

**MINUTES**

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

**COMMITTEE ON TAXATION**

**Call to Order:** By Chairman Mike Halligan, on April 8, 1993, at 8:00 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: SJR 32  
Executive Action: SJR 32, HB 92, HB 322, HB 651,  
HB 680, HB 687, HB 688

Senator Steve Doherty served as acting Chair for the hearing on SJR 32.

**HEARING ON SJR 32**

**Opening Statement by Sponsor:**

Senator Mike Halligan, Senate District 34, presented SJR 32, which is a bill calling for a study by the Revenue Oversight Committee (ROC) of the concept and implications of a Value Added Tax (VAT). Senator Halligan said that whether or not SB 235, the sales tax bill, is passed and approved by the voters, Montana

should follow other states in the nation who are looking at a VAT. This resolution would direct the ROC to study the issue, develop some recommendations, and report to the Governor and the 54th Legislature. Senator Halligan said there may be some money available from the normal interim study budget to add to the existing ROC budget to fund this study. Larry Finch and others from the Department of Revenue (DOR) will work with the ROC to try to give the next Legislature some indication of what a VAT impact would be on Montana. Senator Halligan also contacted the University of Montana officials who will be talking with Montana State University and other higher education units so they could potentially put together a nation-wide conference in Montana dealing with a VAT, since most states who are looking at a VAT have no idea of the impact it would have for their states. This type of conference, if feasible for Montana to host, would not take place for another year or two.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked Senator Halligan if there would be any purpose in continuing with this study in the event the sales tax is passed. Senator Halligan said absolutely. Other states that have sales taxes are looking at a value added tax because it is far more efficient to operate, and is a better stimulant to economic development, than a sales tax.

Closing by Sponsor:

Senator Halligan waived his closing.

Senator Halligan resumed the Chair for the following executive sessions.

EXECUTIVE ACTION ON SJR 32

MOTION/VOTE:

Senator Harp moved that SJR 32 DO PASS. The motion CARRIED UNANIMOUSLY on oral vote. (791220SC.Sma)

EXECUTIVE ACTION OF HB 92DISCUSSION:

Amendments to HB 92, drafted at the request of Senator Grosfield, were presented as Exhibit No. 1 to these minutes. (hb009201.ajm)

Senator Gage is concerned about the fact that there are instances where the Tribes and the State government do not tax at the same rate. He said in all the other agreements looked at, the Legislature has specified that taxes must be at the same rate. The House had inserted language into HB 92 to indicate that these taxes do not have to be at the same rate. Director of the Department of Revenue (DOR), Mick Robinson, said the language Senator Gage is referring to is on Page 6, Section 3(3) of HB 92.

Senator Eck said her notes indicate that it is difficult for Tribes who require an election to raise taxes, or who set taxes by election, to do an agreement. The Tribes want flexibility.

MOTION/VOTE:

Senator Grosfield moved to adopt the amendments to HB 92. The motion CARRIED UNANIMOUSLY on oral vote. (hb009201.ajm)

DISCUSSION:

Senator Towe said one of the thoughts raised was that the agreements should be limited to taxes that are now authorized and they couldn't tax in addition to what the state already taxes by agreement. There was also a proposal that where it reads, "a similar tax", on Page 6, Sections 3-6, it should say "on the same goods and services or property". Senator Towe would like "if any" added on Page 6, Line 22, following the word "bonding".

Senator Grosfield said the word "director" on Page 3, Line 22, of HB 92, does not fit, since there is no director of the Compact Commission, or Fish and Game Commission, etc., and he asked about the significance of having the word "director" in the bill. Mick Robinson said he is not sure of the significance and he does not recall when that was amended into the bill.

Senator Van Valkenburg said when talking of an agreement between the Tribal government and the State of Montana, the State's interests ought to be represented by someone other than a director of an agency. He would prefer that it say "the Governor of the State of Montana" instead of the person who is entering into that agreement on the State's behalf. He thinks the Governor is responsible to the electorate as a whole and he thinks the Governor's name ought to be on the line there in terms of that agreement.

Senator Yellowtail noted that the definition section of the State Tribal Cooperation Agreements Act contains reference to that issue, and it is very broad. If the Committee wishes to adjust that language, they might want to do it in the Act.

Senator Grosfield said he is not sure that he agrees that the Governor is always the right person to sign all these agreements.

Senator Yellowtail said the majority of State Tribal Cooperative Agreements are between directors of State agencies and Tribes, subject to review for form by the Attorney General. The Governor's signature is not necessary under the present definitions in law.

Senator Halligan said Jeff Martin, Legislative Council Staff, determined this Committee could potentially bring the definition section into this bill to be addressed more specifically in relation to any State agreements, if the Committee wanted to define the Act to say the Governor needs to sign all agreements.

There was no further action taken on HB 92 at this time.

#### EXECUTIVE ACTION ON HB 322

##### DISCUSSION:

Senator Towe asked if there is no impact in this bill on the Local Government Severance Tax or the flat fee, but only on the State Severance Tax. The loss of revenue would be approximately \$3.2 million. Senator Gage responded that the fiscal note is not in affect any more because the bill was changed from exempting 10 barrels or less down to exempting only 3 barrels.

##### MOTION:

Senator Gage moved that HB 322 BE CONCURRED IN.

##### DISCUSSION:

Senator Towe asked if revenue is as tight as it is, how can this Committee justify exempting even \$400,000. He understands and sympathizes with those producers and the limited production in the oil fields, but he has difficulty with the concept.

Senator Gage said the only way it could be justified is on the basis of conservation; if those wells are pumped and are still producing oil, but not economically sound, this will allow them to continue to produce. The second issue is the whole support industry for the oil and gas wells, particularly in the stripper areas. The northeast area of the state is about the only activity in Montana at all in the oil and gas stripper well

industry, and the only place that has retained any type of service secondary to the oil and gas industry is there. Most of the large operators in the Eastern part of the state get their service out of North Dakota or Wyoming. These stripper wells do provide a considerable amount of employment in that area, and that affects everybody in the state as far as income tax is concerned, as does the taxes that are paid on the current production.

**SUBSTITUTE MOTION:**

Senator Eck made a substitute motion to amend HB 322 by putting in a delayed effective date of July 1, 1995.  
(hb032201.ajm)

**DISCUSSION:**

Senator Eck said the delayed effective date could be enough to keep the stripper wells producing, and would also allow the Legislature to look at some kind of a plan for providing for the capping of the wells that may not be properly capped when they go out of production.

Senator Grosfield asked Senator Gage if HB 322 does not pass, and presumably a bunch of these stripper wells shut down, what affect will this have on the local government severance tax with regard to schools. Senator Gage replied that if a lot of these wells are at the point of being abandoned, there is no question that it would have an affect on the local government severance tax which would affect the foundation program around the state. Stripper wells are around 9% to 10% of state's total oil production.

Senator Gage said his reaction to Senator Eck's substitute motion is that the two years' delay may have an affect, depending on what happens to the price of oil. It may just have a delayed affect of putting a lot of these wells out of commission. Another phenomenon in that field that may be beneficial is that those producers have entered into an agreement with a firm to drill a horizontal well. If this method were to prove to improve the production, it could be a real boon to hold that field to additional production. Keeping the wells on production until that time would be beneficial to the state.

**VOTE:**

The substitute motion PASSED 6-5 on Roll Call Vote (#1).  
(hb032201.ajm)

**MOTION/VOTE:**

Senator Gage moved HB 322 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY on oral vote. (791252SC.San) Senator Gage will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 651DISCUSSION:

Senator Van Valkenburg said Mr. Galt had an amendment that basically said if HB 572 is not passed and approved, HB 651 will be void. (hb065101.ajm)

Senator Harp said HB 572 is the old weight bill that is currently sitting in the Senate Highways Committee waiting for action. Senator Stang added that there are some concerns of the Highway Committee regarding some fund transfers going out of the Highway Account.

Senator Towe said his understanding is that the funding originally provided in HB 651 to make up the loss of revenue is now stricken--the 3/4 cent on gasoline--and we are relying on HB 572 to pay for it.

MOTION:

Senator Harp moved for adoption of the amendments.  
(hb065101.ajm)

DISCUSSION:

Senator Eck said the fiscal note shows funding being down the first year, and making up most of the difference the second year, and she wondered if HB 572 is supposed to bring in additional funding. There is also the possibility that the bill will be amended so there won't be any funding. She asked if the coordinating instructions will give any assurance there will be no loss of revenue.

Senator Harp said the fiscal note should still show the 3/4 cent gas tax, but that was stripped out on the House floor. He said HB 651 is not revenue-neutral, and that is why HB 572 is being tied to it.

Dave Galt, Administrator, Motor Carrier Services Division, Department of Transportation, said if HB 651 passes, the highway revenue fund would lose about \$3.1 million in a complete calendar year. They hoped to tie HB 572 to HB 651 to replace the lost revenue. There is about \$3 million in HB 572.

VOTE:

The motion to adopt the amendments CARRIED UNANIMOUSLY on oral vote. (hb065101.ajm)

**DISCUSSION:**

Senator Harp said there is still a 3/4 cent per gallon diesel tax in this bill, and SB 257 calls for a 4 cent - 3 cent tax which includes diesel and gas. He asked if there needs to be any coordinated language drafted between SB 257 and HB 651.

**MOTION/VOTE:**

Senator Towe moved that the amendment just adopted be further amended by adding, "If Senate Bill 257 is passed and approved, the 3/4 cent diesel tax set forth in Section 15-70-321 of HB 651 will be in addition to the diesel tax increase provided in SB 257." The motion CARRIED UNANIMOUSLY on oral vote. (hb065101.ajm)

**DISCUSSION:**

Senator Gage asked for clarification of language on Page 7, Lines 24 and 25, and language in Section 8, which seems to be contradictory. Senator Harp explained the 45 mills in Section 8, goes on the truck tractor; Page 7, Lines 24 and 25 refer to trailers and semitrailers.

**MOTION/VOTE:**

Senator Harp moved HB 651 BE CONCURRED IN AS AMENDED. The motion CARRIED on oral vote with Senators Stang, Doherty, and Eck voting "NO". (791251SC.San) Senator Harp will carry the bill on the Senate floor.

**EXECUTIVE ACTION ON HB 680****MOTION:**

Senator Towe moved HB 680 BE CONCURRED IN.

**DISCUSSION:**

Senator Doherty said he has amendments to offer which would include grants, as well as loans, to the rate basing for energy conservation measures. (hb068001.ajm)

Senator Towe withdrew his motion.

Senator Gage asked why grants should be included; there is no cost to utilities or anybody with regard to grants. Senator Doherty explained that the utility gives the loan or the grant to install the energy conservation measure and they pay for it, whether it is a loan that is paid back by the consumer or is a direct grant to the consumer. Since they are putting money out, they ought to be able to get a rate of return on it.

Senator Towe asked if there is a possibility, if the Legislature gives the utility company the authority to give grants, they are likely to give a grant to a city or a non-profit organization. Senator Doherty said he thinks the state is still covered, because whatever the utility company does, if they want a rate base, the PSC is going to look at that and determine whether it was a legitimate expenditure.

**VOTE:**

The motion to add "grants" to HB 680 CARRIED UNANIMOUSLY on oral vote. (hb068001.ajm)

**MOTION/VOTE:**

Senator Towe moved HB 680 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY on oral vote. (791244SC.Sma) Senator Doherty will carry the bill on the Senate floor.

**EXECUTIVE ACTION ON HB 687**

**DISCUSSION:**

Senator Gage presented an amendment to the title of HB 687. (hb068701.ajm) He explained this amendment will indicate that the distribution is of the tax, not of the interest.

**MOTION/VOTE:**

Senator Gage moved to adopt the amendment to HB 687. The motion CARRIED UNANIMOUSLY on oral vote. (hb068701.ajm)

**MOTION/VOTE:**

Senator Towe moved HB 687 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY on oral vote. (790954SC.San) Senator Towe will carry the bill on the Senate floor.

**EXECUTIVE ACTION ON HB 688**

**MOTION:**

Senator Eck moved HB 688 BE CONCURRED IN.

**DISCUSSION:**

Senator Towe said he opposes the motion. He thinks there are more impacts as a result of auger mining than there is on underground mining. He suggested a compromise that the auger mining might be at a different tax rate, in between the 15% and the 4%. He doesn't think they should be allowed the very low underground mining tax rate at this point in time, and he doesn't



think this will have an impact on their decision of whether to come into Montana or not.

Senator Eck withdrew her motion.

Senator Halligan asked Don Hoffman, Department of Revenue, if there is a tax rate that other states are assessing that is justified in this case. Mr. Hoffman said he called four states, Wyoming, Colorado, Indiana, and Illinois. There is a small amount of auger mining occurring in Wyoming now, and they offer no reduced tax rate for auger mining. Colorado also does not offer any reduced tax rate. He can't recall what Illinois and Indiana do regarding auger mining taxes.

Senator Towe said Colorado imposes a 5% tax, and Wyoming imposes an average of 10%.

Senator Van Valkenburg asked if there was any testimony from State Lands or anybody regarding the environmental consequences of this extended depth auger mining. He is concerned about potential cave-ins of the tunnels, and what affect this mining might have on ground water. Senator Halligan said there was no testimony from State Lands or any of the environmental groups that he is aware of. Senator Towe explained he had asked about the holes in the ground and was told that they would leave holes in the ground, but they did not think there would be much subsidence because there would be big walls within these holes.

Senator Eck added that these would be round holes which are more stable than square holes.

Senator Van Valkenburg said the people who want to do this probably believe it can be done in an environmentally-safe way, but it would be nice to know that people whose job it is to deal with reclamation and environmental issues do concur in the opinions of those who want to do the mining.

#### MOTION:

Senator Towe moved that HB 688 be amended by inserting the section that deals with the rates for coal, and that extended depth auger method mining be listed at 10% tax rate, and that would include striking the language starting on Line 5, Page 18, that is underscored and added.

#### DISCUSSION:


Senator Harp said he understands there are no coal operations using this technology now in Montana. He said the proponents brought in a bill at 4% tax rate, and now we want to raise it to 10%, but we don't know why.

Senator Halligan said he would like to invite the State Lands people to our Committee meeting on Monday to offer their position on HB 688.

The motion to adjourn was made and passed, which extinguished the motion to amend.

**ADJOURNMENT**

**Adjournment:** The meeting adjourned at 9:00 a.m.

  
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MIKE HALLIGAN, Chair

  
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BONNIE STARK, Secretary

MH/bjs

# ROLL CALL

SENATE COMMITTEE

TAXATION

DATE

4-8-93

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	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 8, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Joint Resolution No. 32 (first reading copy -- white), respectfully report that Senate Joint Resolution No. 32 do pass.

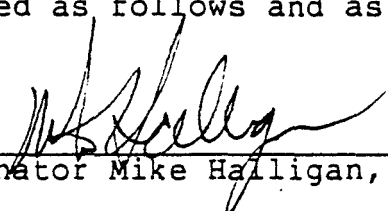
Signed:   
Senator Mike Halligan, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 8, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 322 (third reading copy -- blue), respectfully report that House Bill No. 322 be amended as follows and as so amended be concurred in.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 9.

Strike: "AN"

Insert: "A DELAYED"

2. Page 10, lines 12 and 14.

Strike: "1993"

Insert: "1995"


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 8, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 651 (third reading copy -- blue), respectfully report that House Bill No. 651 be amended as follows and as so amended be concurred in.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Page 41.

Following: line 18

Insert: "NEW SECTION. Section 23. Coordination instruction. (1)

If House Bill No. 572 is not passed and approved, then [this act] is void.

(2) If Senate Bill No. 257 is passed and approved and if it amends 15-70-321 to increase the tax on diesel fuel and volatile liquids, then:

(a) [section 4 of this act] is void; and

(b) the tax rates in Senate Bill No. 257 are increased by 3/4 cent on January 1, 1994."

Renumber: subsequent section

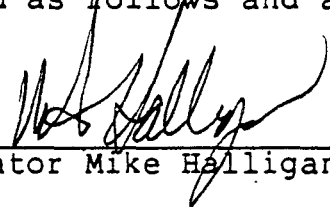
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 8, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 680 (first reading copy -- white), respectfully report that House Bill No. 680 be amended as follows and as so amended be concurred in.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 9.

Following: "CREDIT;"

Insert: "PROVIDING THAT GRANTS FOR INSTALLATIONS PROVIDED BY  
PUBLIC UTILITIES BE INCLUDED IN A UTILITY RATE BASE;"

2. Page 4, line 25.

Following: "offer"

Insert: "grants and"

3. Page 5, line 4.

Following: "and"

Insert: "grants and"

4. Page 5, line 7.

Following: "or"

Insert: "grant or"

5. Page 5, line 10.

Following: "and"

Insert: "grant and"


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 8, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 687 (third reading copy -- blue), respectfully report that House Bill No. 687 be amended as follows and as so amended be concurred in.


Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 5.  
Following: "OF"  
Insert: "THE"  
Strike: "INTEREST"

-END-

  
in Amd. Coord.  
Sec. of Senate

Towe  
Senator Carrying Bill

790954SC.San



ROLL CALL VOTE #1

SENATE COMMITTEE TAXATION

## TAXATION

BILL NO. HB 322

DATE 4-8-93

TIME 8:00 A.M. P.M.

A.M. P.M.

NAME \_\_\_\_\_

YES NO

[illegible]

Donnie Stark  
SECRETARY

Mike Hallgren  
CHAIR

MOTION: Amend effective date to July 1, 1995.  
Carried 6-5.

Amendments to House Bill No. 92  
Third Reading Copy

Requested by Senator Grosfield  
For the Committee on Taxation

Prepared by Jeff Martin  
April 3, 1993

SENATE TAXATION

EXHIBIT NO. 1

DATE 4-8-93

BILL NO. HB 92

1. Title, lines 13 and 14.

Following: "TAXATION" on line 13

Strike: the remainder of line 13 through "REGULATION" on line 14

2. Page 4, lines 3 and 4.

Following: "TAXATION" on line 3

Strike: the remainder of line 3 through "REGULATION" on line 4

3. Page 4, lines 5 and 6.

Strike: "ON" on line 5 through "GOVERNMENT" on line 6

Insert: "at a location agreed to by the tribal government that"

DATE 1-8-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SJR 32

Name	Representing	Bill No.	Check One Support Oppose	
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Amendments to House Bill No. 322  
Third Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin  
April 8, 1993

1. Title, line 9.

Strike: "AN"

Insert: "A DELAYED"

2. Page 10, lines 12 and 14.

Strike: "1993"

Insert: "1995"

No 651

ts to House Bill No. 680  
first Reading Copy

ation

: Committee on Taxation

in

pared by Jeff Martin  
April 8, 1993

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GRANTS FOR INSTALLATIONS PROVIDED BY  
INCLUDED IN A UTILITY RATE BASE;"

and approved and if it  
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Amendments to House Bill No. 687  
Third Reading Copy

Requested by Senator Gage  
For the Committee on Taxation

Prepared by Jeff Martin  
April 7, 1993

1. Title, line 5.  
Following: "OF"  
Insert: "THE"  
Strike: "INTEREST"