MINUTES

MONTANA SENATE
53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Halligan, Chair, on December 15, 1993, at 9:12 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)

Members Excused: Senator Yellowtail

Members Absent: None.

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 57, HB 50, SB 47
Executive Action: HB 57, HB 36, SB 42

HEARING ON HOUSE BILL 57

Opening Statement by Sponsor:

Representative Chase Hibbard, House District 46, informed the Committee that the House had amended HB 57 to clarify its credit provisions and had added a new section directing the Department of Revenue (DOR) to certify to the governor that the lawsuit was a class action and a full and final compromise and release of all claims could be entered into between the state and the class. This amendment, he explained, was to ensure that the state could satisfy its obligation by reimbursing federal retirees per the provisions in HB 57.

Representative Hibbard outlined the legal background and the need for HB 57. He explained that in March 1989 the US Supreme Court had ruled in Davis v. Michigan that state income tax policy could not treat state retirees more favorably than federal retirees; Montana and 23 other states had been making that distinction. He noted the issue had been litigated extensively throughout the country following the Davis decision. He said the question of taxing pension income had been settled for the years 1988 and following in Montana; the state refunded $6 million for 1988 and 1989, in 1990 all pension income, both federal and state, was excluded from state income tax, and in 1991 taxes were imposed in an equal manner on both state and federal retiree income. **Representative Hibbard** stated the issue that had not yet been settled was whether the Davis Case precedent should be applied retroactively to those taxes federal retirees paid on their pension income from 1983 to 1987 in Montana. He noted the lawsuit Sheehy, etal. v. Montana had been remanded to the district court which would be asked to apply the US Supreme Court decision Harper v. Virginia to Montana circumstances. He stated the Harper v. Virginia decision suggested that Davis should be applied retroactively but that states which provided taxpayers with an adequate pre-deprivation remedy would not be required to issue refunds. According to **Representative Hibbard**, the primary question in the litigation was whether Montana had an adequate pre-deprivation remedy or whether the state was liable to provide refunds to federal retirees for the years 1983-1987.

Representative Hibbard stated the administration had requested HB 57 in order to stop the litigation and resolve the issue "in a fair and equitable manner" by refunding the disputed taxes plus interest to federal retirees who had filed a timely refund claims and by allowing a future tax credit to those did not. He noted HB 57 would have a fiscal impact; $8.6 million in actual tax and $6.2 million in interest calculated at nine percent for a total of $14.8 million. He said HB 57 would also allow those retirees who had missed the statute of limitations to file a claim for a non-refundable income tax credit to be used on tax returns filed for the years 1996 through 1999 at 25 percent per year. He noted the latter group would not receive any interest. **Representative Hibbard** stated the state's liability would continue to accrue at nine percent which would amount to $64,500 per and $775,000 per if the situation remained unresolved. He stated HB 57 addressed an equity issue since it was clear that Montana had illegally taken the money. He said HB 57 also embodied a faith in government issue; he said **Governor Racicot** was of the opinion that the state should deal in good faith with federal retirees and return the money it had illegally collected. He stated that HB 57 also addressed a legal issue since most other affected states had either settled or refunded state taxes to federal retirees or were currently litigating or negotiating the issue.

Proponents' Testimony:

Rick Hill, Governor's Office, said **Governor Racicot** had included this matter in the call for the special session because he believed the state needed to "live up to its obligation to refund these illegally collected taxes from federal retirees". He said HB 57 would settle the litigation and resolve the controversy "in an equitable and fair manner". He stated the people involved were taxpayers who had played by the rules: they had paid their taxes and they had pursued their remedy. He noted the court had already ruled that the taxes were collected illegally and added "that should be good enough". He quoted a December 13, 1993 editorial in the *Montana Standard* which counteracted criticism of HB 57 by identifying the important point as the fact that "the money was illegally taken from the retirees, returning it is simply a matter of fair play, of righting a wrong....it is silly to say that because the state is cutting other spending it should not correct the wrong. The situation would never have arisen if the Legislature had not enacted a blatantly discriminatory tax law many years ago". **Mr. Hill** concluded the state had a "moral obligation to right the wrong" and "now [wa]s the best time" to take action.

Dave Woodgerd, Chief Legal Council, DOR, introduced DOR's lead counsel in the Sheehy case, **Bruce McGinnis,** and outlined the case's legal background. After the US Supreme Court's decision on Davis, **Ed Sheehy, Sr.** filed the lawsuit against the state, which, **Mr. Woodgerd** noted, was originally filed as a class action. He stated DOR had resisted the class action and it was decided to leave that issue open and to proceed to a decision on whether the Davis decision replied retroactively and whether refunds were required. He noted that the district court had applied an "equitable" test from the US Supreme Court Chevron Oil case and ruled that Davis should not be applied retroactively. He said the plaintiffs then appealed to the Montana Supreme Court and the US Supreme Court issued decisions in two other cases related to retroactivity: the James Dean Distilling Co. from Georgia and McKessen from Florida. According to **Mr. Woodgerd,** those two cases did not entirely settle the issue; James Dean indicated that similar litigants must be treated similarly and McKessen indicated that a state was free to come up with its own remedies subject to certain limitation. He noted the Montana Supreme Court then issued its position which took into consideration those cases, but upheld the district court's decision that Davis decision should not be applied retroactively.

Mr. Woodgerd stated the US Supreme Court, having before it the Sheehy case and three or four others, picked the case Harper v. Virginia to issue a decision on whether or not Davis should be applied retroactively. He noted that US Supreme Court decided that Davis did have to be applied retroactively, but, he added, the court also maintained that remedies were a matter of state law subject only to a federal due process standard. He explained the federal due process standard required a state to provide taxpayers with some remedies to contest taxes without being under duress and paying those taxes first; if a state had such a pre-

deprivation remedy it was not required to issue refunds to those people to whom the decision retroactively applied. He added the US Supreme Court remanded the case to the Virginia Supreme Court for the determination of what remedies were available under state law in Virginia and whether or not they met the minimum federal due process. He stated, the US Supreme Court also accepted cert and remanded the Sheehy case to the Montana Supreme Court, which then remanded the case to the district court. **Mr. Woodgerd** informed the Committee that a preliminary pre-hearing conference had been held at the district court and a briefing had been scheduled which would culminate in oral argument before the District Court set for April 1, 1994.

According to **Mr. Woodgerd**, three state Supreme Court decisions had been issued since the Harper decision. In Iowa and Utah the state Supreme Courts had ordered refunds. He added, however, those decisions had been based on the refund statutes available in those states and no significant discussion of pre-deprivation remedies had occurred in either case. On December 2, 1993 the Georgia Supreme Court held in two cases that pre-deprivation remedies were available in Georgia and the state did not have to issue refunds to taxpayers in those cases. **Mr. Woodgerd** said one of those cases was a federal pension case. He added that case would be appealed to the US Supreme Court and, if the Court issued an opinion, could help to clarify what constituted a pre-deprivation remedy under the federal due-process requirement. He then briefly addressed the way in which other states have approached or resolved the problem. He concluded only Georgia, New York, North Carolina and perhaps Virginia would continue to litigate; the other states had made an effort either to settle with federal retirees or to refund their taxes.

Larry Zimmerman, Legislative Chairman, State Federation of National Association of Retired Federal Employees (NARFE), addressed the possible existence of a pre-deprivation remedy in Montana statute. He read from the opinion issued by Justice Thomas in the Harper decision: "the availability of a pre-deprivation hearing constitutes a procedural safeguard sufficient to satisfy due-process...". From his standpoint as a layperson and a Montana taxpayer, **Mr. Zimmerman** questioned the actual availability of Montana's pre-deprivation hearing. He said no one had used the process and DOR "certainly" had never advertized its availability. He stated if, indeed, it did exist it was "probably one of the best kept state government secrets of the last 50 years". He noted he and "quite a few of [his] federal retiree friends" were of the opinion that Montana's pre-deprivation hearing arrived "all of a sudden" and was to be used as a legal loophole in order to deny refunds to those "Montana taxpayers who inadvertently overpaid their state income taxes". He emphasized that he had not said "illegally" because he did not believe that the state had knowingly acted inappropriately; everyone involved was simply "a victim of something that happened". **Mr. Zimmerman** stated that the "legal gymnastics and the resulting interminable delay" were "great opponents of

justice". He explained if the case dragged on long enough many of the taxpayers involved would not benefit from refunds or credits because of their age. He said was a proponent of HB 57 because he would like the matter to be resolved. A settlement, he noted, would be fairer to the state and federal retirees and cheaper than continued delays.

Dennis Burr, Montana Taxpayer Association (MTA), stated MTA had argued that refunding this money was the fair and equitable thing to do. He put the moral issues aside and stated that reading the synopsis and analysis of similar cases from other states had convinced him that Montana would make the refunds. He noted the refunds could be made now or later when it would cost more and urged the Committee to pay now and put the issue to rest. He added history indicated that it would not be any easier to pay federal retirees at a later date.

John Milodragovich, Chair, Income Tax Refund Committee, Northern Rocky Mountain Forestry Association (NRMFA), said his was an association of retired forest service employees who were either native Montanans or had served in the state and chosen to return. He stated NRMFA had become involved in this matter following the Supreme Court's Harper decision and had wanted to work with the administration, DOR and the Legislature to see if an equitable solution could be reached. He said that the newspaper articles indicating the state's position were the first time he had ever heard of pre-deprivation remedy. He said it was the first time he had heard that taxpayers could not pay their taxes and go through an appeals process. He stated such a policy was improper and could "actually invite anarchy" because, increasingly, people did not want to pay their taxes and were "looking for ways to muddy up the water". He said NRMFA members recognized the state's financial condition and would work with other citizens to help "dig out" of the current situation. A positive first step in that direction, he noted, would be to resolve the issue and reimburse federal retirees since there was no other place where people could currently get nine percent interest on their money.

Everett Woodgerd, Missoula Chapter, NARFE, said his chapter had over 200 members. He submitted the exact number of civilian and military federal retirees and the total monthly gross annuity and retired pay those people received (Exhibit #1). He informed committee members that the average income of that group was $1201/month or about $15,000/year. He noted a family of two usually lived on that money, which more aptly placed federal retirees within the category of poverty; they were not necessarily affluent as, he noted, was often argued. He said that the inequitable taxation of federal retirees had been going on since 1939 and reminded the Committee that many federal retirees had been paying those taxes a lot longer than the five year period under discussion. He pointed out the sense of urgency that the age of the federal retirees attached to the refund; many were 75 or older. He stated federal retirees felt

that they had "a legal and moral and ethical right" to the refund and urged the Committee to accept **Governor Racicot's** advice and move to a settlement.

Herman Wittman, Vice-President, MT NARFE, expressed NARFE's support for HB 57 and said his organization was flexible and open to a workable alternate arrangement. The main point, he stated, was to reach a final settlement that would save Montana money and resolve the moral issue at hand. He then spoke to the "misinformation", that many had heard, in order to give, he said, the Committee a better idea of the profile and status of civil service retirees. He said the retirement benefits of civil service employees were based on both the length and kind of service as well as the amount individuals had contributed to their retirement funds. He noted the federal government's health and life insurance plans were "quite comparable" to those of any major company. He referred to **Everett Woodgerd's** testimony and emphasized that the average income of a federal retiree was $1201/month did not quantify the actual amount of each federal retiree's monthly pension. He explained that the average was calculated using the benefits of not only rank and file federal retirees but also the benefits of admirals, generals, congressional delegates and political appointees. **Mr. Wittman** noted the latter would raise the average even though they represented only a very small percentage. He stated most Montana retirees were "rank and file" and the typical retirement for most civil service workers was more like $950 to $1000/month. He added that "rank and file" older civil service retirees did not receive social security to supplement their income. Mr. Witmann explained the federal wage system and stated that the wage differential between federal and state and private employees was actually commensurate in most situations.

Given the current "budget crunch"in Montana, **Mr. Wittman** agreed that the issue of federal retiree refunds came at a bad time. He stated, however, the issue needed to be resolved before it cost the state any more money. He repeated that NARFE agreed that federal retirees could "tighten their belt as well as anybody else", and were amenable to any workable variation on HB 57 that would ensure a final settlement. He stated federal retirees were not "fat cats" who were "taking milk out of the mouths of welfare babies", but Montanans who had chosen to retire in Montana. He said retirees also contributed to the state's economy; the retirement industry was, he noted, probably the largest industry in Montana.

Ed Sheehy, Sr. submitted two written statements for the record. He stated the first was a fax from **Jerry Santy, President, Montana Military Retirees Association (MMRA)**, indicating MMRA's support of HB 57 (Exhibit #2). He read the second, which was from **Ed Sheehy, Jr.** the lawyer for the plaintiffs in Sheehy, etal. v. DOR, into the record (Exhibit #3). He explained the statement indicated that HB 57 in its present form would settle the litigation because it would require a class action

certification and would prohibit any further liability. He noted, however, that the statement clearly indicated that any remedy other than paying the refund and giving credits to those who failed to file timely would not settle the case. **Mr. Sheehy, Sr.** noted that only since the Harper decision had DOR raised the existence of the remedy. He said that issue had already been raised in the Harper case because Virginia had always had an "on-going complicated pre-deprivation remedy". He added the US Supreme Court had not wanted to address the specifics of that remedy and remanded the case to the Virginia Supreme Court.

Harry McNeal, President, Bozeman Chapter, NARFE, read a sentence from a letter he had received from DOR which had been signed by Colleen Bushard: "Montana law has no provision for filing a protective claim". He stated that letter made it clear that Montana did not have a protective exclusion or, in other words, a pre-deprivation remedy. He asked that the Committee and the full Senate take favorable action on HB 57.

Opponents' Testimony:

Wayne Hirst identified himself as a tax accountant from Libby and taxpayer. He stated he did not oppose giving refunds to federal retirees but did oppose HB 57 in its current form because it would cost the state $3 million too much. He said the state could be fair and equitable to all federal retirees by refunding their taxes but not paying them the nine percent annual interest provided in HB 57. He noted the inflation rate had not even approached nine percent during the period from 1983 to the present and asked if it was fair to Montana taxpayers to give federal retirees such a big windfall of money. Contrary to the testimony of **Everett Woodgerd, Mr. Hirst** stated the federal retirees who were his clients were "far better off than the vast majority of Montana retirees" who had worked all their life in Montana and did not bring a pension from another state when they retired. He noted also that **Mr. Woodgerd's** numbers also included military retirees, some of whom were in their forties.

Mr. Hirst suggested that it would be fairer to both taxpayers and federal retirees to compute the interest on their taxes according to the consumer price index (CPI) for the years 1983 through 1987. If that were done, he said, federal retirees would not have lost any money because their refunds would have kept up with inflation. He cautioned the Committee that the statute would have to be changed to read that any interest on any refund granted by the state for monies paid prior to 1988 would be calculated by the CPI not nine percent, otherwise inequitable treatment would once again be an issue. He said he was unsure whether that change would withstand a court challenge, but, he noted, the state did not have much to loose. He urged the Committee to consider his suggestion so that both federal retirees and Montana taxpayers would be treated fairly.

Questions From Committee Members and Responses:

Senator Van Valkenburg asked **Dave Woodgerd** why only the five year period from 1983 through 1987 was at issue. He asked if it was because that was the period for which federal retirees could have filed amended returns after the Davis v. Michigan decision. **Dave Woodgerd** replied yes. He noted amended returns could also have been filed for 1988. He said, however, 1988 was not involved in the case since the state had already paid refunds on the taxes collected for that year.

Senator Van Valkenburg asked **Dave Woodgerd** why the years before 1983 were not at issue. **Mr. Woodgerd** replied the five year statute of limitations had run out before 1982.

Senator Van Valkenburg asked **Dave Woodgerd** upon what legal arguments Montana would rely to prove that pre-deprivation remedies were available to those taxpayers in the case pending in district court. **Mr. Woodgerd** responded DOR's arguments would address two areas: first, state law contained injunction provisions allowing taxpayers to enjoin a disputed tax; and second, taxpayers could, in fact, not pay tax on that income. He explained that federal retirees could have subtracted their federal income from their other income on their tax return and not paid that tax and filed those returns. He said DOR would have reviewed that return and issued an assessment indicating that they owed tax on their federal retirement income. He added that issue would have been addressed in a department level hearing and any decision could have been appealed all the way up to the US Supreme Court without federal retirees actually having had to pay any taxes at all.

Senator Van Valkenburg asked **Dave Woodgerd** how that method compared to the arguments relied upon by the state of Georgia in the case recently decided by the Georgia Supreme Court. **Mr. Woodgerd** replied DOR had just received that opinion the previous day. He stated from that opinion, it appeared that the state statutes were "fairly similar" but not exactly the same. He added he would not be certain until he had obtained the briefs and been able to do more research.

Senator Van Valkenburg asked **Dave Woodgerd** how the pre-deprivation remedies available to Montana taxpayers compared to those in Iowa or Utah. He noted **Mr. Woodgerd** had indicated that refunds had been ordered by those state Supreme Courts, but no discussion of pre-deprivation remedies had been part of the proceedings in both those states. **Mr. Woodgerd** replied he did not know, since that issue had not been argued.

Senator Van Valkenburg stated **Herman Wittman's** testimony seemed to be "markedly different" from **Ed Sheehy, Jr.'s** when he had testified before the Committee on SB 22. He noted **Mr. Wittman's** statements seemed to indicate that federal retirees would agree to an approach that might not necessarily provide claimants with

the entire amount to which they felt legally entitled as long as something was decided which would resolve the matter. He asked if he had correctly understood **Mr. Wittman's** comments. **Mr. Wittman** replied affirmatively. He stated the consensus of his group was that the issue could be resolved if the Legislature was able to arrive at settlement, even one which might not be the full amount and might include a delay in some of the payments. He noted the position might not be "in entire accord with the attorney", but stated the position of his committee was that they "would be willing to tighten their belts along with everybody else".

Senator Van Valkenburg asked how much influence **Mr. Wittman's** committee actually had over the terms of settlement between the federal retirees and the state. He said the Legislature would most likely have to rely upon the group's attorney as the spokesman for the federal retirees. He noted the attorney had essentially demanded that the state agree to all demands or face continued litigation. **Herman Wittman** replied the NARFE committee would have to work with their attorney and arrive at "some sort of a common agreement". He noted he could not speak for the attorney, but added he felt **Ed Sheehy, Jr.** would be willing to cooperate. **Mr. Wittman** said that he would "be happy to draw back a little" in order to settle the issue.

Senator Van Valkenburg referred to the status of the General Fund budget and the overall pressures facing the Legislature in balancing that budget. He asked **Rick Hill** if, based on his testimony on HB 57, it would be fair to identify the federal retirees' refunds and not property tax relief or some other aspect of the budget as the Governor's highest priority. **Mr. Hill** responded **Governor Racicot** would argue that each of those issues needed to be dealt with independently. He stated the executive budget proposed at the beginning of the special session provided for property tax rebates and the federal retiree refund while balancing the budget. He stated the Governor still believed in that possibility and would work toward achieving all those goals.

Senator Doherty asked **Rick Hill** to tell the Committee how that would be possible. **Mr. Hill** responded spending reductions and the actual ending fund balance had yet to be finalized. He stated the Committee had still to consider HB 45 and the funding mechanism it provided for rebates and HB 22 and its adjustments to school funding were "certainly" unresolved. He stated all those matters needed to be considered in order to determine the ending fund balance and the final resolution.

Senator Doherty noted that **Representative Hibbard** had indicated that refunds to those federal retirees who had timely filed would amount to $14.8 million. He asked how much the credits for those who did not timely file would cost. **Representative Hibbard** answered the estimated cost of those credits was $7.8 million.

Senator Doherty asked whether those credits would be available to people who had missed the statute of limitations. **Representative Hibbard** replied the credits would be for people who did not file in a timely fashion for the refunds between 1983 and 1987.

Senator Doherty asked **Representative Hibbard** whether he would, as a protector of equity and justice, help him move the statute of limitations if he came in next session with an air tight case against a banker on a note that a client had not brought to his attention until eight years and two days after the note was signed. **Representative Hibbard** noted that he had been asked the same question regarding the gas tax refunds he received as a rancher by **Representative Bardanouve.** He stated, however, if the state had an obligation to those federal retirees who had timely filed, it also had that obligation to those who did not. In addition, he said, most of the pertinent court decisions indicated a strong likelihood that the court would award federal retirees who did not timely file not only the amount they paid in tax, but also interest. He noted the approach in HB 57 contained a potential savings for the state.

Senator Doherty noted **Representative Hibbard** had presented HB 57 as a means to "buy" the state out of litigation before a final court order by paying the money up now. He referred to the current litigation between the state and the Crow Tribe over coal taxes and asked **Representative Hibbard** if, as a matter of state policy, the Legislature should order the state to pay the Crow Tribe the disputed amount in order to save the state the interest it might be ordered to pay when a decision was finally reached in that case. He asked if the Legislature was going to do it for federal retirees, why the state should treat the Crow Tribe any differently. **Representative Hibbard** replied he was in no position to answer **Senator Doherty's** question. He noted those were two separate issues, but agreed there was "somewhat of a common thread".

Senator Doherty asked **Representative Hibbard** if it was good state policy to buy the state out of a lawsuit before it was necessary. **Representative Hibbard** replied precedent seemed to indicate that the state owed the money to federal retirees and that it would only be a matter of time until it was directed by the courts to pay. He stated it was the Legislature's responsibility to assess the risk associated with its decision on the matter. He said the Legislature could decide to delay that payment, but noted that decision would probably cost the state nine percent interest or $775,000 a year.

Senator Doherty asked **Representative Hibbard** what money could be used to pay federal retirees. **Representative Hibbard** replied the House had identified a funding source for every program it had transmitted to the Senate. He noted everyone had a right to disagree with those funding sources and added it was easy to confuse such issues on "moral and ethical grounds" because legislators were faced with very difficult decisions which would

"definitely hurt some people". He stated, however, that the issue addressed by HB 57 was clear; everyone agreed that the state had taken the money illegally, the question was whether or not the state would have reimburse federal retirees and whether or not the state should pay them now. He said it was "a matter of risk and...balance", and expressed his opinion that the state had an obligation to deal with taxpayers in good faith and should pay back the money it had illegally collected.

Chair Halligan said **Ed Sheehy, Jr.** had indicated in his testimony on SB 22 that he would continue to litigate if he did not receive his $1.4 million attorneys fee. He asked **Representative Hibbard** where the money would come to pay that fee. **Representative Hibbard** replied the amendment to HB 57 which referred to the certification of the class action would allow the attorney to seek remedy through the district court in order to receive his fees from the pensioners he was representing. After being acknowledged by **Chair Halligan, Ed Sheehy, Sr.** said he thought the House amendment made it possible to settle the lawsuit.

Chair Halligan asked **Mick Robinson, Director, DOR,** to respond. **Mr. Robinson** stated DOR had always opposed the certification of the lawsuit as a class action. He distributed three sets of amendments to HB 57 addressing section five, which the House had added to HB 57. He said the first set of amendments would remove that section (Exhibit #4) and would be DOR's preference. He noted if the Committee did not choose to adopt those amendments, DOR had prepared two other versions which would amend the language in that section to make it "more workable" from DOR's viewpoint (Exhibits #5, and #6). He stated DOR opposed the class action for two reasons: one, there were extra expenses connected with class actions and two, if there were an ultimate decision, DOR had taken the position that all affected taxpayers should be treated equally and receive all of the dollars awarded.

Chair Halligan said an agreement on litigation in process usually involved "give and take" from both sides. He noted that HB 57 would fulfill all of the federal retirees demands while giving the state nothing in return. He asked **Mick Robinson** whether DOR had discussed any possible compromise settlement with the parties involved. **Mr. Robinson** responded that DOR was pursuing the litigation aggressively based on the language of the Harper decision. He stated HB 57 had not been introduced with the intent to settle the lawsuit, instead, he said, HB 57 had been introduced because the Harper decision clearly indicated that the taxes had been illegally collected and that the state had a moral obligation to deal with federal retirees fairly and refund those taxes paid plus interest.

Chair Halligan asked **Dave Woodgerd** whether the Committee could adopt **Mr. Hirst's** suggestion to adjust the money owed to the CPI index. **Mr. Woodgerd** replied he did think it would be constitutionally allowable to change the interest rate.

Senator Towe asked **Dave Woodgerd** whether he believed the state would prevail in court on the pre-deprivation issue. **Mr. Woodgerd** replied the state had a good case and a good chance of winning the lawsuit.

Senator Towe noted he tended to agree with **Dave Woodgerd** that the federal retirees' claim was not very good. He asked whether **Representative Hibbard** disagreed that the possibility was very real that the federal retirees would not succeed in a court of law. **Representative Hibbard** noted he was not a lawyer, but replied he thought DOR lawyers needed to respond in that manner because they were involved in the lawsuit. He noted that from his non-detailed legal perspective a 1939 law had been on the books but not really discovered until 1989. He said he was aware of no published information from DOR within that time frame which gave any indication that individuals could actually take some remedy which would fulfill the federal due-process standard. He stated he was not aware of one claim filed by federal retirees for a refund during that time frame, which, he noted, proved that they knew nothing about such a remedy. He stated he thought it questionable that the pre-deprivation remedy existed in a practical sense, even if it did in somebody's mind.

Senator Towe asked **Representative Hibbard** if he were saying that nobody actually exercised the pre-deprivation provision. **Representative Hibbard** replied yes, if, in fact, there actually was a pre-deprivation provision.

Senator Towe asked **Representative Hibbard** why HB 57 also addressed those people who did not file a claim since their position was not defensible in court. **Representative Hibbard** replied HB 57 addressed those people who did not timely file for moral and equity reasons; if it applied to one class it should apply to the other. He said the distinct possibility also existed that a court decision might direct the state to pay those claims plus interest.

Senator Towe noted **Representative Hibbard** could follow his logic one step further and acknowledge the state's moral obligation to include all those federal retirees who had lost their benefits between 1939 and 1983 as well. **Senator Towe** referred to the new section allowing the class action and asked **Representative Hibbard** if he acknowledged that without that provision it would be a real possibility that the state would still be involved in litigation. **Representative Hibbard** replied that section probably contributed substantially to finalizing the case.

Senator Towe asked **Representative Hibbard** whether HB 57 was then premature and whether the better legislative approach would be to wait until federal retirees negotiate a settlement or obtain certification for their class action before enacting any legislation. **Representative Hibbard** replied that would certainly be a prerogative of the Legislature. He noted that legislators

should seriously consider the element of risk and ultimate cost before taking that approach.

Senator Towe said as an attorney who had reviewed both the Georgia case and most of the arguments against and for pre-deprivation hearing, he would counsel the federal retirees to quickly settle if they received an offer of one-half of the principle without the interest because their chances of getting any more in court were not very good. He stated federal retirees should be given a chance to negotiate with DOR, especially since their attorney had written a letter to DOR asking for that opportunity. He suggested the first section of HB 57 be amended to read "an amount to be agreed upon is authorized", and everything else in HB 57 be struck except the contingency in section five. He asked **Representative Hibbard** to respond. **Representative Hibbard** said the Committee certainly had the prerogative to so amend HB 57 if it felt that was in the state's best interest.

Senator Towe asked **Representative Hibbard** if he would oppose that action. **Representative Hibbard** responded the Committee should both consider the element of risk involved in such an action and remember that the reason for the approach in HB 57 was to deal with the issue of illegally collected taxes in an equitable manner. He stated he felt it only fair that the money should be given back along with the nine percent interest contained in statute.

Senator Towe asked **Mick Robinson** whether he were prepared and willing to negotiate with the federal retirees if the Legislature so requested. **Mr. Robinson** replied that DOR was always interested in sitting down and talking about negotiating any litigation in which it was involved. He said, however, that negotiation needed to include all the people involved in the litigation. He said the federal retiree case had been difficult in that regard because DOR had opposed a class action and had not been able to determine exactly with what groups it needed to negotiate in order to reach a final settlement. He repeated that DOR did not believe that a class action was the best vehicle for finalizing the litigation.

Senator Gage said he had heard the saying that "ignorance of the law is no excuse" his entire life. He asked that **Representative Hibbard** put the moral issues aside and tell him why the Legislature should protect those people who did not timely file when there were people who did file claims for refunds for those years. **Representative Hibbard** replied it was his impression that a very good chance existed that group of taxpayers might be awarded their principle plus interest at greater cost to the state. He argued the state's moral obligation still existed; their money had been taken illegally and should be returned.

Closing by Sponsor:

Representative Hibbard stated that Montana's pre-deprivation remedy was very weak. In support of that statement he cited **Mr. Zimmerman** testimony that no one had used the process because it was a "well kept secret" along with the letter that **Mr. McNeal** had read informing him that Montana law had no provision for filing a protestive claim. He reiterated there was no argument that the money in question had been taken illegally, and added if **Senator Harp** were to illegally take money from some of his clients, his obligation to repay his clients would be clear. **Representative Hibbard** argued the pivotal point was that the state had an obligation it needed to face. He noted facing and fulfilling that obligation now would resolve the legal issue and eliminate the very real possibility that the state would be required to pay back more principle and interest per a court order. He stated the Montana Legislature was very good at putting off the state's problems into the future; not taking action on the issue, he added, would be an excellent example of doing just that.

HEARING ON SENATE BILL 50

Opening Statement by Sponsor:

Representative Swanson, House District 79, said DOR had been working to make its appraisal function more efficient for several years, and, when the goal was set to find $1.2 million in savings through some form of reorganization of DOR, DOR had evaluated the Property Valuation Division and formulated the proposal in SB 50. She distributed a map which, she said, gave some indication of the work that had already been done on the whole package (Exhibit #7). She stated DOR had structured the proposal by first soliciting recommendations from DOR employees statewide. She noted the employees had recommended that any reorganization should affect central offices in Helena and field operations similarly, should reduce administrative layers, should focus on efficiency while keeping a local presence, and should provide assessors statewide with options. According to **Representative Swanson**, HB 50 addressed all of those issues. She referred to the map and noted that 13 counties had already consolidated their assessor/ appraisal function, 16 counties were in that process, 21 counties were requesting information, 1 county had chosen not to consolidate, and 5 counties had not yet entered into any form of interaction with DOR on the subject.

Representative Swanson explained that, until January 14, 1994, HB 50 would give every county that was yet undecided two choices: they could either choose to consolidate in which case the county's assessor and the deputy assessor would become state employees or chose to retain an elected assessor in which case the assessor would contract with DOR to perform the functions of the assessment division. She stated the $1.2 million savings would come from that consolidation, existing vacancy savings,

early retirement, and natural turnover. She then walked the Committee through some of the key sections in HB 50. Sections one and two, she said, would allow DOR to set up a special revenue account and charge fees for the use of its property data base. She noted the data base would be used primarily by appraisers, realtors, and people who want access for marketing reasons. She stated she was going to suggest a clarifying amendment to ensure that an individual taxpayer would not have to pay the fee if they ask for information about their property. **Representative Swanson** said sections seven and eight addressed the provisions necessary for the assessors and deputy assessors to become state employees. Section nine, she noted, outlined the qualifications for the county assessor in counties which retain the elected position. She said sections 105 through 114 would change the livestock assessment reporting date, moving it from March 1 to February 1. She explained this would allow DOR to process that information more timely and efficiently, and added that the livestock industry had agreed to the change. She said section 127 would add an additional window of eligibility for elected assessors and deputy assessor to take advantage of the retirement incentive program for which they are currently ineligible.

Representative Swanson explained that section 162 established the arrangement whereby the state would contract with an elected county assessor, section 164 detailed the contract arrangement with the county, and section 166 contained the language on the $1.2 million savings in HB 50. She stated she did have two amendments which she would distribute after her closing remarks.

Proponents' Testimony:

Mick Robinson rose as a proponent of HB 50. He stated DOR had involved all groups within the Property Assessment Division to develop the proposal which would build a more efficient system to provide statewide property appraisal and assessment. He outlined the study process and stated the only guidelines the involved groups had received was that they should focus on a 10 percent reduction in the division's operating expense or about $1.2 million. He noted that reduction would make it difficult to manage, but said the end result would be a system that was much more efficient while allowing DOR to maintain the present level of quality and service. He explained the proposal in HB 50 would allow DOR to focus on the vast territory that needed to be covered in Montana and to adopt a more regionalized approach.

Keith Colbo, Montana Assessors Association (MAA), read the statement of the President of MAA, Cele Pohle, into the record (Exhibit #8). He expressed her apologies for not being here in person, and explained that her husband was undergoing surgery in Missoula.

Donna Kennedy, Rosebud County Assessor, spoke from prepared testimony in favor of HB 50 (Exhibit #9).

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked whether the salaries of deputy assessors would be reduced from what they currently received at the county level. **Mick Robinson** replied he could not really give a specific answer to that question. Following the policy they had established for consolidation, he said, DOR would review the duties assigned to particular deputy assessors, apply their positions to the state classification system, and assign them a grade. He explained that approach would provide consistency in the salaries paid for the duties being performed statewide. He noted some deputy assessors would, in fact, receive a pay increase and some would probably receive a pay decrease. He stated consistency in the pay schedule for specific duties was very important.

Senator Gage asked if **Mr. Robinson** had the total amount of increases and decreases in pay for deputy assessors. **Mick Robinson** said he could get that information for **Senator Gage.**

Senator Gage asked whether DOR anticipated that the state would ultimately move toward a regional system for the duties assigned to assessors, deputy assessors or appraisers. **Mick Robinson** said the proposal in HB 50 recognized the need to maintain a physical presence in each county, and, as a result, he added, there would always be staff at the local level. He agreed, however, that it would be necessary to apply a regional system to all appraisal activity in order to allow appraisers to specialize. He noted a regionalized approach would result in more consistent appraisals.

Senator Towe asked how many counties would opt for consolidation and give up their elected county assessor. **Mick Robinson** replied DOR had estimated that perhaps one-half of those counties which had asked for information, but were not presently consolidated, would adopt the proposal in HB 50. He noted the MAA might be able to provide a more specific response.

Senator Towe noted the $1.2 million savings attributed to HB 50 did not only come from that source. **Mick Robinson** agreed. He said the $1.2 million was the result of a division-wide savings. He explained some management and supervisory positions would be eliminated and there would be some down-sizing at the state office. He said DOR had held a number of positions vacant so it would not have to layoff any current employee in order to accommodate the deputy and elected assessors that might become state employees as a result of consolidation.

Senator Towe referred to section 165 which would provide for an advisory committee on the valuation and taxation of motor vehicles and mobile homes. He asked **Mr. Robinson** to explain. **Mr. Robinson** replied that particular committee would look at the

way that vehicles are presently assessed and taxed through the county treasurer's office. He noted their task would be to identify how the paperwork and necessary information could be better supplied and processed administratively between county and state offices.

Senator Towe asked if there was anything else in HB 50 that the Committee ought to know about. **Mick Robinson** replied the only other area was the change in the agricultural date from March to February.

Senator Towe asked who would be paying the fees that are calculated to raise $1 million, although, he noted, the Office of Budget and Program Planning (OBPP) did not think $1 million would be paid in fees. **Mick Robinson** replied he also disagreed with the $1 million figure. He stated that realtors and private appraisers had indicated that they would be very interested in using the property tax data base. He said interested parties would pay the fee in order to obtain data from the data base that was not confidential. He assured committee members that the Realty Transfer Certificates (RTC) were confidential and would not be made available.

Senator Towe asked why HB 50 put that money into a special fund rather than the General Fund. **Mick Robinson** explained providing the information to interested parties would put a significant strain on the computer system. He stated the increase in activity would require an upgrade and the fees would help fund the renewal and replacement of the computer system and perhaps other things necessary to accommodate those requests.

Senator Stang referred to page 180, section 163, which provided that the county commissioners must decide to consolidate no later than January 14, 1994. He asked why HB 50 would limit the flexibility of county commissions in that regard. **Mr. Robinson** replied the significance of that date was only to ensure that the county commissioners made the decision to consolidate prior to the filing date for the next election for assessor. He stated statutory latitude still existed for counties to make the decision six months, or two, or four years in the future. **Gordon Morris, Montana Association of Counties (AofC),** provided further clarification on the subject. He said statute required that any order for consolidation be issued 75 days before the filing deadline coincident to the primary; January 14 would be the absolute deadline commissioners would have for any consolidation. **Mr. Morris** added, however, if January 14, 1994 was put into statute he was not convinced that the other pertinent statutes would automatically apply to the case of assessors in the future. He suggested the Committee might amend HB 50 to require county commissioners to issue the order consistent with the other statute which would specify the same deadline.

Senator Van Valkenburg asked **Gordon Morris** if he were, from the counties' perspective, satisfied that HB 50 would not reduce the

quality of Montana's property tax system, even though 45 employees would be taken out of the operation and budgets cut by $1.2 million. **Gordon Morris** replied he had followed the progress of the work done by MAA and DOR and the structural reorganization committees. He noted that the statement of intent in HB 50 satisfied most county commissioners' concerns about consolidation being actively pursued by the state and DOR data being only fee accessible. He stated HB 50 had been cleaned up to the point where he could comfortably recommend it to county commissioners and be able to defer to the position of MAA. He added that 33 counties would have completed the consolidation process by January 14, 1994 and another 22 were in the review process and still requesting information.

Senator Van Valkenburg asked if he could assume that there were currently no major roadblocks between the counties and DOR based on **Mr. Morris'** comments and the fact that AofC was not opposing HB 50. He noted in the past counties had complained to the Legislature about DOR not paying for space in county courthouses and utilizing county equipment or charging the counties for DOR equipment. **Gordon Morris** replied those issues did not represent major roadblocks. He stated DOR had demonstrated its willingness to work with the counties on this issue. He added, however, that many county commissioners who were supporting consolidation felt it was being prompted by some of the wrong reasons and were not necessarily doing it willingly. He repeated that HB 50 had been cleaned up and that he was in the process of recommending that county commissions proceed with consolidation.

Senator Stang asked **Mick Robinson** what taxpayers in rural counties would do if there was a problem with their bill if there was no appraiser to get that information. **Mick Robinson** replied consolidation would probably mean that the access of citizens to appraisal staff would be more limited. He stated, however, that the state would be covered adequately to provide service to the taxpayers of the state. He explained taxpayers might have to make appointments in order to see the appraiser but DOR would maintain staff at the local level so that the taxpayer can discuss the situation. He stated that would not be much different then the current situation in many rural counties since DOR did not have staff in a lot of areas in the state due to retirement, resignations, etc. as a result of not filling positions in order to maintain its flexibility.

Senator Stang asked whether taxpayers from rural communities would end up cut off from the process and no longer know whom to approach about problems with subsequent reappraisals. **Mick Robinson** replied he hoped such a situation never materialized. He stated HB 50 would not enhance service. He added, however, DOR would evaluate its workload and situate its employees statewide in a way which would maintain the same level of service presently being offered. He noted that DOR would need to look at the use of technology to provide service to taxpayers in the future. For example, he said, in the future DOR might put a

computer terminal in each office and provide support staff so that taxpayers could have direct access to the appraisal on their property, comparable properties, etc.

Senator Stang said taxpayers would currently go to the appraiser if they disagreed with the value on their house. He noted if the appraiser agreed, then the situation would be quickly resolved. He asked what recourse a taxpayer would have if they used the computer and determined that the appraisal was, indeed, wrong, and how long it would take to resolve the situation. **Mick Robinson** responded that currently the appraiser might not be in the office if an individual came in and wanted to find the information. He noted there was an informal process, the AB-26 process, by which the individual taxpayer could fill out a form to request the information and schedule a meeting with the appraiser. He said if computer technology was available, a taxpayer could have direct access to information about the property's appraisal. He noted if that information did not answer the questions, then a taxpayer would fill out the AB-26 informal review form and meet on a scheduled basis with the appraiser. He stated the same process would still be used, but the use of technology might provide a short cut for both taxpayers and appraisers.

Senator Gage referred to the provisions in HB 50 which regulated the situations where assessors were not state employees and contracted with the state to do the duties. He asked what would happen in a situation where DOR decided the assessors work was unsatisfactory and terminated the contract. **Mick Robinson** replied those situations would be "very touchy and very political" since the state would reimburse the county for 50 percent of that individual's salary. He stated the proposal in HB 50 would require a "good work product" from everyone involved in order to be successful. As a result, he said, DOR needed to have a mechanism to address situations in which elected assessors were not performing the duties assigned to them. He stated DOR and MAA had agreed that a solution would first be pursued through MAA to try to work such assessors and that DOR would provide training. He added, however, if all avenues fail, DOR needed the ability to go to the county commissioners, indicate the situation, and terminate the contract. He said DOR would then have to fill that position in some way with a state employee in order to get the work accomplished.

Senator Gage said counties would have to retain such individuals since they were elected officials and would have to assume the other 50 percent of their salary. He asked, in that case, what kind of input would counties have on the assessment process. **Mick Robinson** responded that terminating the contract with an elected county assessor would be the absolutely last resort because it would upset the system and put a financial burden on local government. He stated many other steps would be taken to make sure that the duties were being properly performed. He stated he did not anticipate actually having to use that

provision and noted the county commissioners could, perhaps, be used as a lever in such a situation to improve the performance of that individual.

Senator Doherty stated he hated machines and did not think he was alone in his hatred. He asked how it would reduce taxpayer frustration and the incentives to sign up for the taxpayer revolt if the only answer and information available to taxpayers was through technology that might be difficult to figure out. He noted property taxes were one thing that people really complained about, and noted if they ran up against a monolithic gray wall, they would complain even more. **Mick Robinson** agreed that some individuals did not like the technological approach, but said many individuals did like to have access to that information. He stated when government cost was currently evaluated, a disservice would be done to taxpayers if the possible use of technology to provide efficient services was ignored. He explained many things had been accomplished at DOR at a much lower cost by using technology instead of filling the gap or service with additional FTEs. He said technology might not be acceptable to 100 percent of the taxpayers, but was becoming more acceptable to many people. **Mr. Robinson** noted that he had been opposed to voice mail but had accepted it because it eliminated need for a receptionist to answer his calls. He said he had found that voice mail was much more efficient because people could just leave a message instead of playing "phone tag".

Senator Doherty said he had been informed that the $1.2 million savings projected for HB 50 might be low. He asked **Representative Swanson** if she would address that possibility. **Representative Swanson** replied that **Representative Wanzenried** had been skeptical about the $1.2 million and requested that the Legislative Fiscal Analyst (LFA) do some research on the assumptions on which the $1.2 million was based. She noted she was unsure as to **Senator Doherty's** information, but explained the calculations DOR had used to arrive at the figure in the fiscal note. She said DOR started with the assumption that 48.7 positions were currently vacant which would cost an average of $27,000 for salary and benefits, 8.5 known retirements, 7.3 probable retirements, and an additional anticipated vacancy savings of 10. She noted that was a total of 74.5 vacancies which amounted to about 19 percent of the entire division and represented a cost savings of $1.972 million. She stated the cost of picking up the additional savings and benefits would have to be subtracted from the $1.972, which would result in a total savings of $1.2 million. **Representative Swanson** noted that **Representative Wanzenried** had been looking at the cost based on hours worked, number of vacation days, and number of rates and hours. She said that approach was a too restrictive.

Closing by Sponsor:

Representative Swanson noted the concerns expressed by both **Senators Stang** and **Doherty** were a real example of the difficulty

in down-sizing government. She paid tribute to DOR for the method with which they had approached the challenge and incorporated had input from employees in order to determine how to minimize the reduction in services, get the necessary efficiency and dollar savings, and still provide the requisite services. She stated HB 50 was a good piece of legislation and encouraged the Committee's support. She distributed the two technical amendments she had outlined in her opening statements (Exhibits #10 and #11).

HEARING ON SENATE BILL 47

Opening Statement by Sponsor:

Senator Eck, Senate District 40, said **Representative Elliott and Senator Bartlett** had worked on SB 47. She noted SB 47 provided for three major things: one, it would require DOR to prepare and distribute an informational return; two, it would require taxpayers to file that return with DOR; and, three, it would provide for refunds and additional payments that would be delayed if HB 671 gained voter approval. She stated SB 47 represented a "truth in taxation issue"; taxpayers should know how the possible approval of HB 671 would affect them personally, even though the issue was confusing. She said the administration had obviously chosen to assume that the referendum on HB 671 would not pass since they made no mention of the referendum and the possibility that taxpayers might have to fill out another income tax form in the 1993 tax booklet. Instead, she noted, the first sentence in the tax booklet was "in light of the suspension of the new income tax law 1993 taxes will be calculated by resorting to the law which was in place prior to the enactment then the suspension of HB 671". **Senator Eck** said the Revenue Oversight Committee (ROC) had asked the administration to develop a plan to deal with the possible approval of HB 671, and added the method chosen was not entirely appropriate. She stated the administration's argument that it did not want to influence the outcome of the referendum by providing an informational form to taxpayers was not valid. She agreed that the possibility of receiving a refund or being required to pay more would influence how an individual might vote on that election, but noted it would probably influence more taxpayers to vote against rather than for the referendum.

According to **Senator Eck**, the real value of SB 47 to the taxpayer was that taxpayers and accountants would only have to calculate a taxpayer's income tax information once. She explained the information return would be only one sheet, the filling out of which would not take much extra time or effort, especially when compared to starting completely over after the election. She stated SB 47 would also benefit DOR since having a return based on HB 671 on file would allow them to better deal with the anomalies that might arise if HB 671 were approved and taxpayers' income tax returns needed to be recalculated. She repeated that it was unfortunate that DOR had not included the information in the tax booklets. She noted the form would have to be sent out

as an additional mailing since HB 2 required DOR to send an informational return to taxpayers.

Senator Eck stated a couple of amendments to SB 47 had been suggested. One, she said was indicated in the fiscal note and would only involve a necessary change of date. The second, she noted, would change the language in section three to read "based on the information contained in the informational return filed under the provision... all taxpayers shall at the time of filing their 1994 return required by this chapter pay to the department any balance of tax year 1993 income..." and, she added, qualified taxpayers should get refund the same way. She explained she had originally thought it unnecessary to wait until April 1994 for taxpayers to make payment and receive refunds, but had been persuaded otherwise. **Senator Eck** said SB 47 was a way to provide taxpayers with the information they should have. She stated if government was truly interested in truth in taxation and building trust, taxpayers should be informed of all consequences, even though that information was a bit confusing.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

Mick Robinson noted that the approval of HB 671 would cause an "administrative nightmare" for DOR. He took exception to **Senator Eck's** statement regarding the information DOR had provided to taxpayers. He said the language on the tax form indicated the current law and made reference to the suspension, and stated many people in both parties would have criticized DOR if it had used the tax form to step into the political situation surrounding the referendum. He added the decision on the language had been postponed until the last possible moment after the signatures were obtained and after the Supreme Court declined to rule on the Professor Natelson declaratory judgment.

Mr. Robinson stated DOR would have three administrative options if HB 671 became effective. The first, he said, was the informational return option contained in SB 47. He stated the language in HB 2 would allow DOR to provide taxpayers with an informational return only if it could be included in the tax booklet or with the property tax rebate information if HB 29 were approved. He noted that return could not be inserted into the tax booklets and HB 29 had not yet moved through the legislative process. The second option, he said, was for DOR to recalculate taxpayers' returns. He stated DOR could recalculate individuals' tax liabilities and provide that information in the form of either an assessment or a refund or credit for the 1994 taxes.

The third option, he said, would be to require amended returns. **Mr. Robinson** noted that recalculating tax liabilities would be the cheapest and easiest administratively, but, he admitted, it would pose some problems because people would not be very willing to pay the additional assessments. He stated requiring an informational return would constitute an extra cost to taxpayers, since there would review time and calculations would be involved. He noted if HB 671 did not go into effect, the taxpayer would have paid that additional cost for no reason. He also informed committee members that under SB 47 taxpayers who did not file their informational returns would assessed the minimum penalty of $5 since no tax would be due at that point. He stated amended returns would be more cost effective for taxpayers but more of an administrative burden for DOR. He concluded any option would be complex and difficult to deal with administratively.

Mr. Robinson said there were other issues, like the question of interest, that would have to be resolved if HB 671 were approved. He stated the 1995 session might be the correct forum to make those decisions, and said the discussion at the last ROC meeting had determined that the easiest way to deal with the situation would be to change the effective date of the legislation. He noted that the recent attorney general's ruling indicated that the Legislature could not amend HB 671 to change the date, but, he added, other legislation changing that effective date might be allowable.

Questions From Committee Members and Responses:

Senator Towe asked **Mick Robinson** why DOR had not proposed legislation which would deal with the possible problem of taxes and refunds by changing the effective date of HB 671 or some other method. He said the attorney general's opinion clearly indicated that the effective date could be changed. **Mick Robinson** replied the early legal opinions which came out of the Legislative Council had indicated that HB 671 would not be amendable and DOR had not thought that the best alternative. He stated, however, he was unsure of what would be the best way to deal with the possible approval of HB 671, especially since any effort to amend the effective date could be construed as potentially influencing the outcome of the referendum initiative.

Senator Towe asked whether the Governor would use legislative inaction on this matter as an argument to call a special session to deal with the approval of HB 671. **Mick Robinson** assured the Committee that they would not hear that argument from the administration. He commented that the November election was close enough to the start of the regular session that it could deal with that issue and decide what to do about interest, penalties, people demanding their refunds, and people refusing to pay more tax.

Senator Towe stated the Legislature could and should have addressed the complex problem of what to do about refunds and taxes paid for the taxable year 1993 if HB 671 was approved. He noted that **Scott St. Arnauld** had indicated he had a comment about SB 47, and asked to hear it. **Scott St. Arnauld** stated it was the Legislature's responsibility to provide Montanans with the information that was necessary to make informed decisions and participate in discussion. He took issue with **Mr. Robinson's** position that DOR did not want to politicize the issue; he stated the issue had already been politicized because that information was being withheld from Montana citizens and taxpayers. He stated HB 671 had been codified and should have been part of the process. He said DOR should have made the forms available to Montana citizens and taxpayers without needed to be directed by SB 47. He noted SB 47 would give the citizens of the state the opportunity to file those returns and to know where they stood, so that whatever the vote they would be informed and could adjust their lives accordingly.

Senator Gage asked **Mr. Robinson** if the section 15-33-21 MCA would impose a $5 penalty. **Mr. Robinson** replied the penalty was based on the amount of tax owed and 15-33-21 MCA established a $5 minimum. He noted if there was an informational return and no taxes involved, the penalty would be the $5 minimum.

Senator Gage asked **Senator Eck** whether she would oppose an amendment providing a refund or credit for the cost of preparing the information al return in the even that HB 671 was defeated. **Senator Eck** replied she would oppose such an amendment. She repeated filing out that informational return would not take much extra work. She asked **Senator Gage** if he would oppose granting additional payment for taxpayers to go back to their accountants and having their taxes redone in the event that HB 671 were approved. She noted neither action was appropriate to the Legislature.

Closing by Sponsor:

Senator Eck said she did not have much sympathy with DOR's use of the administrative nightmare they would face if HB 671 became law as an excuse for not assuming its responsibilities to provide for the eventuality of HB 671's approval. She stated DOR had been derelict in their responsibility and the Committee should seriously look SB 47 as a means to clean up the situation and provide taxpayers with some recourse. She said even if the filing of the form was only optional, it would be a service to the public to have it available through DOR's electronic system as well as printed and available to taxpayers through the usual outlets.

EXECUTIVE ACTION ON HOUSE BILL 57

Motion:

Senator Harp MOVED HB 57 BE CONCURRED IN.

Discussion:

Senator Harp stated HB 57 was important and the issue would not go away. He said the sooner the Senate acted on HB 57 the easier it would be to figure out how to fit the federal retiree refunds and property tax rebates into the school funding bill, HB 22, and the general appropriation bill, HB 2. He noted the Committee was a very sophisticated one and expressed his hope that committee members would support his motion. He stated the fact that the taxes were taken illegally was undisputed, and, he added, it was "high time" that the Legislature lived up to its responsibilities.

Using the chair's discretion, **Chair Halligan** ruled **Senator Harp's** motion out of order. He noted there was other legislation which the Committee needed to take action on, and assured **Senator Harp** that the Committee would take action on HB 57 within 24 to 48 hours.

EXECUTIVE ACTION ON HOUSE BILL 36

Discussion:

Senator Towe distributed amendments to HB 36 (Exhibit #12). He explained the amendments would insert language into HB 36 which would comply with its original intent but state it "a little bit differently". He outlined the actual changes the amendments would make. He commented that the normal procedure in such instances was to require an exhaustion of remedies, but the amendment would further clarify that concept because of the particular needs of the county tax appeal boards (CTAB). He noted that the amendments would also allow either DOR or the CTAB to waive the requirements of appearing in person.

Motion:

Senator Towe moved TO AMEND HB 36 (Exhibit #12).

Discussion:

Senator Stang asked the representatives of the State Tax Appeal Board (STAB) whether they concurred with the amendments. **Patty Foster, STAB,** said the language proposed in the amendments appeared very similar in intent and content to STAB's intent. She stated the main purpose of HB 36 was to close an apparent loophole in current statute. She agreed with the first amendment, and stated that people were sworn under oath before

their testimony at any hearing, so the second amendment would be a mute point.

Senator Towe asked whether STAB objected to removing the reference to "all questions" and replacing it with the phrase "available for questions". **Ms. Foster** asked whether that language would specify available only in person, or also by telephone. She noted that phrase also had the potential to be loosely interpreted. **Senator Towe** responded the language in the amendments would allow either the person or their agent to be present or otherwise available for questions. He asked if that was sufficient. **Ms. Foster** replied she was not sure.

Senator Van Valkenburg noted that **Senator Towe** seemed to be equating an appearance before a CTAB to a criminal proceeding in which the taxpayer would have the status of a criminal defendant and the need for their right against self-incrimination. He stated the two were not parallel; a taxpayer who was protesting their taxes was akin to a party in a civil suit. He noted a party in a civil suit could be called by the opposing party and was required to answer all questions in the law suit.

Senator Towe asked what if the taxpayer has some very legitimate reason to refuse to answer a question. He asked **Senator Van Valkenburg** if he would want that individual to automatically lose their right to any adjustment on taxes. He noted that would be the result of the current language in HB 36. **Senator Van Valkenburg** asked what a legitimate reason would be for not answering a question. **Senator Towe** responded a taxpayer might want to take the 5th Amendment or the question might be a matter of privacy. **Senator Van Valkenburg** noted **Senator Towe** had once again compared a CTAB hearing to a criminal case.

Senator Towe replied an individual could assert the 5th Amendment in a non-criminal case. He stated he was making the comparison with a criminal case because in a criminal case an individual had an absolute right not to testify. He stated the amendments would require taxpayers' to appear and testify, but would also preserve their right to appeal.

Senator Van Valkenburg asked **Ms. Foster** if she would like to comment. **Ms. Foster** replied in the circumstance **Senator Towe** had described, if the taxpayers had attended the county hearing and were aggrieved by the CTAB decision, they would retain the right to appeal to STAB. She repeated HB 36 would clarify the law so that the local review process could not be by-passed. She stated HB 36 clearly reflected the intent of the Constitution and existing statute.

Vote:

The MOTION TO AMEND HB 36 (Exhibit #12) CARRIED 8 TO 2 by ROLL CALL VOTE

Motion/Vote:

Senator Towe moved HB 36 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SENATE BILL 42

Discussion:

Senator Towe passed out a set of proposed amendments to SB 42 (Exhibit #13).

At **Chair Halligan's** request, **Senator Bartlett** explained the amendments. She noted that amendment 6 would clarify the point at which a taxpayer was eligible for the credit. She stated that the remainder of the amendments would do two things. First, they would reduce the maximum credit allowable from $800 to $400, which is existing maximum in state law for the elderly homeowner renter credit. Second, they would limit the credit and the expansion of the elderly homeowner renter credit to tax year 1994. She explained that in tax year 1993, people would have paid one-half of their property taxes at the higher rate. She noted in tax year 1994 property owners would pay that elevated level both in May and November of 1994. She stated by moving this credit into tax year 1994, it was likely that more people who needed the relief would be eligible for it in that specific tax year.

Motion:

Senator Towe moved TO AMEND SB 42 (Exhibit #13).

Discussion:

Senator Brown asked **Senator Bartlett** what effect the amendments would have on the fiscal note. **Senator Bartlett** distributed a chart (Exhibit #14) and called the Committee's attention to it. She stated the original version of SB 42 would have cost about $20 million over the biennium and, as amended, SB 42 would cost $7.66 million.

Vote:

The MOTION TO AMEND SB 42 CARRIED with **Senators Brown** and **Harp** voting NO.

Motion/Vote:

Senator Towe moved SB 42 DO PASS AS AMENDED. The MOTION CARRIED with **Senators Brown, Gage, Grosfield** and **Harp** voting NO.

ADJOURNMENT

Adjournment: 12:16 p.m.

SENATOR MIKE HALLIGAN, Chair

BETH E. SATRE, Secretary

MH/bs

ROLL CALL

SENATE COMMITTEE TAXATION DATE December 15, 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

December 15, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 36 (third reading copy -- blue), respectfully report that House Bill No. 36 be amended as follows and as so amended be concurred in.

Signed: _____
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 6.
Following: "BOARD"
Insert: ", UNLESS THE REQUIREMENT TO APPEAR IS WAIVED BY THE BOARD OR THE DEPARTMENT OF REVENUE,"

2. Page 4, line 9.
Strike: "attended" through "all" on line 9.
Insert: "exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing or otherwise be available to answer"

3. Page 4, line 10.
Following: "inquiry."
Insert: "The department of revenue or the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing."

-END-

mr Amd. Coord.
SB Sec. of Senate

Senator Tower
Senator Carrying Bill

151356SC.Sma

SENATE STANDING COMMITTEE REPORT

December 15, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 42 (first reading copy -- white), respectfully report that Senate Bill No. 42 be amended as follows and as so amended do pass.

Signed: _____
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 4.
Following: "EXPANDING"
Insert: "FOR 1 YEAR"

2. Title, line 9.
Strike: "$800"
Insert: "$400"

3. Title, line 11.
Strike: "IMMEDIATE"
Strike: "A RETROACTIVE"
Insert: "AN"

4. Page 4, line 8.
Strike: "that"
Insert: "the claim"

5. Page 6, line 8.
Strike: "$800"
Insert: "$400"

6. Page 6, lines 9 and 10.
Strike: "computed" on line 9 through "follows" on line 10
Insert: "equal to the amount of property tax paid or rent-equivalent tax paid in excess of gross household income multiplied by a percentage figure according to the following table"

7. Page 6, line 15.
Strike: "**retroactive**"

8. Page 6, lines 16 and 17.
Strike: "on" on line 16 through "approval" on line 17
Insert: "January 1, 1994,"

M — Amd. Coord.
SB Sec. of Senate

9. Page 6, lines 17 and 18.
Strike: "retroactively" on line 17 through "1-2-109," on line 18
Strike: "years" on line 18 through "1992"
Insert: "year 1994, and the credit may be claimed only for tax year 1994"

-END-

ROLL CALL VOTE

SENATE COMMITTEE TAXATION BILL NO. HB 36

DATE December 15, 1993 TIME 12:05 A.M. (P.M.)

NAME	YES	NO
Sen. Brown	X	
Sen. Doherty	X	
Sen. Eck	X	
Sen. Gage	X	
Sen. Grosfield	X	
Sen. Halligan	X	
Sen. Harp	X	
Sen. Stang		X
Sen. Towe	X	
Sen. Van Valkenburg		X
Sen. Yellowtail - absent -		

Beth Satre
SECRETARY

Senator Mike Halligan
CHAIR

MOTION: to adopt Towe's amendment to HB 36 (Exhibit #12)

Everett Woodgerd
611 Livingston Ave
Missoula, MT 59801

SENATE TAXATION
EXHIBIT NO. 1
DATE December 15, 1993
BILL NO. HB57

MONTANA

CIVIL SERVICE/FERS ANNUITANTS AND MILITARY RETIREES
(SURVIVORS INCLUDED)

CONGRESSIONAL DISTRICT	NUMBER CSRS ANNUITANTS	MONTHLY GROSS ANNUITY	NUMBER DOD RETIREES	MONTHLY GROSS RETIRED PAY
REPRESENTATIVE-AT-LARGE	8,983	$ 11,039,525 1,239	5,677	$ 6,567,000 1,158
TOTAL	**8,983**	**$ 11,039,525**	**5,677**	**$ 6,567,000**

TOTAL CSRS/FERS ANNUITANTS AND DOD RETIREES 14,660

TOTAL CSRS/FERS AND DOD MONTHLY GROSS $17,606,525
1201

9/30/92

SENATE TAXATION
EXHIBIT NO. 2
DATE December 15, 1993
BILL NO. HB57

P.01

FAX TO: ED SHEEHY JR.
HELENA MT

RECEIVED
DEC 14 1993
CANNON & SHEEHY

FROM: JERRY SANTY GRT FLS
PRES: MT. MILITARY RETIREES ASSC.

THE MILITARY RETIREES IN THE STATE OF MT. ARE VERY MUCH IN FAVOR OF HB 57. WE WERE TAXED ILLEGALLY AND UNFAIRLY. THE STATE LOST IN THE U.S. SUPREME COURT & A LOCAL COURT. DON'T BE LOSERS A 3rd TIME! IT IS NOT A QUESTION OF AFFORDABILITY. IT IS A NECESSITY FOR TRUTH AND HONESTY IN GOVT! SHOW YOUR SUPPORT FOR HB 57, AND YOUR SUPPORT FOR THE MANY THOUSANDS OF MILITARY RETIREES IN THIS GREAT STATE!

Jerry Santy "MMRA"

Ed; Please read this in the hearing if you can, and get it entered into the record for us if you can; I cannot be in Helena. Tx

R=98%

12-14-93 11:42AM P001 #41

To: Senate Taxation Committee

From: Ed Sheehy, Jr. Ed Sheehy

Date: 12/15/93

SENATE TAXATION
EXHIBIT NO. 3
DATE December 15, 1993
BILL NO. HB57

Since I must be in federal court in a criminal jury trial in front of Charles Lovell, I am submitting this written testimony.

On behalf of the plaintiffs in Sheehy, et al v. Dept. of Revenue, we strongly endorse ~~and~~ support House Bill 57, as passed by the House. In its present form, H.B. 57 will settle the litigation between the ~~and~~ state. By requiring the case to be certified as a class action, any future litigation would be prohibited.

Any remedy other than paying the refunds and giving credits to those who failed to file refund claims, will not settle the case. This is because the United States Supreme Court in McKesson v Division of Alcoholic Beverages & Tobacco, 496 U.S. 18, 31 (1990) ruled that the due process clause of the 14th Amendment obligates a state to provide meaningful backward-looking relief to rectify any unconstitutional deprivation. Tax credits would not be meaningful backward-looking relief.

SENATE TAXATION
EXHIBIT NO. 4
DATE December 15, 1993
BILL NO. House Bill 57

AMENDMENT

HB-57
THIRD READING VERSION (BLUE)
December 14, 1993

The purpose of this amendment is remove the contingent effective date and make the bill effective on passage and approval as originally drafted.

Title, line 14
Following: "PROVIDING ~~AN IMMEDIATE~~"
Strike: "A CONTINGENT"
Insert: "AN IMMEDIATE"

Title, line 14 and 15
Following: "EFFECTIVE DATE" on line 14
Strike: "AND AN" on line 14 and "APPLICABILITY DATE" on line 15.

Page 6, line 21
Following: " Section 5. ~~Effective~~"
Strike: "CONTINGENT EFFECTIVE"
Insert: "Effective"

Page 6, lines 22 through 25, and Page 7, lines 1 through 5
Following: "on ~~passage and approval~~" on line 22
Strike: The remainder of line 22 and lines 23 through 25 on page 6 in their entirety and on page 7 lines 1 through 5 in their entirety.
Insert: "passage and approval."
Insert: "passage and approval."

AMENDMENT

HB-57
THIRD READING VERSION (BLUE)
December 14, 1993

The purpose of this amendment is to clarify Section 5 providing for a contingent effective date.

Page 6, lines 24 and 25
Following: line 23
Strike: All of line 24 and the words "PLAINTIFFS IN" line 25.

Page 7, line 1
Following: "1257 (1991)"
Strike: "HAVE"
Insert: "has"

Page 7, lines 2 through 5
Following: line 1
Strike: Lines 2 through 5 in their entirety
Insert: "action, and that the state and the class has entered into a full and final compromise and release of all issues raised by the class settling all claims, actual and contingent, known and unknown, including attorney fees which has been approved by the District Court.

SENATE TAXATION
EXHIBIT NO. 6
DATE December 15, 1993
BILL NO. HB57

AMENDMENT

HB-57
THIRD READING VERSION (BLUE)
December 14, 1993

The purpose of this amendment is to clarify Section 5 providing for a contingent effective date.

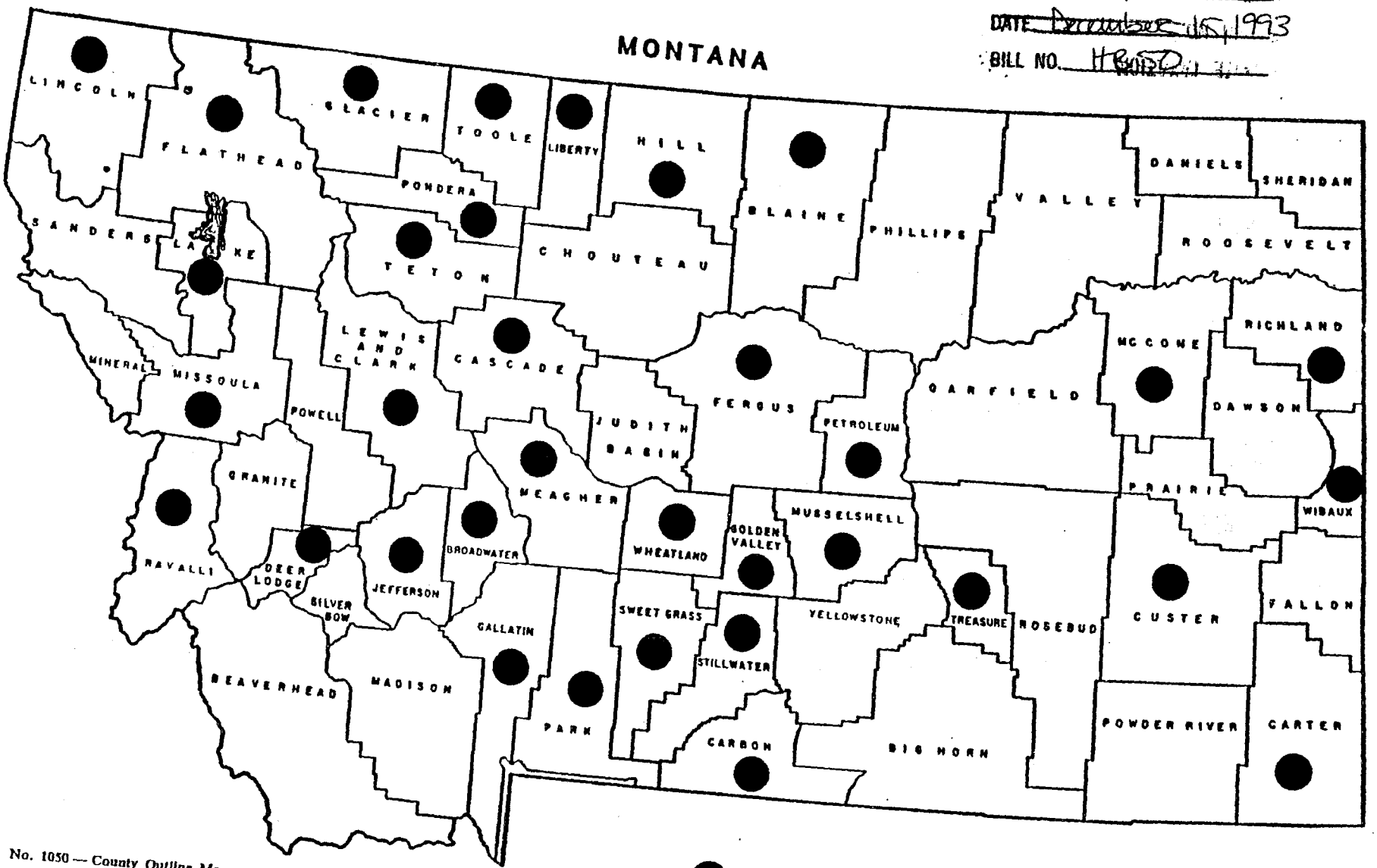
Page 6, lines 24 and 25
Following: line 23
Strike: All of line 24 and the words "PLAINTIFFS IN" line 25.

Page 7, line 1
Following: "1257 (1991)"
Strike: "HAVE"
Insert: "has"

Page 7, lines 2 through 5
Following: line 1
Strike: Lines 2 through 5 in their entirety
Insert: "action. The director must further certify that the class as certified by the District Court is all taxpayers who paid state income tax on federal pension income for tax years 1983, 1984, 1985, 1986, and 1987, and the Court has entered a judgment directing the department to make refunds of taxes paid and interest to those members of the class who filed timely refund claims for the tax years 1983, 1984, 1985, 1986, and 1987. That the District Court has further ordered that income tax credits as provided for in [Section 2] be allowed to those members of the class who failed to file timely refund claims for the tax years 1983, 1984, 1985, 1986, and 1987. Also, the District Court's judgment is a full and final compromise and release of all claims, actual and contingent, known and unknown, including attorney fees.

EXHIBIT NO. 7
DATE December 15, 1993
BILL NO. HB 650

MONTANA



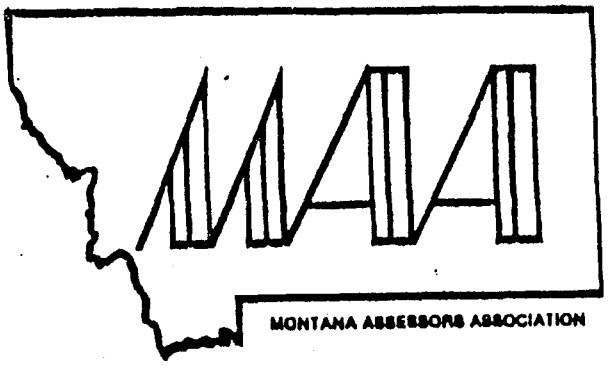
No. 1050 — County Outline Map

● CONSOLIDATED COUNTIES

COUNTIES REQUESTING INFORMATION ON CONSOLIDATION

● COUNTIES IN PROCESS OF CONSOLIDATING

● CONTRACTED COUNTIES



SENATE TAXATION
EXHIBIT NO. 8
DATE December 15, 1993
BILL NO. HB 50

Mr. Chairman and Members of the Committee:

My name is Cele Pohle. I am President of the Montana Assessors Association.

The Montana Assessors Association and the Department of Revenue have worked together on H.B. 50.

The Association believes that the compromises that have been reached are in the best interests of both State and County Governments.

County Government is given the option of retaining the elected assessor through a contractual agreement with Department of Revenue for the duties of the assessor.

The Deputy Assessors will become state employees and retain all their benefits.

The Department of Revenue is given flexible management of the remaining personnel so that regionalization may occur as soon as possible.

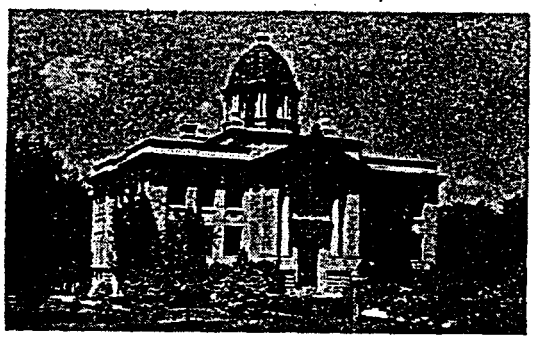
We believe that the best interests of all parties have been addressed and achieved in H.B. 50.

The Montana Assessors Association recommends a do pass on H.B. 50.

Cele Pohle
President
Montana Assessors Association

Rosebud County

Forsyth, Montana 59327



SENATE TAXATION
EXHIBIT NO. 9
DATE December 15, 1993
BILL NO. HB50

December 6, 1993

Chairman,

Members of the Committee,

I am Donna Kennedy, Rosebud County Assessor.

As some of you are aware, there has been over the past few years a concern as to where the elected Assessor should be placed in the structure of the Property Assessment Division.

At the present time within the 56 Counties this position is at a number of points on the spectrum. Some counties have had an elected assessor consolidated with another elected office for a number of years. This then leaves the county with a state employee (the assessor supervisor) who is funded fully by the State.

There are other counties that are in the various stages of becoming consolidated which this Bill will facilitate.

Some counties are in favor of a 50/50 partnership with the State, this is also an option that H.B. 50 will accommodate.

Both of these options give each individual county and the Department of Revenue an opportunity to create the best scenario for the tax payers of that county.

I also see this legislation allowing the assessment process within each county to remain uniform throughout the state.

I would also like to take the opportunity to put before you the feeling I hold as to the importance of keeping in place the elected assessor. This elected status only strengthens the connection between the taxpayer/voter, the commissioners of each county, the Department of Revenue and as I hope you yourselves realize, the legislature.

We the elected Assessors, hold a responsibility to all of the above and in the same vein do exhibit a check and balance that has proven more than once to be a valuable asset to all of these entities.

I than would encourage a do pass on HB 50.

SENATE TAXATION
EXHIBIT NO. 10
DATE December 15, 1993
BILL NO. HB 50

Amendments to House Bill 50
Third Reading Copy

Prepared by Department of Revenue
12/14/93 2:52pm

1. Page 184, line 19.
Following: "~~170~~"
Insert: "126, 128 through"

2. Page 184, line 21.
Following: "~~173~~"
Insert: "127,"

REASON FOR AMENDMENT:

This is a technical amendment. The early retirement option for county assessors and their deputies must be made effective on passage and approval since the window of opportunity for this early retirement will expire after December 31, 1993.

SENATE TAXATION
EXHIBIT NO. 11
DATE December 15, 1993
BILL NO HB50

Amendments to House Bill No. 50
Third Reading Copy

Requested by Representative Swanson
For the Committee on

Prepared by Greg Petesch
December 13, 1993

1. Page 6, line 23.
Strike: "TO A LOCAL TAXING JURISDICTION"

2. Page 6, line 24.
Following: "BASE"
Insert: "to a local taxing jurisdiction"

3. Page 6, line 25.
Following: "FUNCTIONS"
Insert: "or to an individual taxpayer concerning the taxpayer's property"

SENATE TAXATION
EXHIBIT NO. 12
DATE December 15, 1993
BILL NO. HB36

Amendments to House Bill No. 36
Third Reading Copy

Requested by Senator Towe
For the Committee on Taxation

Prepared by Jeff Martin
December 14, 1993

1. Page 4, lines 9.
Strike: "attended" through "all" on line 10
Insert: "exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing or otherwise be available to answer"

2. Page 4, line 10.
Following: "inquiry."
Insert: "The department of revenue or the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing."

Amendments to Senate Bill No. 42
First Reading Copy

Requested by Senator Towe
For the Committee on Taxation

Prepared by Jeff Martin
December 15, 1993

SENATE TAXATION
EXHIBIT NO. 13
DATE December 15, 1993
BILL NO. SB42

1. Title, line 4.
Following: "EXPANDING"
Insert: "FOR 1 YEAR"

2. Title, line 9.
Strike: "$800"
Insert: "$400"

3. Title, line 11.
Strike: "IMMEDIATE"
Strike: "A RETROACTIVE"
Insert: "AN"

4. Page 4, line 8.
Strike: "that"
Insert: "the claim"

5. Page 6, line 8.
Strike: "$800"
Insert: "$400"

6. Page 6, lines 9 and 10.
Strike: "computed" on line 9 through "follows" on line 10
Insert: "equal to the amount of property tax paid or rent-equivalent tax paid in excess of gross household income multiplied by a percentage figure according to the following table"

7. Page 6, line 15.
Strike: "retroactive"

8. Page 6, lines 16 and 17.
Strike: "on" on line 16 through "approval" on line 17
Insert: "January 1, 1994,"

9. Page 6, lines 17 and 18.
Strike: "retroactively" on line 17 through "1-2-109," on line 18
Strike: "years" on line 18 through "1992"
Insert: "year 1994, and the credit may be claimed only for tax year 1994"

EXHIBIT NO. 14
DATE December 15, 1993
BILL NO. Senate Bill 42

SB42 OPTIONS

A. As Introduced	Maximum Credit:	$800
	Applies to:	TY1993

Impact on Indivudal Income Tax:

Tax Source/ Distribution	FY1994			FY1995		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Income Tax	327,093,000	316,946,120	(10,146,880)	341,848,000	331,701,120	(10,146,880)
Penalties/Interest	1,275,000	1,275,000	0	2,973,000	2,973,000	0
Total Collections	328,368,000	318,221,120	(10,146,880)	344,821,000	334,674,120	(10,146,880)
General Fund	195,895,335	189,857,941	(6,037,394)	315,080,224	305,816,123	(9,264,101)
School Equalization	104,015,574	100,788,866	(3,226,708)	0	0	0
Long-Range Building	28,457,091	27,574,312	(882,779)	29,740,776	28,857,997	(882,779)

B. Option	Maximum Credit:	$400
	Applies to:	TY1994

Impact on Individual Income Tax:

Tax Source/ Distribution	FY1994			FY1995		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Income Tax	327,093,000	327,093,000	0	341,848,000	334,187,583	(7,660,417)
Penalties/Interest	1,275,000	1,275,000	0	2,973,000	2,973,000	0
Total Collections	328,368,000	328,368,000	0	344,821,000	337,160,583	(7,660,417)
General Fund	195,895,335	195,895,335	0	315,080,224	308,086,263	(6,993,961)
School Equalization	104,015,574	104,015,574	0	0	0	0
Long-Range Building	28,457,091	28,457,091	0	29,740,776	29,074,320	(666,456)

DATE December 15, 1993

SENATE COMMITTEE ON ~~SB 47, HB 50, HB 57~~ Taxation

BILLS BEING HEARD TODAY: ~~SB 47, HB 50, HB 57~~

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
GARY NELSON	Northern Rocky Mtn. Retirees	HB57	✓	
JOHN R. MILODRAGOVICH	"	HB57	✓	
Gene Quenemoen	Self	HB57	✓	
Everett Woodgerd	NHRFE	HB57	✓	
Harry McNeal	NHRFE	HB57	✓	
Art Shaw	NHRFE	HB57	✓	
ROBERT BUCHER	SELF	HB57	✓	
Bernard Twomey	NARFE	HB 57	✓	
HERMAN WITTMAN	NARFE	HB57	✓	
Owen Warren	NARFE	HB57	✓	
Ed Sheehy	SELF	HB57	✓	
Dick Reil	Gov Office	HB57	✓	
Keith L. Colbo	MT Assessors	HB50	✓	
DONNA KENNEDY	Rosebud Assessor	HB50	✓	
Bernice Swift	NARFE-Lg Reval. Co.	HB57	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 15 December 1993

SENATE COMMITTEE ON HB 50, HB 57, SB 97

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
A.L. ZIMMERMAN	NARFE	HB57	✓	
Wayne Hirst	Self + taxpayers	HB57		X against

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY