

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on April 11, 1991, at 3:35 p.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Steve Doherty (D)
Gene Thayer (R)
Thomas Towe (D)

Members Excused: none

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: Subcommittee on HB 312

Senator Towe commented that the proponents believe there are sufficient dollars to provide half of those funds to the cities.

Gordon Morris, League of Cities and Towns, stated that .05 percent would generate \$9.5 million: \$850,000 for Cascade County; \$800,000 for Missoula County; \$1.4 million for Yellowstone County; and \$600,000 for Lewis and Clark County. He said it would also give the cities \$2.7 - \$2.8 million statewide, distributed against youth court expenses (Exhibit #1).

Mr. Morris advised the Subcommittee that the first column figures are distribution, by county, of 7 percent of the 2 percent going to the counties, or .014 percent. He commented that these figures are very accurate, and said the local option tax has not passed the Committee yet, and he is not optimistic that it will.

Chairman Halligan advised the Subcommittee that the Committee must act on HB 312 by Saturday morning, April 13, 1991.

Senator Thayer commented that it is important to keep the bill alive, as the outcome of the local option bill will involve HB 312. He suggested that HB 312 be passed with something in it.

Senator Towe agreed with Senator Thayer, and said 25 percent of \$800,000 is \$600,000 which is close to \$650,000.

Senator Towe made a motion to adopt the amendments proposed

by the League of Cities and Towns. The motion carried unanimously.

Chairman Halligan asked about the termination date. Senator Towe replied that it is okay.

Chairman Halligan asked for an explanation of the O'Keefe amendment. Eric Thueson, Helena attorney, said 20 states have prejudgment interest, and said there is no correlation between prejudgment interest and interest rates, that he could see. He advised the Subcommittee that user fees would apply to all damages, so the amendment would result in a 10 percent overall reduction in prejudgment interest.

Senator Thayer asked if there is a loophole in the damages law. Mr. Thueson replied that there is in limited situations where no prejudgment interest would be assessed and what little there is would go to the plaintiff.

Senator Thayer spoke against this, and said he believes .05 percent is a better way to go, especially since there is no opportunity to study what the effects will be. He stated that it would be better for cities and, that it is premature to depend on this source right now. Eric Thueson replied that there is no access problem in those 20 states.

John Alke, told the Committee he is only a plaintiff, and that if a plaintiff loses and the defendant wins, judgement is zero if this bill is enacted. He said the defendant would pay, and that he believes this is a violation of equal protection, and is irrational.

Senator Towe commented that a fee could be attached to any successful case.

Gary Spaeth, Liability Coalition, asked to go on record against the amendment, as no one has had a chance to look at how it applies, or how it changes the scope of the title of the bill. He further commented that it is also a substantial tort change.

Senator Towe asked how punitive damages are capable of being made certain. Eric Thueson replied that the language should say, fees shall equal ten percent of the amount of money judgment determined to be fair, and should not say capable of being made certain.

Chairman Halligan asked the Subcommittee if they wanted to recommend to the Committee that HB 312 be accepted as it is, and all members of the Subcommittee agreed.

SENATE TAXATION COMMITTEE

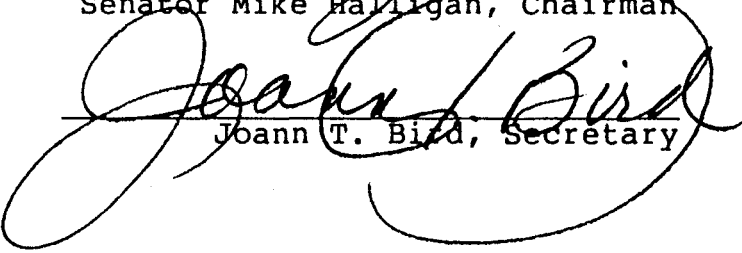
April 11, 1991

Page 3 of 3

ADJOURNMENT

Adjournment At: 3:50 p.m.



Senator Mike Halligan, Chairman

Joann T. Bird, Secretary

MH/jtb

EXHIBIT NO. 9/11/91
 CURRENT
 COUNTIES H/6.3/2
 BILL NO.

COUNTY	TOTAL FY '90	0.005 ALL COS	
Beaverhead	\$30,883.20	\$110,297.14	
Big Horn	\$24,153.47	\$86,262.39	
Blaine	\$18,009.33	\$64,319.04	
Broadwater	\$12,202.60	\$43,580.71	\$43,580.71
Carbon	\$30,395.21	\$108,554.32	\$108,554.32
Carter	\$6,114.43	\$21,837.25	\$21,837.25
Cascade	\$222,889.64	\$796,034.43	
Chouteau	\$23,334.76	\$83,338.43	
Custer	\$35,636.81	\$127,274.32	
Daniels	\$10,010.57	\$35,752.04	
Dawson	\$36,707.48	\$131,098.14	
Deer Lodge	\$31,579.74	\$112,784.79	
Fallon	\$15,151.54	\$54,112.64	
Fergus	\$41,440.17	\$148,000.61	
Flathead	\$214,621.58	\$766,505.64	
Gallatin	\$165,896.07	\$592,485.96	
Garfield	\$6,304.50	\$22,516.07	\$22,516.07
Glacier	\$23,023.82	\$82,227.93	
Golden Valley	\$3,594.32	\$12,836.86	\$12,836.86
Granite	\$10,054.53	\$35,909.04	
Hill	\$52,847.12	\$188,739.71	
Jefferson	\$29,322.13	\$104,721.89	
Judith Basin	\$11,030.97	\$39,396.32	
Lake	\$59,146.65	\$211,238.04	
Lewis & Clark	\$161,349.53	\$576,248.38	\$576,248.32
Liberty	\$10,018.86	\$35,781.64	
Lincoln	\$59,338.20	\$211,922.14	
Madison	\$26,226.20	\$93,665.00	
McCone	\$14,038.55	\$50,137.68	
Meagher	\$7,432.76	\$26,545.57	\$26,545.57
Mineral	\$9,888.56	\$35,316.29	\$35,316.29
Missoula	\$242,018.33	\$864,351.18	\$864,351.18
Musselshell	\$15,033.37	\$53,690.61	\$53,690.61
Park	\$49,986.41	\$178,522.89	
Petroleum	\$2,366.10	\$8,450.36	
Phillips	\$19,162.56	\$68,437.71	
Pondera	\$21,314.32	\$76,122.57	
Powder River	\$10,905.28	\$38,947.43	
Powell	\$20,677.62	\$73,848.64	\$73,848.64
Prairie	\$5,576.71	\$19,916.82	
Ravalli	\$79,560.89	\$284,146.04	\$284,146.04
Richland	\$43,135.12	\$154,054.00	
Roosevelt	\$24,991.14	\$89,254.07	
Rosebud	\$31,912.45	\$113,973.04	
Sanders	\$27,411.59	\$97,898.54	
Sheridan	\$22,783.08	\$81,368.14	
Silver Bow	\$113,006.85	\$403,595.89	
Stillwater	\$23,876.10	\$85,271.79	
Sweet Grass	\$12,035.34	\$42,983.36	\$42,983.36
Teton	\$24,949.93	\$89,106.89	
Toole	\$20,790.47	\$74,251.68	
Treasure	\$4,171.80	\$14,899.29	
Valley	\$31,886.48	\$113,880.29	
Wheatland	\$8,336.41	\$29,772.89	\$29,772.89
Wibaux	\$4,782.17	\$17,079.18	
Yellowstone	\$398,372.51	\$1,422,758.95	
TOTAL	\$2,661,686.33	\$9,506,022.61	\$2,196,228.11

No low mountain top 13 counties

FY 11.

Beaverhead County *No*
Big Horn County *No*
Blaine County *No*
Broadwater County *Yes 5%*
Carbon County *Yes 5%*
Carter County *Yes 5%*
Cascade County *No*
Chouteau County *No*
Custer County *No*
Daniels County *No*
Dawson County *No*
Deer Lodge County *No*
Fallon County *No*
Fergus County *No*
Flathead County *No*
Gallatin County *No*
Garfield County *Yes 5*
Glacier County *No*
Golden Valley County *Yes 5*
Granite County *No*
Hill County *No*
Jefferson County *No*
Judith Basin County *No*
Lake County *No*
Lewis and Clark County *Yes 5*
Liberty County *No*
Lincoln County *No*
Madison County *No*

McCone County *No*
Meagher County *Yes*
Mineral County *Yes*
Missoula County *Yes*
Musselshell County *Yes*
Park County *No*
Petroleum County *No*
Phillips County *No*
Pondera County *No*
Powder River County *No*
Powell County *Yes*
Prairie County *No*
Ravalli County *Yes 5*
Richland County *No*
Roosevelt County *No*
Rosebud County *No*
Sanders County *No*
Sheridan County *No*
Stillwater County *No*
Sweet Grass County *Yes 0.5%*
Teton County *No*
Toole County *No*
Treasure County *No*
Valley County *No*
Wheatland County *Yes 0.5%*
Wibaux County *No*
Yellowstone County *No*

Fax to Governor and Chief Justice of Supreme Court and Legislature

For the last several years Cascade County has made you aware that the six mill maximum levy has been woefully inadequate to fund the District Court budget. Each year the District Judges have had to order the County Commissioners to fund the budget when they have no sources of revenue and now have a deficit of \$650,000.00.

No longer will we order the County Commissioners to do the impossible. The District Courts of Cascade County will close down unless you fulfill your duties required by your oath of office.

Dated this 3rd day of April, 1991.


THOMAS M. MCKITTRICK, District Judge


JOHN M. MCCARVEL, District Judge


JOEL G. ROTH, District Judge

Pricing (leg broken)
200 award
from date of accident to date
of award, interest by law was allowed
but not usually awarded. Here, per-
centage interest would go to a fund
to district courts. Calculate fee the same way
w'd calculate per judgment interest (average 3 years)

Amendments to House Bill No. 312
Third Reading Copy

Requested by Rep. Mark O'Keefe
For the Committee on Taxation

Prepared by Dave Bohyer
April 10, 1991

SENATE JOURNAL
EXHIBIT 11
DATE 4/11/91
BILL NO. HB 312

1. Title, line 16.

Following: "PURPOSES;"

Insert: "TO REQUIRE THE COURT TO IMPOSE A FEE BASED ON DAMAGES
AWARDED FOR RECOVERY ON AN INJURY; TO ALLOCATE THE FEES
COLLECTED FOR DAMAGES FOR COURT EXPENSES;"

2. Page 23.

Following: line 3

Insert: "NEW SECTION. Section 3. Fee imposed for district court
funding -- allocation for district court expenses. (1)(a)
In a civil case resulting in a judgment award of monetary
damages, there is imposed a fee for use of the court. The
fee applies to the amount of the judgment, adjusted as
provided in subsection (1)(b). The fee must be calculated
as 10% interest would be calculated, for each month or part
of a month from the time commencing 30 days after the
claimant presented a written demand to the opposing party
or his agent stating the claim, until the final judgment is
awarded or affirmed. The fee must be assessed by the court.
For the purpose of calculating the fee, the amount of the
judgment includes all damages awarded under 27-1-202 through
27-1-204, 27-1-210(2)(a) through (2)(f), 27-1-220, and 27-1-
221 and for all other damages awarded that are capable of
being made certain, except attorney fees.

(b) The fee imposed under subsection (1)(a) does not
include the amount of interest paid pursuant to 25-9-204,
25-9-205, 27-1-210, or 27-1-211.

(2) All fees collected pursuant to subsection (1) must
be transmitted upon collection to the state treasurer who
shall deposit the fees in the state treasury to the credit
of the department of commerce to be used as prescribed in 3-
5-901 and 7-6-2352."

Renumber: subsequent sections

3. Page 23, line 7.

Following: "."

Insert: "[Section 3] applies to judgments awarded on causes of
action arising on or after July 1, 1991."

Montana League of Cities and Towns



DATE

BILL NO.

Amendments to House Bill No. 312
Third Reading Copy

For the Committee on Taxation

Prepared by Alec Hansen
April 10, 1991

1. Page 22, lines 21, 22, 23.

Strike: "is distributed in the manner determined by the governing body of the county."

Insert: "is distributed as follows: 50 percent directly to the county, with the remaining 50 percent apportioned among the county and the incorporated cities and towns on the basis of population, calculated as the percentage of the total population represented by each municipality and the unincorporated area of the county."

COUNTY	TOTAL FY '90	.005 ALL COS	CURRENT COUNTIES
Beaverhead	\$30,883.20	\$110,297.14	
Big Horn	\$24,153.47	\$86,262.39	
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No low water to 13 counties

FY 11.

Beaverhead County No

McCone County No

Big Horn County No

Meagher County Yes

Caine County No

Mineral County Yes

Broadwater County Yes 5%

Missoula County Yes

Carbon County Yes 5%

Musselshell County Yes

Carter County Yes 5%

Park County No

Cascade County No

Petroleum County No

Chouteau County No

Phillips County No

Custer County No

Pondera County No

Daniels County No

Powder River County No

Dawson County No

Powell County Yes

Deer Lodge County No

Prairie County No

Fallon County No

Ravalli County Yes 5

Fergus County No

Richland County No

Flathead County No

Roosevelt County No

Gallatin County No

Rosebud County No

Garfield County Yes 5

Sanders County No

Glacier County No

Sheridan County No

Golden Valley County Yes 5

Stillwater County No

Granite County No

Sweet Grass County Yes 0.5%

Hill County No

Teton County No

Jefferson County No

Toole County No

Judith Basin County No

Treasure County No

Lake County No

Valley County No

Lewis and Clark County Yes 5

Wheatland County Yes 0.5%

Liberty County No

Wibaux County No

Lincoln County No

Yellowstone County No

Madison County No

Fax to Governor and Chief Justice of Supreme Court and Legislature


For the last several years Cascade County has made you aware that the six mill maximum levy has been woefully inadequate to fund the District Court budget. Each year the District Judges have had to order the County Commissioners to fund the budget when they have no sources of revenue and now have a deficit of \$650,000.00.

No longer will we order the County Commissioners to do the impossible. The District Courts of Cascade County will close down unless you fulfill your duties required by your oath of office.

Dated this 3rd day of April, 1991.


THOMAS M. MCKITTRICK, District Judge


JOHN M. MCCARVEL, District Judge


JOEL G. ROTH, District Judge

7/11/3

SENATE TAXATION

EXHIBIT NO. 12

DATE 4/11/91

BILL NO. HB 790

Amendments to House Bill No. 790
Third Reading Copy

Requested by Representative Lee
For the Committee on Taxation

Prepared by Greg Petesch
April 10, 1991

1. Title, line 8.

Following: "ACT"

Insert: "REVISING THE LAW RELATING TO TAX CREDITS FOR THE
ELDERLY;"

2. Title, line 18.

Following: line 17

Insert: "PROVIDING THAT A \$40,000 PROPERTY TAX EXEMPTION APPLIES
TO LOW-INCOME HOME OWNERS AND MOBILE HOME OWNERS 62 YEARS OF
AGE OR OLDER;"

Strike: "SECTION"

Insert: "SECTIONS 15-6-201 AND"

3. Page 4, line 21.

Following: line 20

Insert: "Section 2. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories
of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns,
school districts, except, if congress passes legislation that
allows the state to tax property owned by an agency created by
congress to transmit or distribute electrical energy, the
property constructed, owned, or operated by a public agency
created by the congress to transmit or distribute electric energy
produced at privately owned generating facilities (not including
rural electric cooperatives);

(ii) irrigation districts organized under the laws of
Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings
therein, owned by a church and used for actual religious worship
or for residences of the clergy, together with adjacent land
reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and
horticultural societies, for educational purposes, and for
nonprofit health care facilities, as defined in 50-5-101,
licensed by the department of health and environmental sciences
and organized under Title 35, chapter 2 or 3. A health care
facility that is not licensed by the department of health and
environmental sciences and organized under Title 35, chapter 2 or
3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation
organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes, travel trailers, and campers;

(l) all watercraft;

(m) land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) provided the tools are owned by the taxpayer, the first \$15,000 or less of market value of tools that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(s) harness, saddlery, and other tack equipment; and
(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105-; and

(u) the first \$40,000 or less of the market value of either of the following that is actually occupied for at least 10 months in the preceding year as the primary residential dwelling of any person, including either spouse of a married couple, 62 years of age or older whose total income from all sources and whose net business income and losses, including otherwise tax-exempt income of all types, are not more than \$12,000 for a single person or head of household or \$15,000 for a married couple:

(i) any improvement on real property along with appurtenant land not exceeding 1 acre owned or under contract for deed; or

(ii) a trailer or mobile home used as a residence along with appurtenant land not exceeding 1 acre owned or under contract for deed.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Renumber: subsequent section