions From Committee Members: None

Closing by Sponsor:

Senator Devlin closed by pointing out the bill does not raise taxes. He said people are not opting out because they do not know the option exists. He said if everyone opts out of a television district then those who cannot afford cable will get no television at all. He said he could not answer the question regarding "direct or indirect" and would welcome help from the committee in resolving that definition. He said it is a matter of fairness and does not hurt anyone.

#### HEARING ON SENATE BILL 339

Presentation and Opening Statement by Sponsor:

Senator Gage, District 5, sponsor, stated this is mostly a code clean-up bill. He pointed out that on page 19 if you file as a Sub S corporation you have to file a copy with the Department of Revenue. That gives you an automatic election in state. If you fail to file that federal election, the Department will notify you and you have 60 days to file with the Department. The

Department is none too happy with this provision as they feel they are losing control. However, Senator Gage said they are trying to cover the situation where inadvertently the election was not filed with the state which is easy to do due to different filing dates for federal corporation and state corporation returns.

The language on pages 4 and 7 looks like a contradiction but the election on the state return is an election not to be taxed as a Sub S corporation.

Senator Gage said the language on page 7, line 5, is necessary because of the limitation on the federal return of rental losses. It merely says if married taxpayers filing joint federal returns decide to file individual returns on the state level, they can each take a maximum \$12,500 rental loss.

The language being stricken at the bottom of page 8 leaves it to the discretion of the Department of Revenue to say in certain circumstances interest income from installment sales may be taxable and under other circumstances it may not be. Senator Gage felt it is necessary to tighten up that provision so that the Department and the taxpayer alike know definitely what the procedure is.

Page 15 contains a new section dealing with taxpayers who file a joint return jointly and severally liable from tax and interest and penalty unless the Department determines, based solely on the criteria contained in Section 601-3-E of the Internal Revenue Code As Amended, that a spouse is relieved of liability. This would be used in the case of an innocent spouse not filing and not being liable for the tax.

Page 17 deals with people who have filed a return and then find they have overpaid the tax and because they have filed late have been assessed penalty and interest. If they file an amended return later, the penalty and interest will be based on the actual tax, not the overage that was originally paid. The Department has a bit of a problem with that because it gives them some problems in administrative procedures. Further, Senator Gage felt it should be clarified to differentiate between an original return and an amended return.

Senator Gage said the rest of the changes are simply clean-up.



List of Testifying Proponents and What Group they Represent:

Tom Harrison, Montana Society of CPA's  
Mike Holland, Legislative Chairman, Montana Society of  
CPA's

List of Testifying Opponents and What Group They Represent:

Jeff Miller, Department of Revenue

Testimony:

Tom Harrison, Montana Society of CPA's, said that in about 99% of the Sub S corporation filings, the election is going to be the same. So it makes much more sense to let the taxpayer opt out, rather than opt in. The married couple filing jointly rate equating to the married filing separately makes sense and corrects inequities in the filing procedures. The one proposal that results in an apparent income loss to the state would be the interest income taxed in the state of residence. He said this is somewhat of a philosophical matter. If a farmer sells his farm and moves to Arizona, does he pay taxes on the installment income here or in Arizona? Some would say this is a capital barrier to keep people from investing in the state.

Mike Holland, Legislative Chairman, Montana Society of CPA's. expressed support for the bill.

Statements from Opponents:

Jeff Miller, Department of Revenue, said the Department does not strongly object to the bill. However, he pointed out there are some confusing areas that need to be cleared up in the small business election process. There are some mechanical reservations with the way the interest and penalty provisions would work also. He said the Department would like an opportunity to work with the sponsor to work out the mechanics of the bill and help clear up some of the confusion. Mr. Miller said it is important to know that the language that is being stricken regarding taxation of interest on installment sales is the language that was put into law in the 1985 session. Prior to that time there was a large issue of interpretation in this area which had resulted in a lot of litigation, some of which is still pending. Since the enactment of this language,

it has been clear that this interest is taxable and there has not been any litigation as a result of it being on the books.

Questions From Committee Members:

Senator Mazurek asked Mr. Miller if he had mechanical or policy concerns about the Sub S election provision and how it works.

Mr. Miller replied said the problem is the affirmative election out of Sub S status. He felt the time lines give a latitude of up to a year and 60 days of time when the Sub S status is in question. He said there just needs to be some real clarification between the electing out and the notification procedure and timeline.

Senator Eck asked Mr. Miller if sees a real significant loss of income to the state as a result of changing the interest provision.

Mr. Miller replied DOR estimates it will result in a revenue loss of \$200,000 to \$250,000 per year.

Closing by Sponsor:

Senator Gage closed by saying he would work with Mr. Miller and others interested in the bill for further clarification.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 326

Discussion:

Norris Nichols, Administrator, Motor Fuels Tax Division, Department of Revenue, said this bill results in clarification and the Department has no problem with it.

Amendments and Votes: None

Recommendation and Vote:

Senator Halligan MOVED SB 326 DO PASS. The motion CARRIED unanimously.

DISPOSITION OF SENATE BILL 257

Discussion:

Norris Nichols, Administrator, Motor Fuels Tax Division, Department of Revenue, said there is probably a need for a date for the distributor to apply, perhaps in July. Under Section 3, paragraph (c) the language needs to be changed from "may" to "shall". He said that could be accomplished by rule, however. In the interest of protecting the highway fund, there would be no recourse against the user for reimbursement. The only thing that could be done would be to flag that person on the system and then he could be picked up the following year if he had made an application.

Amendments and Votes: None

Recommendation and Vote:

Senator Eck MOVED SB 257 DO PASS. The motion was WITHDRAWN as Senator Harp was not present and Senator Gage had some further concerns.

DISPOSITION OF SENATE BILL 132

Discussion:

Senator Mazurek explained the Statement of Intent (Exhibit #3) saying the key part starts in the third paragraph. By example, it provides for paying a partial delinquency and as long as nothing is more than three years delinquent the property cannot be sold. There is not an automatic one year extension for every one year that is redeemed. You cannot have anything delinquent more than 36 months or you risk losing it. But a partial payment of less than the full amount can be made as long as you pay the current year.

Amendments and Votes:

Senator Mazurek MOVED to ADOPT THE STATEMENT OF INTENT. The motion CARRIED unanimously.

Recommendation and Vote:

Senator Norman MOVED SB 132 DO PASS with the Statement of Intent. The motion CARRIED unanimously.

DISPOSITION OF SENATE BILL 230

Discussion:

Senator Hager presented proposed amendments to the bill (Exhibit #4). Jeff Martin reviewed the amendments for the committee.

Senator Norman questioned the interest and penalty provisions in this bill as opposed to current law.

Jeff Martin replied the new interest would be in effect, the penalty would still be at 2% in addition to the 2% service charge. The interest would be set at 2 percentage points above the New York prime rate on November 1.

Senator Crippen is concerned with the language regarding the taxpayer submitting a plan in sub (b). He felt it would be a morass of various plans and a real headache for the county officials to deal with and would require a number of new FTE's to handle the increased work load this would engender.

Senator Gage said he has three problems with the bill as amended. First, this is a considerably different bill than the original as it did not contain any interest changes. Secondly, this is not optional as it affects current taxes. Third, page 3, lines 4-6, strikes the language that was just passed in SB 132 regarding payment of current taxes before delinquent taxes can be paid.

Senator Halligan felt this bill needs to be reviewed by groups such as the League of Cities and Towns, MACO, etc., during the interim and a great deal of input needs to be made by rural and urban groups, County Treasurers and Clerks and other affected parties.

Amendments and Votes: None

Recommendation and Vote:

Senator Halligan MOVED SB 230 BE TABLED. The motion CARRIED  
unanimously.

ADJOURNMENT

Adjournment At: 10:00 a.m.

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

BB/jdr

MIN209.jdr

ROLL CALL

TAXATION

COMMITTEE

51<sup>st</sup> LEGISLATIVE SESSION -- 1989

Date 2/9/89

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

February 9, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 326 (first reading copy -- white), respectfully report that SB 326 do pass.

DO PASS

Signed: Bob Brown  
Bob Brown, Chairman

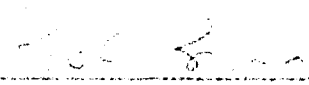
SENATE STANDING COMMITTEE REPORT

February 14, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 257 (first reading copy -- white), respectfully report that SB 257 do pass.

DO PASS

Signed:   
Bob Brown, Chairman

SMB  
2/14/89  
1:55 P.M.



SENATE STANDING COMMITTEE REPORT

page 1 of 3  
February 9, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 132 (first reading copy -- white), respectfully report that SB 132 be amended and as so amended do pass:

1. Title, line 5.

Following: "TAXES;"

Insert: "ALLOWING THE PAYMENT OF CURRENT YEAR TAXES WITHOUT THE PAYMENT OF DELINQUENT TAXES;"

2. Title, line 8.

Following: "SECTIONS"

Insert: "15-16-102,"

3. Title, line 9

Following: "15-18-112,"

Strike: "AND"

Following: "15-18-114,"

Insert: "AND 15-18-214,"

4. Page 1.

Following: line 12

Insert: "Section 1. Section 15-16-102, MCA, is amended to read:  
"15-16-102. Time for payment -- penalty for delinquency. All taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103 and assessments made on interim production and new production as provided in Title 15, chapter 22, part 6, and payable under 15-16-121, shall be payable as follows:

(1) One-half of the amount of such taxes shall be payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of such taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, then such amount so payable shall become delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year shall be delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(4) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(5) ~~If the taxes become delinquent, a taxpayer may pay his current year taxes without paying delinquent taxes.~~ The county treasurer may must accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full taxable years, provided both halves of the current tax year have been paid. Payment of delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of the current tax year is not a redemption of the property tax lien for any delinquent tax year."

Renumber: subsequent sections

5. Page 5, line 11.

Following: "(1)"

Insert: "Except as provided in subsection (3)."

Strike: "In"

Insert: "in"

6. Page 5.

Following: line 22

Insert: "(3) The property tax lien may also be redeemed for a particular tax year by a partial payment of that tax year as provided in 15-16-102(5) if:

(a) the property tax lien for the year in which the partial payment is made is owned by the county; and

(b) the tax deed has not been issued pursuant to 15

18-211.

Section 5. Section 15-18-214, HCA, is amended to read:

"15-18-214. Effect of deed. (1) A deed issued under this chapter conveys to the grantee absolute title to the property described therein as of the date of the expiration of the redemption period, free and clear of all liens and encumbrances, except:

(a) when the claim is payable after the execution of the deed and:

(i) a property tax lien attaches subsequent to the tax sale; or

(ii) a lien of any special, rural, local improvement, irrigation, or drainage assessment is levied against the property;

(b) when the claim is an easement, servitude, covenant, restriction, reservation, or similar burden lawfully imposed on the property; or

(c) when ~~an interest in~~ the land is owned by the United States, this state, or a subdivision of this state.

(2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of possession accrued as of the date of expiration of the period for redemption or the date upon which a tax deed was otherwise issued."

Renumber: subsequent sections

AND AS AMENDED DO PASS

Signed: \_\_\_\_\_  
Bob Brown, Chairman

Statement of Intent adopted.

Amendments to Senate Bill No. 341  
First Reading Copy

#1  
SENATE JOURNAL  
ENROLL NO. 1 pg 1  
DATE 2/9/89  
BILL NO. SB 341

February 8, 1989

1. Title, line 13.

Strike: "SECTION"

Insert: "SECTIONS 5-12-302 AND"

2. Page 1, line 16.

Following: line 16

Insert: "Section 1. Section -12-302, MCA, is amended to read:

"5-12-302. Fiscal analyst's duties. The legislative fiscal analyst shall:

(1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish such information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance, including but not limited to investigation and study of the possibilities of effecting economy and efficiency in state government;

(2) estimate revenue from existing and proposed taxes;

(3) analyze the executive budget and budget requests of selected state agencies and institutions, including proposals for the construction of capital improvements;

(4) make the reports and recommendations he deems desirable to the legislature and make reports and recommendations as requested by the legislative finance committee and the legislature; and

(5) assist committees of the legislature and individual legislators in compiling and analyzing financial information; and

(6) assist the revenue oversight committee in performing its revenue estimating duties under [section 2(5)]."

Renumber: subsequent sections

Amendments to Senate Bill No. 341  
First Reading Copy

1  
E. 1 pg 2  
DATE 2/9/89  
BILL NO. SB 341

February 8, 1989

1. Page 1, line 15.

Insert: "

Statement of Intent

A statement of intent is not required for this bill but is included to clarify the staffing arrangements anticipated under this bill.

As a matter of practice, the Legislative Council has provided staff to support the work of the tax committees of the Legislature in session and in the interim. As such, Council staff have supported the Revenue Oversight Committee since its creation. By law, the Legislative Fiscal Analyst is responsible for estimating revenue from existing and proposed taxes. It is the intent of the Legislature that, in carrying out its revenue estimating duties under this bill, the Revenue Oversight Committee will rely upon the Legislative Fiscal Analyst for any required staff support. Legislative agencies shall cooperate in the provision of adequate support for the committee."

Willow Creek Ranch  
BOX 421  
WHITE SULPHUR SPRINGS, MONTANA 59643

SENATE TAXATION  
EXHIBIT NO. 2  
DATE 2/9/89  
BILL NO. SB 301

February 3, 1989

Senate Taxation Committee  
Bob Brown, Chairman  
State Capitol, Helena, Mt. 59601

Senate Bill 301

Dear Senator Brown:

The present section of the Code (7-13-2529), states as follows:

"Exemption for non-benefited taxpayers:

(1) The taxpayers in the television district who do not receive the signal of the translator station or who receive direct reception from the television station from which the television translator repeats a signal or receive service through the medium of a community antenna system on which they are a subscriber in good standing will be exempt from the payment of the tax for the support of the television service of the television district, provided they file an affidavit setting forth any of the grounds above mentioned....."

This legislation was passed in 1961, when CATV and translator systems obtained their signal from the same source - over the air directly from the originating stations thru antennae strategically place on a high point where the signal was available.

In 1966 the FCC initiated a study of the feasibility of domestic satellite communication, and domestic satellite communication service commenced in December, 1973. It grew steadily until 1977, when growth became explosive.

Today most rural CATV (cable) programming is received via satellite. This technology has made it economically feasible for small cable companies to provide service to limited areas which are included in larger areas served by translators. In many of these areas the cable companies now obtain their Montana signals from tax supported translators and not from the originating stations. Yet these cable companies actively promote that their subscribers file for an exemption to the tax assessment based on a provision of the Code which was reasonable in 1961, but in today's environment and technology is no longer reasonable or justified. Cable subscribers have the benefit of the signals provided by the translators, yet do not contribute to their support, nor do the cable companies which use these signals.

When the cable company entered the City of White Sulphur Springs it was agreed that they would pay the tax for their subscribers who claimed the exemption since they obtained their Great Falls and Butte signals from the translators. It is my understanding that there is now a question as to their continuing to make these payments.

Attached is a copy of the affidavit used in Meagher County. This does not address the situation where the cable subscriber does receive the signals from the translators via TV sets in the home not connected to cable, such as in the kitchen or bedroom, yet claim the exemption.

Senate Bill 301 addresses this problem and removes the exemption when the cable company obtains its signals from the translators supported by the television tax district. I recommend that this bill be given a "DO PASS".

Sincerely,

  
R. E. Saunders

Meagher County TV District  
White Sulphur Springs, Montana

CERTIFICATION

I hereby certify that I am a paying subscriber to WSS Cable TV, Inc. and I wish to have my annual TV translator fee removed from my tax assessment.

Name \_\_\_\_\_

Subscriber Signature \_\_\_\_\_

Street Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

Amendments to Senate Bill No. 132  
First Reading Copy

Requested by Senator Mazurek  
For the Committee on Taxation

Prepared by Jeff Martin  
February 8, 1989

1. Page 1, line 11.  
Insert: "

Statement of Intent

A statement of intent is not required for this bill but is included to make clear that the purpose of this bill is to clarify the provisions of Senate Bill No. 162 (Chapter 587, Laws of 1987), relating to partial payments of delinquent property taxes and to the procedures governing the sale of property for delinquent taxes.

In addition, this bill defines the term "costs", clarifies how redemption proceeds are distributed, requires a person who redeems property to pay the taxes and other charges that have been assessed since the date of the sale of the tax lien, and clarifies the effect of the tax deed.

In 1987, the legislature enacted 15-16-102(5) authorizing the partial payment of delinquent property taxes. The attorney general in 42 Attorney General Opinion opined, however, that a partial payment made pursuant to 15-16-102(5) does not toll the redemption period. In order to redeem the property, the attorney general stated that the taxpayer had to pay all of the delinquent taxes, including penalty and interest, plus all subsequently assessed taxes.

The intent of this bill is to reverse the attorney general's opinion. It is the intent of the legislature that each tax year for which property taxes are delinquent has a separate 36- or 18-month redemption period. If a partial payment is made for a particular tax year, a tax deed may not be issued based on that tax year because the taxes for that year have been paid.

For example, assume that the 1984, 1985, 1986, 1987, and 1988 property taxes are delinquent. Assume further that a 36-month redemption period applies to the property on which the taxes have not been paid. In February 1989, the current year, as that term is used in 15-16-102(5), is the 1988 tax year for which taxes are due on November 20, 1988, and May 31, 1989. The 36-month redemption period has expired for 1984, and it will expire for the 1985 taxes in the summer of 1989. This bill contemplates that a taxpayer may pay his 1988 taxes, even though the first half is delinquent. After the 1988 taxes are paid, the taxpayer may redeem the property for the 1984 tax year by paying the 1984 taxes.



The taxpayer may still lose his property unless he pays his 1985 taxes before the tax deed is issued. Because the current year and the most delinquent year are paid, the taxpayer may redeem the property for the 1985 tax year by paying the 1985 taxes.

In 1990, the taxpayer would have to pay the 1989 taxes before he could pay the 1986 taxes to redeem the property for the 1986 tax year. Following this pattern, the taxpayer would be current on all taxes after 3 years.

As used in this statement of intent, taxes include penalty, interest, and costs."

Amendments to Senate Bill No. 230  
First Reading Copy

SECTION  
4  
DATE 2/9/89  
BILL NO SB 230

Requested by Senator Hager  
For the Committee on Taxation

Prepared by Jeff Martin  
February 5, 1989

1. Title, line 5.

Following: "INSTALLMENTS;"

Insert: "CHANGING THE INTEREST RATE APPLIED TO DELINQUENT TAXES"

2. Title, line 9.

Strike: "AND"

Strike: "SECTION"

Insert: "SECTIONS 15-16-101 AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN  
APPLICABILITY DATE"

3. Page 1, line 11.

Following: line 11

Insert: "Section 1. Section 15-16-101, MCA, is amended to read:  
"15-16-101. Treasurer to publish notice -- manner of  
publication. (1) Within 10 days after the receipt of the  
assessment book, the county treasurer must publish a notice  
specifying:

(a) that ~~one-half of all taxes levied and assessed will be  
due and payable before 5 p.m. on November 30 next thereafter or  
within 30 days after the notice is postmarked as provided in 15-  
16-102 and that unless paid prior to that time as provided in 15-  
16-102 the amount then due will be delinquent and will draw  
interest at the rate of 5/6 of 1% per month from and after such  
delinquency until paid provided in [section 3] and 2% will be  
added to the delinquent taxes as a penalty; and~~

~~(b) that one-half of all taxes levied and assessed will be  
due and payable on or before 5 p.m. on May 31 next thereafter and  
that unless paid prior to that time the taxes will be delinquent  
and will draw interest at the rate of 5/6 of 1% per month from  
and after such delinquency until paid and 2% will be added to the  
delinquent taxes as a penalty; and~~

~~(c)~~(b) the time and place at which payment of taxes may be  
made.

(2) He must send to the last-known address of each taxpayer  
written notice, postage prepaid, showing the amount of taxes and  
assessments due the current year and the amount due and  
delinquent for other years. The written notice shall include:

(a) the taxable value of the property;

(b) the total mill levy applied to that taxable value;

(c) the value of each mill in that county;

(d) itemized city services and special improvement district  
assessments collected by the county;

(e) the number of the school district in which the property  
is located; and

(f) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and other tax.

(3) The municipality shall, upon request of the county treasurer, provide the information to be included under subsection (2)(d) ready for mailing.

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does not relieve the taxpayer from any of his liabilities. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax."

Renumber: subsequent sections

4. Page 2.

Following: line 4

Insert: "(2) If a taxpayer elects to pay taxes in 12 monthly installments, the county treasurer shall assess a 2% service charge on the total amount due."

Renumber: subsequent subsections

5. Page 2, lines 12 through 13.

Following: "rate"

Strike: the remainder of line 12 through "delinquency" on line 13

Insert: "provided in [section 3]"

6. Page 3, lines 6 through 7.

Strike: "equal to" on line 6 through "year" on line 7

Insert: "in:"

(i) two semi-annual installments, with each installment equal to one-half the tax due, including penalty, interest, and costs; or

(ii) twelve monthly installments, with each installment equal to one-twelfth the tax due, including penalty, interest, and cost.

7. Page 3, line 9.

Following: "taxpayer"

Insert: ", based on a written payment plan from the taxpayer that must include the interest rate in effect under [section 3] at the time the plan is submitted,"

Strike: "repayment"

Insert: "payment"

8. Page 3, line 11.

Strike: "repayment"

Insert: "payment"

9. Page 3, line 14.

Strike: "."

Insert: "; and"

10. Page 3.

Following: line 14

Insert: "(c) assess a 2% service charge on the amount of

delinquent taxes due under subsection (a) and subsection (b), if a payment schedule is ratified.

(5) Unless taxes are paid as provided under subsection (4), the property for which taxes are due is subject to tax sale and tax deed as provided in Title 15 when the taxpayer first fails to make a payment."

Renumber: subsequent subsection

11. Page 3.

Following: line 16

Insert: "NEW SECTION. Section 3. Interest rate for delinquent property taxes. (1)(a) The county treasurer shall add to delinquent real and personal property taxes interest in an amount equal to 1/12 of the interest rate reported to him by the department as provided in subsection (2) for each month or part of a month that the tax is delinquent.

(b) Except as provided in subsection (c), the most recent rate of interest reported to the county treasurer must be applied to all delinquent property taxes, regardless of the date of delinquency.

(c) If a taxpayer has submitted a written payment plan for delinquent taxes, and the plan has been ratified by the governing body of the county, the interest rate contained in the plan shall remain in effect.

(2) No later than November 15 of each year, the department shall notify each county treasurer of the rate of interest to be charged on delinquent property taxes. The rate of interest that the department must report is two percentage points above the prime rate of major New York banks as published in the Wall Street Journal on November 1 of the taxable year, or on the first day of publication following November 1 if the prime rate or the Wall Street Journal is not published on November 1."

Renumber: subsequent section

12. Page 3.

Following: Line 20

Insert: "NEW SECTION. Section 5. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 15, chapter 16, and the provisions of Title 15 apply to [section 3].

NEW SECTION. Section 6. Effective date -- applicability. (1) [This act] is effective on passage and approval.

(2) [This act] applies:

(a) to real and personal property taxes that become due on or after November 30, 1989; and

(b) retroactively, within the meaning of 1-2-109, to real and personal property taxes that became due prior to November 30, 1989, and remain unpaid on or after November 30, 1989."

