

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIRMAN, on January 22, 1991,
at 9:05 a.m.

ROLL CALL

Members Present: All present

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HB 193

Presentation and Opening Statement by Sponsor:

REP. HOWARD TOOKE, House District 60, Missoula said the bill
relates to particular exemptions from state inheritance taxes.
It changes statutes applying to family members allowing
stepchildren exemption from inheritance tax in a slightly
different manner. It introduces the concept of
stepchild/stepparent and lowers the current time requirement from
ten to five years.

January 22, 1991

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Over the last decade, several changes have occurred in inheritance tax exemption statutes which have broadened exemptions for family members. Lineal descendants had been declared exempt; now all natural children are exempt from payment of inheritance tax, (72-16-313, (2)(a) MCA). There has also been an allowed exemption for children who have stood for ten or more years in a mutually acknowledged relationship of parent/child; the relationship beginning before the child's 15th birthday.

This bill reads simply "a mutually acknowledged relationship of stepchild to a stepparent, beginning before the child's 15th birthday." It changes the ten year requirement to five. The bill addresses the arbitrary time requirement of ten years. Five years seems long enough to establish the stability of the relationship. Stepparent is a clear legal relationship.

DOA has one amendment which clarifies the effective date. The bill was written to apply retroactively to taxable years beginning after December 31, 1990. **Judy Rippingale, Deputy Director, DOA**, advised that, as written, problems could be caused for pending estates. The amendment establishes that changes will affect estates in which the date of death is after December 31, 1990. **EXHIBIT 1**

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members:

REP. COHEN asked why there were no proponents or opponents. **REP. TOOLE** said the bill originated from consultations with Missoula attorneys. Natural children pay no inheritance taxes. There is an exemption for stepchildren, but the requirements seem unfair.

REP. HOFFMAN asked **REP. TOOLE** how the bill would affect adopted children. He said that adopted children were defined by statute to be natural children. This bill considers remarriage. **REP. O'KEEFE** asked how the bill would affect foster children. **REP. TOOLE** said that it did not consider foster children. The concept only included stepchildren. The present law does not consider foster children.

REP. FOSTER asked a hypothetical question involving relief from inheritance tax in the instance where the stepparent had substantial means. **REP. TOOLE** said that economic status would not prevent eligibility. **REP. NELSON** clarified the intent with an example: Two sets of families merged after the death of both first spouses. The total children numbered eight. The man died. The widow set up a trust so all eight children inherited. One of his children was a stepchild for eight years, two years less than the ten year statutory requirement. That one stepchild would be required to pay inheritance tax, the other seven would not.

REP. GILBERT asked if adoption of a stepchild changed the law under current statute. REP. TOOLE said yes. The five year waiting period would not apply; the adopted child would automatically be part of the estate in the event the parent died without a will.

REP. DOLEZAL asked if the problem was widespread. REP. TOOLE said the problem was associated with deaths, divorces, and remarriage, which are widespread phenomena.

Closing by Sponsor:

REP. TOOLE said he believed the fiscal impact to be minor.

HEARING ON HB 183

Presentation and Opening Statement by Sponsor:

REP. RANEY, House District 82, Livingston, said this was the third session in a row he has carried legislation intended to assist low-income senior citizens to remain in their homes. For the most part, people have their homes substantially paid for by the time they are in their 60s other than payments which continue to the government. The problem with eliminating property taxes on their homes is that seniors still use public services. This bill significantly cuts taxes for seniors while they live in their homes while not forgiving the long-term tax bill. It is a voluntary program which provides a reasonable method for surviving spouses and heirs to retain their property. EXHIBIT 2

Proponents' Testimony:

Dennis Burr, Montana Taxpayers' Association, said they have supported the concept for the last several sessions. Any problems will come from appropriations for funding. It is interesting to note that the bill is modeled after similar provisions in Oregon since Montana and Oregon are two of the highest property tax states in the nation. Montana is always third or fourth in the percentage of total tax rate; property taxes are 12-15% above the national average. No one has ever been able to document that a senior citizen has been forced out of a home as a result of property taxes but it could occur. This bill would be very helpful in preventing that possibility.

Chester Kinsey, Helena, Montana Senior Citizens Association, said they endorsed the concept of the bill. Older people with substantial assets and very little income need this kind of protection.

Fred Patten, American Association of Retired People said AARP supports the bill and provided written testimony EXHIBIT 3

Proponent Testimony: None

Opponents Testimony:

Tom Hopgood, Montana Association of Realtors (MAR), said he wanted to point out that several substantial technical difficulties exist which have been discussed with REP. RANEY and Ms. Rippingale. Having been given assurance that they will be taken care of, MAR suggests careful consideration of this bill.

Questions From Committee Members:

REP. NELSON asked technical questions. Page 2, line 8 regarding the definition of homestead: What if the homestead is 5, 10 or 30 acres? REP. RANEY said that was one of the technical issues to be discussed. Last session the bill passed through the House without raising technical issues, this session Ms. Rippingale has raised many technical issues. REP. NELSON asked if interest accrued from year to year. REP. RANEY said interest accrued with deferred tax. REP. NELSON, referring to page 6, line 5, said that the outstanding mortgage on a property might exceed 90% if the appraised value went down. What happened at 90% or above? REP. RANEY said no more taxes could be deferred, but repayment was not mandatory.

REP. GILBERT said a homestead exemption keeps a property from being attached in bankruptcy proceedings. What happens in the case of a bankruptcy? Is the fund provided to the state to reimburse county budgets a revolving account? How is the State reimbursed? REP. RANEY said these issues will be addressed.

Closing by Sponsor:

REP. RANEY said he didn't realize the bill had technical problems. The ability to function still remains. It will work for senior citizens who need assistance. A time of increased inflation appears likely. The war costs half a billion dollars a day; that expense will come back to affect the economy at some future date. When inflation begins, it will affect seniors. For the most part, seniors at 125% of poverty or less are on fixed incomes. The bill is timely. The bill will not go to subcommittee until the technical problems are addressed.

Announcements: CHAIR HARRINGTON referred HB 183 to the Property Tax Subcommittee.

HOUSE TAXATION COMMITTEE
January 22, 1991
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ADJOURNMENT

Adjournment: 9:40 a.m.

Dan Harrington
DAN HARRINGTON, Chair

Lois O'Connor
LOIS O'CONNOR, Secretary

DH/lo

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE

7/22/91

NAME	PRESENT	ABSENT	EXCUSED
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓	✗	
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		
REP. DAN HARRINGTON, CHAIRMAN	✓		

LINE ITEM 1
DATE 1-22-91
HB 193

Amendments to House Bill 193
1st. Reading Copy

Prepared by the Department of Revenue
January 21, 1991

1. Page 2, line 15.
Following: "1-2-109, to"
Strike: "taxable years beginning"
Insert: "estates in which the date of death is"

DATE 1-22-91
HB 183

HB 183
Senior Citizen Prop. Tax Relief
January 22, 1991

Purpose - To assist low income senior citizens in the struggle to remain in their own homes.

To reduce the fear of losing ones own home to the "tax man" and still keep local government whole.

To create a voluntary program with the least amount of problems for surviving spouses and heirs.

Eligibility - 62 years old, less than 125% of federal poverty level, own or purchasing a homestead.

Method - The DOR will set up a program providing necessary forms for eligible citizens to apply for the deferral through the county assessor. Up to 50% of the tax due in each callendar year may be deferred, with total amount of deferred taxes not exceeding 50% of the value of the house, and the total of taxes and unpaid mortgage not exceeding 90% of the value of the house.

The state pays the county the amount of the tax lost as a result of the deferral. The state has a lien against the property for the amount of the dererred tax plus 8% interest per year. (the tax lien is subordinate to mortgages in place at the time of the deferral).

The state will notify each taxpayer, with deferred taxes, the status of the deferred taxes before December 15 of each year.

Taxes come due when - the taxpayer dies, the property is sold, the homestead is no longer the residence of the taxpayer who deferred the tax (unless away for health reasons) Surviving spouse may continuing deferring taxes (age applies differently). Heirs may have up to 6 years to pay of deferred taxes.

Cost, set up, plus - bill currently shows 1 million, but should be considerably less.

Effective date should be ammended to 1992



3
DATE 1-22-91
HB 183

Bringing lifetimes of experience and leadership to serve all generations.

MONTANA STATE LEGISLATIVE COMMITTEE

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JANUARY 22, 1991

TO: HOUSE TAXATION COMMITTEE
FROM: FRED PATTEN - AMERICAN ASSOCIATION OF RETIRED PERSONS
RE: HB NO. 183 PROPERTY TAX DEFERRAL PROGRAM FOR PERSONS 62
YEARS OF AGE OR OLDER.

THE MONTANA STATE LEGISLATIVE COMMITTEE SUPPORTS THIS BILL.
WE FEEL THAT THIS BILL WOULD IMPROVE THE EVERY DAY LIVING
CONDITIONS OF OUR SENIOR CITIZENS ON A FIXED INCOME. THERE
APPEARS TO BE NO CONFLICT FOR THEIR ELIGIBILITY TO
PARTICIPATE IN ANY OTHER PROGRAMS IF THIS BILL BECOMES LAW.
WE FEEL THE TAX RELIEF THIS BILL WILL GIVE SENIORS CITIZENS
WOULD HELP THEM FINANCE HOME MAINTENANCE OR PAY FOR NEEDED
HEALTH CARE OR SUPPORT SERVICES.

THE AMERICAN ASSOCIATION OF RETIRED PERSONS SUPPORTS HB-183
AND URGES THE PASSAGE OF THIS BILL.



Bringing lifetimes of experience and leadership to serve all generations.

7x. 3
1/22/91
HB 183

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**Montana AARP State Legislative Committee
1991 Position Paper**

VOLUNTARY PROPERTY TAX DEFERRAL

PROBLEM: Low-income elderly home owners often find it difficult, if not impossible, to pay the taxes on their homes. Even relatively wealthy home owners may have insufficient cash flow to pay the property taxes. In such cases they may be forced to sell their homes and find other housing.

SOLUTION: A deferral program deals with this cash flow difficulty without permanently forgiving the property tax liability. A fund administered by the Department of Revenue would be used to reimburse counties for deferred taxes. A lien would be placed on the taxable property and the deferred taxes and interest would be payable upon the death of the taxpayer or the taxpayer's survivor. Since interest at the market rate would be charged against deferred taxes the program only postpones the tax burden.

POSITION: Property tax deferral bills introduced into Montana's 51st Legislature (HB 472 and SB 34) failed to pass. AARP continues to support passage of such bills with an appropriate amount of funding for start-up costs. Bills introduced previously were limited to low-income persons over 62 years of age and proposed up to \$1 million for start-up costs. Passage of this legislation will permit cash flow relief for an estimated 360 elderly low-income households.

12/90

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

TAXATION

COMMITTEE

BILL NO.

HB 193

DATE ✓22/91

SPONSOR(S) Rep. Toole

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gary Madsen	MT. Dept of Revenue		
Howard Took, HOGO	SPAWN	X	

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. HB183
DATE 7/22/91 SPONSOR(S) Rep. Raney

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ol Sandstad	OPPP	✓	
Endo Nathan	AARP	✓	
Dennis Burr	MT Taxpayers ASSOC	✓	
Tom Hopgood	MT Assoc Realters	—	—
Hank Hudson	Gov. Office on Aging		
Bill Olson	AARP	✓	
Clot Runey	MSCA	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.