

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON INCOME/SEVERANCE TAX

Call to Order: By **CHAIR BOB REAM**, on March 6, 1991, at 8:00 am.

ROLL CALL

Members Present:

Rep. Bob Ream, Chair (D)
Rep. Jim Elliott (D)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Marian Hanson (R)
Rep. Jim Madison (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Bob Raney (D)

Members Excused: Rep. Stang (D)

Staff Present: Lee Heiman, Legislative Council
Lisa Fairman, Committee Secretary

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

Announcements/Discussion: **CHAIR REAM** announced HB 332 and HB 558 will be discussed.

Discussion on HB 332

REP. BOB GILBERT stated that the interest rate for student loans is relatively low. **REP. BEA MCCARTHY** said the loan rate is approximately 3-5%. **REP. GILBERT** added he felt the students are already getting a break. When breaks are given on income taxes, money is being taken away from the General Fund. **REP. BOB RANEY** asked if the Fiscal Note is correct. He asked how there could be a \$600,000 impact when 20% of the interest paid calculates to approximately \$3,000,000. **CHAIR REAM** shared the same concerns and referred to line 2 under Assumptions in the Fiscal Note. **REP. GILBERT** stated approximately 20,000 - 30,000 students are in the school systems every year. **REP. MCCARTHY** added that the students defer payments until after graduation. **REP. TOM NELSON** suggested that lines 1 and 2 need to be added together to arrive at the correct number. **CHAIR REAM** replied no. The 2.5 million is from the National Guaranteed Student Loan. There is an additional 20% or \$500,000 added to that which adds up

\$3 million. The 20% is the amount of student loans not guaranteed. CHAIR REAM asked Mr. Denis Adams to clarify these numbers. Mr. Adams, Department of Revenue (DOR), stated part of the problem DOR has with the bill concerns loans other than the Guaranteed Student Loans. As the bill is stated, students could take out loans for other purposes, such as for vehicles or houses, and could receive the lower interest rate. Mr. Adams proposed amendments that may help to close this loop-hole. EXHIBIT 1. He stated assumption #2 on the fiscal note is the main problem. CHAIR REAM asked Mr. Adams if Line #1 is a hard number. Mr. Adams said yes. REP. GILBERT stated the number can't be based on number of students currently enrolled because people pay back the loans at different times. REP. MCCARTHY added it is difficult to calculate the numbers given the variables involved. REP. JIM ELLIOTT suggested that in light of all the questions surrounding HB 332 and because it appears this tax rate does not affect the decision of people attending Montana schools, that it is appropriate to table the bill.

Motion/Vote: REP. ELLIOTT MOVED HB 332 BE RECOMMENDED TO BE TABLED. Motion carried unanimously.

Discussion on HB 558

CHAIR REAM, sponsor of HB 558, stated the bill resulted from actions taken last session. During the 1989 session, revenue estimating authority was given to the Revenue Oversight Committee. The method became confusing and created some problems when the session convened. It became confusing whether the Taxation Committee needed to hear the resolutions by the Revenue Oversight Committee. HB 558 clarifies that the Revenue Oversight Committee will have the authority until the session convenes. Upon convening, the Revenue Oversight Committee will present resolutions to the Taxation Committee. CHAIR REAM stated he discussed the idea with the Revenue Oversight Committee and there was general concurrence that it was the appropriate approach. The bill clarifies and improves upon the method used last session.

Motion: REP. MARIAN HANSON MOVED HB 558 BE RECOMMENDED DO PASS.

Discussion: CHAIR REAM read the proposed amendments prepared by Curtis Nichols. EXHIBIT 2. REP. GILBERT asked why 10 days prior to a session is necessary. This is not always needed for short special sessions. It can be rather costly and not time efficient. CHAIR REAM agreed that it is not necessary.

REP. RANEY suggested that on page 4, line 12, following "prepared", insert the words "by December 1" and on page 4, line 13, following "each", insert the word "regular".

Motion/Vote: REP. RANEY moved to adopt his proposed amendments.
EXHIBIT 3. Motion carried unanimously.

Vote: REP. HANSON MADE A SUBSTITUTE MOTION THAT HB 558 BE
RECOMMENDED DO PASS AS AMENDED. Motion carried unanimously.

Discussion on SB 202

Motion/Vote: REP. MCCARTHY MOVED SB 202 BE RECOMMENDED DO PASS.
Motion carried unanimously.

Discussion on HB 900

CHAIR REAM suggested the committee informally discuss retirement income. REP. RANEY stated it seemed half of the opponents were opposed to the "whereases" and the other half were opposed to making the state employees whole, which they felt was an unfair tax. If the "whereases" and the section on making state employees whole were removed, then there would be very little or no opposition to the bill. The opponents also stated that making state employees whole is unconstitutional or could be challenged on the grounds that it is unfair taxation. Some people stated the \$3600 exclusion was not high enough. REP. ELLIOTT stated he didn't think there was any problem with constitutionality. The Davis case was based on statutes not law. He agreed the "whereases" could be removed. The \$3600 exclusion is reasonable and does not need to be higher. Federal employees probably are not pleased because they aren't accustomed to being taxed. REP. MCCARTHY suggested the committee do what they feel is correct and not worry about the threats of going to court. CHAIR REAM agreed. He added that federal retirement plan is considerably better than the State plan.

REP. ELLIOTT asked if anyone had any problems with the bill. REP. GILBERT replied he felt uncomfortable with making the state employees whole. He suggested going to a higher exclusion. He did not believe a deal was made. The issues may have been discussed but a deal was never agreed upon. The State has better retirement plans than the private sector. Exclusions could be raised. Exclusions set at \$3600 will raise a considerable amount of money. If it was raised to \$10,000 or \$12,000, money would still be generated, state employees wouldn't be paying on their pension, and the debate over making state employees whole would be solved. CHAIR REAM stated REP. GILBERT hit the nail on the head. There are two options to solve this issue: what, if any, exclusion to give and whether to make the employees whole. REP. FOSTER stated there is a strong perception among state employees that a deal was made. If the Legislature does not recognize that in some fashion then the employees will feel deceived. He supported REP. GILBERT'S idea and suggested the committee get additional input from state employees. REP. GILBERT added a potential lawsuit could be avoided if the exclusions are raised to \$12000 or \$14000. CHAIR REAM stated the same concept or issues are found in the Governor's bill that SEN. HARP is

carrying. REP. ELLIOTT stated if the exclusions are raised for everyone's retirement pensions then it is discriminating against everyone that is not retired. Montana is a great place to retire. Incomes should not be taxed differently because they come from different sources. There should be different tax levels based on different income levels. He stated he supported the lower exclusion even though he wasn't keen on making state employees whole. Two-thirds of the sum of the \$3600 exclusions, which total more than \$1.5 million, goes to households that earn greater than \$36000/year on retirement. Currently, it already is a heavily top loaded benefit. REP. GILBERT stated he agreed with REP. ELLIOTT in principle but because of the political climate and ramifications he supported raising the exclusions. The burden always seems to fall on the middle class. For that reason he prefers REP. ELLIOTT'S suggestion, however, it is not possible to pass a bill like that now.

REP. MCCARTHY asked what is being defined as retirement income. REP. GILBERT responded pensions. Mr. Adams added that it was actually a grey area. It is pensions or retirement systems. This can be very confusing. REP. MCCARTHY said the definition needs to be clarified. REP. GILBERT stated railroad and Social Security pensions need to be excluded from taxation but all the others should be included. The State is suffering an increasing loss of potential by not taxing the Federal retirement pensions. Public services are used by all but not all pay for them. In fairness, everyone should pay for them.

Mr. Adams suggested if the committee wants to keep the state employees whole, they may need to change the funding mechanism. An option to consider would be to increase the employers contributions to a retirement system as opposed to taking the money out of the General Fund. REP. RANEY asked if was possible to do a combination of both raising the exclusions and giving back a portion to make employees whole. REP. GILBERT expressed concern that it may discriminate, making some whole and others not. REP. MCCARTHY stated that the threshold may discriminate against younger taxpayers or single parent families. REP. NELSON asked what will happen if a person has created their retirement fund through real estate investments. REP. MCCARTHY replied that real estate investments are considered income and are not recognized as retirement plans.

REP. GILBERT suggested the committee review what is included SEN. HARP'S bill which is the Governor's proposals. The bill may resolve REP. MCCARTHY'S concerns and may meet the committee's objectives. Mr. Adams added that in SEN. HARP'S bill, there is a \$3600 exclusion of the first \$10,000 earned and anything above \$35,000 is taxed. REP. ELLIOTT stated it appears there are two main problems; no definition for retirement income and no set age for retirement. SEN. HARP'S bill does not answer these concerns or the concern's raised by REP. MCCARTHY. It discriminates against the working class. CHAIR REAM stated increasing the employer contributions would work for the people still working

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but not for those already retired. He asked Mr. Adams how this could be corrected. Mr. Adams replied he did not know. REP. RANEY asked if DOR could provide information on the breakdown of pensions that state employees draw. Mr. Adams replied yes.

Announcements: Mr. Adams distributed a memo from DOR that provided responses and information for questions previously asked. EXHIBIT 2. CHAIR REAM announced the subcommittee will meet on Friday, March 6, to discuss income taxes. It will be a working meeting. Discussion of bill will continue the following week.

ADJOURNMENT

Adjournment: 9:00 am.

Bob Ream

Bob Ream, Chair

Lisa Fairman

Lisa Fairman, Secretary

BR/lf

HOUSE OF REPRESENTATIVES
INCOME/SEVERANCE TAX SUBCOMMITTEE

ROLL CALL

DATE 3-6-91

NAME	PRESENT	ABSENT	EXCUSED
REP. JIM ELLIOTT	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. BEA MCCARTHY	✓		
REP. JIM MADISON	✓		
REP. TOM NELSON	✓		
REP. BOB RANEY	✓		
REP. BOB REAM, VICE-CHAIR	✓		
REP. BARRY STANG			✓
REP. DAN HARRINGTON, CHAIR			