

MINUTES

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

COMMITTEE ON TAXATION

Call to Order: By VICE CHAIRMAN MIKE FOSTER, on March 2, 1993,
at 8:15 a.m.

ROLL CALL

Members Present:

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. 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

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 640, HB 641
Executive Action: HB 640 Do Pass
HB 641 Do Pass As Amended

HEARING ON HOUSE BILL 640Opening Statement by Sponsor:

REP. JERRY DRISCOLL, HD 92, Billings, said the bill changes the definition of the average levy for the taxation of railroad car companies to the average statewide rate on commercial and industrial property instead of the average applicable to fleet motor carriers. He said this bill was requested by the House Taxation Committee.

Proponents' Testimony:

Mary Whittinghill, Bureau Chief, Centralized Assessment Bureau, Department of Revenue (DOR), presented her testimony in support of the bill. EXHIBITS 1 and 1a

Opponents' Testimony: There were no opponents.

Questions From Committee Members and Responses:

There were no questions.

Closing by Sponsor: REP. DRISCOLL closed.

HEARING ON HOUSE BILL 641Opening Statement by Sponsor:

REP. MIKE FOSTER, HD 32, Townsend, said this is a bill requested by the House Taxation Committee. The bill establishes the requirement that cash received for taxes be distributed the same as the tax revenue with which it is associated as directed by the Department of Administration according to generally accepted accounting principles. The bill does not change the distribution of any taxes and has no fiscal impact on either fund balance or cash balance. It allows the state to properly apply generally accepted accounting principles consistently to all tax revenue and the associated tax receipts and collections. As a result, all tax revenue received or accrued for a particular fiscal year can be allocated to the proper funds on a consistent basis. REP. FOSTER said the Department would be submitting proposed amendments.

Proponents' Testimony:

Connie Griffith, Administrator, Accounting and Management Support Division, Department of Administration, presented her testimony in support of the bill. EXHIBIT 2 She also submitted proposed amendments which are entirely clerical and clarification in nature. EXHIBIT 3

Opponents' Testimony: There were no opponents.

Questions From Committee Members and Responses:

There were no questions.

Closing by Sponsor:

REP. FOSTER closed.

EXECUTIVE ACTION ON HOUSE BILL 640

Motion: REP. DRISCOLL MOVED HB 640 DO PASS.

Discussion: There was no discussion.

Vote: The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 641

Motion: REP. REAM MOVED HB 641 DO PASS.

Discussion: There was no discussion.

Motion/Vote: REP. REAM moved to adopt the amendments as proposed by the Department of Administration. EXHIBIT 3

The motion CARRIED unanimously.

Vote: The motion by REP. REAM that HB 641 DO PASS AS AMENDED CARRIED unanimously.

ADJOURNMENT

Adjournment: The meeting adjourned at 8:30 a.m.



MIKE FOSTER, VICE CHAIRMAN



JILL ROHYANS, Secretary

MF/jdr

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

3/2/93

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

March 2, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 640 (first reading copy -- white) do pass .

Signed: Mike Fote (Vice-Chair)

Bob Gilbert, Chair

Committee Vote:
Yes __, No __.

471146SC.Rss

HOUSE STANDING COMMITTEE REPORT

March 2, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that House Bill 641 (first reading copy -- white) do pass as amended .

Signed: Mike Foster (Vice Chair)
Bob Gilbert, Chair

And, that such amendments read:

1. Page 1, line 25 through page 2, line 1.

Strike: "state treasurer"

Insert: "collecting department"

2. Page 6, line 11.

Strike: "state treasurer"

Insert: "department of revenue"

3. Page 7, line 3.

Page 7, line 5.

Strike: "deposited"

Insert: "currently being recorded"

4. Page 7, line 18.

Strike: "(1)"

5. Page 7, lines 21 through 23.

Strike: "to the state treasurer on a monthly basis."

(2) The state treasurer shall deposit"

Insert: "as follows:

(1) "

6. Page 8, lines 1 and 2.

Strike: " .

(3) The treasurer shall credit"

Insert: "; and

(2) "

7. Page 8, line 23.

Strike: "remitted to the state treasurer to be"

8. Page 31, lines 21 and 22.

Strike: "turned over promptly to the state treasurer, who shall place the money"

Insert: "placed"

Committee Vote:

Yes . No .

471148SC.Hss

9. Page 35, lines 7 and 8.

Strike: "turned over promptly to the state treasurer and the
state treasurer shall place the"

10. Page 35, line 9.

Strike: "taxes"

Insert: "placed"

11. Page 35, line 17.

Strike: "with the state treasurer."

12. Page 35, lines 17 and 18.

Strike: "The state treasurer shall deposit the funds"

13. Page 36, lines 15 and 16.

Strike: "with the state treasurer"

14. Page 40, line 12.

Strike: "state treasurer"

Insert: "department of revenue"

15. Page 41, lines 11 and 12.

Strike: "state treasurer"

Insert: "department of revenue"

16. Page 46, lines 8 and 9.

Page 46, lines 22 and 23.

Page 47, lines 7 and 8.

Strike: "paid to the state treasurer and"

House Bill 640

Sponsor Testimony

This is a committee bill requested by the Department of Revenue. The purpose is to conform the taxation of railroad cars to the Railroad Revitalization and Regulatory Reform Act (4R Act). This federal act prohibits taxing railroad property differently than other commercial and industrial property in Montana.

The July, 1992 Special Session repealed the freightline tax and imposed a state general fund property tax on railroad cars. The legislation was because of a court challenge to the freightline tax by a nationwide railcar leasing company, TTX. The law currently requires the use of a statewide average mill levy for all property to determine the tax amount.

Some taxpayers have questioned the use of this average when the comparison class under the federal act is commercial and industrial property. An average based on the mill levy for commercial and industrial property will be easier to defend if the law is challenged in federal court.

The Department of Revenue is here to present further testimony and answer any questions.

TAXATION OF RAILROAD CAR COMPANIES

DEBIT 1-A
 DATE 3/2/93
 RE 640

Legislation during the July 1992 Special Session repealed the freight line license tax and implemented an ad valorem tax on railroad car companies operating in Montana. The tax is retroactive for tax years 1991 and 1992. The statute requires the Department of Revenue to use the prior year's statewide average mill as calculated in 15-24-103 when computing taxes for the car companies.

Railroad car companies are federally protected under the 4R Act. The Act prohibits taxation of property of the protected class of taxpayers at rates higher than the property of other commercial and industrial properties.

Representatives of some of the car companies indicated to the Department that the average mill as calculated in 15-23-103 might be higher than the statewide average mill of other commercial and industrial property. Subsequent research indicates that the statewide average mill for commercial and industrial properties for 1990 and 1991 is lower than the mill as calculated in 15-23-103.

Statewide Average Mills (from prior year)

<u>All Properties (15-23-104, MCA)</u>			<u>Commercial & Industrial Properties</u>		
1991	326.56		1991	317.51	
1992	339.47		1992	324.56	
1993	343.59		1993	328.24	

The estimated tax liability for the railroad car companies would decrease utilizing the statewide average mill for commercial and industrial properties only.

Total Estimated Taxes			
1991	\$2,998,000	1991	\$2,918,000
1992	\$3,310,000	1992	\$3,172,000
1993	\$3,349,000	1993	\$3,200,000

TESTIMONY ON HB 641
BY THE
DEPARTMENT OF ADMINISTRATION
March 2, 1993

TITLE: "An act clarifying that tax revenue must be distributed according to the statute governing allocation of the tax that was in effect for the period the tax revenue was recorded for accounting purposes; specifying that tax revenue must be recorded as prescribed by the Department of Administration in accordance with generally accepted accounting principles; amending sections 15-1-501, 15-23-716, 15-25-122, 15-31-702, 15-35-108, 15-36-112, 15-36-126, 15-37-117, 15-38-106, 15-38-136, 15-51-103, 15-53-114, 15-59-108, 15-59-208, 15-60-210, 15-65-121, 15-65-136, 15-70-101, 15-71-104, 16-1-306, 16-1-401, 16-1-404, 16-1-408, 16-1-410, 16-1-411, 16-1-421, 16-1-422, 16-1-423, 16-11-119, 16-11-206, 23-5-610, 23-5-646, and 39-71-2504, MCA; repealing Section 15-1-502, MCA; and providing an immediate effective date and a retroactive applicability date."

PURPOSE: The purpose of this legislation is to ensure that the actual cash received from tax collections is allocated to the various state funds in the same manner as the tax revenue associated with those collections when the revenue is accrued as required by generally accepted accounting principles.

BACKGROUND: Effective in fiscal year 1992, generally accepted accounting principles state that tax revenue is accruable if the taxes have been collected for the State, i.e. income tax withholding, or are due for the period ending June 30 of any year, but, for administrative purposes, are remitted to the State not more than 60 days after June 30. This affects primarily taxes on coal sales, oil and gas production and individual income and other self-assessed taxes which were previously recorded as revenue when the cash was actually received by the State.

When the tax is recorded as revenue in the Statewide Budgeting and Accounting System (SBAS) as required by generally accepted accounting principles, the revenue is distributed to the various funds (i.e. General Fund, State Special Revenue Fund, Capitol Projects Fund) per the allocation in effect in statute for the period of time the revenue is recorded. Tax revenue due at fiscal year end (June 30) but not collectible up to 60 days after June 30 is accrued; the revenue is allocated to the various state funds as required by statute in effect for the fiscal year ending that June 30; and a corresponding tax receivable is established for the same amount. If assessments for additional taxes are made as a result of audit findings and legal action, the tax revenue is accrued and allocated to the various funds as required by statute in effect at the time the additional tax is recorded as revenue; a corresponding tax receivable amount is recorded for the portion of the assessment not paid in cash at that time. Generally accepted accounting principles require that the actual cash collected by the State must be distributed to the various funds on the same basis as the accrued tax revenue with which the cash receipts are associated.

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3/2/93
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Testimony on HB 641 by the
Department of Administration
March 2, 1993
Page 2

From time to time the legislature changes how these tax revenues are allocated to the various funds. This is not a problem unless the allocation schedules change in the time period between the accrual of the tax as revenue and the receipt of the actual cash collection. In statute the allocation or distribution of the taxes usually refer to "taxes collected" or "tax receipts" not "tax revenue"; changes in distribution usually occur effective July 1 of any year. Tax revenue cannot be accrued and distributed to the various funds using the allocation in effect when the tax collections are received since the revenue is accrued for a period of time prior to the effective date of the change in allocation. However, because most tax laws refer to distribution of taxes collected or tax receipts, the Department of Revenue or other department administering the tax would have to distribute the cash according to the allocation in effect at the time it is received. As a result, if a change in distribution is effective in the time between when the revenue is accrued and the cash is received by the State, the revenue and cash are accounted for on two different bases and the department cannot properly offset the associated taxes receivable as required by generally accepted accounting principles.

Section 1 of HB 641 establishes the requirement that cash received for taxes be distributed the same as the tax revenue with which it is associated as directed by the department of administration according to generally accepted accounting principles. All other changes in this and other sections of this bill are incorporated to make reference to this requirement in the sections of the MCA referring to specific taxes. This bill does not change the distribution of any taxes and has no fiscal impact on either fund balance or cash balance. It does allow the State to properly apply generally accepted accounting principles consistently to all tax revenue and the associated cash receipts and collections. As a result, all tax revenue received or accrued for a particular fiscal year can be allocated to the proper funds on a consistent basis.

Amendments to House Bill No. 641
First Reading Copy

Requested by DOR
For the Committee on Taxation

Prepared by Lee Heiman
March 1, 1993

1. Page 1, line 25 through page 2, line 1.
Strike: "state treasurer"
Insert: "collecting department"
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Strike: "state treasurer"
Insert: "department of revenue"
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Page 7, line 5.
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Insert: "currently being recorded"
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Strike: "(1)"
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Insert: "as follows:
(1)"
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Insert: "placed"
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