

## MINUTES

### MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON TAXATION

Call to Order: By Senator Tom Hager, Vice Chairman, on  
February 15, 1989, 1989, at 8:00 a.m.

#### ROLL CALL

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

Members Excused: Senator Brown, Senator Halligan

Members Absent: None

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

Announcements/Discussion: None

#### HEARING ON SENATE BILL 374

#### Presentation and Opening Statement by Sponsor:

Senator Rapp-Svrcek, District 26, sponsor, said the bill provides for a property tax phase-in for improvements to real property or other improvements. This is a way of getting rid of the disincentives for making improvements to your home. Senator Rapp-Svrcek said he has worked with the Chairman of his tax appeal board in an effort to make this an equitable bill for all property owners. It includes improvements made to homes and commercial and industrial property. Improvements to the home or existing structure are phased in over a ten year period. Improvements to raw land is taxed at 50% the first year and the remaining 50% is phased in over ten years. The Department of Revenue has just pointed out that at ten years the amount does not work out and so the bill should be amended to an eleven year phase-in which would make a straight 5% per year.

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 Mazurek asked if the Office of Public Instruction has a reaction to the bill.

Joan Toole, Office of Public Instruction, said OPI is naturally concerned about the effect this legislation would have on the foundation program.

Senator Mazurek asked if the Department of Revenue has an opinion.

Director Nordtvedt, DOR, said it would take ten years to reach full impact of the bill. He said after ten years the total deduction in taxable value would be about \$45 million. Under present tax law, that would represent about a \$2 million a year impact on state school funding, a \$10 million impact on counties and local schools, and cities and towns would feel a \$4 million impact. He said the fiscal impact is quite massive by the time it is fully phased in.

Closing by Sponsor:

Senator Rapp-Svrcek closed said there is a local option available for permissive phase-in under 15-21-1505, MCA but it is not being utilized very much. He said if you get no new construction you get no new revenue. This bill does not reduce the revenue, it simply reduces the rate at which the revenue comes in. If we want to promote business and business construction and allow people to improve their own homes without incurring

large new tax bills, then this bill is an answer. He urged the committee to give the bill favorable consideration.

#### HEARING ON SENATE BILL 379

##### Presentation and Opening Statement by Sponsor:

Senator Abrams, District 12, sponsor, said the bill is intended to include one ton trucks in the same class as passenger cars and 3\4 ton trucks. In this class they are taxed at 2% rather than at 13% of market value in Class 9.

Senator Abrams said the fiscal note will indicate a \$243,000 revenue loss which has been estimated by the Department of Revenue. This will entail no loss to highway revenue, however. Many of the new crew cab pickups are in the one ton category and should be taxed at the lower level.

##### List of Testifying Proponents and What Group they Represent:

Ann Scott, Rocky Mountain Treatment Center,  
Farmer/Rancher,

Marvin Barber, Montana Assessors Association and the  
Agricultural Preservation Association of the  
Gallatin Valley

Jerry Jack, Montana Stockgrowers, Agriculture  
Coalition, Montana Cattlewomen, Grange, Farm  
Bureau, WIFE

##### List of Testifying Opponents and What Group They Represent:

None

##### Testimony:

Ann Scott, Rocky Mountain Treatment Center, said the van used at the center is a one ton with the same body size as a 3/4 ton van. However, it is taxed at four times the amount of a 3/4 ton van. She pointed out there is very little difference, if any, between the two as a 3/4 ton can be very easily modified to carry more than a ton. The trucks are the same size, the only real difference being the axle and spring size. She said this is a matter of fairness; the truck industry considers the one ton truck a light truck.

Marvin Barber, Montana Assessors Association and the Agricultural Preservation Association of the Gallatin Valley expressed support for the bill. He said there

is one little problem in that HB 35 addresses this issue and puts one ton and one and a half ton trucks in the 11% category. He asked the committee to amend the one ton truck out of that bill when it gets to Senate.

Jerry Jack, Montana Stockgrowers, and members of the Agricultural Coalition, expressed support for the bill and the amendment to HB 35 as proposed by Mr. Barber.

There were NO OPPONENTS.

Questions From Committee Members:

None

Closing by Sponsor:

Senator Abrams closed by pointing out the similarities between 3/4 and one ton trucks and urged the committee to pass the bill.

HEARING ON SENATE BILL 380

Presentation and Opening Statement by Sponsor:

Senator Hager, District 48, sponsor, said he has introduced this legislation twice before. The bill excludes social security benefits and tier 1 railroad retirement benefits from income tax. He said the legislation is intended to try to keep the wealthier people in the state rather than having them move out to escape the tax as it currently exists.

List of Testifying Proponents and What Group they Represent:

Fred Patten, AARP  
Ed Sheehy, President, National Association of Retired  
Federal Employees for Montana

List of Testifying Opponents and What Group They Represent:

Joan Toole, Office of Public Instruction

Testimony:

Fred Patten, AARP, submitted his testimony in support of the bill (Exhibit #1).

Ed Sheehy, National Association of Retired Federal Employees, spoke in support of the bill and submitted Exhibit #2.

Testimony by Opponents:

Joan Toole, Office of Public Instruction, said the bill represents a 31.8% loss to the Foundation Program and for that reason OPI opposes the bill.

Questions From Committee Members:

Senator Norman asked what the fiscal impact of the bill would be.

Director Nordtvedt, Department of Revenue, said for the biennium there would be \$4.8 million loss in income tax collections. This would result in a \$1.8 million loss to the Foundation Program and \$2.8 million to the general fund. He said the railroad pension should not be in the bill as federal law precludes the state from taxing that pension. Only 50% of the social security benefits can be taxed if the retired person has income over \$32,000.

Closing by Sponsor:

Senator Hager closed by saying the railroad benefits are included in the bill because the railroad lobbyists are afraid the federal government will begin allowing taxing of those benefits. He felt it is important to offer incentives for the wealthier senior citizens to keep them and their money in the state.

## EXECUTIVE SESSION

## DISPOSITION OF SENATE BILL 290

Discussion:

Senator Mazurek said he had talked with Alec Hanson, Montana League of Cities and Towns. Mr. Hanson indicated he had talked with representatives of his major cities and they felt the bill was all right if amendment #12 (Exhibit #3) is added to the bill.

Senator Crippen said the bill does not preclude cities from putting on additional fees. This puts the PSC approval into the legislation.

Jeff Martin, Legislative Council, said the bill specifies if a city does not have a system development fee application must be made to the PSC to impose one.

The committee felt more research needs to be done and

postponed further action of the bill.

DISPOSITION OF SENATE BILL 379

Discussion: None

Amendments and Votes: None

Recommendation and Vote:

Senator Crippen MOVED SB 379 DO PASS. The motion FAILED with Senators Crippen and Severson voting yes and Senators Brown and Halligan absent.

Senator Gage MOVED SB 379 BE TABLED. The motion FAILED on a roll call vote (Exhibit #4).

DISPOSITION OF SENATE BILL 368

Discussion: None

Amendments and Votes: None

Recommendation and Vote:

Senator Gage MOVED SB 368 DO PASS. The motion CARRIED on a roll call vote (Exhibit #5).

DISPOSITION OF SENATE BILL 361

Discussion: None

Amendments and Votes: None

Recommendation and Vote:

Senator Norman MOVED SB 361 BE TABLED. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL 371

Discussion: None

Amendments and Votes: None

Recommendation and Vote:

Senator Mazurek MOVED TO TABLE HB 371. The motion CARRIED  
unanimously.

DISPOSITION OF SENATE BILL 374

Discussion: None

Amendments and Votes: None

Recommendation and Vote:

Senator Mazurek MOVED TO TABLE SB 374. The motion CARRIED  
with Senator Crippen voting no.

ADJOURNMENT

Adjournment At: 10:00 a.m.

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

BB/jdr

MIN215.jdr

ROLL CALL

TAXATION

COMMITTEE

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

Date 2/13/89

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

Each day attach to minutes.



SENATE STANDING COMMITTEE REPORT

February 15, 1959

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 368 (first reading copy -- white), respectfully report that SB 368 do pass.

DO PASS

Signed, \_\_\_\_\_

*B. C. B.*

Bob Brown, Chairman

4/15/89  
3/15/89  
13 p. 07



1988-1989  
MONTANA STATE LEGISLATIVE COMMITTEE

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SENATE TAXATION

EXHIBIT NO. 1  
DATE 2/15/89  
FILE NO. SB 380

*February 14, 1989*

*To: Senate Taxation Committee*

*From: Fred Patten, American Association of Retired Persons*

*Re: Senate Bill 380. "An Act to Exclude Social Security Benefits and Tier I Railroad Retirement Benefits in Computing State Individual Income Tax."*

*The Montana State Legislative Committee of the American Association of Retired Persons supports this bill.*

*We would appreciate a Do Pass on this Bill.*

## Opinion and comment

# Asking for fairness in pension tax law

Portions of some Social Security pensions are now subject to federal income tax, and a bill has been introduced in the Legislature that would allow Montana to tax some Social Security, too.

The Montana bill, says Edmund F. Sheehy of Helena, field vice president for the National Association of Retired Federal Employees, is divisive and unfair. It would tax some retired Montanans, he says, without taxing others with similar incomes.

Uncle Sam now requires retired people whose incomes exceed \$25,000 a year (\$32,000 for couples) to declare a portion of their Social Security for income tax purposes.

Senate Bill 346, says Sheehy, would get Montana in the business of taxing some Social Security pensions. It would set \$16,000 as the base amount in calculating Social Security benefits to be included in adjusted gross income.

However, the bill continues to exempt the following incomes from taxation, Sheehy says:

- The first \$3,600 of federal retirement benefits.
- Teachers' retirement benefits earned in Montana.
- Benefits paid under the Public Employees' Retirement System.
- Benefits paid under the Highway Patrol retirement law.

These exemptions aren't new with SB346, Sheehy says, but already are in the law.

Sheehy doesn't believe it's fair to leave these exemptions intact, while

taxing other retirees on their Social Security pensions.

Sheehy believes that if the state is going to tax any pension income, it should tax such income equally for all. If the state wants to exempt some retirees from taxes, it should exempt all.

It's hard to disagree with that.

It's unlikely that the state is going to cancel the tax exemptions already granted to such potent voting groups as teachers and other public employees.

To avoid making a discriminatory situation worse, though, the Legislature should refuse to "piggyback" on the federal Social Security tax bill. Just because the revenue-desperate federal government has decided to tax these benefits is no reason why Montana must blindly follow suit.

In fact, there is a bill — SB72 — that would stop state taxation of Social Security benefits. Senate Democrats, though, voted late last month to delay the bill, until they can "study" its fiscal impact.

What that means is they're anxious to get their hands on the money the bill would raise. They're more interested in revenue than in tax fairness.

That's too bad. Taxing some Social Security benefits while leaving entire public employee pensions untaxed would put another inequity into the tax law.

All Sheehy is asking for is fairness.

Surely, the Legislature can respond positively to that.

**Additions to Income (continued)**

**Social Security**

If (after calculating the Social Security worksheet found in this booklet) the portion of your benefits that is taxable to Montana is greater than the federal, enter difference.

**Independent Liability Funds**

If you received distribution of principal from an independent liability fund, you must report the amounts received if you previously took a deduction for the contribution.

**Capital Loss**

If you and your spouse file separately, you must claim your own capital loss which is limited to \$1500 each.

**S Corporation**

Add back that portion of a shareholder's income from a S corporation that has been reduced by any Federal tax paid by the S corporation on the income.

If you're a shareholder in a federal S corporation that doesn't elect comparable treatment under Montana corporation tax law, enter (on line 25):

1. the amount of dividends received,
2. the amount of any net operating loss passed through by the corporation and deducted in determining the total income reported on line 16.

**Allocation of Income.** (See special information on page 6, line 34.)

**Line 26**—Add lines 23 through 25.

**Line 27**—Add lines 22 and 26.

**Reductions of Income**

**Line 28**—If you had an installment sale(s) of a capital asset(s) which you entered into on or before January 1, 1987 you can take a capital gain exclusion of 40%. Compute your exclusion on the worksheet below:

If Federal Schedule D line 18 is negative, you are not allowed a capital gain exclusion. Do not proceed any further.

1. Enter the amount from Federal Schedule D line 11, which pertains to sales entered into on or before December 31, 1986. \_\_\_\_\_
2. Enter amount from line 16g of Federal Schedule D. \_\_\_\_\_
3. Divide line 1 by line 2 \_\_\_\_\_
4. Enter the smaller of line 17 or 18 (Schedule D) \_\_\_\_\_
5. Multiply the amount on line 4, times the percentage on line 3:  
 \_\_\_\_\_ × \_\_\_\_\_% = \_\_\_\_\_
6. Multiply amount on line 5 times 40% — this is your Montana capital gains deduction. Enter on line 28 Form 2. .40

**Line 29 Interest Exclusion for Elderly**—If you're 65 or older, you may exclude up to \$800 of interest income if filing single, separately, or head of household, and up to \$1,600 if filing jointly.

(Note: If you're married filing separately, and only one spouse is 65 or older, only the spouse 65 or older can exclude up to \$800 interest. However, if you file a joint return you're allowed to exclude up to \$1,600 even if only one of you is 65 or older. If you're married and both 65 or older, you're each allowed to exclude up to \$800 interest filing separately or jointly. The excluded amount may not exceed the taxable amount on line 7.)

**Line 30 Exempt Interest Income**—Interest income received on obligations of the United States Government is exempt from Montana income tax if all of the following conditions are met: The instruments must (1) be written documents, (2) bear interest, (3) contain a binding promise by the United States to pay specified sums at specified dates, and (4) con-

tain specific Congressional Authorization which pledges the full faith and credit of the United States in support of the promise to pay. If any one of these conditions is not met, the interest from the obligation is taxable to Montana. Obligations that are taxable include GNMA's and FNMA's.

**Line 31**—Part-year and nonresidents only.

**Line 32 Exempt retirement income**—You can exempt all benefits paid by the Railroad Retirement Board, if you reported them on line 15 (line 9 on Form 2S). If you received benefits paid by railroad companies or trusts refer to retirement worksheet below.

— Retirement income exclusion enter amount computed on the following worksheet.

**Retirement Worksheet**

Line	Type of Retirement	Total Amount	Exclusion
1.	Montana PERS, Teachers, Highway Patrol, Municipal police, Fire Fighters & Judges.	\$ _____	
2.	Civil Service, Military, Private (IRA, Keogh, etc.), Corporate & Non-Montana State Pensions.	\$ _____	
3.	TOTAL OF lines 1 & 2	\$ _____	
4.	If line 1 is more than \$3,600.00, enter that amount here.	\$ _____	
5.	If line 1 is less than \$3,600.00, enter the lesser of the amount on line 3 or \$3,600.00.	\$ _____	
6.	Enter the greater of line 4 or 5. This is your exclusion. Enter on line 32 Form 2. or line 15 Form 2S.		\$ _____

Note: If both you and your spouse have qualifying retirement income, you must compute the retirement exclusion separately. Add together the two exclusions if filing jointly, and enter on line 32.

**Line 33**—State refund.

If included on line 16, deduct it here.

**Line 34**—Other reductions. (Please be specific.)

**Individual Retirement Account (IRA).** See line 25 of instructions.

*Number  
5436623*

*Mayer,*

*Please review and get  
back to me ASAP.*

Amendments to Senate Bill No. 290  
First Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin  
February 8, 1989

*thake*  
SENATE TAXATION *pickett*  
EXHIBIT NO. 3  
DATE 2/15/89  
BILL NO. SB 390

1. Title, lines 5 through 8.  
Following: "MUNICIPAL"  
Strike: "UTILITY" on line 5 through "INCREASES" on line 8  
Insert: "UTILITIES BY IMPOSING A 12 PERCENT LIMIT ON THE ANNUAL INCREASE OF SYSTEM DEVELOPMENT FEES OR COMPARABLE FEES"
2. Page 1, lines 13 through 23.  
Strike: Strike section 1 in its entirety  
Renumber: subsequent sections
3. Page 2, line 1.  
Following: "limitation."  
Insert: "(1)"
4. Page 2, lines 8 and 9.  
Following: "yield"  
Strike: "an increase" on line 8 through "fees" on line 9
5. Page 2, line 9.  
Following: "12%"  
Insert: "a 12%"
6. Page 2, line 10.  
Following: "~~increase in total annual revenues~~"  
Insert: "increase in total annual revenues"  
Strike: "the inflation factor"
7. Page 2, line 15.  
Strike: "and"
8. Page 2, line 16.  
Strike: "individual customer rate increases"
9. Page 2.  
Following: line 17  
Insert: "(2) System development fees or comparable fees may not be increased more than 12% annually or be initially imposed by a city of the first or second class except as provided in 69-7-102. System development fees or comparable fees must be utilized for capital facility development and may not be utilized for operational expenses."
10. Page 2, lines 21 and 22.  
Following: "revenues"  
Strike: "or" on line 21 through "fees" on line 22
11. Page 2, line 22.

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Following: "12%"

Insert: "12%"

Strike: "the"

12. Page 2, line 23.

Strike: "inflation factor"

Following: "year"

Insert: "or if a municipal utility in a city of the first or second class proposes the imposition of a system development fee or comparable fee or an increase in existing system development fees or comparable fees in excess of 12% annually. This act does not apply to system development fees which have been enacted prior to January 1, 1989 even if the fees are not yet in effect."

Alec Hansen  
says that w/  
additional  
this amendment,  
League can support  
Ethel's SB 290

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date 2/15 SB Bill No. 379 Time 9:02

NAME	YES	NO
SENATOR BROWN		
SENATOR BISHOP	X	
SENATOR CRIPPEN		X
SENATOR ECK	X	
SENATOR GAGE	X	
SENATOR HAGER		X
SENATOR HALLIGAN		
SENATOR HARP		X
SENATOR MAZUREK	X	
SENATOR NORMAN	X	
SENATOR SEVERSON		X
SENATOR WALKER		X

Bill Ryan  
Secretary

SENATOR BOB BROWN  
Chairman

Motion: To table my Sen. Gage  
fails

ROLL CALL VOTE

SENATE TAXATION

EXHIBIT NO. 5

DATE 7/15/89

BILL NO. SB 368

SENATE COMMITTEE TAXATION

Date 7/15/89 SB Bill No. 368 Time \_\_\_\_\_

NAME	YES	NO
SENATOR BROWN		
SENATOR BISHOP	X	
SENATOR CRIPPEN	X	
SENATOR ECK	X	
SENATOR GAGE	X	
SENATOR HAGER	X	
SENATOR HALLIGAN		
SENATOR HARP	X	
SENATOR MAZUREK	X	
SENATOR NORMAN		X
SENATOR SEVERSON	X	
SENATOR WALKER	X	

Jim Johnson  
Secretary

SENATOR BOB BROWN  
Chairman

Motion: by Senator Gage that SB 368  
Do Pass



