

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on January 29, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused:

Robert Brown (R)

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: None

HEARING ON SENATE BILL 121

Presentation and Opening Statement by Sponsor:

Senator Keating, District 44, sponsor, said the bill would allow owners of diesel powered school buses to pay the fuel tax in the same manner as owners of gasoline powered buses. The gas uses pay the fuel tax when they buy the gasoline. The interstate diesel compact requires recording of exact mileage and fuel records for distribution of the tax. The amendments will the school bus owners to purchase special fuel, tax paid, for in-state transportation without having to obtain a special fuel permit. If they use the buses for out of state transportation, the must get the permit. When buying the diesel fuel in state, they may pay the tax as they buy or quarterly. This saves a great deal of paperwork and man hours for the owners and the state as well.

Proponents' Testimony:

Charles Simonsen, Ryder Transportation and Montana School Transporters Association, said the bill would save time and paperwork for both private enterprise and the state. There are 550 school buses owned by private contractors and the trend is going to diesels. The bill would simply allow diesel and gasoline powered buses to be treated the same way in payment of the fuel tax.

Jack Traxler, Beach Transportation of Missoula, supported the previous testimony and said the bill would affect 95 operators in Montana.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Gage asked if the over the road coaches used to transport students to tournaments and special functions out of town could be amended into the bill.

Senator Keating had no objection.

Senator Towe asked if this bill would apply only to buses to that buy fuel at the pump.

Mr. Simonsen said the tax would be paid quarterly when the fuel is delivered bulk to the buyer.

Closing by Sponsor:

Senator Keating closed.

HEARING ON SENATE BILL 147Presentation and Opening Statement by Sponsor:

Senator Gage, District 5, sponsor, said there are circumstances in which corporations can file consolidated returns. If a corporation elects and qualifies to file a consolidated return and there is a period of time not covered by that particular return, the corporation must file a short period return to cover that period of time.

Proponents' Testimony:

Denis Adams, Director, Department of Revenue, said there is no fiscal impact. The bill is simply a convenience for the taxpayer and the preparer and brings state law into conformity with federal deadlines.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Senator Gage closed.

EXECUTIVE ACTION ON SENATE BILL 147

Recommendation and Vote:

Senator Towe moved Senate Bill 147 Do Pass.

The motion CARRIED unanimously with Senator Brown and Senator Van Valkenburg absent.

HEARING ON SENATE BILL 152

Presentation and Opening Statement by Sponsor:

Senator Towe, District 46, said the bill clarifies the extent of the tax exemption accorded property of nonprofit museums, art galleries, zoos, and observatories. Under current law, these entities are exempt only if there is no admission charge and if it is only for purely educational purposes. There is old case law that suggests that a faculty and classroom may be necessary components in order to qualify as educational. As a practical matter, all the museums in the state are exempt, according to Senator Towe. All the property they own is exempt as long as it is used for museum purposes, and all the property they display is exempt. This bill simply provides for those exemptions even if admission is charged. The new criteria in the bill includes a designation as a government entity or a non-profit organization. It could not be a private organization. The principal purpose would be to hold property for public display or use as a museum, art gallery, zoo, or observatory. The exempt property would be limited to real and personal property under the control of the governmental entity or non-profit organization and reasonably necessary for use in connection with in connection with the public display or observatory use. He submitted proposed amendments to the bill regarding leased property (Exhibit #1).

Proponents' Testimony:

Ruth Towe, President, Montana Association of Museums, and Director of the Moss Mansion, Billings, said museums are some of the top attractions for tourists visiting Montana. She said the Billings Preservation Society had to raise \$450,000 to buy the Moss Mansion over a period of two and one half years. During that time period neither the city, the state, or the Preservation Society owned the property. The Department of Revenue ruled the Society was liable for the property taxes in the amount of \$15,000. A settlement was eventually reached but questions now arise as to whether the Mansion is, indeed, educational. The only way they have to raise operating money is to charge admission. She urged the Committee to adopt the bill with the proposed amendments.

David Nelson, Executive Director, Montana Arts Council, said the Council had conducted a survey of 53 museums in Montana and determined that a great deal of confusion exists in regard to the taxing status. He urged the Committee to clean up the legislation in order to let those entities operate as they should without the confusion that now exists.

Gloria Hermanson, Montana Cultural Advocacy, said clarification of the statutes in this regard is very important.

Jill Rohyans, by invitation of the Chairman, and representing the Astronomical Institute of the Rockies, said her organization operates an observatory dedicated to public use. She said there are some very "gray" areas that they would be happy to have clarified regarding the tax status.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Halligan asked Senator Towe if corporations private art collections would be exempt if they were put on public display.

Senator Towe said in his opinion they would be.

Senator Halligan asked the committee researcher, Jeff Martin, to prepare a gray bill for the committee's consideration.

Closing by Sponsor:

Senator Towe closed.

EXECUTIVE ACTION ON SENATE BILL 69Amendments, Discussion, and Votes:

Senator Eck submitted proposed amendments to the committee (Exhibit #2). She asked Mr. Adams if this legislation could incorporate Class 19.

Mr. Adams replied it would be appropriate to put provisions of the bill in Class 19.

Senator Eck said if Class 19 is taxed at 2% of market value, how would it relate to agricultural land.

Mr. Adams replied ag land is taxed on productivity. If there is very low productivity, it could be taxed at one half to one percent.

Senator Eck moved the adoption of the amendments as per Exhibit # 2.

The motion CARRIED with Senators Brown and Van Valkenburg absent.

Recommendation and Vote:

Senator Eck moved Senate Bill 69 Do Pass As Amended.

The motion CARRIED with Senators Brown and Van Valkenburg absent.

EXECUTIVE ACTION ON SENATE BILL 77Amendments, Discussion, and Votes:

Senator Koehnke moved to adopt amendments 1-3 and 5-7 on the attached standing committee report. He said without the amendments the present plant could double in size and use up all the incentives. The Highway Department prefers this to the phase in option.

Senator Towe moved to amend the bill with an immediate effective date and an April 1, 1991, applicability date.

The motion CARRIED unanimously with Senators Van Valkenburg and Brown absent.

The motion carried unanimously with Senators Brown and Van Valkenburg absent.

Senator Towe moved to amend the bill as per amendment #4 on the attached standing committee report.

The motion CARRIED unanimously.

Senator Thayer wanted to be on the record as noting there are two sides to the argument for the bill based on 20,000 bushels of grain being used for ethanol production. He said that will also cause some displacement in the agriculture industry.

Recommendation and Vote:

Senator Koehnke moved SB 77 Do Pass As Amended.

The motion CARRIED unanimously with Senators Brown and Van Valkenburg absent.

EXECUTIVE ACTION ON SENATE BILL 93

Motion:

Senator Gage moved SB 93 Do Pass.

Discussion:

Senator Towe asked if this is FOB or contract sales price.

Senator Gage answered it is based on the contract sales price.

Senator Eck said a great deal of money, approximately \$6 - \$7 million, was lost when the metal mine RITT rate was changed and she is concerned that this will do the same thing.

Mr. Ebzery said this bill puts the RITT tax under the other coal tax bills for compilation purposes. It is just a formula change.

Mr. Adams said the original fiscal note changes the base of the tax. The mine mouth price is lower than the contract sales.

Amendments, Discussion, and Votes:

Senator Towe made a substitute motion to amend the rate on page 3 from ".4" to ".5". He said the original intent was to tax at the gross value of the coal in the ground and at .5 value of all the minerals. Everything else is a .5 and he felt this should be also.

Senator Gage said the tax is .5 at the well site for oil and gas. It is not taxed at the delivery point or refinery point. He said it is very difficult to tax it at the point at which it is taken out of the ground. It is easier to adjust the rate to the sales price.

Senator Towe said Judge Bennett allowed costs of mining as deductions in his decision. He felt the value of the oil at the well head and the coal at contract sales prices (all taxes excluded) were very comparable and should be taxed at .5.

The motion CARRIED on a roll call vote (Exhibit #3).

Recommendation and Vote:


Senator Gage withdrew his original motion and moved to TABLE SB 93.

The motion CARRIED with Senator Towe voting no and Senators Brown and Van Valkenburg absent.

ADJOURNMENT

Adjournment At: 10:00 a.m.


SENATOR MIKE HALLIGAN, Chairman


JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1/29/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN			X
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG			/
SEN. YELLOWTAIL	X		

Each day attach to minutes.

1/29/91

Devotion

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Amendments to Senate Bill No. 152
First Reading CopyRequested by Sen. Towe
For the Committee on TaxationPrepared by Jeff Martin
January 28, 1991

1. Page 5, lines 20 and 21.

Strike: "under" on line 20 through "property" on line 21

2. Page 5, line 22 through page 6, line 1.

Strike: "1" on page 5, line 26 through "organizations"

3. Page 6, line 1.

Following: "organizations."

Insert: "Personal property owned by other persons that is actually used by the governmental entity or nonprofit organization as a part of its public display or is held for future display is exempt unless:

(i) the personal property is leased to the governmental entity or nonprofit organization by a for profit organization; or

(ii) the personal property is leased to the governmental entity or nonprofit organization for a profit."

Amendments to Senate Bill No. 69
First Reading Copy

Requested by Sen. Eck
For the Committee on Taxation

Prepared by Jeff Martin
January 22, 1991

1. Title, line 7.

Following: "PURPOSES"

Insert: "OR THAT DO NOT PROHIBIT ITS USE FOR COMMERCIAL OR
RESIDENTIAL PURPOSES"

2. Page 2, lines 18 through 21.

Following: "~~prohibiting~~" on line 18

Strike: remainder of line 18 through "part" on line 21

Insert: "may not be classified or valued as agricultural land
under this part if the land is burdened with restrictive
covenants that:

- (a) prohibit its use for agricultural purposes;
- (b) do not prohibit its use for commercial or residential
purposes; and
- (c) are in effect on January 1 of the year of assessment"

ROLL CALL VOTE

SENATE TAXATION

EXHIBIT NO. 3

DATE: 1/29/91

BILL NO. SA 93

SENATE COMMITTEE ON TAXATION

Date 1/29 S Bill No. 93 Time 9:55

NAME	YES	NO
SEN. HALLIGAN		X
SEN. BROWN		
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG		
SEN. HARP		X
SEN. YELLOWTAIL	X	
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE	X	
SEN. DOHERTY	X	

Secretary

Chairman

Motion: will amend to .5

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
January 29, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 77 (first reading copy -- white), respectfully report that Senate Bill No. 77 be amended and as so amended do pass:

1. Title, line 6.
Following: "2001;"

Insert: "INCREASING THE MAXIMUM TOTAL INCENTIVE PAYMENTS IN ANY CONSECUTIVE 12-MONTH PERIOD TO \$6 MILLION; INCREASING THE MAXIMUM INCENTIVE PAYMENT TO AN ALCOHOL DISTRIBUTOR IN ANY CONSECUTIVE 12-MONTH PERIOD TO \$1.5 MILLION;"

2. Title, line 7.
Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A CONTINGENT RETROACTIVE APPLICABILITY DATE"

3. Page 1, line 22.
Strike: "(3) through"
Insert: "(4) and"

4. Page 2, line 5 through page 3, line 18.
Following: "(3)" on line 5
Strike: remainder of line 5 through "(d)" on page 3, line 18

5. Page 4, line 3.
Strike: "\$1,250,000"
Insert: "\$6 million"

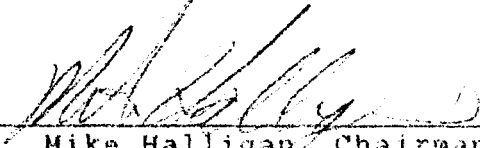
6. Page 4, line 7.
Strike: "\$1 million"
Insert: "\$1.5 million"

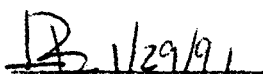
7. Page 4, line 14.
Strike: "\$1 million"
Insert: "\$1.5 million"

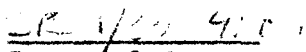
8. Page 4, line 19.
Following: line 18

Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 3. Contingent retroactive applicability. If [this act] is passed and approved after April 1, 1991, the provisions of [this act] apply retroactively, within the meaning of 1-2-109, to April 1, 1991."

Signed: 
Mike Halligan, Chairman


Amd. Coord.


Sec. of Senate

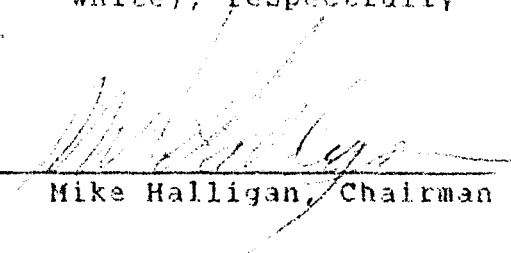
SENATE STANDING COMMITTEE REPORT

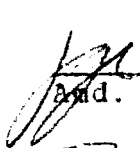
Page 1 of 1
January 29, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 147 (first reading copy -- white), respectfully report that Senate Bill No. 147 do pass.

Signed: _____


Mike Halligan, Chairman

 1-27-91
And. Coord.

SP 1-29 2:45
Sec. of Senate

201344SC.Sji

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 29, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 69 (first reading copy -- white), respectfully report that Senate Bill No. 69 be amended and as so amended do pass:

1. Title, line 7.

Following: "PURPOSES"

Insert: "OR THAT DO NOT PROHIBIT ITS USE FOR COMMERCIAL OR RESIDENTIAL PURPOSES"

2. Page 2, lines 18 through 21.

Following: "~~prohibiting~~" on line 18

Strike: remainder of line 18 through "part" on line 21

Insert: "may not be classified or valued as agricultural land under this part if the land is burdened with restrictive covenants that:

- (a) prohibit its use for agricultural purposes;
- (b) do not prohibit its use for commercial or residential purposes; and
- (c) are in effect on January 1 of the year of assessment"

Signed: _____

Mike Halligan, Chairman

JB 1/29/91
Amd. Coord.

SP 1/29 8:45
Sec. of Senate