

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on February 5, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

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

Members Excused:

Bill Yellowtail (D)

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 194

Presentation and Opening Statement by Sponsor:

Senator Tom Towe, District 46, sponsor, said the Internal Revenue Service collects inheritance taxes. Those taxes are collected on estates in excess of \$600,000. Montana does not collect a tax except when the federal estate tax law allows for a credit on the taxes that are otherwise owed to the federal government. If the individual pays money to the state, that money is a credit to the federal tax. Montana taxes estates just enough to pick up the credit, thereby making maximum use of the federal inheritance tax state credit.

Senate Bill 194 addresses a similar situation. Recently, the federal government enacted a generation skipping transfer

tax. It has a large limitation of \$1 million before it is activated and another \$1 million that is exempt under another qualification. The generation skipping transfer tax also has a credit which is for taxes paid on the generation skipping transfer tax to the state. This bill places a tax on the generation skipping transfer which allows Montana to make full use of the deduction that is allowed on the federal generation skipping transfer tax. The bill does not tax any more than the amount of the credit. If enacted, in those cases where the federal government enacts a generation skipping transfer tax, they would give a credit in the amount of taxes paid in this bill. Therefore, the generation skipping transfer tax to the federal government would be reduced by the exact amount and there would absolutely no difference in the payment made by the taxpayer. With or without this bill, the taxpayer will pay the same amount. This bill would have the state receiving part of the payment rather than the full amount being remitted to the federal government.

Senator Towe explained a generation skipping transfer occurs when, in an estate over \$600,000, the property is left in trust or to grandchildren (rather than children). The federal law designates that a "skip". If it is left in trust or to great-grandchildren, the federal laws designates it a "double skip". In effect, the federal government says they want to tax every time the property goes (transfers) from one generation to the next. If a generation is "skipped", the generation skipping transfer tax is activated.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Thayer asked how many people would be affected and what the impact might be.

Senator Towe replied the fiscal note indicates there have been no federal returns with the generation skipping transfer tax filed from Montana residents because of the \$2 million exemption. Therefore, it is impossible to determine how many there may be in the next biennium. It is possible there will not be any as there have been none in the last three years since the tax went into effect.

Senator Eck asked if there is away around this with a trust provision.

Senator Towe said there is not.

Closing by Sponsor:

Senator Towe closed.

EXECUTIVE ACTION ON SENATE BILL 194Recommendation and Vote:

Senator Eck moved Senate Bill 194 Do Pass As Amended. The motion CARRIED with Senator Yellowtail excused.

HEARING ON SENATE BILL 177Presentation and Opening Statement by Sponsor:

Senator Joe Mazurek, District 23, sponsor, said the bill was introduced at the request of the Department of Revenue. The bill is essentially a clean-up of the abandoned property statutes and contains only one substantive change. Under current Montana law, if bank accounts or property are left for over five years, the property is presumed abandoned, and the holder of the property must report to DOR that the property is abandoned or unclaimed. If no claim is made, the property is transferred to the state and held for the owner in perpetuity. An open account is maintained and when, and if, the owner appears to claim the property is paid up at that time. The property is held in a trust fund and the interest from the trust is deposited in the non-expendable school trust fund.

The substantive change is found in Section 1. DOR proposes to address the issue of intangible property i.e., stocks, bonds, and dividend payments. This would permit DOR to claim intangible property and unclaimed distributions on securities issued by Montana or one of its political subdivisions. The situation can arise whereby a bond issued by the state or a city in the state is owned by a resident of Montana and for some reason they can no longer be located. The bond or stock itself is held in a financial center state. Those states are now claiming that the interest or dividend should be deposited into the unclaimed property account in the state where the paper actually resides as opposed to the state where the individual who purchased and owned the bond resided. Section 1 creates a presumption that the interest or dividend is presumed abandoned in Montana rather than in one of the financial center states.

Section 2 increases the threshold amount for property reported in aggregate from \$10 to \$25. It makes it easier for

banks and other institutions to report these amounts. Montana is one of only 2 states out of 42 with abandoned property statutes that require separate reporting of accounts less than \$25.

Sections 3 and 4 allow for the property deemed abandoned to be sent to DOR and held there at the time the report of abandonment is filed from the bank, institution, or individual holding the property. The bill originally has the holder retaining the property during the three month period of notification.

Section 5 is changes the ability of DOR to enforce the reporting and delivery requirements. A new sub (b) gives the Department greater latitude to enforce unclaimed property claims against the federal government by giving them an unlimited statute of limitations to claim abandoned property held by the federal government. The federal government has typically not been very cooperative with the states in this regard.

Section 6 corrects a revision to the act in 1989 dealing with retroactive applicability. Paul Johnson, Assistant Attorney General, will present further testimony regarding this section.

Section 9 establishes various effective dates.

Senator Mazurek presented an amendment which combines language from sub (3) and (4) in Section 9 (Exhibit #1).

Proponents' Testimony:

Denis Adams, Director, Department of Revenue, expressed support for the bill. He said there are four issues of particular interest to the Department as explained in Exhibit #2.

Paul Johnson, Assistant Attorney General, presented testimony which clarified amendments in Section 6. In the bill there is a five year dormancy period before any obligations arise on the part of a holder of abandoned property. At the end of the five year period the reporting and delivery requirements become effective. By making the estimation provision retroactive to December 31, 1988, the investigators from DOR could not avail themselves of the estimating provision until 1993. The amendment makes the estimation provision available for all currently enforceable obligations of holders of unclaimed property as of 1991. This includes going back five years to cover the five year presumption of abandonment period and then back another ten years to cover the ten statute of limitations that is provided in the unclaimed property act to December, 1976.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe asked about the amount and size of abandoned property DOR has dealt with over the past ten years.

Jeff Miller, DOR, said the property has typically been small in nature. Over past ten years, however, over \$7 million has been recovered, and owners have been reunited with over \$2 million of that amount. Occasionally, large amounts have been received, but the typical property runs under \$500.

Closing by Sponsor:

Senator Mazurek closed.

EXECUTIVE ACTION ON SENATE BILL 177**Amendments, Discussion, and Votes:**

Senator Towe moved to amend the bill on page 8, line 11, following "federal government," by striking "the" and inserting "a".

The motion CARRIED unanimously.

Senator Towe moved to amend the bill as per the amendments in Exhibit #1.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Towe moved SB 177 Do Pass As Amended.

The motion CARRIED unanimously with Senator Yellowtail excused.

HEARING ON SENATE BILL 202**Presentation and Opening Statement by Sponsor:**

Senator Tom Hager, District 48, sponsor, said the bill deals with the problem encountered by an acquaintance of his who prepares tax returns. It is very difficult to find out the amount of municipal bond interest that is paid on bonds from another state. Municipal bond interest and state bond interest is not taxable on the federal return, but on the Montana return

it is taxable if it is paid by another state. It is very difficult to find out those amounts. The bill has a new sub (b) in Section 1 which says all interest income from obligations of another state or any of its subdivisions shall be reported. Senator Hager quoted from a letter in support of the bill (Exhibit #3).

Proponents' Testimony:

Jeff Miller, Administrator of the Income and Miscellaneous Tax Division, Department of Revenue, expressed support for the bill. He said they are currently processing about 12,000 returns that fall into this category. He said the bill will give DOR a better compliance tool and help with enforcement.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe asked if this is form 1099.

Mr. Miller replied that it is.

Senator Gage asked if all the interest reports can be lumped together or is a separate one needed for each fund for each state.

Mr. Miller said the law is quite broad and Montana would accept the report in the aggregate.

Senator Towe wondered if this would obligate a bank acting as a trustee to report all the income.

Jeff Miller said the definition of information agent as it appears in 15-30-101 would indicate a bank would be responsible for reporting.

Closing by Sponsor:

Senator Hager closed.

EXECUTIVE ACTION ON SENATE BILL 202

Amendments, Discussion, and Votes:

Senator Towe moved to amend page 1, line 25, following "income" by inserting "in excess of ten dollars".

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Doherty moved SB 202 Do Pass As Amended.

The motion CARRIED unanimously with Senator Yellowtail excused.

EXECUTIVE ACTION ON SENATE BILL 152

Amendments, Discussion, and Votes:

Senator Towe presented his proposed amendments to SB 152, page 5, as per the attached Exhibit #4. He explained the language on lines 20 and 21 is stricken because the question was raised as to the definition of "under the control of". The stricken language on line 23 - 25 through line 1 on page 6 is also stricken due to the "control" issue and new language is inserted as per Exhibit #4. (See attached standing committee report for SB 152.)

Senator Van Valkenburg suggested adding the words "for a profit" following "leased" in the 5th line of the proposed new language as noted in Exhibit #4. Senator Towe agreed and included that language in the body of the amendment.

Senator Towe moved to amend SB 152 as per the amendments in Exhibit #4 and the attached standing committee report.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Towe moved SB 152 Do Pass As Amended.

The motion CARRIED unanimously with Senator Yellowtail excused.

EXECUTIVE ACTION ON SENATE JOINT RESOLUTION 11Recommendation and Vote:

Senator Doherty said the justification for doing the study on the liquor license quota system now is the gambling issue. Restaurants have to compete with gaming establishments for liquor licenses and that competition is very tough.

Senator Doherty moved SJR 11 Do Pass.

The motion CARRIED on a roll call vote (Exhibit #5).

EXECUTIVE ACTION ON SENATE BILL 69Discussion:

Senator Eck said she felt the bill could not be amended to suit Senator Crippen's concerns. She asked Jeff Martin to present some proposed amendments to the bill. Mr. Martin submitted some suggested changes from Hugh Zackheim (Exhibit #6). He said some confusion arose over the double negative which said since the restrictive covenants did not have anything about using the land for residential or commercial use then it also could not be classified as agricultural land. The purpose of the amendments was to ensure that conservation easements were not taxed other than the current method.

The Committee decided to hold any further action until they had the second reading (yellow) copy of the bill to work from at a future meeting.

EXECUTIVE ACTION ON SENATE BILL 85Amendments, Discussion, and Votes:

Senator Eck said she did not want to accept the amendments proposed by the Department of Revenue which would define "educational purposes".

Senator Eck moved the amendments on page 5, striking lines 15 through 17, and lines 22 through 24.

The motion CARRIED unanimously.

Senator Brown asked how the bill would now affect the radio station in Havre (Highline Christian Fellowship).

Senator Eck said District Court ruled for the radio station in that case. DOR wanted the amendments that redefine educational purposes and if those amendments were adopted, DOR would appeal the ruling to the Supreme Court.

Senator Towe referred the Committee to the language "indefinite in number" on lines 20 -21, page 5. He felt it is an impossible definition and should be stricken from the bill. Senator Towe moved to strike lines 20 and 21 in their entirety.

The motion CARRIED unanimously.

Senator Towe moved to further amend the bill on page 6, line 1, following "gratuity" by inserting "or grants" and on line 2 following "merchandise" by inserting "memberships,".

The motion CARRIED unanimously.

Senator Harp asked if the Department of Revenue brought this bill to the legislature.

Senator Eck replied the problem was presented to the Revenue Oversight Committee by the Department and ROC then proceeded with the bill.


Recommendation and Vote:

Senator Eck moved SB 85 Do Pass As Amended.

The motion CARRIED unanimously with Senator Yellowtail excused.

ADJOURNMENT

Adjournment At: 10:00 a.m.



SENATOR MIKE HALLIGAN, Chairman



JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/9/91

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	X		
SEN. YELLOWTAIL			X

Each day attach to minutes.

Amendments to Senate Bill No. 177
First Reading Copy

Requested by DOR
For the Committee on Taxation

Prepared by Lee Heiman
January 24, 1991

SENATE TAXATION

EXHIBIT NO. 1

DATE 2/5/91

BILL NO. SB 177

1. Title, line 22.

Following: line 21

Insert: "AN"

Following: "APPLICABILITY"

Strike: "DATES"

Insert: "DATE"

2. Page 9, lines 11 and 12.

Strike: subsection (3) in its entirety

Re-number: subsequent subsections

3. Page 9, line 13.

Strike: "Section"

Insert: "Sections 1 and"

Strike: "applies"

Insert: "apply"

1. Simplification of unclaimed reporting requirements by increasing the minimum amount to be reported from \$10 to \$25, and eliminating the need for two reports by having the holder of the unclaimed property deliver the property to the department along with the initial report.

2. Elimination of the statute of limitation defense by federal, other states, or local governments to actions brought by this state to obtain unclaimed property. The federal government and other states do not uniformly report unclaimed property. In some instances the state does not discover such entities hold unclaimed property until after the statute of limitation has run.

3. Clarification of the definition of unclaimed property to specifically provide that the term unclaimed property includes not only intangible property such as stocks and bonds but it also includes the dividends or interest which may have accrued on those stocks or bonds.

4. Clarify that the department's authority to estimate unclaimed property is coextensive with the time period for reporting unclaimed property.

SENATE TAXATION

EXHIBIT NO. 3

DATE 2/5

BILL NO. SB 202

From Becky Benedict
121 Grand
Billings MT 59101

To: Tom Hager

As a tax service prepares over 4500 returns annually, we would like to support Senate Bill 202. I believe this bill would produce a great deal of revenue for the state of Montana that brokers are advising their clients to ignore, and taxpayers are not presently reporting.

The reason I say this is that often at age 65 a good deal of municipal bond interest suddenly appears for clients that previously had none.

I'm sure this bill would help to make the Department of Revenue's job easier, also.

Sincerely,

Becky Benedict, Enrolled Agent

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 THE PERSONAL PROPERTY IS
LEASED TO THE GOVERNMENTAL ENTITY OR NONPROFIT ORGANIZATION BY AN
INDIVIDUAL OR FOR-PROFIT ORGANIZATION FOR THE PURPOSE OF EARNING
A PROFIT.

LC 0534/01

- 1 (ii) repair and maintain machinery, equipment,
- 2 appliances, or other personal property;
- 3 (s) harness, saddlery, and other tack equipment; and
- 4 (t) a title plant owned by a title insurer or a title
- 5 insurance producer, as those terms are defined in 33-25-105.
- 6 (2) (a) The term "institutions of purely public
- 7 charity" includes organizations owning and operating
- 8 facilities for the care of the retired or aged or
- 9 chronically ill, which are not operated for gain or profit.
- 10 (b) The terms for the purposes of subsection (1)(5),
- 11 the term "public museums, art galleries", zoos, and "public
- 12 observatories" include only those art galleries and
- 13 observatories, whether of public or private ownership, that
- 14 are open to the public without charge at all reasonable
- 15 hours and are used for the purpose of education only means
- 16 governmental entities or nonprofit organizations whose
- 17 principal purpose is to hold property for public display or
- 18 for use as a museum, art gallery, zoo, or observatory. The
- 19 exempt property includes all real and personal property
- 20 under the control of governmental entities or nonprofit
- 21 organizations and all property reasonably necessary for use
- 22 in connection with the public display or observatory uses
- 23 including property that is owned by persons other than
- 24 governmental entities or nonprofit organizations if the
- 25 property is under the control of governmental entities or

- 1 ~~nonprofit organizations.~~
- 2 (3) The following portions of the appraised value of a
- 3 capital investment made after January 1, 1979, in a
- 4 recognized nonfossil form of energy generation, as defined
- 5 in 15-32-102, are exempt from taxation for a period of 10
- 6 years following installation of the property:
- 7 (a) \$20,000 in the case of a single-family residential
- 8 dwelling;
- 9 (b) \$100,000 in the case of a multifamily residential
- 10 dwelling or a nonresidential structure."
- 11 NEW SECTION. Section 2. Effective date -- retroactive
- 12 applicability. [This act] is effective on passage and
- 13 approval and applies retroactively, within the meaning of
- 14 1-2-109, to taxable years beginning after December 31, 1990.

-End-

STATE TAXATION

EXHIBIT NO. 4
DATE 7/4/91
BILL NO. 513 152

ROLL CALL VOTE

SENATE TAXATION

EXHIBIT NO. 5

DATE 2/15/91

BILL NO. STR 11

SENATE COMMITTEE ON TAXATION

Date 2/15 SJR Bill No. 11 Time _____

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

Jill Robyans
Secretary

Sen. Mike Halligan
Chairman

Motion: STR 11 NO PASS

Carried

To: Senator Eck
 From: Hugh Zackheim, Montana Nature Conservancy
 Re: Amending SB 69
 CC: Dave Woodgerd, Department of Revenue

Based on my testimony, please consider revising SB 69 as indicated below. This revision would allow the Department of Revenue to properly classify lands that prohibit agriculture but remain open to development. This revision would not allow a higher tax classification to be applied to lands on which both agriculture and development are prohibited for conservation purposes.

Revise 15-7-202 (4) to read:

(4) ~~Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting~~ may not be classified or valued as agricultural land under this part if it 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.

91
Dorothy,

A way to revise the amendment to SB 69 to make it more specific and understandable would be to substitute the following for (b)

~~that~~ are not exclusively for conservation purposes as ~~defined~~ defined in Internal Revenue Code section 170(w)(1) et seq.; and

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 5, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 194 (first reading copy -- white), respectfully report that Senate Bill No. 194 do pass.

Signed: 
Mike Halligan, Chairman

191 2-5-91
And. Coord.

EP 2-5 B 2:05
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

1/2/91
SDB/

Page 1 of 1
February 6, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 177 (first reading copy -- white), respectfully report that Senate Bill No. 177 be amended and as so amended do pass:

1. Title, line 13.
Following: "GOVERNMENT,"
Strike: "THE"
Insert: "A"
2. Title, line 22.
Following: line 21
Insert: "AN"
Following: "APPLICABILITY"
Strike: "DATES"
Insert: "DATE"
3. Page 8, line 11.
Strike: "the"
Insert: "a"
4. Page 9, lines 11 and 12.
Strike: subsection (3) in its entirety
Re-number: subsequent subsection
5. Page 9, line 13.
Strike: "Section"
Insert: "Sections 1 and"
Strike: "applies"
Insert: "apply"
6. Page 9, line 14.
Following: "government,"
Strike: "the"
Insert: "a"

Signed: Mike Halligan
Mike Halligan, Chairman

2-6-91
Amd. Coord.

SR 2-6 A 1:15
Sec. of Senate

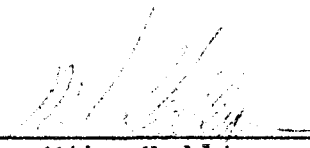
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 6, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 202 (first reading copy -- white), respectfully report that Senate Bill No. 202 be amended and as so amended do pass:

1. Page 1, line 25.
Following: "income"
Insert: "in excess of \$10"

Signed: 
Mike Halligan, Chairman

ML 2-6-91
Ad. Coord.

SB 2-6 1:15
Sec. of Senate

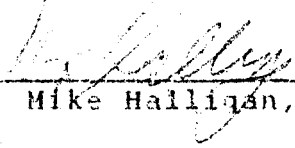
271257SC.Sj1

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 5, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Joint Resolution No. 11 (first reading copy -- white), respectfully report that Senate Joint Resolution No. 11 do pass.

Signed: 
Mike Halligan, Chairman

91 2-5-91
Amd. Coord.

SB 2-5 2:05
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 6, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 85 (first reading copy -- white), respectfully report that Senate Bill No. 85 be amended and as so amended do pass:

1. Page 5, lines 15 through 17.

Strike: "makes" on line 15 through "it" on line 17

2. Page 5, lines 20 through 24.

Strike: subsections (ii) and (iii) in their entirety

Renumber: subsequent subsection

3. Page 6, line 1.

Following: "gratuity"

Insert: "or grants"

4. Page 6, line 2.

Following: "merchandise"

Insert: ", memberships,"

Signed: _____

Mike Halligan, Chairman

MA 2-6-91
Amd. Coord.

SP 2-6 1:15
Sec. of Senate

271301SC.Sji