

## **MINUTES**

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

#### **COMMITTEE ON TAXATION**

**Call to Order:** By Chairman Mike Halligan, on January 27, 1993,  
at 8:02 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 182, SB 183  
Executive Action: SB 183

#### **HEARING ON SB 183**

##### **Opening Statement by Sponsor:**

Senator Steve Doherty, representing Senate District #20, presented Senate Bill 183, which is an act providing that property owned by both a tax-exempt and taxable entity or used for both tax-exempt and taxable purposes be assessed and taxed based upon the apportioned ownership or use of the property.

Senator Doherty said this Department of Revenue Bill should help solve some problems involving joint ownership of property where one owner is subject to taxes while another owner is tax

exempt. Senate Bill 183 will allow the Department of Revenue to tax up to the limit of private ownership or private use on a piece of property.

**Proponents' Testimony:**

Dennis Burr, representing Montana Taxpayers Association, supports Senate Bill 183, but was concerned about how it differs from the Beneficial Use Tax.

**Opponents' Testimony:**

None.

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Towe asked Ken Morrison, Department of Revenue, about the Beneficial Use Tax question. Mr. Morrison said Senate Bill 183 reads that if the use of the property is both for an exempt and non-exempt purpose, there would be a pro-ration of the tax, and beneficial use is not affected. Senate Bill 183 deals with both use and ownership.

Senator Doherty said this Committee could put a disclaimer that it is not the intention of Senate Bill 183 to interfere in any beneficial use litigation with the Bonneville Power Administration line case or any future litigation in this area.

Upon questioning by Senator Halligan, Dave Nielsen, Department of Revenue, explained how Senate Bill 183 interplayed with the Beneficial Use Tax. Tax exempt properties are exempt either on ownership, or because of its use. Section 1 of Senate Bill 183 deals with ownership. When the Department applies the Beneficial Use Tax, it is basically on property that is tax exempt because of ownership, such as the Federal government, and yet there is a use that is being taxed. The Beneficial Use Tax is based on the percentage of use. Regarding Bonneville Power, which is owned by the Federal Government, the Beneficial Use Tax is based upon the percentage of use. If an electrical power company has a contract for 90% of the use, they are taxed under the Beneficial Use Tax for the 90%. That fits within Section 2 of Senate Bill 183. Mr. Nielsen said Senate Bill 183 would compliment the Beneficial Use Tax and codify the Department's existing procedure.

**Closing by Sponsor:**

Senator Doherty said the most common application of Senate Bill 183 could involve property jointly owned by a Tribal member and non-Tribal member where the Department of Revenue would tax only the non-Tribal member's ownership interest in the property and the Tribal member's interest would remain tax exempt.

**HEARING ON SB 182****Opening Statement by Sponsor:**

Senator Doherty, representing Senate District #20, presented Senate Bill 182, which is an act generally revising the Greenbelt Appraisal definition of agricultural land for real property taxation purposes; eliminating Class Eleven property by combining it with Class Four property; amending Sections 7-13-2527, 15-6-134, 15-7-202, 15-10-402, and 15-10-412, M.C.A.; repealing Section 15-6-144, M.C.A.; and providing an effective date of July 1, 1993, and an applicability date to tax years beginning on or after January 1, 1994.

Senator Doherty said Senate Bill 182 is a bill to attempt to address some deficiencies in property tax structure by (1) getting rid of the 20-acre requirement classifying land as agricultural; and (2) tying in a figure of \$5,000 income from the land in order to qualify as agricultural property, whatever the land parcel size. Senate Bill 182 will eliminate Class Eleven properties and change the property tax rate from the current 3.08% to 3.86%. The Department of Revenue estimates that approximately one-half of the agricultural taxpayers would be affected by Senate Bill 182.

Senator Doherty said Senate Bill 182 will not hurt the true agricultural farmer, but will provide a more fair tax structure for non-agricultural parcels of land which are primarily used for residential purposes.

**Proponents' Testimony:**

Greg Groepper, Office of Public Instruction (OPI), spoke in support of Senate Bill 182 stating that current law has encouraged people to own 20 acres of property to avoid paying real property taxes. Most of these land parcels are over three miles from town and school districts have to furnish bus service to these families. The OPI feels the 20-acre agricultural land device is artificial and hasn't done what it was intended to do, and that the \$5,000 agricultural income test proposed in Senate Bill 182 will, in the long run, help reduce the cost of school transportation.

Dennis Burr, representing the Montana Taxpayers Association, agrees that land not used for bona fide agricultural purposes should not be taxed as agricultural land. He believes an agricultural income test as proposed in Senate Bill 182 is logical.

Brian McNitt of the Montana Environmental Information Center (MEIC) in Helena said MEIC supports the concepts of Senate Bill 182. Mr. McNitt said unreviewed 20-acre subdivisions have resulting impacts on water quality, fish and wildlife habitat and recreational lands, and MEIC believes Senate Bill 182 will discourage more unreviewed subdivisions.

Janet Ellis with the Montana Audubon Legislative Fund (MALF) said MALF agrees with the concept of Senate Bill 182. They believe the 20-acre agricultural tax law has not been fair. Ms. Ellis asked the committee to consider land which may be in a whole ranch now but has been platted for future 20-acre subdivision parcels, and that these owners be given an opportunity to put the land back into a whole parcel.

Bob Berry, representing the Montana Alliance for Progressive Policies (MAPP), asked to go on record in support of Senate Bill 182. The MAPP sees this bill as an effort to correct some inequities in the taxing structure.

Doug Olson, a Helena resident, testified in support of the concept of Senate Bill 182 from a fairness perspective. He compared taxes on a parcel of land he owns with neighboring parcels of land and pointed out what he feels are inequities in the taxing structure.

#### Opponents' Testimony:

Dave McClure, State President of the Montana Farm Bureau, said the Farm Bureau recognizes Senate Bill 182 is a bill to solve some tax inequities and they do support eliminating the 20-acre exemption. However, the Farm Bureau feels Class Eleven was a recognition that a house or other improvements which are an integral part of an agricultural operation do not have the same market value as a building improvement or house on a city lot. The Montana Farm Bureau said they would withdraw their objections to Senate Bill 182 if they could be assured that the assessment process would take into consideration those building improvements that are part of an agricultural process and which aren't as marketable, and don't have the same values, as city improvements.

Patrick McNulty, Buffalo, Montana, is Chairman of the Montana Farm Bureau Taxation Committee (MFBTC). The MFBTC agrees with Dave McClure's statements, and feels the assessors should develop a method of addressing the difference in values due to the remoteness of the properties which lack city services.

John Bloomquist, Special Assistant to the Montana Stockgrowers Association, spoke on their behalf and also on behalf of the Montana Cattlemen's Association. Mr. Bloomquist said Mr. McClure and the Montana Farm Bureau pointed out his concerns with Senate Bill 182, and feels the elimination of Class Eleven properties and their inclusion into Class Four may be creating another taxing inequity. He also expressed concern that an agricultural landowner who may have fee hunting or who may lease his land to a game outfitter would lose the agricultural land classification to commercial land classification.

Tom Hopgood, representing the Montana Association of Realtors (MAR), agreed with the previous comments of opponents to Senate Bill 182.

Jim Anders, who lives West of Helena, spoke in opposition to Senate Bill 182. Mr. Anders purchased his 20 acres over 10 years ago, and said the land was split into 20-acre parcels because it was not capable of producing any farm income. He agrees that the present agricultural assessment taxes are probably too low, but says it would be hard for him to come up with double, or higher, taxes under a residential assessment, and even harder to try to produce \$5,000 income from his acreage.

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Eck questioned Ken Morrison on the Department of Revenue's method of valuing land which would be covered by Senate Bill 182 that is not agricultural land, and was told they look at comparable sales. If comparable sales are not available, they look to the assessor for all information available for similar types of property.

Upon questioning by Senator Towe, Senator Doherty said it was his intention that if agricultural land is not producing an income of \$5,000 per year, it would not be classified as agricultural land under Senate Bill 182, and that a bona fide agricultural person would be encouraged to remain in agriculture, but if not, that person should not have the agricultural breaks.

**Closing by Sponsor:**

Senator Doherty believes portions of agricultural land are not being assessed properly, and Senate Bill #182 attempts to equalize the tax structure.

**EXECUTIVE ACTION ON SB 183**

**Motion:**

Senator Eck moved Do Pass on Senate Bill 183.

**Discussion:**

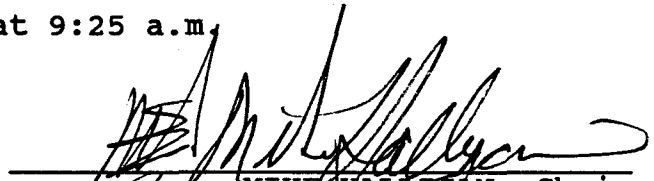
Senator Towe asked Dave Nielsen if the Department of Revenue was satisfied that passage of Senate Bill 183 will not jeopardize the state's legal position in the Bonneville power line case or any future litigation in this area, and Mr. Nielsen said this bill was drafted by the attorney involved in that case and felt sure that litigation was taken into consideration.

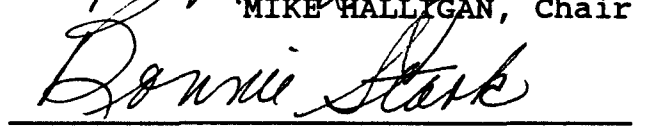
**Vote:**

Motion passed on oral vote.

**ADJOURNMENT**

**Adjournment:** Meeting adjourned at 9:25 a.m.

  
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MIKE HALLIGAN, Chair

  
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BONNIE STARK, Secretary

MH/bjs

## ROLL CALL

SENATE COMMITTEE

TAXATION

DATE 1-27-93

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Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

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January 27, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 183 (first reading copy -- white), respectfully report that Senate Bill No. 183 do pass.

Signed:   
Senator Mike Halligan, Chair



DATE 1-27-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 182, 183

Name	Representing	Bill No.	Check One	
			Support	Oppose
Bob Barry	Montana Alliance for Prog. Policy	SB 182		
John Blomquist	MT. Stockgrowers	SB 182		✓
Jimmie Dosselt	MT Cattlewomen	SB 182		✓
Brian McNitt	MEIC	SB 182	✓	
Tom Hopgood	MT. Assoc. Realtors	SB 182		✓
Dave McClure	Mont Farm Bureau	SB 182		✓
Patrick McNulty	Mont Farm Bureau	SB 182		✓
Stan Bradshaw	MT. Trout Unlimited	SB 182	✓	
Janet Ellis	MT Audubon	SB 182	✓	
Jim Anders	Helena MT	SB 182		✓
Doug Olson	Helena, MT - self	SB 182	✓	
Dennis Burr	MonTAX	SB 182 183	✓	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY