

MINUTES

MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on February 20, 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)  
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 341

Presentation and Opening Statement by Sponsor:

Senator Gage, District 5, said the bill allows a taxpayer to deduct business deductions that were reduced by a federal tax credit in determining adjusted gross income. This bill states if the federal credit causes a person to lose a deduction in some manner, that credit can be added back to the deduction for state tax purposes. The said this is a basic fairness issue.

Proponents' Testimony:

Mike Lopach, President and General Manager, Galusha, Higgins, and Galusha, Helena, said taxpayers are losing deductions that they should be allowed on their state tax returns under the interpretation of the law by the Department of Revenue. Montana gives no credit and, in fairness, the bill should be passed.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe asked if we were getting further away from the tax code by granting more exemptions.

Senator Gage replied every time an exemption is made there is more distance created.

Senator Towe asked if this applies to corporate license tax as well as individual.

Senator Gage answered he thought it would apply to any credit.

Senator Towe felt the section of code dealing with corporations would have to be incorporated in the bill.

Senator Eck asked if the provisions of the bill would apply if we go to a flat percentage of federal taxes.

Senator Gage replied we would then have to apply the percentage to the credit.

Closing by Sponsor:

Senator Gage closed.

HEARING ON SENATE BILL 319

Presentation and Opening Statement by Sponsor:

Senator Grosfield, District 41, said the bill clarifies what exemptions are granted to tax exempt organizations under 15-6-201. This section grants exemptions to vehicles owned by government, churches, and non-profit organizations. For years, the GVW fees have been exempted from payment by these organizations. These exemptions have been based on legal opinion, and not granted statutorily. This bill would authorize the exemptions by law. Senator Grosfield presented a proposed amendment on page 2, line 3, which inserts the affected sections into the language of the bill (Exhibit #1).

Proponents' Testimony:

Dave Galt, Administrator, GVW Division, expressed support for the bill. He said via policy and legal opinion the Division has been granting the exemptions, but they much prefer to have the statutes reflect that policy.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Gage said Indians on reservations pay vehicle fees, but no taxes. He asked if this would affect them.

Mr. Galt replied if the vehicle is owned by the tribe or the government, it would be exempt. The individual Indian would have to pay.

In reply to a question by Senator Eck regarding buses used by churches, Mr. McNaught, Chairman, State Tax Appeal Board, said buses would be exempt if they are used for the educational use of the children of the church.

Closing by Sponsor:

Senator Grosfield closed.

EXECUTIVE ACTION ON SENATE BILL 319

Amendments, Discussion, and Votes:

Senator Harp moved to amend the bill as per the amendments on the attached standing committee report.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Towe moved SB 319 Do Pass As Amended.

The motion CARRIED unanimously with Senators Yellowtail and Doherty excused.

HEARING ON SENATE BILL 317Presentation and Opening Statement by Sponsor:

Senator Thayer, District 19, said, as a result of the passage of HB 703, there were some very negative effects on property valuation. The bill was challenged in a lawsuit brought by a resident of Great Falls and the Supreme Court ruled the area 2.1 evaluations were unconstitutional and, also, there was not an appeals process in the bill. The Court left the effect of the bill intact in order to force the legislature into statutorily correcting it. He noted there are other bills in the system to correct the problems associated with the reappraisal which are more comprehensive. However, if they should fail, SB 317 would eliminate this specific section. He suggested the committee might want to hold this bill until they see the others.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said he would like to see this bill considered with SB 412, sponsored by Senator Crippen, which is the DOR solution to the problem. The Court, in effect, said the values are so far out of line that adjustments are nearly impossible. The DOR proposal provides a plan for a phase-in process which would address the most seriously affected valuations first. He said there is no reason to use the sales assessment ratio for the next two years.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Eck asked if there is an advantage in treating different classes of buildings in different ways.

Mr. Adams replied that DOR is preparing a study on how values are moving based on the value and age of the property.

Senator Van Valkenburg wondered if it would make more sense to suspend the provisions of SB 703 for two years instead repealing it altogether. After the appraisal process is straightened out, the sales assessment ratio could be put back in.

Mr. Adams answered that is certainly an alternative.

**Closing by Sponsor:**

Senator Thayer closed by saying the bill focuses attention on the specific problem. He called attention to the fiscal note which has a \$2 million impact on schools and the university system. He noted one problem with SB 703 is that it is based on the assumption that all appraisals are current. Because many were not current, the additional 30% caused some serious overtaxing problems.

**HEARING ON SENATE BILL 375****Presentation and Opening Statement by Sponsor:**

Senator Brown, District 2, said the bill provides that members of the State Tax Appeal Board shall complete a training course within a year of their appointment to the Board or forfeit their office. The Department of Justice requires Justices of the Peace and Municipal Judges to take courses every year and pass an examination every three years. The bill specifies the STAB members do not have to submit to an examination, however they will forfeit their office if they do not receive the training.

**Proponents' Testimony:**

Phil Rygg, Kalispell, real estate broker and appraiser, presented his testimony in support of the bill (Exhibit #2).

**Opponents' Testimony:**

John McNaught, Chairman, State Tax Appeal Board, spoke in opposition to the bill. He expressed concern that this would apply to all the county tax appeal boards and all the county members would have the training. The expense of that would be prohibitive. He presented the qualifications of the current members of STAB and noted they had all attended the judicial school in Reno and Mr. McKelvy had attended the appraisal training conducted by DOR in Lewistown.

He noted the Montana Supreme Court has upheld the STAB decisions on the beneficial use tax, Colstrip 4, Steer, Inc., Kaiser cement and Baron vs. DOR. in just the last year. From 1986 - 1990, STAB has heard 7403 appeals, 330 have been appealed to District Court, and only 11 decisions were reversed. There are 100 appeals still pending.

Questions from Committee Members:

There ensued a discussion of the training provided by DOR and the costs of that training.

Senator Thayer asked for clarification of the time period "within one year".

Senator Brown said he intends for the year to begin following the effective date which is October, 1991. That would, in effect, give Mr. McNaught 18 months in which to complete his training.

Closing by Sponsor:

Senator Brown closed by saying, as a practical matter, it may not be feasible to county tax appeal boards to attend training. However, it is in the public interest for the STAB members to be trained. He said the bill should be changed to reflect the training should be completed within a year from the effective date if a member was appointed to STAB before October, 1991, effective date.

EXECUTIVE ACTION ON SENATE BILL 375

Amendments, Discussion, and Votes:

Senator Towe moved to amend the bill on page 2, line 12, as per amendments on the attached standing committee report.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Towe moved SB 375 Do Pass As Amended.

The motion CARRIED unanimously with Senators Gage and Yellowtail excused.

EXECUTIVE ACTION ON SENATE BILL 299

Discussion:

Senator Halligan asked Ward Shanahan if he would offer his explanation of SB 299.

Mr. Shanahan said the bill was prepared at the request of a joint lawyer-cpa committee on taxation and was drafted by Paul Vantricht of the Department of Revenue. It was drafted in an attempt to get legal questions decided before going through the State Tax Appeal Board process. The STAB has no judicial powers to decide questions of procedure, questions of evidence, or statutory validity. Those questions could be dispositive of the case and either the DOR or the taxpayer should have an opportunity to get the legal questions answered in District Court before they had to go through the entire evidentiary hearing before STAB. There was only one area of disagreement, that being the ruling by DOR that all questions must be decided in order to avoid repeated trips to court on various legal issues.

Senator Harp said he felt this bill is in the wrong committee. It seems to be a Judiciary Committee issue.

Recommendation and Vote:

Senator Harp moved SB 299 Do Pass.

The motion CARRIED with Senators Yellowtail and Halligan excused.

EXECUTIVE ACTION ON SENATE BILL 390

Amendments, Discussion, and Votes:

Senator Van Valkenburg presented proposed amendments to the bill (Exhibit #3). The amendments address the issue of the taxpayer putting new property back into place before the end of the tax year using the insurance proceeds.

Recommendation and Vote:

Senator Eck moved SB 390 Do Pass.

Senator Gage said he had a question re the insurance settlement exchanging personal property for cash. He said if the owner received the insurance he should not be harmed as far as value other than the inconvenience caused by the damage and receiving less than the value amount from the insurance.

Senator Van Valkenburg said taxing insurance proceeds, in reality, is a property tax on intangibles.

Senator Towe said the bill would exempt someone for a whole year even though the business was destroyed and then rebuilt within the year.

Senator Van Valkenburg said the amendments would take care of the situation.

Senator Thayer made a substitute motion to amend SB 390 as per the attached standing committee report.

The motion CARRIED with Senators Halligan and Eck voting no.

Senator Thayer moved SB 390 Do Pass As Amended.

The motion CARRIED with Senator Yellowtail excused.

**EXECUTIVE ACTION ON SENATE BILL 317**

**Recommendation and Vote:**

Senator Towe moved to Table SB 317 for further consideration after the committee hears SB 412.

The motion CARRIED with Senators Thayer and Doherty voting no and Senator Yellowtail excused.

**EXECUTIVE ACTION ON SENATE BILL 197**

**Recommendation and Vote:**

Senator Harp moved to Table SB 197.

The motion CARRIED with Senator Eck voting no and Senator Yellowtail excused.

EXECUTIVE ACTION ON SENATE BILLS 52 and 72

Discussion:

Senator Gage requested Senate Bill 52 and Senate Bill 72 not be scheduled for hearing. He stated the problems they are intended to address have either been resolved or will be better solved in other legislation.

ADJOURNMENT

Adjournment At: 10:00 a.m.

  
\_\_\_\_\_  
SENATOR MIKE HALLIGAN, Chairman

  
\_\_\_\_\_  
JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/20/91

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. 319  
First Reading Copy

Requested by Sen. Grosfield  
For the Committee on Taxation

Prepared by Jeff Martin  
February 20, 1991

1. Page 2, line 3.  
Following: "15-6-201"  
Insert: "(1)(a), (c), (d), (e), (o), and (q)"

SENATE TAXATION

EXHIBIT NO. \_\_\_\_\_

DATE 2/20/91

BILL NO. SB 319

WITNESS STATEMENT

To be completed by a person testifying or a person who their testimony entered into the record.

Dated this 20 day of February, 1991.

Name: Philip J. Rygg

Address: 494 Hidden Valley Dr.  
Whitefish, Mt.

Telephone Number: 406-862-4870

Representing whom?

Self

Appearing on which proposal?

SB 375

Do you: Support?  Amend?  Oppose?

Comments:

STAB members are required to have only a "knowledge of taxation" to be appointed. They are, however, asked to solve some very complicated appraisal questions, without a background in the principles of market value, I believe, it would be difficult, if not impossible, to make responsible decisions relative to property value questions. This bill would provide a minimum educational requirement.

SENATE TAXATION

EXHIBIT NO. 3

DATE: 2/20/91

BILL NO. SB 390

Amendments to Senate Bill No. 390  
First Reading Copy

Requested by Sen. Van Valkenburg  
For the Committee on Taxation

Prepared by Jeff Martin  
February 19, 1991

1. Title, line 6.

Following: "DISASTER;"

Insert: "REQUIRING THE TAXPAYER TO NOTIFY THE DEPARTMENT OF  
REVENUE IF HE REPLACES DESTROYED PROPERTY; PROVIDING THAT  
PROPERTY REPLACING DESTROYED PROPERTY BE TAXED ON A PRORATA  
BASIS;"

2. Page 1, line 13.

Following: "disaster"

Insert: "-- proration of taxes on replaced property"

3. Page 1, line 25.

Following: "15-16-113"

Insert: "or 15-24-202"

4. Page 2, line 16.

Following: line 15

Insert: "(5) A taxpayer receiving a reduction in property taxes  
under this section shall notify the department if he  
replaces the destroyed property in the same tax year that  
the property was destroyed. The tax on the property  
replacing the destroyed property must be prorated according  
to the ratio that the number of days remaining in the year  
after the property was replaced bears to 365."

Renumber: subsequent subsection



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 20, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 375 (first reading copy - white), respectfully report that Senate Bill No. 375 be amended and as so amended do pass:

1. Title, line 8.

Following: "OFFICE;"

Insert: "PROVIDING AN EXCEPTION FOR MEMBERS OF THE BOARD APPOINTED BEFORE OCTOBER 1, 1991;"

2. Page 2, line 4.

Following: "(2)"

Strike: "Within"

Insert: "(a) Except as provided in subsection (2)(b), within"

3. Page 2, line 13.

Following: line 12

Insert: "(b) A person appointed to the state tax appeal board before October 1, 1991, shall satisfactorily complete the courses prescribed in subsection (2)(a) before October 1, 1992. A member of the board appointed before October 1, 1991, forfeits his office for failure to satisfactorily complete the courses before October 1, 1992."

Signed: \_\_\_\_\_

Mike Halligan, Chairman

101 270-91  
Am. Coord.

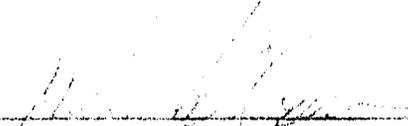
SR 270-91 140  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 20, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 299 (first reading copy -- white), respectfully report that Senate Bill No. 299 do pass.

Signed: 

Mike Halligan, Chairman

*Jan 20-91*  
And. Coord.

*SB 299*  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 20, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 319 (first reading copy -- white), respectfully report that Senate Bill No. 319 be amended and as so amended do pass:

1. Page 2, line 3.

Following: "15-6-201"

Insert: "(1)(a), (1)(c) through (1)(e), (1)(g), (1)(o), and  
(1)(q)"

Signed: \_\_\_\_\_

*Mike Halligan*  
Mike Halligan, Chairman

*M. 2-20-91*  
Add. Coord.

*P. 2-20-91 1:40*  
Sec. of Senate

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 20, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 390 (first reading copy -- white), respectfully report that Senate Bill No. 390 be amended and as so amended do pass:

1. Title, line 6.

Following: "DISASTER;"

Insert: "REQUIRING THE TAXPAYER TO NOTIFY THE DEPARTMENT OF REVENUE IF HE REPLACES DESTROYED PROPERTY; PROVIDING THAT PROPERTY REPLACING DESTROYED PROPERTY BE TAXED ON A PRORATA BASIS;"

2. Page 1, line 13.

Following: "disaster"

Insert: "-- proration of taxes on replaced property"

3. Page 1, line 25.

Following: "15-16-113"

Insert: "or 15-24-202"

4. Page 2, line 16.

Following: line 15

Insert: "(5) A taxpayer receiving a reduction in property taxes under this section shall notify the department if he replaces the destroyed property in the same tax year that the property was destroyed. The tax on the property replacing the destroyed property must be prorated according to the ratio that the number of days remaining in the year after the property was replaced bears to 365."

Renumber: subsequent subsection

Signed: \_\_\_\_\_

*Mike Balligan*  
Mike Balligan, Chairman

*AM 2-20-91*  
And. Coord.

*SB 2-30-91 1:40*  
Sec. of Senate

391331SC.Sj1