

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on January 19, 1993,
at 8:06 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

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

Committee Business Summary:

Hearing: SB 138, SB 141, SJR 10
Executive Action: SB 138, SJR 10

HEARING ON SB 141

Opening Statement by Sponsor:

Senator Dorothy Eck, representing Senate District 40,
presented Senate Bill 141, which is a bill drafted at the request
of the Department of Revenue. Senate Bill 141 will clarify the
tax exemption for property owned by the Federal Government; will
amend Section 15-6-201, M.C.A.; and will provide an immediate
effective date and a retroactive applicability date to tax years
beginning after December 31, 1992.

Senator Eck said this bill would involve properties acquired through loan default by the Farmers Home Administration, National Credit Union Administration, Federal Land Banks, and Department of Housing and Urban Development. These properties are already on the tax rolls, there is no impact on revenues, and Senate Bill 141 clarifies that these properties can continue to be taxed.

Proponents' Testimony:

Mick Robinson, Director of the Montana Department of Revenue, spoke in favor of Senate Bill 141, saying the Department felt the statute needed to be clarified in terms of the state's ability to tax particular pieces of property owned by the Federal Government that Congress allows the state to tax.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Stang and Senator Towe questioned Mick Robinson regarding portions of Senate Bill 141 which strike language from the existing law and would relate to Bonneville Power Administration power lines, and any assurances Mr. Robinson can give that the state would not be faced with further court actions from Bonneville. Mr. Robinson replied the Department's legal staff is confident Senate Bill 141 has been drafted to include all of the property the state has the ability to tax and that this bill will not jeopardize our legal position in the power line case or any future litigation in this area.

Dave Woodgerd, Chief Legal Council for the Department of Revenue, answered committee questions regarding language stricken in Senate Bill 141 and the effect on any lawsuit, pending or otherwise, as it relates to transmitting or distribution of electrical energy, and specifically to Bonneville Power Administration power lines. Mr. Woodgerd assured the committee that the Department of Revenue is concerned about not jeopardizing anything with relation to the hard-won lawsuit over the power lines. The Department's concern is that the existing language could be interpreted that the State cannot tax any agency of the United States unless Congress authorizes it to tax federal agencies that transmit or distribute electrical energy. The change in SB 141 will broaden the language so it is clear that anytime Congress authorizes the state to tax an agency of the federal government, the Department will have the authority to tax that agency. This language in question was not a part of the previous law suit brought by Bonneville Power. Under the laws,

the State Department of Revenue is not taxing a federal agency, it is taxing the power companies who use that power line.

Closing by Sponsor:

Senator Eck offered no further remarks in closing.

HEARING ON SB 138

Opening Statement by Sponsor:

Senator Delwyn Gage, representing Senate District #5, presented Senate Bill 138. His written testimony, marked Exhibit No. 1, is attached to these minutes. This bill will clarify that the local government severance tax was enacted to replace property tax levies; will amend Section 15-36-101, M.C.A.; and provides for an immediate effective date and a retroactive applicability date of August 11, 1989.

Proponents' Testimony:

Madalyn Quinlan, Revenue Analyst with the Office of Public Instruction (OPI), stated the Superintendent of Public Instruction supports Senate Bill 138. The OPI believes there is a need to clarify that the county equalization fund and the six mill university levy are intended to be recipients of the Local Government Severance Tax (LGST). The county equalization funds receive approximately \$9 million annually from LGST and the university system derives in excess of \$1 million annually from LGST.

LeRoy H. Schramm, Chief Legal Council for the University System Board of Regents spoke in support of Senate Bill 138. Mr. Schramm said the 6-mill levy is used as an off-set, and if these funds were to be eliminated, there would be an approximate \$1 million negative impact to the funds allocated to the University system.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Doherty questioned the retroactive date to August 11, 1989, and how it would affect any lawsuits presently pending. Senator Gage replied there is a lawsuit pending, and it is his information that this bill is curative legislation which requires going back to the original date of the bill.

In response to questions by Senator Harp and Senator Yellowtail, Madalyn Quinlan reported two school districts and the County Commissioners of Phillips County have filed a lawsuit against the Board of Regents and the Superintendent of Public Instruction over distribution of the Local Government Severance Tax, saying the 45-mill levy county equalization fund and the 6-mill university levy should not receive these funds because they are state entities and not local governments. Eleven other oil and gas producing counties have requested permission to intervene in the lawsuit which will continue whether or not this bill is passed, and a Judge will determine distribution of the funds.

Closing by Sponsor:

Senator Gage responded to earlier discussion by saying oil and gas companies still have personal property on tax rolls which would be raised accordingly with other personal property taxes. The Local Government Severance Tax was enacted in 1989 as a "flat tax" to replace net proceeds taxes on pre-1985 oil and gas production.

Senator Gage feels the record needs to show, with regard to calculation of the unit values, if the foundation program mill money and the university millages were not a part of the calculations of the unit values, then the oil and gas companies have overpaid their taxes because those unit values would have been lower had the legislature not put those monies into the calculation of the unit values.

HEARING ON SJR 10

Opening Statement by Sponsor:

Senator Delwyn Gage, representing Senate District #5, presented Senate Joint Resolution No. 10, which is a resolution requesting an interim study of the property appraisal procedures in the property tax laws, and requiring a report of the findings of the study to the 54th Legislature. Senator Gage questioned whether the process of reappraisal of properties was costing us more than we are gaining from revenues received. The fiscal analyst's office has reported to Senator Gage that this is difficult to determine since millages increase, property is put into different classifications, and taxable values decrease on some properties.

Since introducing Senate Joint Resolution No. 10, Senator Gage has talked to the Department of Revenue regarding its programming on reappraisal and taxation, and feels his bill may be premature.

Proponents' Testimony:

Tom Hopgood representing the Montana Association of Realtors stated the MAR recognizes a problem with the appraisal of real property and they do support Senate Joint Resolution 10.

Opponents' Testimony:

Mick Robinson, Director of the Montana Department of Revenue, does not oppose the idea of a study of the property tax system; however, he asked for a delay in the study until the Department's improvements have a chance to work. These improvements include computerized systems which will provide significant efficiencies and time-saving measures in supplying information in the future.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Eck questioned Mick Robinson if property tax values will increase every year. Mr. Robinson responded that the taxable value is done in 4-year cycles and the taxable value being used from the appraisal cycle just completed will remain in effect for four years. At the end of this next four-year cycle, the Department will come out with new taxable values.

Closing by Sponsor:

In closing, Senator Gage asked the committee to consider the premature timing of SJR 10.

EXECUTIVE ACTION ON SB 138**Motion:**

Senator Van Valkenburg moved Do Pass on Senate Bill 138.

Discussion:

Senator Yellowtail expressed concern as to why this bill is not being heard in the Education Committee who heard the bill two years ago and who might have some memory as to the bill's origin and original intent. Senator Van Valkenburg responded that he placed it in this committee because he believed it was taxation issue.

Vote:

Motion passed on voice vote, with Senators Yellowtail and Stang voting "no".

EXECUTIVE ACTION ON SJR 10

Motion:

Senator Gage moved that SJR 10 be tabled.

Discussion:


None.

Vote:

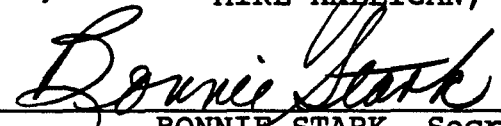
Motion passed on oral vote.

ADJOURNMENT

Adjournment: The meeting adjourned at 9:14 a.m.



MIKE HALLIGAN, Chair



BONNIE STARK, Secretary

MH/bjs

ROLL CALL

SENATE COMMITTEE TAXATION

DATE 1-19-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 19, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 138 (first reading copy -- white), respectfully report that Senate Bill No. 138 do pass.

Signed: 
Senator Mike Halligan, Chair

SENATE TAXATION

EXHIBIT NO. 1
DATE 1-19-93
BILL NO. 138

Testimony of Senator Delwyn Gage
Senate Bill 138
Senate Taxation Committee
January 19, 1992

I am sponsoring Senate Bill 138 to clarify language that was enacted in House Bill 28 in the 1989 Special Session regarding the distribution of the local government severance taxes. This clarification appears to be needed because several school districts and counties have questioned the state over the distribution of the LGST tax to the county equalization fund for schools and the six mill university levy. The debate focuses around the language in 15-36-101, MCA that states that the local government severance tax is "for the exclusive use and benefit of local government." I think it was clear in 1989 that the legislature intended that the recipients of net proceeds taxes, which included the county equalization and the 6 mill levy funds, would also be the recipients of LGST revenues. However, given the debates that have arisen since the passage of House Bill 28 in 1989, I now am sponsoring Senate Bill 138 to clarify the legislative intent.

The local government severance tax was enacted in 1989 as a "flat tax" to replace net proceeds taxes on pre-1985 oil and gas production. By "flat tax," I mean that all oil and gas producers in the state now pay taxes as a percentage of the taxable value of the oil and gas produced. The tax rate varies depending on whether the production is from a regular well, a stripper well, or a tertiary recovery operation, but the tax rate is the same for all producers within a production category. The flat tax replaces the former taxation method of applying mill levies to net proceeds.

As a legislator who was closely involved with the amendments to House Bill 28 whereby the flat tax was incorporated into the school funding reform bill, I thought it was clear at the time that the local government severance tax was intended to replace property taxes levied on net proceeds. The legislation required that the Department of Revenue compute a "unit value" for each taxing unit based on the number of mills that were levied within the taxing unit on oil and gas production in 1988. The unit value calculation was included in the distribution formula for the LGST as a means of recognizing variations in the effective tax rate on production in different areas of the state. The unit value calculation included those mills levied for county equalization and university purposes.

The LGST amendments to House Bill 28 specifically stated that no local government severance tax distributions could be made to a municipal taxing unit. We did not make a similar exclusion for the county equalization fund or the university levy. So again, I think it is clear that the legislature intended for the county equalization fund and the university mill levy fund to receive a share of the distribution of the LGST tax.

As you can see by reviewing the bill before you, I am proposing to delete the reference to "the exclusive use and benefit

of local government" and substitute language that states that the local government severance tax is in lieu of a tax on net proceeds for "replacement of property taxes formerly levied on net proceeds." The bill proposes to make this language apply retroactively to House Bill 28 as it was signed into law on August 11, 1989. This bill will clarify the legislative intent in regard to the distribution of the local government severance tax as enacted in House Bill 28 in 1989.

Thank you.

DATE 1/19/93

SENATE COMMITTEE ON TAXATION

BILLS BEING HEARD TODAY: SB 138, SB 141, SJR 10

Name	Representing	Bill No.	Check One	
			Support	Oppose
Jerome Anderson	Shell Western RHP INC.	SB 138	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dorson Morris	MACs		<input type="checkbox"/>	<input type="checkbox"/>
Lily H. Schramm	Board of Regents	S.B. 138	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tom Haggood	MAR	SJR 10	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Madelyn Quinlan	Ofc. Pub. Inst	SB 138	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY