

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on February 8, 1993, at
9:00 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (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. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: Rep. McCarthy
Rep. Raney

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 437, HB 452, SB 227, SB 234
Executive Action: SB 227 Be Concurred In
HB 330 Do Pass

HEARING ON SENATE BILL 227

Opening Statement by Sponsor:

SEN. BARRY STANG, SD 26, St. Regis, said SB 227 was introduced at the request of the Department of Revenue (DOR). The bill sets Montana's dates for estimated tax payments to coincide with federal deadlines.

Proponents' Testimony:

Lynn Chenoweth, Bureau Chief, Corporate Tax Bureau, DOR, said the bill does not raise or lower any tax payments, nor does it require any quarterly payments that are not currently mandated. It simply brings the state requirements into conformity with the federal deadlines. The bill is intended to clarify those deadlines so that no one is penalized for late payments due to confusion between the two sets of dates. State law remains slightly more lenient than federal law regarding quarterly payments.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. JOHN BOHLINGER asked for an explanation of the difference between the federal and state requirements. Mr. Chenoweth said there are two main differences. Federal statute require that estimated quarterly payments be submitted up to 90% of the tax liability and Montana requires 80%. For federal purposes, everyone with a tax liability of greater than \$500 must submit quarterly payments. The Montana threshold is \$5,000.

Closing by Sponsor:

SEN. STANG closed.

EXECUTIVE ACTION ON SENATE BILL 227

Motion/Vote: REP. BOB REAM MOVED SB 227 BE CONCURRED IN. The motion carried unanimously.

HEARING ON SENATE BILL 234

Opening Statement by Sponsor:

SEN. JOHN HARP, SD 4, Kalispell, stated SB 234 was introduced at the request of the Department of Revenue (DOR). It is intended to ensure that the confidentiality language which applies to individual income taxes also applies to corporations.

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, DOR, said the bill treats both corporate and individual income tax confidentiality the same way. Current statute is outmoded and inappropriate for current operation.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. REAM asked if the Legislative Auditor and Legislative Fiscal Analyst have access to corporate records. Mr. Woodgerd said there has never been any problem. A request from the Legislative Council for information was referred to the Legislative Auditor who conducted a review.

Closing by Sponsor:

REP. HARP closed.

HEARING ON HOUSE BILL 437Opening Statement by Sponsor:

REP. DAN HARRINGTON, HD 68, Butte, said HB 437 was introduced at the request of the county assessors. The bill revises the definition of net business income in determining the eligibility for low-income property tax relief. Non-business owners must report all income without adjustments. The change in this bill specifies that net income must not include business equipment depreciation. That exclusion will result in a more accurate determination of net income.

Proponents' Testimony:

Cele Pohle, Powell County Assessor, representing the Montana County Assessors' Association, presented written testimony in support of the bill. EXHIBIT 1

Ken Morrison, Administrator, Property Assessment Division, DOR, said this is a compromise between the gross income test and the net income test. He said DOR is in support of the bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. JIM ELLIOTT asked if this is the same as the elderly low-income homeowner relief program. Mr. Morrison replied it is not the same. The elderly credit program is an tax credit for taxpayers over age 62 of up to \$400 based on property tax and/or rent payment.

REP. MIKE FOSTER inquired about the fiscal note. Mr. Morrison said it is quite brief, and the impact is very minimal.

Closing by Sponsor:

REP. HARRINGTON closed saying this bill gives low-income business owners some relief without an impact on general fund collections.

HEARING ON HOUSE BILL 452

Opening Statement by Sponsor:

REP. DAN HARRINGTON, HD 68, Butte, stated HB 452 is an act to provide the governmental portion of a settlement or compromise agreement entered into by the DOR is public information. He said the DOR recently reached an extremely large settlement with a corporation in the state. DOR would not disclose any information about the settlement to the Revenue Oversight Committee (ROC) members, only that a settlement of significant magnitude had been negotiated. He said the amount was large enough to make a significant difference in the revenue estimating process, but the actual amount could not be revealed due to confidentiality restrictions. In the past, net proceeds confidentiality was not as tight as it is now and it was possible to get pertinent information when a corporation was suspected of avoiding or underpaying taxes. However, net proceeds confidentiality is very strong now and information is impossible to obtain. He said it is very important to be able to anticipate the impact some of the very large settlements will make on the general fund. He stated negotiations could continue in confidence, but the details of the settlements should be made public. One branch of government should not have complete confidentiality rights over another.

Proponents' Testimony:

Charles Walk, Executive Director, Montana Newspaper Association, said his organization supports legislation that improves or maintains the open record portion of the law. He warned the Committee against adopting any amendments regarding the confidentiality provisions.

Opponents' Testimony:

Dave Woodgerd, Chief Counsel, DOR, said the Department does not disagree with any of REP. HARRINGTON'S concerns. The concern is with the way the bill is written. He said the "governmental portion of any settlement" is what the bill proposes to make public. He said the "governmental portion" is not defined and he believed it would be very difficult to define. Depending on the definition which is adopted, there may well be a constitutional problem concerning the right of privacy. The Montana Supreme Court has determined that corporations are entitled to a right of

privacy. The real issue is the income tax paid by corporations and the information provided on the returns. The problem becomes the conflict in the Constitution between the right of privacy and what the Constitution guarantees in terms of the right of the public to know what its government is doing. Those two provisions have to be balanced.

Recent problems with some coal settlements which some legislators felt were inappropriate were resolved by having the Legislative Auditor come in and review the information and then issue a report. The report did not reveal any confidential information, but it did provide an analysis for the legislative branch to determine if the actions taken by the administration were appropriate. That is a good procedure and provides a sufficient check on the DOR and administration concerning settlements of tax disputes.

He said the DOR would support the bill if appropriate amendments were adopted which protected the confidentiality of the taxpayer as guaranteed by the Constitution and statute. Without that protection, it would be difficult to get voluntary compliance with corporate tax laws and reach any settlements at all.

Questions From Committee Members and Responses:

REP. ELLIOTT asked how settlements are negotiated and what tools are used in the negotiations. **Lynn Chenoweth, Corporate Tax Bureau Chief, DOR,** replied that the final solution is a lawsuit in cases where a settlement cannot be reached. Procedures include looking at the issues, which are usually numerous and not black and white. The DOR considers the grey areas and weighs the positions of each side. A determination is made to see if the case can be won if it does go to court or if a settlement is in order.

REP. ELLIOTT asked if everything becomes a matter of public record if a case does go to court. **Mr. Chenoweth** replied that it does.

REP. ROLPH TUNBY asked if the ROC should be entitled to the settlement information. REP. HARRINGTON said that he believed under separation of powers, the legislative branch should have some means of gathering pertinent information. He felt the ROC should have oversight capability when settlements are made.

Closing by Sponsor:

REP. HARRINGTON said there is a difference between the average taxpayer and large corporations. Settlements with large corporations can have a significant impact on general fund balances and the legislative branch should be able to be apprised of those settlement amounts. He said this is a very important bill and he would be presenting amendments which he hoped would allay some of the members concerns.

EXECUTIVE ACTION ON HOUSE BILL 330

Motion/Vote: REP. TOM NELSON MOVED HB 330 DO PASS. The motion carried unanimously.

ADJOURNMENT

Adjournment: The meeting adjourned at 11:20 a.m.



BOB GILBERT, Chairman



JILL ROHYANS, Secretary

BG/jdr

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

2/8/93

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	✓		

HOUSE STANDING COMMITTEE REPORT

February 8, 1993

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Mr. Speaker: We, the committee on Taxation report that House
Bill 330 (first reading copy -- white) do pass.

Signed: Bob Gilbert
Bob Gilbert, Chair

Committee Vote:
Yes 19, No 2.

Qd 2/8/93
1:58 PM

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HOUSE STANDING COMMITTEE REPORT

February 8, 1993

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Mr. Speaker: We, the committee on Taxation, report that Senate Bill 227 (third reading copy -- blue) be concurred in.

Signed: _____

Bob Gilbert, Chair

Carried by: Rep. Driscoll

Committee Vote:
Yes , No .

311141SC.Hss

EXHIBIT _____
DATE 2/8/93
HB 437

February 8, 1993

House Taxation Committee
Representative Bob Gibert, Chairman
Members

Chairman Gilbert, and members of the taxation committee, for the record my name is Cele Pohle. I am the Assessor in Powell County. My testimony today is on the behalf of the Montana Assessor's Association. HB 437 amends the language in Section 15-6-134 (1) [c] MCA to revise the reporting of net business income.

The intent of the low-income property tax relief was to provide a reduction of payment of property taxes based on a percentage of your earned income.

In Powell County, the low-income tax relief has benefitted the elderly on fixed incomes and those that have been impacted because of economic reversals in their lives. It has allowed many to remain in their homes because of the lowering of their property tax and still retain their dignity as members and taxpayers of their communities.

Revising the definition of net business income in the determination of eligibility for the property tax relief will equalize the application process between non-business income and business income requirements.

Current Law requires of business owners to report their net business income or loss after all expenses and depreciation are deducted.

However, non-business owners must report all their earned income without these adjustments being made.

The revision of HB 437 will still allow net business income to be reported but will not allow any business equipment depreciation and will not consider any loss.

The Montana Assessor's Association believes that with this revision a more equitable measure will result in the concept of total income for non-business and business application for property tax relief purpose.

We recommend a do pass on HB 437.



Submitted by: Cele Pohle, Powell County Assessor
Montana Assessor's Association
First Vice-President- Legislative Chairman

HB 437
HB 452
SB 227
SB 234

HB 437
HB 452
SB 227
SB 234

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