

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By VICE CHAIRMAN MIKE FOSTER, on January 12,  
1993, at 9:00 a.m.

#### **ROLL CALL**

##### **Members Present:**

Rep. Mike Foster, Vice Chair (R)  
Rep. Dan Harrington, Minority Vice Chair (D)  
Rep. Shiell Anderson (R)  
Rep. Ed Dolezal (D)  
Rep. Jerry Driscoll (D)  
Rep. Jim Elliott (D)  
Rep. Gary Feland (R)  
Rep. Marian Hanson (R)  
Rep. Hal Harper (D)  
Rep. Chase Hibbard (R)  
Rep. Vern Keller (R)  
Rep. Ed McCaffree (D)  
Rep. Bea McCarthy (D)  
Rep. Tom Nelson (R)  
Rep. Scott Orr (R)  
Rep. Bob Raney (D)  
Rep. Bob Ream (D)  
Rep. Rolph Tunby (R)

**Members Excused:** Rep. Bob Gilbert, Chair (R)  
Rep. John Bohlinger (R)

**Members Absent:** None

**Staff Present:** Lee Heiman, Legislative Council  
Jill Rohyans, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: HB 92, HB 103  
Executive Action: None

HEARING ON HOUSE BILL 92Opening Statement by Sponsor:

REP. ROLPH TUNBY, Dist. 24, sponsor, said the bill is intended to clarify that the State-Tribal Cooperative Agreements Act includes authorization to assess and collect or refund tax, license, or permit fees and establishes requirements for assessments and collections. Although an Attorney General's ruling indicates that such authorization is included in the Act, the bill establishes it in statute and eliminates duplicative language in the codes. The bill would reduce micro-management by the Legislature because legislative approval would not be needed for each agreement. The bill contains a provision allowing for collection of taxes by the tribe if the state agrees to the collection procedure. Tribal collection can be negotiated between the tribes and the state.

REP. TUNBY presented proposed amendments which would establish a public hearing procedure for taxation, gambling, environmental, and fish and game agreements (Exhibit #1). He noted the Attorney General's Office will submit proposed amendments which will encompass those in Exhibit #1 in a condensed and simplified version.

Informational Testimony:

Deanne Sandholm, Assistant Attorney General, said the amendments as presented by REP. TUNBY (Exhibit #1) are intended to provide an opportunity for public testimony on the various agreements as they are proposed. The concern of the Attorney General is the formality of the language of the amendment regarding public hearings and findings of fact. It is not clear what would be expected of a given negotiation team in the hearing process. The Attorney General's Office will submit a simplified amendment which would require a public meeting on or near the reservation for the purpose of receiving comments and providing information to the public with respect to the effect the proposed agreements would have on the community. The amendments will take out some of the terms of art that are normally used in formal legal proceedings (amendments were prepared and distributed at the end of the meeting - attached as Exhibit #2).

Proponents' Testimony:

SEN. DEL GAGE, Dist. 5, said the bill was requested by the Indian Affairs and Revenue Oversight Committees. Tribal governments implement tax measures within their own boundaries to support their governments. Provisions of the bill would help avoid double taxation. It is less costly than going to court and also provides that agreements would not have to be approved by the Legislature. The Blackfoot Tribe has proposed the tribe collect

the taxes and send the state its share. The bill has provisions which would establish separate accounts for the tax revenues and provide limits on administrative costs in such cases.

**Doug Abelin, Independent Producers,** expressed support for the bill based on the clarification of double taxation provisions.

**Bob Lane, Chief Counsel, Fish, Wildlife and Parks (FWP),** said FWP supports the proposed amendments as they will be clarified by the Attorney General. The amendments, as presented (Exhibit #1), are for a very formal legal hearing process. He said the Attorney General's amendments would specify an informal hearing approach which is more workable and will relieve some potential negotiating roadblocks.

**Opponents' Testimony:** There were no opponents.

**Questions From Committee Members and Responses:**

**REP. REAM** expressed concern that the amendments, specifically the environmental, gambling, and fish and game agreements, were beyond the title and scope of the bill.

**Deanne Sandholm** said her understanding of the placement of the amendment would be to amend 18-11-103, the general information section of the State-Tribal Cooperative Agreements Act. The negotiations for taxation, environmental, gambling and fish and game agreements are authorized in that section and these amendments would simply allow for a hearing procedure. She did not feel separate legislation would be required.

**REP. DRISCOLL** said he thought the Governor should be the final authority and sign the agreements. He noted the bill states that the directors of the specific departments would sign the agreements.

**Deanne Sandholm** replied the State-Tribal Cooperative Agreements Act does not require the Governor's approval. Any agency can, by law, enter into an agreement.

**SEN. GAGE** said he had asked the same question and was told that the Directors would apprise the Governor of any agreements prior to signing. He noted the water rights compact had been negotiated and agreed upon. It then went to the Governor and Attorney General for review, at which time it was rejected. The tribes were very upset that the extensive negotiating that had been done was summarily dismissed and, as a result, pulled out of further negotiations until it was determined just who they were negotiating with. **SEN. GAGE** said this is not an insignificant feature of the bill. He said he would prefer the Governor or

Attorney General be authorized to sign the agreements, but the rationale for the Director's signature stems from the water compact problems.

**REP. FELAND** said there are a number of taxes, local government severance taxes, county taxes, etc., which are assessed. He asked if these taxes are all going to be collected and by whom.

**SEN. GAGE** replied that all the taxes would part of the negotiated agreement between the tribes and the state. His hope is that just one encompassing tax would be collected and the distributions made accordingly. He emphasized this would be subject to negotiation.

**REP. ELLIOTT** said he was confused and concerned about the proposed amendments and wondered if they were really necessary.

**REP. TUNBY** replied the amendments were proposed by Speaker Mercer because there are times when tribal councils do not represent individual Indians as much as they should. The hearing provision would allow all the people on the reservations to have input to any proposed agreement.

**REP. ELLIOTT** said he had no problem with the public hearing provision for tax agreements, but he was concerned with the inclusion of gambling, environmental, and fish and game agreements. He said he felt those areas were outside the purview of the Taxation Committee.

**REP. TUNBY** said he believed **CHAIRMAN GILBERT** had requested the environmental agreements and other input was received from various groups, including the Attorney General.

**REP. ELLIOTT** asked that a representative of the Attorney General's office be present at Executive Session when this bill is considered.

**REP. McCAFFREE** referred to page 6, section 4, and page 7, dispersal of revenue. He asked why local governments were not included in those sections.

**SEN. GAGE** said that might be a problem that should be addressed.

**REP. REAM** asked Lee Heiman to request an opinion from Greg Petesch, Legislative Council, as to whether the amendments can be included in the bill since they address Section 103 and the bill deals with Section 104.

**LEE HEIMAN** said the title of the bill itself does not limit the effect of the bill. The title can be changed extensively as long as the effect of the bill is not reversed. He said he would have Mr. Petesch review the proposed amendments.

REP. HANSON said language requiring review of the agreements by the Revenue Oversight Committee has been stricken on page 8 of the bill. She asked if there is any overview of the agreements after they are signed before the legislative session.

REP. FOSTER asked Lee Heiman to research that issue.

Closing by Sponsor:

REP. TUNBY said the purpose of cooperative agreements is to prevent litigation. Cooperative agreements have already been signed with four different tribes regarding cigarette taxes, alcohol taxes, and motor fuel taxes. Those agreements are working well. He said the bill would streamline and improve the agreement process and relieve the legislature of micro-management responsibilities. He told the members the amendments would be worked out and presented at Executive Session.

HEARING ON HOUSE BILL 103

Opening Statement by Sponsor:

REP. SWANSON, Dist. 79, sponsor, said this bill simply clarifies that only final decisions of the Department of Revenue are appealable to the State Tax Appeal Board (STAB).

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, Department of Revenue (DOR), said a bill was passed in the last session which clarified the tax appeal procedures of DOR and the State Tax Appeal Board. It stated any action regarding assessment and classification of property could be appealed. This bill clarifies that only final decisions of DOR can be appealed to STAB.

Opponents' Testimony:

Dan Walker, U.S. West, said he has no great problem with the bill. He said his comments are not intended to be either supporting or opposing the bill. He felt this language tightens up the procedures and, as a result, the 30 day notice for appeal may become too restrictive and should be extended to 60 days.

Questions From Committee Members and Responses:

REP. REAM asked about the proposed extension of notice to appeal.

Mr. Woodgerd said the clarifying language should not have any impact on the 30 day time period. The notice would not be issued until after the final decision was made. That procedure remains the same.

REP. HIBBARD asked what specific effect there would be on the appeal procedure if the language is changed.

Mr. Walker said in major matters involving centrally assessed property, there would be no problem. He was concerned that in minor matters the taxpayer might not have adequate time to prepare an appeal. He said he now understands that the bill was submitted because some appeals were being made to STAB as soon as the taxpayer received their tax notice, instead of waiting until DOR had a chance to work out the problem with them.

REP. McCARTHY wondered why the Tax Appeals Board did not appear on the bill.

Mr. Woodgerd said STAB was well aware of the bill and he felt they were not opposed to the bill as they were not here to oppose it.

Closing by Sponsor:

REP. SWANSON said the bill is a simple clarification measure and should be passed on its own merit.

The Committee heard the concluding portion of the informational presentations from the Department of Revenue. Ken Morrison, Administrator, Property Assessment Division, and Randy Wilke, Bureau Chief, presented the concluding information on property taxes. DOR Director Mick Robinson thanked the Committee for providing the opportunity of presenting the tax overview and offered the continuing assistance of DOR in the deliberations of the Committee.

ADJOURNMENT

Adjournment: The meeting adjourned at 10:55 a.m.



REP. BOB GILBERT, Chair



JILL ROHYANS, Secretary

BG/Jdr

# HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

1/13/93

| NAME                   | PRESENT | ABSENT | EXCUSED |
|------------------------|---------|--------|---------|
| REP. GILBERT, CHAIRMAN |         |        | ✓       |
| REP. FOSTER            | ✓       |        |         |
| REP. HARRINGTON        | ✓       |        |         |
| REP. ANDERSON          | ✓       |        |         |
| REP. BOHLINGER         |         |        | ✓       |
| REP. DOLEZAL           | ✓       |        |         |
| REP. DRISCOLL          | ✓       |        |         |
| REP. ELLIOTT           | ✓       |        |         |
| REP. FELAND            | ✓       |        |         |
| REP. HANSON            | ✓       |        |         |
| REP. HARPER            |         |        |         |
| REP. HIBBARD           | ✓       |        |         |
| REP. KELLER            | ✓       |        |         |
| REP. McCAFFREE         | ✓       |        |         |
| REP. MCCARTHY          | ✓       |        |         |
| REP. NELSON            | ✓       |        |         |
| REP. ORR               | ✓       |        |         |
| REP. RANEY             | ✓       |        |         |
| REP. REAM              | ✓       |        |         |
| REP. TUNBY             | ✓       |        |         |
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Amendments to House Bill No. 92  
First Reading Copy  
Requested by Representative Tunby

For the House Taxation Committee

Prepared by Eddye McClure  
January 11, 1993

1. Title, line 11.

Following: "AGREEMENT;"

Insert: "REQUIRING A PUBLIC AGENCY TO HOLD A HEARING PRIOR TO  
ENTERING INTO AN ENVIRONMENTAL AGREEMENT THAT REQUIRES A  
STATE PERMIT OR ENTERING INTO A TAXATION, GAMBLING, OR FISH  
AND GAME AGREEMENT WITH A TRIBAL GOVERNMENT;"

2. Page 3, line 12.

Following: "(b)"

Insert: "except as provided in subsection (4),"

3. Page 3, line 23.

Following: line 22

Insert: "(4) Prior to entering into an environmental agreement  
that requires a state permit or entering into a taxation,  
gambling, or fish and game agreement with a tribal  
government, a public agency shall:

(a) provide public notice and hold a hearing on the  
reservation whose government is a party to the proposed  
agreement;

(b) determine and make available to interested persons  
findings of fact regarding the impact of the proposed  
agreement on Montana residents living on or entering the  
reservation; and

(c) notify tribal representatives and tribal members  
of the hearing and encourage them to participate in the  
hearing."

4. Page 11, line 17.

Following: "to"

Strike: "tax"



Amendments to House Bill No. 92  
First Reading Copy

Requested by A.G. Office to Clarify HB009201.AEM  
For the Committee on Taxation

Prepared by Lee Heiman  
January 12, 1993

1. Title, line 6.  
Strike: "CLARIFYING THAT"  
Insert: "AMENDING"
2. Title, line 7.  
Following: "ACT"  
Insert: "; CLARIFYING THAT THE ACT"
3. Title, line 11.  
Following: "AGREEMENT;"  
Insert: "REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR  
TO ENTERING INTO AN AGREEMENT ON TAXATION, GAMBLING, FISH  
AND GAME, OR ENVIRONMENTAL REGULATION WITH A TRIBAL  
GOVERNMENT;"
4. Page 3, line 23.  
Following: line 22  
Insert: "(4) Prior to entering into an agreement on taxation,  
gambling, fish and game, or environmental regulation with a  
tribal government a public agency shall provide public  
notice and hold a public meeting on or near the reservation  
whose government is a party to the proposed agreement for  
the purpose of receiving comments from and providing  
information to interested persons with respect to the  
proposed agreement's effect on the community."
5. Page 11, line 17.  
Following: "to"  
Strike: "tax"

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

**COMMITTEE**

BILL NO. HB-72

DATE 1-12-93 SPONSOR(S) \_\_\_\_\_

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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

DATE 1/12/92 COMMITTEE \_\_\_\_\_ BILL NO. 103  
SPONSOR(S) \_\_\_\_\_

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| NAME AND ADDRESS | REPRESENTING | SUPPORT                             | OPPOSE                   |
|------------------|--------------|-------------------------------------|--------------------------|
| Don Walker       | US WEST      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Dave Woodgerd    | MT DOR       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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