

## **MINUTES**

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

#### **COMMITTEE ON TAXATION**

**Call to Order:** By Senator Halligan, Chair, on December 14, 1993,  
at 9:41 a.m.

#### **ROLL CALL**

##### **Members Present:**

Sen. Mike Halligan, Chair (D)  
Sen. Dorothy Eck, Vice Chair (D)  
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)

**Members Excused:** None.

**Members Absent:** Senators Brown and Yellowtail.

**Staff Present:** Jeff Martin, Legislative Council  
Beth Satre, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: HB 36, HJR 3, HJR 2, SB 48  
Executive Action: HJR 3

#### **HEARING ON HOUSE BILL 36**

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

**Representative Peterson, House District 1,** said HB 36 would make it statutorily clear that any appeal must be brought before the appropriate County Tax Appeal Board (CTAB) before it could be heard by the State Tax Appeal Board (STAB). She stated the property tax appeal process had been structured with that intent, but that there had been some confusion in interpretation. She assured committee members that HB 36 would have no effect upon those appeals currently being processed but would clarify the statute for the future. She noted representatives from STAB were present to provide technical testimony and answer any questions from the Committee.

**Proponents' Testimony:**

**Jere-Ann Nelson, STAB**, spoke from prepared testimony in favor of HB 36 (Exhibit #1).

**Dave Woodgerd, Chief Legal Counsel, Department of Revenue (DOR)**, expressed DOR's support for HB 36. He stated it was important for appeals to be heard at the county level because the CTAB was both the best and cheapest place to resolve differences of opinion concerning property valuation.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

**Senator Towe** stated he found the language on page four troublesome; not only would people be required to attend the CTAB hearing, they would also be required to answer all questions pertinent to the inquiry. If someone attended the hearing but failed to answer the questions to the satisfaction of the department, he noted, they would be denied an appeal under HB 36. He asked if that was STAB's intent. **Jere-Ann Nelson** replied the intent of the language was to ensure that taxpayers present the best possible case on their own behalf and come as prepared as possible so that the CTAB hearing could proceed in a productive manner.

**Chair Halligan** referred to the previous sentence which pertained to reductions and noted the language **Senator Towe** had cited was existing law.

**Senator Towe** stated the actual purpose of HB 36 was to require attendance at CTAB hearings. He asked whether an individual who had real reason to miss the hearing without asking for an extension of time, like a heart attack, would be denied an appeal because of their failure to attend. **Jere-Ann Nelson** replied such situations would be considered extenuating circumstances; if either STAB or the CTAB were informed, another hearing would be scheduled. She stated HB 36 was not intended to close the appeals process to anyone, and added both STAB and the CTABs had a long established policy of "really bending over backwards in the case of extenuating circumstances".

**Senator Towe** asked whether it would be appropriate to add language which specified "unless the appearance is waived by the DOR or by order of the CTAB" to address such extenuating circumstances. **Jere-Ann Nelson** responded DOR had been able to address such situations without having existing language in the statute. **Senator Towe** replied STAB had been generous and willing to take extenuating circumstances under consideration. He noted, however, a problem could arise if STAB was mad at an individual.

**Senator Gage** stated HB 36 would eliminate taxpayers' current option of bypassing the CTAB and going directly to STAB. He said everyone had prejudices and dislikes of people and, under HB 36, people would not be able to go to STAB if thought they would not get an unbiased hearing at the local level. **Gere-Ann Nelson** stated taxpayers could always appeal any CTAB decision to STAB. She repeated, however, that historically 85 percent of the appeals had been resolved at the county level because the CTAB members live in the community, were aware of the issues and were frequently able to arrive at decisions satisfactory to all parties. She explained if an agent or a person continually circumvented the local review process, the fiscal impact would be tremendous and would constitute a "terrible waste of resources". She stated HB 36 was necessary because one agent had been able to do that and other property tax agents seem to be following suit.

**Senator Towe** stated the normal way to address such issues would be to require petitioners to exhaust their administrative remedies. He noted HB 36 could be amended to provide that STAB should not entertain an appeal unless those remedies had been exhausted where the appropriate CTAB was identified as one of the remedies. He asked if that language were an acceptable alternative. **Jere-Ann Nelson** replied the purpose of the current wording was to make sure the language contained no ambiguities; STAB would like to have people attend and to have a good record made at the county level. She stated the ambiguity of the current statute was the source of the problem since an agent was able to circumvent the local review process because of the phrase "no reduction may be made". She explained that agent had discovered if he did not attend he would not receive a reduction but could still appeal to STAB and, therefore, would not have to travel to all 56 counties.

**Senator Towe** posed a situation in which a CTAB looked at an appeal and it was obvious that the petitioner was right. He stated that the language in HB 36 would not allow the CTAB to act accordingly if the petitioner did not attend and answer all the questions. **Gere-Ann Nelson** responded a CTAB could only discern whether a petitioner was right when that person appeared before the board and answered questions.

**Senator Towe** noted a petitioner could write a letter. **Gere-Ann Nelson** replied letters were allowable, but it was requested that the petitioner's representative also attend and read the letter in case questions were posed that the letter did not address. She emphasized that the appeals process needed to accommodate those petitioners who lived far away.

**Closing by Sponsor:**

**Representative Peterson** said she had attended many CTAB hearings, and in her experience, the champion of the taxpayer was at the local not the state level. She explained the people she had witnessed presenting their cases to a CTAB felt like they were

among friends: the county people were local neighbors who had assisted in getting all the pertinent information out and on the table. She concluded that HB 36 would be good for taxpayers and "certainly a savings to the state".

### HEARING ON HOUSE JOINT RESOLUTION 3

#### Opening Statement by Sponsor:

**Vicki Cocchiarella, House District 59**, said HJR 3 represented the beginning of the "residents protection act". She said Fish Wildlife and Parks (FWP) and DOR currently exchanged information pertinent to determining whether people who buy resident sports permits and licenses were actually Montana residents. She stated HJR 3 would neither noticeably expand the current program nor cost any money, but would provide the next Legislature with the information necessary to decide whether the expansion of the program would benefit and protect Montana taxpayers and residents. She explained HJR 3 would allow FWP and DOR to keep track of the numbers of cases uncovered in which people are fraudulently purchasing resident sports permits and licenses and in which people who claim to be residents are not paying income tax. As a result, **Representative Cocchiarella** said, HJR 3 could help to generate another potential \$5 to \$20 million in revenue by locating such people and enabling their prosecution under current statute.

#### Proponents' Testimony:

**Steve Vinnedge, Game Warden, FWP**, informed committee members that in 1989 the Legislature had granted FWP game wardens access to DOR's income data base in order to determine whether or not a person filed as a resident or non-resident on their income taxes. That access, he stated, resulted in a "massive jump" in the number of license fraud cases detected and prosecuted in 1989. He explained that FWP had also developed a sportsmens data base which recorded and allowed computerized access to all licenses sold in Montana. He said in 1989 the Legislature had also enacted a three year statute of limitations for the detection and prosecution of license fraud in recognition of the difficulty of processing these cases. In 1991, he added, the Legislature refined Montana's residency statutes and requirements and added the Montana income tax as a co-requirement for purchasing Montana resident hunting and fishing licenses while also increasing the penalty for violation of the statutes. He said the Legislature further refined Montana's residency statutes applicable to military personnel in 1993.

**Mr. Vinnedge** stated since 1989 the prosecution and detection of license fraud in Montana increased 342 percent over 1983, the highest year previous to the start of the residency program. He said FWP currently had several programs which matched addresses, the names of males over the age of 25 using the same address,

people who use an address and claim a length of residency of less than one year, and detected inconsistent residency statements on subsequent licenses purchases. He noted FWP also cross-matched the names of people whose privileges were currently suspended or against whom there were outstanding warrants.

**Karl Brooks, Game Warden, FWP**, explained that FWP's joint effort with DOR was currently a "piece-meal" situation; about 70 game wardens could call DOR and inquire about someone's residency status. He stated FWP would like to develop a formal system which would allow the merger of FWP's sportsmens data base with DOR's income tax data base in order to generate a report showing those individuals who had resident licenses but had not filed income tax returns in Montana. He noted that three categories of people would be on that report: one, *bona fide* residents who did not file income taxes; two, non-residents who filed non-resident income tax returns but had a resident sports permit or license; and three, non-residents who filed no income tax returns in Montana and had a resident sports permit or license. According to **Mr. Brooks**, FWP would be interested in apprehending those individuals who fit into the last two categories. He said FWP would study the information over the next year in order to discover the actual scale of the problem and the cost to the state in lost game animals and revenue. He noted FWP would ultimately be able to eliminate the other computer programs it employed to detect license fraud and become more efficient by focussing its efforts on the issue of residency. He stated HJR 3 would help FWP to identify the problems in the current statute and system as well as how the state could adequately address those problems. He noted HJR 3 would also allow FWP to report its findings to the Legislature during the 1995 session.

**Terry Hill, Game Warden, FWP**, also identified himself as a Montana taxpayer. He stated the system under discussion would enhance the state's ability to identify and prosecute people for income tax fraud. As an example, he quoted from a statement by an individual who lived, had his vehicles registered, and hunted in Montana, but had set up a secondary corporation in Nevada solely to evade Montana income taxes. He added that by using its resident sportsmens data base, FWP had been able to determine that in Big Sky and Cameron, Montana about 50 percent of those people buying resident sportsmens licenses were either filing as non-residents or not paying taxes in Montana.

**Jeff Miller, Administrator, Income and Miscellaneous Tax Division, DOR**, expressed DOR's support of HJR 3. He stated the current system was a two way street: DOR allowed FWP to identify non-residents who were buying resident sportsmens licenses while game wardens provided his staff with leads about individuals who were not or incorrectly filing income tax returns. He noted DOR had not had the occasion to formally quantify, segregate or prioritize those leads, but stated the mechanism had generated approximately 200 leads during the past year which had been pursued and resulted in substantial assessments. He added there

had been almost \$281,000 in assessments from the previous year as well. **Mr. Miller** explained that the passage of HJR 3 would allow the current process to be formalized and the degree of non-compliance and potential recovery to be quantified and reported to the 1995 Legislature.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

**Chair Halligan** asked **Karl Brooks** how game wardens would deal with those people who buy resident fish and game licenses but have a valid reason not to file income taxes. He noted the report generated by the merger of the two data bases would identify those people as possible violators. **Mr. Brooks** replied that when FWP did the data base match it would also assume the responsibility to investigate the possible residency of all individuals identified by that match. He noted simple checks existed for determining residency, like how many vehicles individuals owned and registered in Montana or whether they were registered to vote. He noted a lot of "leg-work" would be involved but added that merging the two data bases would narrow the pool of names to a number that game wardens could actually process.

**Senator Stang** said he had assumed the legislative action in 1989 had already accomplished the purpose of HJR 3. He asked **Jeff Miller** why DOR needed a resolution to do the job it had already been directed to do. **Jeff Miller** responded his division had a full-time staff dedicated to compliance efforts. He noted that their primary focus was unreported or non-filed returns and that they had assessed \$10 million in the last year. He stated the work was prioritized on the basis of the most certain leads and information that was quantified in dollars so that DOR staff could be the most productive with the resources available. He explained that the typical leads received from FWP were neither extremely certain nor quantified and, as a result, were not given the top priority. He said the flow of information was primarily from DOR to FWP although occasionally FWP uncovered a "fairly big case" for his department; last year FWP had identified a landowner in eastern Montana who owned ranch property, had been leasing it for hunting purposes, and had not filed an income tax return. He noted DOR had solicited those returns and received \$236,000. He concluded DOR was doing the work it had been assigned in 1989 but that work had not yet moved to the highest level of priority.

**Senator Stang** commented that if the work assumed the highest priority in the department, it would displace the current highest priority. He asked **Mr. Miller** whether that would cost the state money. **Mr. Miller** replied that the adoption of HJR 3 would not cause DOR to dedicate a disproportionate amount of staff resource

to the process. He added he thought one FTE would be sufficient to monitor the process instead of the one person currently working half-time to answer game warden questions. He stated the response of his department to HJR 3 would be to quantify the rate of non-compliance and potential recovery for the state if more effort were invested in the program.

**Senator Gage** asked what was required to qualify as a Montana resident. **Steve Vinnedge** replied several things were involved in determining the residency status of sportsmen: did people live in Montana and for how long had they, did they have any other addresses, were they engaged in a business or occupations, was that business or occupation involved in the state, were they registered to vote in Montana and only in Montana, did they have Montana driver's licenses, did they have vehicles registered in the state, were the vehicles licensed to the declared address, and were they filing as a resident or non-resident. **Mr. Vinnedge** stated the cases under discussion were very difficult to prosecute and game wardens were not willing to jeopardize their good relationship with prosecutors by bringing half-baked or half-documented cases to the county attorneys offices. He stated a lot of time and effort was put into residency cases. In close calls, he added, FWP would defer to the county prosecutor.

**Senator Gage** asked what the adoption of HJR 3 would accomplish that was not currently possible. **Steve Vinnedge** replied HJR 3 would formalize a procedure and create a program that would create a more efficient method of inquiry, a more efficient reporting system for FWP, and a more systematic prosecution of the cases.

**Senator Gage** asked if that were possible without HJR 3. **Steve Vinnedge** stated FWP would also like the opportunity to present its results to the 1995 Legislature.

**Senator Van Valkenburg** asked **Mick Robinson**, Director, DOR, what likelihood was that DOR would be able to devote even its current level of effort to the program if DOR were hit with an additional two percent cut in General Fund appropriations. **Mr. Robinson** replied it would be necessary to determine how to best allocate such a cut within the entire department. He stated when previous across-the-board cuts were mandated by the Legislature, he had successfully protected those areas that had a direct impact on DOR's revenue producing activities. Instead, he noted, those cuts impacted the level of services that had previously been provided.

**Senator Van Valkenburg** asked **Mr. Robinson** if he had determined the reduction DOR's budget would suffer as a result of a two percent cut in each year of the biennium. **Mr. Robinson** replied that proposal "came up quickly" and said he had not yet taken a critical look at the repercussions. He stated, however, a two percent cut would amount to an approximately \$400,000 reduction in DOR's budget.

**Senator Van Valkenburg** repeated his initial question. He asked whether, given the possible impact of a \$400,000 year additional cut in its budget, DOR would be able to devote even the same amount of resources to the cooperative effort with FWP. **Mr. Robinson** answered DOR was presently in the process of reorganizing the Operations Division and the Income Tax Division by identifying the most proficient flow of documents and trying to build efficiencies into the location of staff. He explained that the savings resulting from that reorganization had been targeted to meet the across-the-board cuts mandated during the regular session. He said the same approach would be used to determine whether further efficiencies existed that would result in savings or whether a the services DOR presently offered would be required.

**Senator Eck** asked what kind of training FWP provided so that those people who sold sportsmens licenses could determine who was eligible for resident licenses. **Steve Vinnedge** replied that current statute required a person to produce a current Montana ID in order to purchase a resident hunting or fishing license. He said the ID could either be a Montana driver's license or the ID card obtainable through the Driver's Services Bureau. He said license agents were instructed to refuse to sell resident sportsmens licenses to people without such ID. He added that FWP provided license agents with a form for such people to fill out and take to the nearest game warden or FWP office, where they would be sold a resident license provided the information they put on that form was truthful and proved they were a resident.

**Senator Eck** asked if all the employees of a license agent had been instructed in the proper procedure. **Steve Vinnedge** stated Region 4 held an annual seminar at FWP headquarters prior to the issuance of the new licenses for all license agents to attend. He said that seminar was used to re-instruct license agents on the proper procedures of selling hunting and fishing licenses and to distribute the next year's licenses. He noted that FWP also provided each license agent with a brochure to display which read "are you a resident" and listed several of the requirements for purchasing resident licenses. **Mr. Vinnedge** stated it was not the intent to turn license agents into FWP officers; FWP only asked agents to comply with the law when selling the licenses. He noted, however, people who were either temporarily hired or hired after the training did often end up selling licenses.

**Senator Eck** noted the Legislature had a difficult time cutting FWP's budget because much of it was federal money which could only be used for certain things. She asked whether it would be an appropriate use for FWP funding to reimburse DOR for the costs involved in checking the income tax data base. **Steve Vinnedge** responded currently the flow of information between FWP and DOR was "basically one-way" because of the type of searches FWP game wardens do. He said it would be allowable to use funds for that purpose if that money were spent for the enforcement of FWP laws.



**Closing by Sponsor:**

**Representative Cocchiarella** stated HJR 3 contained "a twenty step back approach to generating revenue for the state" which would allow FWP and DOR to monitor the cases and the amount of money collected. As a result, she stated, in 1995 the Legislature could be given an accurate report on the situation in Montana and legitimate legislation could be developed which would address fraud and establish a "residency protection act" based on fact not speculation.

**EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 3****Motion:**

**Senator Doherty** moved HJR 3 BE CONCURRED IN.

**Discussion:**

**Senator Grosfield** said **Senator Eck's** question was appropriate. He noted the cost of the program to DOR should be considered along with the possibility of requiring FWP to cover those costs.

**Chair Halligan** noted **Jeff Miller** had testified that his division could, at this point, handle those costs internally.

**Senator Stang** commented FWP should actually get a reward for turning people in to DOR since it was DOR's job to identify those people who were not filing their income tax returns.

**Vote:**

The MOTION TO CONCUR IN HJR 3 CARRIED UNANIMOUSLY. **Senator Doherty** volunteered to carry HJR 3 on the Senate floor.

**HEARING ON HOUSE JOINT RESOLUTION 2****Opening Statement by Sponsor:**

**Representative Harrington, House District 68,** said HJR 2 contained the result of the Revenue Oversight Committee's (ROC) deliberations when it met to prepare for the special session November 10, 1993. He stated HJR 3 included \$1.7 billion and the deficit set by revenue estimates was \$19.4 million. He noted ROC members had identified decreasing oil prices and interest rates as the biggest problems in the state's revenue whereas the lottery and telephone tax had increased revenue since the regular session had adjourned. **Representative Harrington** stated ROC had estimated that the Legislature was facing an additional \$53 million worth of reductions when it convened for the special

session. He noted when adjustments were made for the use of other revenue and the \$6 million paid to federal retirees, the initial balance was a \$19.4 million deficit. He stated, however, the House Taxation Committee had amended HJR 2 in response to the continued downturn in oil prices which changed the deficit to \$24.4 million. He emphasized that the \$24.4 million deficit did not account for the \$15 million problem with the guaranteed tax base, and, as a result, HJR 2 reflected only the state's revenue estimate, not revenue versus cost.

**Proponents' Testimony:**

None.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

**Senator Towe** noted that not only the price of oil had been changed in HJR 2. **Representative Harrington** replied HJR 2 had been amended only twice during the special session: once in House Taxation, and once on the House floor. He stated both those amendments dealt with the price of oil. He noted **Senator Towe**, as a member of ROC, had been involved in the other changes to HJR 2; the Office of Budget Planning and Programming (OBPP) and the Legislative Fiscal Analyst (LFA) had reached an agreement on the budget and ROC had approved that agreement.

**Senator Towe** asked whether the lines in the current copy of HJR 2 represented the original HJR 2 and the strike-through indicated the changes that were made in ROC. **Representative Harrington** agreed. He noted OBPP and LFA budget estimates had been very close and the ROC members had not had any problem adopting the figures upon which the two agencies had agreed.

**Senator Towe** asked what testimony had been presented in the House Taxation hearing on the price of oil. **Representative Harrington** replied the Committee was informed of the fiscal impact of the current and actual price of Montana crude which had dropped to approximately \$11.34/barrel. He said ROC members had hoped that the up and down fluctuations in the price would make it unnecessary to change the price of oil in HJR 2. He explained that moving the price estimates from \$15/\$15/\$15 to \$15/\$12/\$12 would reduce revenue estimates by \$13 million and would come close to doubling the deficit legislators faced. He stated there had been sentiment in the ROC that changing the estimate to match the current oil price could cause unnecessary difficulties since the oil prices might fluctuate upwards. He noted, however, that the Committee could decide to move in that direction.

**Senator Gage** commented that Montana was "pretty much at the mercy" of OPEC's influence on the price of oil world-wide. He

said the UN's decision regarding the sanctions placed on Iraq and Iraqi oil could disastrously affect the price Montana received for its oil. He expressed his doubt that the OPEC nations would reduce their own production to offset the shock to the oil prices if and when Iraq complied with the UN's terms and the UN allowed Iraq to put its oil on the market.

In response **Senator Grosfield** asked whether the \$15/\$12/\$12 was actually realistic rather than pessimistic. **Senator Gage** replied any estimate would certainly be a guess.

**Senator Van Valkenburg** noted that **Steve Bender**, OBPP, was present. He asked whether OBPP was recommending any changes to the oil prices in HJR 2. **Mr. Bender** answered no. **Senator Van Valkenburg** asked why not. **Mr. Bender** responded he had not heard anyone make recommendations for lower oil prices. He stated he believed OPEC nations would agree to some production quotas since they had unsuccessfully attempted to establish quotas a month ago when oil prices were \$19/barrel. He said the summary just published by Wharton Econometrics supported his position; they had only reduced their estimates by \$1 and made no other adjustments for 1994. He noted the oil prices in HJR 2 had already been adjusted by that amount and added he would "have a difficult time accepting further reductions". He said the Committee could "play it safe" and "shave \$8 million more out of the revenue estimate", but noted OBPP would consider that action too conservative.

**Senator Towe** asked **Steve Bender** whether he would recommend that the Committee adjust the oil prices currently in HJR 2 or those prices that were in HJR 2 before the House acted. **Mr. Bender** noted that some risk was involved in the price estimates currently in HJR 2. He said, however, that risk had been "somewhat mitigated" by the action taken on HJR 2 in the House. He stated the Committee would increase that risk if it reversed the House's action.

Noting that calendar year 1993 was almost over, **Senator Towe** asked whether a more precise number were available for that year. **Mr. Bender** replied there was a significant lag in time before oil severance tax data became available. He noted **Terry Johnson** had assumed that oil prices would be at \$13.70/barrel for the rest of the year which, he said, would bring the average price down to \$15.

#### Closing by Sponsor:

**Representative Harrington** said the estimates for the machine tax and lottery had been a "little conservative" and would "take up some of the slack". He stated the oil price for 1993 had been set at \$15.33, an estimate which would come very close to the actual price. He noted, however, the oil prices in the other two years could pose difficulties.

HEARING ON SENATE BILL 48Opening Statement by Sponsor:

**Senator Towe, Senator District 46,** stated he was offering SB 48 as an alternate solution to the problem of large increases in property taxes which had resulted in the last reappraisal cycle. He said most of that increase was the result of a more accurate appraisal system bases on Montana's realty transfer act. He explained in some areas in Montana, especially western Montana, people had been buying properties and boosting both the demand for and the market and taxable value of most real property. He stated SB 48 contained a local option realty transfer tax that would allow a county to establish a mechanism by which those persons responsible for the increase would pay for the extra cost. He emphasized that the realty tax in SB 48 was a local option; it could only be imposed if it were approved by the county electorate in a county-wide vote. He said it would be placed on the ballot either by resolution of the county commissioners or through a petition signed by a sufficient number of electors in the county. He noted the county or petition would establish what the tax should be, how it should be imposed, who should pay it, and how the proceeds should be targeted to provide property tax relief. He stated SB 48 contained two general limitations: the tax could be no more than one percent and the proceeds must be used to reduce property taxes in that county.

**Senator Towe** stated the concept of a realty transfer tax was not new to either Montana or the rest of the US. He explained Montana had such a tax before it was repealed in the 1950s and 38 states currently imposed a realty transfer tax of some sort. He distributed information identifying those states and their specific tax (Exhibit #2). He noted that some states imposed a realty transfer tax as high as two percent and reminded the Committee that SB 48 would limit the tax to one percent. After repeating that the realty transfer tax in SB 48 was a local option, **Senator Towe** said \$1.9 billion of non-agricultural land transfers occurred in Montana and a one percent realty transfer tax would generate \$19.3 million if it were imposed statewide. Borrowing figures from **Representative Sheila Rice**, who, he said, had done work on the subject, **Senator Towe** informed committee members that a one percent realty transfer tax represented only half of the normal closing costs on a house and about one-fifth or one-sixth of the normal realty fee charged by a realtor. He concluded SB 48 would allow those counties which have had massive increases in property value to address the problem in their local area by targeting those people responsible without affecting the entire state.

Proponents' Testimony:

**Representative Rice, House District 36,** said SB 48 would not necessarily benefit her constituents since she represented the Great Falls area which had received its massive property tax

increases three years ago. She stated she was not specifically in favor of SB 48, but was, with her testimony, hoping to open committee members' minds to the possibility that a realty transfer tax or fee could be the answer to the situation in the state and the problem the Legislature currently faced. She explained most legislators supported some kind of property tax rebate but were unsure of the funding mechanism; she suggested that a realty transfer tax might provide that mechanism.

**Representative Rice** said opponents to SB 48 would argue that a realty transfer tax was a selective sales tax and that it would decrease home sales. She asked the Committee to put those arguments into the proper perspective; the dollar amount of a one-half percent realty transfer fee was very small compared to average closing costs and average realty fees, but would raise \$10 million per year, an amount which, she said, could fund a lot of property tax relief. She added the realty transfer tax would be imposed on people when they have either sold their house and made a lot of money or are buying a house and spending a lot of money; \$500 on a \$100,000 house, she noted, would look "pretty small" compared to the mortgage payment and the total amount borrowed.

**Gordon Morris, Director, Association of Counties (AofC)**, said the AofC had a long standing record of support for a realty transfer tax. He stated SB 48 was "very well worth considering" and very democratic since it would allow the local electorate to decide the issue.

**Representative Bill Ryan, House District 38**, stated SB 48 presented an opportunity for the Legislature to stop the "smoke and mirrors funding" of which it was repeatedly accused; it would provide a reliable source of money for answering Montana's property tax problems while creating a definite correlation between the amount of property sold, the value of property and the amount of money reserved for property tax relief. He added the mechanism would also respond to declining markets and property values. Noting that one-time money funding sources had repeatedly gotten the Legislature into trouble, **Representative Ryan** stated SB 48 was "a good idea" which legislators needed to consider.

#### **Opponents' Testimony:**

**Tom Hopgood, Montana Association of Realtors (MAR)**, reminded the Committee that Montana residents had repeatedly made it clear that they did not want any more taxes: they approved I-105, they almost passed CI-27, they soundly defeated the sales tax, and they suspended HB 671. He stated HB 48 represented a \$10 million tax increase and was a poor response to the tax crisis which was occurring in Montana. He noted SB 48 specified neither which realty transfers should be taxed nor who would actually receive the relief, and suggested it was questionable to leave those issues unclear. He indicated MAR's official and strong

opposition to a realty transfer tax because it would place an unreasonable burden on real property ownership and economic development, especially impact first-time home buyers by increasing the amount of cash needed at closing, and adversely affect the affordability of housing for all Montanans.

**Nancy Griffen, Montana Building Industry Association (MBIA)**, expressed her disappointment that SB 48 had been presented as "the caulk" that could be used "to fill the hole" to end the special session early. She noted the Legislature was repeatedly called upon to solve problems but seemed always to look for "the quick fixes and early solutions". She stated MBIA had also historically opposed the concept of a realty transfer tax and raised three objections to SB 48 in particular. She said SB 48 would tax one class of property owners to provide relief to another class; those who chose to change residences would subsidize those who choose to stay in their homes. She stated the local option provision in SB 48 would further undermine the electorate's confidence in local government since a lot of local governments would "invent some infrastructure or education crisis" in order to "put this through". As a result, she noted, the transfer realty tax would quickly be identified as "just another property tax" and would not affect just those "rich out-of-staters". **Ms. Griffen** said the local option also contained the potential to develop a discriminatory system of taxation since it could be imposed differently in different communities. She stated SB 48 was not "fair or equitable tax policy".

**Vicky Hammond, President-Elect, MAR**, stated the present taxes on real estate adversely affected the affordability of residential and commercial properties in Montana. She argued that the addition of a realty transfer tax would further affect the affordability of real property for purchasers, since the taxes would be imposed on "persons seeking to record the transfer title of a property", typically the buyer. She stated lower income purchasers make as little of a downpayment as possible, and a realty transfer tax would be regressive because it would directly increase the downpayment necessary to purchase a home. She stated that, contrary to testimony supporting SB 48, sometimes even \$200 or \$300 in additional closing costs could make the difference between whether or not some Montanans could purchase a house or close on the sale.

**Dennis Burr, Montana Taxpayers Association**, said the Governor's Property Tax Advisory Committee (PTAC) had discussed the use of local option sales taxes and local option realty transfer taxes to provide property tax relief, as well as the possibility of allowing people to choose to defer taxes and then pay them upon the sale of that property. He stated the PTAC did not feel that local option taxes represented a "straight forward" method to address property taxes that were too high. He explained if the option existed but was not accepted by the local government, the Legislature could respond "we gave you the solution, if you did not like it don't complain about your property taxes".

**Kendra Kawaguchi, Montana Land Title Association (MLTA)**, said MLTA member companies were divided as to the desirability of a realty transfer tax and, as a result, she would not oppose the concept of a realty transfer tax. She expressed MLTA's concern, however, that SB 48 made no provision for compensating the title industry for collecting taxes for the state. She explained that SB 48 would have the practical effect of placing title agents in the role of tax collector, the actual cost of which was \$2 to \$3 for collecting the tax, doing the accounting and processing each policy. She noted MLTA's average member company facilitated 2,000 to 2,500 transactions per year at a cost of \$4,000 to \$5,000. She asked the Committee to address that concern and offered to provide any assistance or information from the title industry that would be helpful.

**Mike Basile, President, MAR**, stated a realty transfer tax would single out real property owners and impose an additional tax burden on those people who were "already paying their fair share". He informed the Committee that in other states which had a realty transfer tax, that tax had started out low but "crept up over the years" to the point where it became a major impediment to affordable housing. He said a realty transfer tax was a highly selective and regressive tax which singled out "a very small group of individuals": sellers and buyers of real property. He recommended that the Committee not pass SB 48 "on behalf of Montana's real property owners".

**Greg Van Horssen, Montana Landlords Association (MLA) and Income Property Managers Association (IPMA)**, stated MLA and IPMA opposed SB 48 for the reasons already presented in testimony. He voiced an additional concern which involved the local option in SB 48. He noted if SB 48 were implemented, some counties would impose the tax and others would not. He referred to the language on page two, lines five through seven and page four, lines seven through eight which provided that the proceeds of the transfer tax would be used to provide property tax rebates or other property tax relief from property taxes paid by residents of the county. He noted many individuals owned real property in two or more counties and under the language in SB 48 people who were residents of a county choosing to tax would be entitled to relief when their property tax increased in a county choosing not to tax. He stated SB 48 would be "quite unfair" under those circumstances.

**David Owen, Montana Chamber of Commerce**, stated the realty transfer tax had been repeatedly proposed in "every kind of different version". He thanked **Senator Towe** for bringing up another way to discuss the concept, but stated the bottom line for such issues was there was no "good way to pay a tax you d[id] not like."

**Lorna Frank, Montana Farm Bureau (MFB)**, said she was also representing the **Montana Stockgrowers**, and the **Montana Woolgrowers** since they were unable to attend. She agreed SB 48

would address the problem and the very people who were causing the problem in the state, but added it would also affect agriculture. She stated when agricultural sales usually involved a large transfer and the additional cost a realty transfer tax would impose could be very detrimental to the sale.

Questions From Committee Members and Responses:

**Senator Stang** referred to the testimony that SB 48 would discourage first-time home buyers. He asked **Senator Towe** if he would agree to follow Delaware's example and exempt first time home buyers from the tax. **Senator Towe** replied if the inclusion of such an exemption were necessary for the passage of SB 48, he would agree to **Senator Stang's** suggestion. He said, however, it would be best to allow the local counties the flexibility to make those decisions.

**Senator Eck** said the Legislature should consider the possibility of moving to a system of taxation which would allow a county or a group of counties to develop both policy and a way to fund that policy. She noted she was unsure whether SB 48 was the best vehicle to accomplish that, but added it was probably the only way that counties, at least in the near future, could address the high personal property rates. She asked **Senator Towe** whether she correctly understood that SB 48 would allow a county to direct the tax relief toward reducing personal property taxes. **Senator Towe** replied SB 48 had been intentionally designed so that the tax relief could be used any way the county chose.

**Senator Doherty** noted that **Tom Hopgood** had opposed the realty transfer tax as a matter of policy because it was a selective sales tax that would be used to fund other tax relief. He asked **Mr. Hopgood** what he thought about both the increase in the gas tax adopted during the regular session and the House's latest plan to fund property tax rebates with the Highway Construction Trust Fund as a matter of tax policy. **Tom Hopgood** replied he represented real estate brokers not gasoline brokers. He stated MAR's policy statement indicates the organizations support of a broad-based sales tax.

**Senator Gage** noted legislators often heard the phrase "we are already paying our fair share" and had gotten many descriptions and definitions of a "fair share". He asked **Mike Basile** to inform the Committee as to MAR's definition of "a fair share". **Mr. Basile** replied real property was really shouldering the biggest tax burden in Montana. He stated SB 48 represented another layer of taxation on real property.

**Senator Gage** stated only 3.86 percent of the assessed value of real property was taxable value. He asked **Mr. Basile** how he would compare that to property whose taxable value was 100 percent of value in terms of a fair share. **Mr. Basile** deferred to **Tom Hopgood** who noted the best kind of tax was, of course, the one that somebody else paid. He stated there was no "hard and



fast" definition of what a fair share of taxes was because the answer was different for different people. He commented that the Legislature was trying to come to grips with that same question.

**Senator Gage** stated that since people were using that term, they should know the definition of a "fair share". **Tom Hopgood** replied perhaps an appropriate response would be similar to the Supreme Court Justice's comment about pornography: "I cannot tell you what it is, but I know when I see it".

**Senator Gage** said SB 48 provided that "the enabling authority may not be amended or repealed without a vote of the electorate" and further provided that "the imposition of the transfer tax may not be placed before the electorate more than once in any two fiscal years". He asked **Senator Towe** whether the latter provision would also apply to the repeal of the transfer tax. **Senator Towe** replied the intent of that section was to make sure that the voters would not be repeatedly bothered with the issue of a transfer tax, if they had already chosen to defeat it. He noted he did not think the same caution was necessary when the question was one of amendment or repeal.

Citing the Flathead County's local governments' unwillingness to adjust the mills in response to the massive increases in property valuations, **Senator Harp** asked **Gordon Morris** why local government should be given additional authority to raise taxes when they had taken advantage of the reappraisal and not acted responsibly. **Mr. Morris** replied SB 48 would not grant local elected officials any new authority, instead it would allow them the opportunity to present a question for the local electorate's approval. He said the electorate had yet to approve the gas tax, which was the only other example of a local option subject to a vote in Montana. He stated care should be used when asserting that local elected officials took advantage of reappraisal; in FY93 the Flathead County Commissioners reduced property taxes by seven mills over FY92 and in FY94, the current fiscal year, reduced taxes an additional five mills. He stated a 12 mill reduction in two years did demonstrate responsibility.

**Senator Harp** stated it was more productive to discuss revenue increases instead of mill reductions. He asked **Mr. Morris** how many additional dollars the local government in Flathead County had received in property tax revenue in the past year. **Gordon Morris** replied he was not sure how the millage reduction translated to dollars. He noted, however, the value of a mill in Flathead County did increase. **Senator Harp** said local government had received between \$7 and \$9 million in new taxes which had been "sucked out of residential and commercial properties in Flathead". He stated the actual mill reduction did not matter; it was not enough to offset the massive increases.

**Senator Grosfield** asked **Senator Towe** to respond to the concern that the local option aspect of SB 48 would possibly upset the constitutional mandate to equalize property values. **Senator Towe** responded the Constitution mandated that appraisals be equalized

between each class and SB 48 would not affect or upset that equalization in any way.

Closing by Sponsor:

**Senator Towe** reminded the Committee that there were people who were really suffering from property tax increases. He stated it was incumbent upon the Legislature to address those people, and added action might also be necessary to "stave off" a tax revolt. He noted that MAR had contributed to the influx of new people into the state and the increased transfers and values of properties, and stated realtors should be "working harder than others" to solve the problem. He responded to the concern about granting local governments additional power by saying that SB 48 would empower voters, not local governments. He stated there would probably not be many counties which would adopt the realty transfer tax, but urged the Committee not to take an effective tool away from local governments and voters which could be used to solve the problem. He said **Senator Stang's** suggestion of exempting first-time home buyers could address the concern that a realty transfer tax would drive up costs and depress the housing market, especially for first-time buyers. He stated that a majority of the most-populated states imposed realty transfer taxes and noted that buyers would be faced with those taxes most of the places they might otherwise go. As a result, he argued they might as well pay it in Montana and grant Montanans the possibility of "a little tax relief". He agreed with **Mr. Van Horssen** that the reference he cited should be changed from "residents" to "taxpayers". He said he had introduced SB 48 as a possible option for the Committee and the Legislature to use to address property tax relief.

**Chair Halligan** closed the hearing on SB 48 and announced an afternoon committee meeting to discuss property tax issues.

ADJOURNMENT

Adjournment: 11:30 a.m.

  
\_\_\_\_\_  
SENATOR MIKE HALLIGAN, Chair  
\_\_\_\_\_  
BETH E. SATRE, Secretary

MH/bs

# ROLL CALL

SENATE COMMITTEE TAXATION

DATE December 14, 1993

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

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT


Page 1 of 1  
December 14, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Joint Resolution No. 3 (third reading copy -- blue), respectfully report that House Joint Resolution No. 3 be concurred in.

Signed:   
Senator Mike Halligan, Chair

M - Amd. Coord.  
3/5 Sec. of Senate

  
Senator Carrying Bill

141149SC.Sma

12/14/93 Testimony on HB 36  
Bill Requiring Appearance before CTAB

For the record, my name is Jere-Ann Nelson. I'm here before you on behalf of the State Tax Appeal Board requesting this legislation.

Members of the committee, we urge your favorable consideration of this bill.

Our purpose in proposing this legislation is to clarify and to strengthen the existing language in 15-2-301, 15-15-103 and 15-15-104. The provision for local review exists in Article VIII, Section 7 of the Montana Constitution. Why haven't we attempted to clarify these statutes before now? Frankly, the requirement for the taxpayer to appear before the county tax appeal board has always been assumed by the taxpayer, the county tax appeal boards and the State Tax Appeal Board and has never been an issue before. However, the requirement to appear before the county board is now being tested. We need to tighten the statutory language to support the intent of the statute because, now, a property tax agent has found a "loophole" and has been able to circumvent the local review requirement. Others are following suit and this problem, we fear, could escalate, if not addressed now.

We feel the taxpayer has nothing to lose and everything to gain by appearing before the county board. The county tax appeal board members are local citizens who know the neighborhoods, the community, and the local issues. The county board is able to build a record and to make an informed decision. We feel that there is potentially a sizeable fiscal impact attached to this bill. Historically, the county boards handle about 80 to 85 percent of all property tax appeals filed at a cost ranging from \$30 to \$85 per appeal. When an appeal comes to STAB, the cost escalates to about \$435 per appeal, primarily because the STAB members travel to the county seats to hear an appeal as per statute. If a taxpayer elects not to show up at the county level, for whatever reason, the county board must deny the appeal. As the statutes are currently being interpreted, that denial is an appealable action to STAB. We are proposing that appearance at the county board be a prerequisite to gaining standing before STAB. Frequently, that appearance before the county board will prove satisfactory to both the taxpayer and the Department of Revenue. In addition, it costs the Department of Revenue time, money, and effort to prepare for, and attend a county board hearing, even if the taxpayer or his agent does not show up.

Finally, for cost and efficiency reasons, this Board is authorized to hear an appeal on the record; that is, to make a decision based on the written record submitted to us. If the taxpayer doesn't show up at the county level, there is no record built at the lower level. If there is no county board record, then this Board has lost that cost-saving alternative and must travel to the county seat to hear the appeal.

In closing, we would like to emphasize 3 important points:

1) We are not seeking to seemingly change the law, but merely to strengthen and clarify the language behind the original intent of the law;

2) The taxpayer is a winner in this situation, as he is given the opportunity to be heard at the local level. (The county boards have always been receptive to changes in scheduling to meet the taxpayers' needs). And, of course, the taxpayer always has the right, if aggrieved at the county level, to appeal to STAB.

3) and, something which is very important during the special session, the passage of HB 36 tightens a current money-wasting loophole in the system. The fiscal impact here, we feel, can only be positive.

Thank you very much for your time and consideration of this bill.

Sheila Nick

Table 46  
State Transfer and Real Estate Taxes, November 1992

EXHIBIT NO. 2  
DATE December 14, 1993

State	Basis of Tax		Rates <sup>1</sup>		State	Basis of Tax		Rates <sup>1</sup>	
	Total Sales Price	Exclusive of Mortgage or Other Liens	Deed Transfer Tax	Mortgage Tax		Total Sales Price	Exclusive of Mortgage or Other Liens	Deed Transfer Tax	Mortgage Tax
Alabama*	Yes		0.10%	0.15%	Minnesota		Yes	0.33	0.23
Arizona*		flat fee	\$2.00		Nebbraska*	Yes		0.15	
Arkansas	Yes <sup>2</sup>		0.22		Nevada +		Yes <sup>2</sup>	0.13	
California**		Yes <sup>2</sup>		0.11	New Hampshire*	Yes		0.525	
Colorado	Yes <sup>4</sup>		0.01		New Jersey*	Yes <sup>2</sup>		0.35	
Connecticut*	Yes		0.61		New York**		Yes	0.40	1.00
Delaware**	Yes <sup>2</sup>		2.00		North Carolina		Yes	0.20	
District of Columbia*	Yes		2.20		Ohio**			0.30	
Florida**	Yes		0.70	0.35	Oklahoma		Yes	0.15	0.10
Georgia**		Yes <sup>2</sup>	0.10		Pennsylvania*	Yes		1.00	
Hawaii	Yes <sup>2</sup>		0.05		Rhode Island	Yes <sup>2</sup>		0.28	
Illinois**		Yes <sup>2</sup>	0.10		South Carolina**		Yes <sup>2</sup>	0.26	
Iowa	Yes <sup>4</sup>		0.16		South Dakota	Yes		0.10	
Kansas*				0.26	Tennessee*		Yes	0.37	0.115
Kentucky	Yes		0.10		Vermont*	Yes		1.25	
Maine	Yes		0.22		Virginia**		Yes <sup>2</sup>	0.10	0.15
Maryland**	Yes		0.50		Washington**	Yes		1.28	
Massachusetts*		Yes <sup>2</sup>	0.20		West Virginia**	Yes		0.22	
Michigan*	Yes <sup>2</sup>		0.11		Wisconsin	Yes <sup>2</sup>		0.30	

\* Local taxes are additional.

<sup>1</sup> Taxes are listed as a percentage of the tax base even though statutory rates are sometimes listed as cents/\$100 or cents/mills.

<sup>2</sup> Transfers under \$100 are exempt.

<sup>3</sup> Local taxes only.

<sup>4</sup> Transfers under \$500 are exempt.

#### \*State Notes

**General Information:** Deed transfer taxes are generally paid by the seller; however, if the seller fails to pay, the buyer is liable for the tax. Mortgage taxes are paid by the buyer on the amount borrowed. Most states grant a variety of exemptions to these taxes.

**Alabama** Alabama does not have a stock transfer fee; however, there is a recordation tax and a privilege or license tax on the registration of securities. The rate of the tax is \$.25 per \$100 of par value or principal amount for the recording of the securities. This rate also applies to the filing and recording of lists of securities.

**California** Any city within a county may levy the tax at one-half the county rate per \$500. A credit is allowed against the county tax for any city tax due.

**Connecticut** The rate shown is a combination of 0.5% of the consideration paid plus an additional tax at the rate of 0.11% of the consideration paid. Farm and Forest Land Conveyance Tax is an additional tax levied on the sale of land classified for property tax purposes as open space land that is sold within ten years of classification. Also, if land classified as

farm or forest land is sold within ten years from acquisition or classification, whichever is earlier, it, too, is subject to the conveyance tax. The tax rates are applied to the sales price or, if the classification of the land is changed but there is no sale, to the fair market value on a scale from 10% within the first year to 1% within the tenth year. The tax on nonresidential property is 1%. For residential properties over \$800,000, the tax is 0.5% on the first \$800,000 and 1% on the remainder. Transfers under \$2,000 are exempt.

**Delaware** There is a realty transfer tax imposed by the City of Wilmington at the rate of 1%. Counties are authorized to impose and collect a tax. First-time homebuyers are exempt from the county tax.

**District of Columbia** The recordation tax on deeds is 1.1% and is paid by the transferee. The transfer tax is 1.1%, and is paid by the transferor.

**Florida** Until October 1, 2011, counties are authorized to levy a surtax on documents at a rate not to exceed \$.45/\$100. The county tax is levied on the same items as the state tax, except any document which involves a single family residence.

*Table 46 (cont.)*  
State Transfer and Real Estate Taxes, November 1992

**State Notes (cont.)**

**Georgia** \$1 for the first \$1,000 and \$.10 for each additional \$100.

**Illinois** Counties are authorized to impose a real estate transfer tax at the rate of .05% of the full consideration. Chicago imposes a real estate transfer tax at the rate of 0.5% of the value. There are 29 home rule cities that levy a real estate transfer tax.

**Kansas** Mortgage registration fee based on the principal debt or obligation secured by the mortgage and on which no prior registration fee has been paid.

**Maryland** The first \$30,000 of the sales price of a home is excluded from the tax base. Counties may impose an additional transfer tax not to exceed 0.5%. Counties and municipalities may impose an additional recordation tax. The rate varies between the counties; the range is from \$1.10 to \$3.50 per \$500. There also is an agricultural land transfer tax of 5% of actual consideration paid (less full cash value of any improvements) when the land being transferred is a parcel of 20 acres or more; 4% when the land is a parcel of less than 20 acres and is assessed on the basis of its agricultural use or on the basis of unimproved land; and 3% when land being transferred is a parcel of less than 20 acres and is assessed as improved land or land with site improvements. The rate is reduced further by 25% for each consecutive full tax year in which real property taxes were paid on the basis of a nonagricultural use assessment. Counties also impose additional deed transfer taxes.

**Massachusetts** If the sale price is greater than \$100 and less than \$500, the fee is \$1, and for each additional \$500 or fractional part, \$1. In addition, a 14% surtax is imposed.

**Michigan** The \$.55 per \$500 rate increases to \$.75 per \$500 for counties with a population of 2 million or more.

**Nebraska** Rate increases to \$1.75 per \$1,000 of value on 1/1/93.

**Nevada** With voter approval, counties with a population greater than 100,000 but less than 400,000 are authorized to impose a real property transfer tax at the rate not to exceed 0.1% of the value of the transferred property.

**New Hampshire** The buyer and the seller each pay \$.525 per \$100 of the full consideration, the total tax being \$1.05 per \$100 (minimum tax, \$21). Rates are in effect from 4/1/90 through 6/30/93.

**New Jersey** The rate is .35% on the first \$150,000; the rate on the excess over \$150,000 of the consideration is an additional \$.75/\$500. There is a reduction in the tax rate to \$.50/\$500 when the transfer in-

volves the sale of low- or moderate-income housing. The sale of any one- or two-family residence owned and occupied by a senior citizen, blind, or disabled person who is the seller also qualifies for the reduction.

**New York**

New York City imposes a mortgage recording tax of 1%, in addition to the state tax, with respect to real property securing a principal debt or obligation of less than \$500,000. The tax on mortgages secured on one-, two-, or three-family houses, individual cooperative apartments, and individual residential condominium units, securing a principal debt or obligation of \$500,000 or more is \$1.125/\$100. The tax on mortgages secured on all other real property is 1.75%. The mortgage recording tax is a state tax that is administered by localities. New York City imposes a realty transfer tax on each deed when the consideration exceeds \$25,000. The tax is imposed at the following rates: 1% for a one-, two-, or three-family house, individual cooperative apartment, individual residential condominium unit, or individual dwelling unit in a four-unit dwelling, or where the consideration for the transfer is less than \$500,000, and 1.425% if the consideration is more than \$500,000. With respect to all other transfers, the rate is 1.425% if the consideration is under \$500,000 and 2.625% where the consideration is more than \$500,000. The real property gains tax is imposed at a rate of 10% on the gain from the transfer of real property if the consideration is \$1 million or more.

**Ohio**

Counties may levy a realty transfer tax on each deed, with a rate not to exceed \$.30 per \$100 of value. There is an additional tax of \$1 or \$.10 per \$100, whichever is greater, imposed by counties. There are 22 exemptions to this second tax.

**Oklahoma**

The real estate mortgage tax rates, for each \$100 and remaining fraction thereof, increase with the time of the mortgage as follows: \$.10—5 years or more, \$.08—4 to 5 years, \$.06—3 to 4 years, \$.04—2 to 3 years, and \$.02—2 years or less. If mortgage is less than \$100, a tax of \$.10 is levied. County treasurers impose a \$.55 fee on each mortgage presented for certification.

**South Carolina**

Counties may impose an additional \$1.10 per \$1,000 deed transfer tax.

**Tennessee**

Mortgage Tax—county registrar receives \$.50 recording fee at time of payment. Also entitled to a commission of 5% of tax collected. Not liable for the first \$2,000 of indebtedness.

Real Estate Transfer Tax—county registrar receives \$.50 recording fee at time of payment. Also entitled to a commission of 5% of tax collected. Maximum tax \$100,000.



Table 46 (cont.)  
State Transfer and Real Estate Taxes, November 1992

State Notes (cont.)

Vermont The capital gains tax on land is based on the gain and the years held; the rates are as follows:

Land Held by Transferor	Gain as a Percentage of Basis (rounded to the next highest percent)		
	0-99	100-199	200 & over
less than four months	60	70.0	80
four to eight months	35	52.5	70
one year	30	45.0	60
two years	25	37.5	50
three years	20	30.0	40
four years	15	22.5	30
five years	10	15.0	20
six years	5	7.5	10

For transfers of property to be used as a principal residence, the tax is 0.5% of the first \$100,000 of value and 1.25% of value over \$100,000.

Virginia

The deed transfer tax is actually a two-part recordation tax: the grantor's tax of \$.50 per \$500 of the consideration less any amount of any lien or debt remaining, and the recordation tax of \$.15 per \$100, or fraction thereof, of consideration or actual value, which is imposed on the recordation of a deed, deed of trust, lease, or other contract. The recordation tax per \$100 value decreases as follows: 1st \$10 million, \$.15; 2nd \$10 million, \$.12; 3rd \$10 million, \$.09; 4th \$10 million, \$.06; and 5th \$10 million, \$.03.

Washington

There is an excise tax of 1.28% of the total selling price, to be paid by the seller; a local county and city tax not to exceed .25% of the selling price excluding the value of any liens and encumbrances, also paid by the seller. In lieu of imposing an additional 0.5% local sales and use tax, a city or county may impose an additional tax on the sale of property not to exceed 0.5% of the selling price. Counties may impose an additional excise tax on each sale of real property in the county at a rate not to exceed 1% of the selling price.

West Virginia

There is an additional county excise tax on transfers of property at a rate of 0.11%.

Source: ACIR staff compilation from Commerce Clearing House, *State Tax Reporter* (Chicago, 1992).

DATE 41 December 1993SENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: SB 48, HB 36, HJR 2, HJR 3

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Check One

Name	Representing	Bill No.	Support	Oppose
NORM TAYLOR	STAB (State Tax Appeal Board)	HB 36	X	
Jewel Ann Nelson	State Tax Appeal Board	HB 36	X	
Ucky Hammond	MT Assoc. Realtors	SB 48		X
Tom Hopgood	MT ASSOC REALTORS	SB 48		✓
Mike Beale	MT ASSOC. REALTORS	SB 48		✓
Dave Woodgerd	Dept. of Revenue	HB 36	X	
Patli Foster	State Tax Appeal Board	HB 36	X	
Gregory A. Van Housen	Income Property Manager Montana Landlord Assn	SB 48		✓
Nancy Griffin	MT Building Industry	SB		✓
Leonard Wortman	Jeff. Co.			
Paul Ruffalo	Jeff. Co.			
Gordon Morris	MACO	SB 48	✓	
David Owen	MT Chamber	SB 48		✓
Road Griffin	MT Retail Assoc	SB 48		✓

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 14 DecemberSENATE COMMITTEE ON TAXATIONBILLS BEING HEARD TODAY: SB 48, HB 36, HJR 2, HJR 3

&lt; ■ &gt;

PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Lorna Frank	Mt. Farm Bureau	SB 48		X

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY