

MINUTES

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

COMMITTEE ON TAXATION

Call to Order: By Senator Halligan, Chair, on December 16, 1993,
at 9:04 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

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

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

Committee Business Summary:

Hearing: HB 60, HB 45, SB 52
Executive Action: SB 41, HB 57

HEARING ON HOUSE BILL 60

Opening Statement by Sponsor:

Representative DeBruycker, House District 13, said HB 60 was a
"clean-up bill which would eliminate the statutes for the Clean
Coal Technology Demonstration Fund. He noted that **Senator Towe,**
who was carrying SB 4, knew about HB 60 and had agreed to carry
HB 60 on the Senate floor.

Proponents' Testimony:

**Ray Beck, Administrator, Natural Resources Development Division,
Department of Natural Resources and Conservation (DNRC),** passed

out a detailed breakdown of the Coal Severance Trust Fund describing how the Clean Coal Program fit into the trust account (Exhibit #1). He said HB 60 was part of DNRC's 10 percent budget reduction which had been mandated by the Legislature during the regular session. He briefly outlined the history of the Clean Coal Program, which, he said, the Legislature had established in 1991. He noted that Legislature had appropriated \$20,000 for DNRC to adopt rules, solicit participants, and review and administer any submitted applications. **Mr. Beck** stated DNRC chose to use Iowa's method for administering the Clean Coal Program and had only received one application, but, he noted, even that application did not meet the program's intent. He said in 1993 the Legislature had continued the program and approved a \$25 million loan to the Magneto Hydro Dynamics (MHD) project in Billings contingent upon MHD receiving their federal funding. He said MHD submitted their application but had not received any federal funding for the project. **Mr. Beck** stated because MHD did not receive their federal funding and because of the lack of interest in the program, DNRC would like to have its administrative responsibilities removed from the codes and the Clean Coal Program eliminated so that those funds could be used to help offset DNRC's budget reductions.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe stated DNRC had approached him about eliminating the Clean Coal Technology Fund since the Billings MHD project did not receive its federal grant. He suggested simply removing all of DNRC's administrative requirements from statute but leaving the authorization for that program "on the books" in case the MHD project decided to apply for another federal grant in one of the next two grant cycles. He stated both DNRC and **Representative DeBruycker** had approved those amendments to HB 60. He added the Committee would receive copies of those amendments when it took executive action on HB 60.

Closing by Sponsor:

Representative DeBruycker stated he had no objection to the amendments **Senator Towe** had outlined. He agreed it was a good idea to keep the authorization in statute so that the program could be easily revived.

HEARING ON HOUSE BILL 45

Opening Statement by Sponsor:

Representative Foster, House District 32, said HB 45 had been amended extensively on the House floor explaining that those

amendments had inserted the rebate proposal in HB 29 into HB 45 and changed the funding source for those rebates. He recapped the rebate proposal in HB 29 for the Committee: farmstead and residential property taxpayers would receive a rebate for 75 percent of the amount of tax increase over the first 10 percent increase with a \$25 minimum; class four commercial property taxpayers would receive 100 percent of the amount of tax increase over the first 10 percent with a \$50 minimum and a \$200 maximum; and in tax year 1993, the first year of the two year program, taxpayers could choose between a rebate check or an income tax credit but in tax year 1994 the only option would be an income tax credit.

Representative Foster addressed the funding of the rebate program, the cost of which remained at \$13 million. Since the House had not supported the use of the Cultural and Aesthetic Projects Trust Fund (Arts Trust), he said, that funding source had been replaced with a combination of a two percent across-the-board cut for HB 2 agencies and a portion of the personal property tax reimbursement to counties for tax years 1993 and 1994. He stated the two percent cut would contribute about \$8.2 million to the rebate program. He emphasized that the cut was designed to exclude benefits payable to recipients and to exempt the judiciary, the school for the deaf and blind, and the Department of Corrections and Human Services. In explaining the exclusions and exemptions, **Representative Foster** referred to pages 23 and 24 and noted that the reductions could not be offset by increases in fees or tuition or supplemental appropriations. He explained the reductions in HB 45 would apply only to administrative costs, duplicate programs and programs not mandated by law. The remainder of the necessary funding would, he stated, come from the personal property tax reimbursement program which had been created by the 1989 Legislature to compensate counties for a reduction in tax rate for equipment in the counties. **Representative Foster** assured the Committee that only "about a third" of the money in that program would be used to fund property tax rebates. He added he would support an amendment that **Alec Hansen, Montana League of Cities and Towns (MLCT)**, would submit making it clear that the reduction would be only for the two year duration of the rebate program.

Representative Foster informed the Committee that **Representative Driscoll** had helped to "refine the formula" used to calculate the amount of personal property tax reimbursement money to be taken from each county. **Representative Foster** explained that the approach used would consider the county, city and school district budgets to determine the "entity responsible for the big tax increases that occurred in the counties" and would then allocate the reductions fairly. He noted that **Mick Robinson, Director, Department of Revenue (DOR)**, would provide committee members with a handout illustrating the effects of that approach. He said the State Auditor's Office as well as MLCT would be submitting friendly amendments to HB 45.

Proponents' Testimony:

Mick Robinson distributed and explained six handouts which contained financial calculations illustrating and clarifying the specific provisions in HB 45 and their effects. He noted the Committee had already received the first handout which detailed the calculation of the rebate program's \$13 million cost and estimated the county by county impact for commercial and residential property (Exhibit #2). The second handout, he said, showed the probable impact of the two percent general fund reduction on all agencies and indicated the adjustments of appropriation amounts where the reduction was not included (Exhibit #3). The third handout, he explained, was a calculation of the HB 20 reimbursement funding for rebates on a county, city and school district basis; the totals and the total reduction were calculated and showed how the \$3,924,000 for property rebates was allocated (Exhibit #4). **Mr. Robinson** used the fourth handout to explain section five of HB 45 which, he noted, addressed some of the mechanical workings of the HB 20 reimbursement (Exhibit #5). He said section five would eliminate the current practice of transferring reimbursement dollars to local governments and then having local governments transfer those dollars back to the state; instead the state would transfer those amounts directly into the appropriate funds. He stated \$3,900,000 of the \$12,300,000 total property tax reimbursement that local governments had received in the past would be used to fund a portion of the rebates. He noted that \$3,900,000 reduction had been allocated to those local governments that had experienced the increase in reappraisal and kept that money by maintaining or increasing their mills. The fifth handout, **Mick Robinson** said, presented the relationship between the rebates DOR estimated taxpayers would receive and the reductions in HB 20 reimbursements on a county by county level (Exhibit #6). He noted the numbers in that handout were based on the impact over the biennium. The last handout, he said, detailed the administrative costs for the operation of the rebate program in HB 29 and HB 45 (Exhibit #7).

Alec Hansen, Montana League of Cities and Towns (MLCT), expressed MLCT's support for the rebate program. He stated, however, that HB 45 needed two amendments and handed out written testimony which described the need for those amendments (Exhibit #8). He stated HB 45 with the two amendments would be fair as it applied to local governments because it would connect tax increases to the cost of the rebate program. He noted, however, his comment did not encompass the two-percent general fund reductions.

Representative Davis, House District 53, said he would support an amended version of HB 45 and provided committee members with a copy of his proposed amendment (Exhibit #9). He noted the current version of HB 45 was designed so that the higher an appraisal value and the more money a property was worth, the more tax rebate the property owner would receive. He explained that his amendment would reverse that formula and base the rebate on

income providing property relief for those property owners who had experienced substantial property tax increases through no fault or action of their own. He said the amendment would strike the 75 percent and insert a formula by which the percent return was determined by the income of the property owner based on increases in reappraisal above 10 percent.

Tom Crosser, State Auditor's Office (SAO), offered three technical amendments to HB 45 (Exhibit #10). He said the first and third amendments would correct language that had been doubly inserted into HB 45 during the debate on the House floor. The second amendment, he explained, would allow the SAO to transfer general fund appropriation authority to the state auditor for producing additional warrants. He stated the SAO would not only have to issue additional warrants for the rebate, but would also have to issue additional warrants for those people qualifying for an income tax credit who would not otherwise get a refund check through the current income tax process.

Dennis Burr, Montana Taxpayers Association (MTA), spoke in support of HB 45. He stated the concept contained in HB 45 had been much improved by removing the caps on farmsteads and residential properties and by going to the 75 percent reimbursement of property taxes above 10 percent. He said he did not have "any particular objection" to the \$200 cap HB 45 contained; with limited state funds, he said, the Legislature could not do as much as everyone would like particularly in the area of commercial property. **Mr. Burr** asked the Committee to include reference to all class four property in any constitutional amendment speaking to acquisition value as a base. He noted that the intent of the Driscoll amendment was to penalize areas that had large mill levy increases by taking more of their personal property tax reimbursement. He stated the assumption behind that amendment was that those increases were the result of a local decisions. He agreed that a few counties had taken advantage of increased valuation, but added that overall counties and cities had indeed lowered mill levies and not taken advantage of increases. He explained that statewide valuation went up a little over seven percent whereas counties' taxes increased only about five percent. **Dennis Burr** said the 23 percent increase in taxes accruing to the school districts was a result of the Legislature's underfunding of the school foundation program and suggested the Committee reevaluate the need for the "Driscoll amendment". He noted that the cuts to state agencies would be a "very contentious" issue because the Legislature did not like to consider such measures. Ironically, he stated those cuts would represent what the public would most like to see because the total concept of HB 45 was, as a result, providing property tax relief by reducing the size of government.

Mark Watson, City administration, City of Billings, echoed MLCT's comments and expressed support for its proposed amendment. He stated Billings had neither increased nor decreased their mill levies in response to the increased valuations from reappraisal.

He noted, however, the city had used the additional revenue received from property taxes to funnel \$250,000 directly into street improvements. He stated Billings' response had been a conscious and responsible decision made by the city council and proposed to the members of the Billings community. It did not, he stated, constitute an irresponsible misuse of those funds. He said Billings' response was representative of many of the decisions that had been made at the local level. He suggested the Committee also consider the voted levy issue and make sure that voted levies were accounted for in the funding formula. He stated that Billings was willing to "ante up and lay out [its] fair share" for the rebate program in HB 45. He noted, however, that a reduction of property values would be counter productive to the current situation in Montana.

Opponents' Testimony:

Leonard Wortman, Jefferson County Commissioner, stated HB 45 and the entire rebate package had the potential to become a major mistake and to cause more problems than it would solve. He said it was necessary to determine whether there actually was a reappraisal problem; compared to the 15,000 appeals filed after the last reappraisal cycle, and the 4900 appeals filed after the 1991 sales assessment ratio studies, only 4,700 appeals had been filed at the county level statewide this year. He noted he had checked on the assessed values of some older homes and mobile homes in the Boulder area and six of nine properties had actually decreased in value. He stated HB 45 would provide rebates to those people living in the newer, more affluent homes, but would increase everyone's taxes to make up the money Jefferson County lost in HB 20 reimbursements. According to Mr. Wortman, Jefferson County would be unfairly penalized under HB 45 and the "Driscoll amendment" because the primary reason it had an increase in mill levies in 1993 over 1992 was that it had reduced mills in 1992 by 18.5 percent because of the release of Bonneville Power Administration (BPA) protested tax monies being released. He said Jefferson County had levied 2.5 less mills in 1993 than in 1991 and had almost \$100,000 less tax revenue in 1993 than it was in 1991. Mr. Wortman encouraged the Committee to "slow down and proceed with caution". He noted the Legislature should not "play ... politics with the taxpayers' money", and, he added the \$270,000 projected cost of administering the rebates should be reason enough to forget the proposal. He stated he believed that the entire rebate package and the funding mechanisms in HB 45 were nothing more than "knee-jerk reactions". He encouraged the Committee to turn its attention to some real solutions that could actually help Montana taxpayers.

Jeff Baker, Commissioner of Higher Education, spoke from written testimony in opposition to HB 45 (Exhibit #11). He stated increasing enrollment had made the \$15.6 million in cuts the U-System had received "felt and felt deeply. He said it was important that the Legislature "take a hard look" at what kind of

a higher education system Montana wanted and needed. He stated higher education was one of the true resources and assets Montana had, but currently, he said, Montana was spending less than any other state in the US on instruction per student. He noted that higher education had committed early on in the special session to review and address the issue of duplication in the U-System and had expressed its willingness to do its fair share to balance the budgets. **Mr. Baker** explained the U-System felt its fair share of budget cuts should be commensurate to its 12.3 percent share of the General Fund budget, which, he said would have been \$6.7 million. He reminded the Committee that HB 2 contained \$11.7 million in reductions for the U-System, \$6 million of which would be six mill money but the remaining \$5.7 would come from the U-system itself. He emphasized that the regents were not now, nor had they been historically willing to increase tuition to totally offset the cuts in the budget. **Mr. Baker** noted the current amendment in HB 45 would reduce the U-System's budget by an additional \$4.3 million. He stated that proposed reduction was another "piece of a movement" which was severely undermining the higher education system's ability to introduce new efficiencies and changes into the system.

Mike Malon, President, Montana State University (MSU), expressed his opposition to HB 45. He stated the budget reductions that had been made on MSU's campus were "demonstrably real cuts" which had real impacts on the institution, Montana citizens, and the 11,000 students in residence on campus. He noted MSU's entire institutional support budget was \$2 million, which, he noted, had already been "carved on pretty appreciably" by eliminating a vice-presidency, merging athletic programs, and eliminating managerial positions. He said it was getting harder to buffer the instructional core with every new budget cut and, he added, there was \$50 million in deferred maintenance at MSU. He added that the research universities in Montana ranked at the bottom in funding, and the current funding was not adequate because there was a 12 percent inflation rate in library materials. **Mr. Malon** stated cuts directly affected students. The Board of regents had instated a two-percent cap on enrollments because of budget constraints, and, as a result, he said, 250 student applicants, nearly three-fourths of whom were Montana residents, had been turned away from MSU. He stated students increasingly face the dilemma of paying more tuition versus lost services. He stated MSU was trying to maintain those services but doing that was becoming a greater challenge.

Todd Mitchell, President, Montana Associated Students (MAS), said MAS was the organization which represented students statewide in U-System. He noted, however, MAS had not gotten involved in the policy debate of whether or not rebates were an appropriate response to the dramatic increases some Montanans had seen in their property taxes until the U-System was included as a funding source in HB 45. He stated it did not make sense that the U-System and students should have to make up for the short-comings of a "screwed up" property tax system through increased class

sizes or cuts in the system. He noted the funding provision in HB 45 might make more sense to MAS if an appreciable correlation existed between increases in the university system and the increases in property tax. Instead, he added, the U-System had received a large decrease in funding; property taxes had not gone up to fund the U-System. The only logical explanation, Mr. Mitchell stated, was that there were two misconceptions about the U-System: one, that the U-System could continue to absorb additional cuts without affecting the quality of education; and two, that students should have to pick up the \$4.1 million cost to fund property tax rebates. He noted even though HB 45 contained the provision that tuition could not be raised to offset the reductions, students would be impacted; students would see the dramatic effects on their institution: in the loss of hours of student services, in increased class sizes, in professor availability, in deferred maintenance, etc.

Todd Mitchell argued that the U-System could not continue to absorb additional cuts without the quality of education being affected. He used the example of Eastern Montana College, where, he said, the academic budget committee was still in the process of allocating the cuts Eastern had received in the regular session. He noted that Eastern's share of the budget reductions from the special session already amounted to \$1.2 million, HB 45, he said, would add another \$386,000 to fund property tax relief. He stated the additional money could not be found on Eastern's campus; the salary for the college's entire administrative core did not total \$700,000, which, he noted, was still \$500,000 short of Eastern's \$1.2 million special session reduction. He closed by asking the Committee to make the process more fair and find some other way to meet the needs of Montanans rather than disproportionately asking the university system to ante up.

Mark Peterson said he was representing himself as a taxpayer as well as the Montana Agricultural Experiment Stations Advisory Committee (Advisory Committee). He noted he was from Hill County where every eligible property would receive a rebate of about \$100, and amount, he said, which did not begin to compare with the importance of agricultural research to his family and operation. He informed the Committee that ag research centers had already taken cuts that had not been back-filled by other monies, and now, he stated, any further cuts would mean eliminating whole programs. He noted that the Advisory Committee reviewed all research being done by the ag experiment stations every two years. He stated Montana and agriculturalists were getting their money's worth. Mr. Peterson noted that agriculture was currently in a transitional period where research was necessary in order to make the transition smooth. He stated agricultural research provided the following: early identification of weeds, diseases, and insects which allowed farmers and ranchers the chance to manage them before they become a major economic problem; new and better varieties of grain suited for specific areas in the state; fertilizer recommendations as to the amounts, placements and timing. He

said his operation had seen increases in yields from 15-20 bushels in the 1960s to 30-35 bushels in the 1980s and 1990s, an increase that translated into \$45 to \$60 increase in dollar return per acre which, in turn, provided an improved quality of life and more property and income for the state to tax. He stated ag research was responsive to his needs as a farmer, but, he noted, research did not happen over night; effective research took years and was not something that could be turned off and on from year to year. He stated the ag experimental stations were run with a "reasonable and business-like approach" and encouraged committee members to defeat HB 45 and to continue to fund education because, he noted, Montana and individual taxpayers would receive a "far greater return".

Lorna Frank, Montana Farm Bureau, said her concerns echoed those of **Mr. Peterson**. She stated the agricultural research stations and their ongoing research provided vital information to the agriculture industry and people and helped in Montana's race for international trade and economic survival. She explained research was currently being done on regulations, non-point source pollution, soil erosion and the availability of pesticides. She stated bio-technology could provide the agriculture industry with controls for noxious weeds, insects, pests and plant diseases.

Randy Johnson, Montana Grain Growers Association (MGGA), briefly underscored the previous two speakers. He stated there were compelling financial reasons why ag research was important to the Legislature. He explained if the production in Montana of only wheat and barely was considered, one bushel of improved yields due to research in any area would result \$20 to \$40 million dollars of additional taxable revenue in Montana. He noted the finances associated with the quality factor were even more impressive; one more point of protein in wheat resulting from improved techniques and strains, would result in \$193 million in additional income to Montana farmers. He stated agricultural research was a source of revenue, not a cost to the state.

Annette Jones, Montana State University Students (MSU), expressed the opposition of MSU students to HB 45. She stated the Mercer amendment would mean an additional \$4.3 million cut in the U-System, and, she said, if that money was cut, the U-System would never see it again. Instead, she noted, that cut would be shifted to students through larger classes and smaller class section availability. She wondered how many parent of students would approve of HB 45 even if they would be eligible to receive a rebate since HB 45 might very likely mean that their children had to stay in school longer. She stated the costs of another year or two of college tuition and fees would far supersede the rebate. She concluded HB 45 represented a "symptomatic solution" that would have negative long-term implications.

Marcus Cordy, Associated Students at UM, stated the associated students at UM opposed HB 45 because it was not grounded in

reality. He explained that the language in HB 45 provided that the two percent deductions would not be offset by tuition or fee increases. He noted, in fact, tuition had increased every time the state had introduced a reduction in General Fund monies. He stated HB 45 meant "grief not relief" for students at UM.

Terry Minow, Montana Federation of Teachers (MFT) and the Montana Federation of State Employees (MFSE), said MFT and MFSE represented the faculty and staff of the university system, and the vo-techs, as well as city and county employees, teachers and state employees. She stated MFT and MFSE were opposed to HB 45 because it would adversely impact all of those public employees and their ability to provide the services that the citizens of Montana want and demand. She stated HB 45 was an unfair bill and represented "business as usual in a session that was supposedly not going to be business as usual". She expressed opposition to across-the-board cuts and urged committee members to vote against HB 45.

Tome Schneider, Montana Public Employees Association (MPEA), stated MPEA wanted to go on record in opposition to HB 45 because of the funding mechanism. He stated House Appropriations and Senate Finance & Claims had been working on trimming the budget for seven weeks and, he added, it did not make sense to "slash" two percent across-the-board with no thought and no chance to determine possible repercussions. On a personal note, he stated, he was a home owner and had three children in college. He noted he would receive a rebate under HB 45 but that rebate would not even approach offsetting the additional costs he would be facing associated with his children's continuing education. He stated HB 45 did not make sense for a lot of reasons.

Questions From Committee Members and Responses:

Senator Brown asked **Todd Mitchell** how the level of tuition paid by Montana college students compared to the rest of the nation or the rocky mountain region. **Mr. Mitchell** replied Montana placed approximately fortieth in the nation in tuition.

Senator Brown asked whether that meant college students paid more tuition in 39 states and less in 10. **Todd Mitchell** replied that was approximately correct.

Senator Brown asked **Commissioner Baker** how the tuition level compared to that of contiguous or regional states. **Commissioner Baker** replied peer institutions were traced by category. He stated, depending on category, this year in-state tuition at UM, MSU, Western and Tech was either a little bit above or a little bit under and out-of-state tuition was about the same. He said if all six of Montana's four year institutions were aggregated, the in-state tuition was a little bit more and out-of-state tuition was a little bit under when compared to neighboring states.

Senator Brown asked whether Montana's tuition was conspicuous in any way. **Dr. Baker** said Montana did not stand out conspicuously when compared with the peer institutions.

Senator Brown referred to the concern **Annette Jones** had expressed about not being able to graduate on time because budget cuts were reducing class availability and increasing class size. He stated that was a common complaint and, he noted, spending more time in college constituted a greater expense than a tuition or fee increase. Given the fact, he said, that tuition and fees were not "greatly out of line" in Montana, the provision limiting the regents from increasing tuition and fees should be removed from HB 45. He stated that would make it easier in the long term for students to graduate and make it easier on their parents. He asked **Representative Foster** about the rationale behind that provision. **Representative Foster** replied he shared **Senator Brown's** concern that all students have a "fair shake" and be able to go through the U-System in a reasonable time. He agreed that the additional reductions in HB 45 would create a challenge for the regents and the units themselves to schedule appropriately and not harm the ability of students to move through the system. He stated it was up to the regents and units to meet that challenge. **Representative Foster** added it would not be fair to students for the Legislature to automatically allow the U-System to pass on the cost of the program to students.

Senator Doherty asked **Commissioner Baker** whether the opportunity to meet the challenge issued by an additional two percent budget reduction had any basis in reality. **Commissioner Baker** replied the U-System had to try to meet that challenge no matter what was handed to it. **Senator Doherty** noted what if you were told you did not. **Commissioner Baker** said higher education in Montana was being systematically privatized. He explained over the period in which general fund appropriations had decreased by \$50 million, in-state tuition increased by slightly more than 30 percent and out-of-state tuition by slightly more than 50 percent. He stated when the U-System was handed a cut there was no joy in deciding to raise tuition to pass along any portion of that cut. Instead, he noted, the units and the Board of Regents continually tried to balance what they regarded as good system of higher education with the reality that students would end up having to pay more somehow. **Dr. Baker** noted if people were concerned now, the future would be even scarier; a projected 9,000 more students would be "knocking at the [U-system's] doors for higher education in this state". He stated the regents were trying to develop a plan that would accommodate Montana's higher education needs, both in terms of quantity of students and quality of education. The quality component, he noted, was difficult to define but a very real issue on Montana's campuses.

Senator Doherty noted that the fiscal impact of the percentage cuts in HB 45 put the Committee in a role usually reserved for Finance & Claims. He asked whether the director of the Department of Social and Rehabilitation Services (SRS) or of the

Department of Family Services (DFS) was present to indicate what impact the two-percent cut would have on their agencies. Neither director was present.

After some discussion about whether or not SRS or DFS would be affected by the cuts in HB 45, **Representative Foster** emphasized that HB 45 was designed not to harm benefits. He explained the two percent cut would be applied to administrative costs, duplications, equipment, etc. **Senator Doherty** responded he understood that HB 45 was designed to affect the "bloated bureaucrats". He stated he wanted to ask the "bloated bureaucrats" whether they could handle the additional cuts.

Mick Robinson stated the administration thought the original funding mechanism HB 45 had contained was more appropriate than across-the-board reductions. He noted, however, the House had not agreed to the use of major component of that mechanism, the Arts Trust. He said **Governor Racicot** thought the rebates not the funding were the critical issue, and, he noted, the current questions seemed to be centered on the issue of funding, not the rebate or the mechanism for those rebates. **Mick Robinson** stated the reality of the current situation in Montana was that state government, management and the U-System faced significant difficulties in trying to provide a quality level of services with the resources available. He noted that a difference might exist between governments perception of quality and the taxpayers', but stated it was necessary to "wrestle" with the very critical issue in Montana which, he stated, was the recent significant increases in property taxes.

Senator Doherty asked **Mick Robinson** if DOR could stand an additional \$408,000 reduction in its budget, and, he added, if DOR could, how come that amount was not already included in HB 2. **Mr. Robinson** replied HB 2 did contain a \$1.2 million reduction in DOR's budget, which, he said was a significant reduction when compared to DOR's total budget. He stated an additional two-percent cut would have an impact; DOR would probably be able to provide the same services to taxpayers, but its responsiveness and turn around time would be adversely affected. He said certain administrative activities might be diminished as well. He noted that most agencies would be similarly affected. He stated, however, the question was one of priority and whether the issue at hand was critical enough to finance with across-the-board cuts.

Senator Eck stated she was more concerned about the impact of such cuts in SRS and DFS. She noted that **Jim Smith** was present and went to most meetings involving those departments. She asked him whether SRS and DFS had indicated that they could absorb the cuts in HB 45 without greatly hurting the services they provided. **Jim Smith**, said he represented both the **Montana Association for Rehabilitation**, which, he noted, did a lot of business with SRS and the **Montana Association of Homes and Services for Children**, which did a lot of business with DFS. He said he had sat

through all of the sub-committee deliberations, the House Appropriations meetings and the Senate Finance and Claims meetings and had followed the appropriations process "pretty closely". He admitted he had come to the special session "carrying a little bit of a grudge" because all of the cuts proposed for DFS and SRS were in the area of benefits and services to people and not administration. He stated, however, the department directors' testimony about their workloads and their responsibilities had convinced him that their ability to withstand any magnitude of cuts was very limited and would "play out" in a couple of ways. The first way, he explained, would be delays in the issuance of checks to providers who spent their money first and delays in services to recipients; bureaucrats were needed so that real services could be gotten to clients who needed them. The second way, he stated, would be reducing the departments' "accountability" or "quality assurance or quality control"; the bureaucrats were necessary to provide timely, accurate information for the Legislature.

Chair Halligan asked **Mick Robinson** if he had an assistant who could call the directors of SRS and DFS and request their presence so that they could present their perspectives on the matter.

Senator Grosfield said all of the testimony against HB 45 had centered on the funding source and not the concept of rebates. He asked whether **Commissioner Baker**, representing the "higher education establishment" opposed the concept of rebates. **Dr. Baker** responded he did not.

Senator Grosfield asked whether **Commissioner Baker** shared many legislators' concern that unless some responsible alternatives were offered to defuse the tax protest movement currently occurring, the U-system and other agencies could be "hit much harder in the future". **Commissioner Baker** responded that at some point it would become clear that if higher education continued to be cut, the state would get exactly what it was paying for. He stated that people in higher education kept looking for alternatives but, he noted, there had never been a lot of alternatives and those were fast dwindling. He said the issues of access, quality and cost were all connected and, he noted, it would be impossible to keep the current standard of quality if funding continued to decrease while still allowing the access that people want. He stated "something has got to give" and that the pressure was being felt increasingly in the higher education system.

Senator Grosfield stated the Legislature understood that dilemma and was trying to develop a plan to deal with it. He said he could sympathize with **Senator Brown's** approach and asked what percentage non-resident students were paying toward the cost of their education. **Commissioner Baker** replied the U-System was moving to a formula that would have non-resident students paying a minimum of 100 percent of their education costs. He stated

currently those students were paying between 82 percent to just under 99 percent depending upon the school they attended. He explained non-resident student tuition covered 82 percent of the cost at Montana Tech while at Eastern and UM it was just under 99 percent. He said the regents' policy for addressing the \$5.7 million reduction already allocated to the U-System was to move that closer to the 100 percent.

Senator Grosfield asked how soon the 100 percent would be implemented. **Commissioner Baker** said the regents' had determined it would be no later than the end of the next biennium.

Senator Grosfield referred to the Western Undergraduate Exchange (WUE) Program in which students from many of the western states essentially received reduced tuition in Montana's U-System. He asked whether the formula for moving to that 100 percent would include WUE students. **Commissioner Baker** replied Montana now imported many more WUE students than it exported. He stated plans and timetables had been implemented that would equalize those numbers by 1997. He said about 2100 students currently came into the state and only 800 Montanan students went out.

Senator Grosfield asked what that would amount to in dollars. **Commissioner Baker** replied each WUE student from outside Montana paid 150 percent of in-state tuition or 37.5 percent of the cost of their education. He noted the U-system subsidized those students as long as the numbers of WUE students imported and exported were not equal.

Senator Grosfield noted since only 800 Montana students were exported, Montana was currently subsidizing about 1300 students. **Commissioner Baker** replied that was correct. He added the funding mechanism had also changed, a move which had eliminated the "perverse incentive" for recruiting WUE students into the state because they received state money. He stated the regents' had developed a policy by which Montana dollars would be used to fund only Montana students. The result, he explained, was that no dollars coming from General Appropriations or millage would be applied toward the cost of education for out-of-state students; every out-of-state student would instead pay at least full cost of their education.

Chair Halligan asked **Commissioner Baker** if the concept of tuition included any fees. **Dr. Baker** replied no. He stated fees were also increasing rapidly and substantially and that fact was certainly transparent to the student and the family paying those fees. He noted his answer to **Senator Brown's** question had included both tuition and fees because, he said, that was the only fair way to make that comparison with peer institutions.

Senator Yellowtail said he would like to ask the Montana School Board Association (MSBA) a question. It was noted that no MSBA representative was present. **Senator Yellowtail** asked whether a representative from the Montana Association of Counties (AofC)

was present. **Chair Halligan** said that **Gordon Morris** was testifying on another bill. **Senator Yellowtail** stated he had a question for those parties and asked if Committee would summon them from the halls. **Chair Halligan** asked the page to summon **Gordon Morris** and a MSBA representative.

Senator Yellowtail noted MLCT had testified in support of HB 45, and a MLCT member had also supported HB 45 and stated his city had put the windfall derived from valuation to good use by applying it to the streets. He asked **Alec Hansen** why the state should assume the responsibility for "treating the wounds to taxpayers" when, in fact, local mill levies could have been reduced to accomplish the same end. Especially, he noted, considering the windfall that had accrued to local taxing jurisdictions. **Mr. Hansen** replied MLCT had concluded in November that a limited rebate approach would be the best short-term approach to the property tax increases because its costs were known. He emphasized that MLCT had only reached that conclusion after reviewing the LC list which had indicated that of the 87 or 89 bills requested, one-half of them addressed property taxes and proposed "rollbacks, refunds, rebates, freezes, limitations, adjustments, etc". Early in the special session, **Mr. Hansen** noted, it was acknowledged that it would be extremely difficult for local governments and school districts to roll back their budgets because the fiscal year (FY) was already half over. He reminded **Senator Yellowtail** that under the provisions in HB 45 local governments would be responsible for virtually all of the program's cost in its second year.

Senator Yellowtail asked whether city and town budgets were based on anticipated revenue from increased property valuations for this FY. **Alec Hansen** replied those budgets were based on actual projected revenues. He said the counties provide cities and towns with the valuation statements.

Senator Yellowtail asked whether budgets had been established and then cities and towns had received inflated revenue above and beyond their anticipated revenue as a result of property taxes. **Mr. Hansen** responded that in July or August each city received an idea of what the valuation would be and applied the mills to that value in order to produce the budget for that year. Referring to a DOR survey of 22 cities and towns, he said 17 of those 22 cut their mill levies, 3 stayed exactly the same and 2 increased. **Mr. Hansen** noted that Missoula was one of the communities which increased mill levies and they had also had a publicly approved bond issue. He stated cities and towns were not trying to take unfair advantage of the increase in valuation; budgets had been set as they had always been and the property tax increases represented neither unanticipated revenue nor a windfall. He added the increase in value also came after seven years of living under I-105. He repeated MLCT was very concerned about being forced to adjust budgets half-way through the FY because they had made budgeting decisions based on revenues generated by higher mill values.

Chair Halligan noted that the various department directors were present and asked **Senator Doherty** if he wanted to ask them his question.

Senator Doherty noted that HB 45 would subject SRS to a \$250,000 budget reduction. He asked **Peter Blouke, Director, SRS**, if SRS would be able to provide necessary services for people if that money were taken out of its budget, and, if it was possible, why had that money not been included in HB 2. He noted **Mick Robinson** had informed the Committee that the two-percent reduction to DOR would mean diminished services for Montana taxpayers. **Mr. Blouke** said SRS would also lose federal funds as a result of the state budget reduction of \$498,000 over the biennium. He stated he had just been informed of the proposed cut and had not had an opportunity to analyze how that reduction would be allocated across the various programs in SRS. He added, however, SRS's ability to respond to provider groups, to enter into planning programs like the managed care issue and welfare reform would be adversely affected because all those sorts of these things take people, time and resources.

Senator Doherty asked if **Peter Blouke** could estimate the amount of federal dollars SRS would lose as a result of the additional cuts in HB 45. **Mr. Blouke** replied the ratio in SRS administration was approximately 35 percent to 40 percent General Fund with the rest being federal funding. He noted that ratio varied by program: the bulk of the administrative funding in developmental disabilities was General Fund whereas in the Medicaid division, it ranged from 90/10 to 35/65 ratios depending upon the particular program.

Senator Doherty asked if **Mr. Blouke** would provide the Committee with more specific information. He noted **Mr. Blouke's** general information meant that reducing SRS's budget by \$498,000 could mean up to a reduction of \$2 million in services to Montanans. **Mr. Blouke** said SRS staff were working on the particulars and he would be glad to make a phone call.

Senator Doherty asked **Bob Robinson, Director, Department of Health and Environmental Sciences (DHES)** noted that **Senator Gage** had introduced an amendment to HB 2 which would allocate \$50,000 for the hantavirus problems because SRS could not find \$50,000 for that work. He noted HB 45 would reduce DHES budget by \$45,00 per year and asked if DHES could absorb that reduction. **Bob Robinson** responded out of DHES's \$60 million budget for ongoing operations, only about \$2.7 million was General Fund money. He noted that in response to the 1993 Legislatures' mandate, DHES had proposed a \$288,000 or 15 percent across-the-board reduction. That reduction, he said, came from various sources: \$19,000 in occupational health which would affect the radon and indoor air quality programs; \$16,000 in solid waste which would reduce the services to cities and counties that have dumps; \$60,000 in the directors office which was the result of reallocating his salary; \$2800 from the Family Planning's \$24,000 General Fund allocation;

\$4900 in the peri-natal program which would reduce the support staff to run the Montana Initiative for the Abatement of Mortality in Infants (MIAMI) program; \$30,000 in Vital Records which, since the legislation would not allow raising fees, would mean either the public or tumor registry would be eliminated; \$20,960 in Air Quality which would reduce the ambient air monitoring DHES undertakes for communities around the state; \$50,000 in the Health Care Authority; \$50,000 in Food and Consumer Safety. **Bob Robinson** said he had proposed four pieces of legislation in order to reduce DHES responsibilities within Food and Consumer Safety which, he noted, had all "been shelved". He stated the state was "looking for a lawsuit" because the responsibilities remained in statute but DHES would have to cut services as a result of the budget reductions.

Senator Doherty asked **Leo Giacometto, Director, Department of Agriculture (Ag)** whether the cuts in HB 45 would mean a reduction in Ag services that Montanans had come to expect and rely on, and if it would not, why were those cuts not in HB 2. **Leo Giacometto, Director, Department of Agriculture**, stated Ag's General Fund budget was less than \$500,000 per year and \$10,000 would "really hurt" because it would mean either vacancy savings or trying to cut a position. He said the only other program receiving General Fund monies was responsible for marketing agricultural products. He noted currently there were only two positions in that program which, he stated, were necessary to cover all of Montana.

Senator Doherty asked **Mr. Giacometto** if he thought it wise to take a two-percent cut from the agricultural experiment stations. **Mr. Giacometto** replied no. He stated that cut would be "devastating to the ag experiment stations".

Senator Doherty repeated his questions for **Lois Menzies, Director, Department of Administration (DoA)**. **Ms. Menzies** said she had not had sufficient time to analyze the potential effects of the cut in HB 45. She noted, however, she could outline some possible consequences for DoA. She stated the reduction would impact six DoA programs: the director's office, the accounting and management support bureau, purchasing, general services, personnel, and the State Tax Appeal Board (STAB). She said the impact on STAB would be significant because that agency was already projecting a \$55,000 deficit for FY94 because of increased claims and did not project any improvement for FY95. She noted STAB did not have much control over expenditures since they happened at the county level and were driven by the number of claims. **Ms. Menzies** stated the rest of DoA had been managing "conservatively" to meet the five percent reductions from the 1993 regular session. She noted the two percent cut in HB 45 would actually equate to a four percent cut for this FY which created more of a "crunch". She said DoA would not have much flexibility from early retirement because only two of the 16 early retirements in DoA came from agencies financed by General Fund monies. **Ms. Menzies** informed the Committee that there was a

"rather large sum of money" in the Personnel Division for the Personal Services Contingency Fund which was designed to be used to meet vacancy savings, particularly for those smaller agencies that might not be able to meet the five percent reduction in 1993. She said HB 45 would require DoA to absorb the two percent cut for the contingency fund which would amount to about \$10,000 in FY94 and \$9,000 in FY95. According to **Ms. Menzies**, DoA provided services to state agencies and the reductions would make it necessary for DoA to require agencies to perform more of those services themselves. The result of that, she said, would be that agencies would have to use more of their staff time to provide services that DoA was currently providing.

Senator Doherty repeated his questions for **Mark Simonich**, **Director, Department of Natural Resources (DNRC)**. **Mr. Simonich** responded the two percent cuts in HB 45 would be very difficult for DNRC to absorb. He stated the biggest problem with those cuts was that they targeted a particular part of the budget. He explained that only 35 percent of DNRC's budget was funded with General Fund monies and a lot of the rest came from state special revenue accounts particularly the Resource Indemnity Taxes (RIT) account. He said DNRC had allocated past cuts by reviewing and prioritizing individual programs, which, he added, allowed funding to continue for the higher priority programs. When DNRC General Fund programs were targeted, he stated, often it was the highest priority programs that were reduced while funding continued for the lower priority programs. He said the two percent cut in HB 45 would mean a reduction of about \$62,000 to \$65,000 per year in DNRC's budget. According to **Mr. Simonich**, that would mean targeting a specific program to eliminate or postpone, which would anger a lot of constituents, or looking to vacancy savings. He stated DNRC was still leaving vacancies to try to satisfy the five percent vacancy savings from the regular session. He noted it was difficult to manage those spots to accrue the necessary savings while still performing DNRC's duties.

Senator Doherty repeated his questions for **Deborah Schmidt**, **Environmental Quality Center (EQC)**. **Ms. Schmidt** said that any kind of percentage cut would affect EQC's personal services. She explained that personal services comprised almost 88 percent of EQC's budget and EQC had already reduced its operating expenses to a point below where it had been 10 years ago. She said cutting the additional amount in FY94 would be especially difficult since currently some council members already did not claim their compensation for travel to EQC meetings. She noted the cut would probably mean reducing some staff houses even though there is comp time built up almost equal to one FTE after the last regular session. She stated the budget reduction would result in a reduction in services and the amount of work EQC could perform for the Legislature, the public and for state agencies.

Senator Doherty repeated his questions for **Hank Hudson, Director, DFS**. **Mr. Hudson** replied DFS provided primarily direct care services through state employees and was funded largely through the General Fund. He said, as a result, the two percent budget cut in HB 45 would mean a reduction in the number of employees. He added DFS employees were mostly social workers stationed across the state, and, a reduction meant that positions would be left open or retired. According to **Mr. Hudson**, DFS would continue to respond to emergencies and to do investigation in some of its primary responsibilities, but, he stated, the other tasks assigned to social workers like arranging for adoptions, providing on-going case management, working intensively with families, etc. would "drop by the way-side" as DFS was forced to focus primarily on emergency response and crisis management. He explained he felt confident that DFS could continue to respond when the phone rang and to defuse immanently dangerous situations if the two percent cuts became effective. He stated, however, children would remain in foster care longer, and adoption would take more time to finalize. Because of the federal government's scrutiny of Montana's correctional institutions, **Mr. Hudson** noted any reduction in direct care staff to children in those facilities would have to be limited. He concluded DFS would be able to continue to deliver crisis related services at the expense of those services that are provided after the crisis has stabilized.

Senator Doherty asked whether DFS received any federal matching funds in its budget. **Mr. Hudson** replied yes. He stated about 35 percent of DFS's budget was funded with federal matching funds, so, he said, the two-percent budget cut would involve a reduction in federal funds as well.

Senator Gage asked **Mick Robinson** to clarify how the schedule in Exhibit #4 was built. **Mr. Robinson** replied the formula used in Exhibit #4 had been invented in the House Taxation Committee by **Representative Driscoll**. He explained the approach was to compare the taxable value in place in 1992 to the taxable value in 1993 and to factor in any change in mill levies that occurred in that corresponding period. He stated the reductions in HB 20 reimbursements would be allocated to those local governments where the increase in property taxes was a result of both the reappraisal and mills.

Senator Gage noted that no computation considered non-mill revenues or one-time revenues that had resulted in reduced mills in previous years but caused increases in 1993. **Mick Robinson** replied DOR had explored, for example, the BPA activity and its impact in Jefferson and some other counties. He stated non-mill revenue was not included in the calculation because of the limited number of local jurisdictions that would be affected. He said only two counties statewide had actually experienced a decrease in mill levies from 1991 to 1992 that could be connected with a one-time source of revenue used to reduce the mills and then an increase in 1993.

Senator Gage stated after serving on Finance & Claims he had been a proponent of "across-the-board appropriations". He noted he thought it a good idea for the Legislature to review a department's various programs and spending. He said afterward, however, the Legislature should give departments a specific amount of money to use to fund the entire department instead of locking in funding for specific programs. He asked if anyone would like to comment.

Chair Halligan noted he thought the Legislature had approved a pilot program during the 1993 regular session to allow some departments and divisions of departments to do that. **Dave Lewis, Director, Office of Budget and Program and Planning (OBPP)**, said a bill had been approved allowing some budgets of that format for the next biennium to be presented to the Legislature. He added HB 7, which was on that days Senate agenda would revise the way a budget was presented. He said that would offer some opportunity to do a better job of laying out precisely what was within the budget. **Mr. Lewis** stated HB 45 would grant OBPP some flexibility to reallocate reductions between fiscal years. That provision was necessary, he explained, because the first half of FY94, the first FY of the biennium, was already over. He reiterated **Mick Robinson's** comments that the administration did not prefer funding property tax rebates with across-the-board cuts. **Mr. Lewis** stated other options had been included in the governors budget like, for example, getting the state out of the retail liquor business, and delaying the construction of new buildings and the accompanying debt service. He repeated the administration would rather employ another funding source, but, he noted, had chosen not to oppose the House amendments to HB 45.

Senator Eck noted **Hank Hudson** had indicated that DFS would be able to respond to crises. She said that over the last number of sessions DFS had "gone farther than most agencies and really reinvented the way it provided services". She explained that DFS was able to provide those at a more cost effective level by concentrating on prevention thereby reducing the need for emergency response and the high cost programs associated with it. She asked **Mr. Hudson** whether the various prevention programs being developed and the restructuring of medicaid to recapture more federal funds would be jeopardized if DFS were forced back into providing primarily crisis services. **Mr. Hudson** replied he would not consider the funds available for prevention and family preservation to qualify for the cuts HB 45 would mandate; those funds, he explained, were more of a direct benefit to clients and not operating expenses. He stated the issue for DFS was really a qualitative one; if DFS could not employ enough people to work with families in a preventative way, it would simply work to deal with crises as they occurred. He stated that would not be as effective and would represent a qualitative diminishment of the services DFS provided. He noted he would be "loathe to consider backing away" from the prevention initiative DFS was undertaking.

Senator Grosfield asked **Commissioner Baker** whether the Board of Regents would appreciate the discretion to allocate reductions in the eventuality that higher education had to absorb a \$4 million hit. **Dr. Baker** responded that the flexibility to work and manage the system was, in every case, to the benefit of the system. He stated the Board of Regents was in the process of allocating the first \$11.7 million reduction which could not be passed through tuition. He noted the lack of flexibility exacerbated the situation of continuing budget cuts. He noted he did not know how much longer the U-System could adapt to that situation; he compared the current environment there to a farmer's field which is eroding: "it constantly erodes and erodes and the crop yield goes down and one day you realize that this field is no longer productive".

Chair Halligan noted that there were some technical questions but that those could wait until executive action.

Closing by Sponsor:

Representative Foster first addressed the amendment proposed by **Representative Davis** (Exhibit #9). He stated he was unfamiliar with the amendment, but was willing to at least look at it. He expressed hesitation, however, at the income means test incorporated into that amendment and cautioned the Committee about "mixing income tax policy with property tax policy". He also requested that the financial impacts of that proposal be analyzed. **Representative Foster** agreed with **Alec Hansen** that the state could not have a property tax rebate program without paying for it, and, he added, HB 45 was an honest approach at providing funding for those property tax rebates. He noted that the testimony provided by department directors had given "everyone an appreciation" for the appropriations process. He expressed his preference for using the Arts Trust as the funding source as was initially proposed. He stated the Arts Trust money was a less painful and "much more logical" source of funding. He reminded the Committee that there was still time in the legislative process for discussion and negotiation in order to work out a program that was agreeable to both sides of the aisle and to both legislative houses.

Representative Foster said the critics of the proposal to fund property tax rebates with money from the Arts Trust had not closely reviewed the proposal. He stated the source of funding for the Arts Trust would have actually been increased over the long-term. Unfortunately, he said, the resulting debate had actually made the Arts Trust look like a "huge opportunity for other users of tax dollars" who would not reimburse that money. He noted the short-sightedness on the part of critics had complicated the issue because, he stated, property rebates needed to be funded somehow and the original proposal was preferable. **Representative Foster** expressed his astonishment that a Jefferson County Commissioner, who was representing government, had actually testified against HB 45 on the basis that there was no

property tax problem in Montana. He disagreed and suggested that anyone who thought no problem existed should talk to those people who had "gotten nailed by this huge property tax increase". He addressed the actual impact of HB 45 to Jefferson County; local government would lose about \$100,000 from the personal property tax reimbursement money but taxpayers would receive \$200,000 in rebates.

Representative Foster expressed his "extreme confidence" in **Jeff Baker** regardless of what happened during the next two days. He stated he believed that **Dr. Baker** would address issues like reorganization and duplication of programs in the higher education system. He stated the end result would be improved efficiency and quality that would benefit not only the students of Montana, but everyone. He noted that one of the MSU student lobbyists said the Legislature needed to face the facts. **Representative Foster** stated **Governor Racicot** had faced the facts when he included the property tax issue within the call of the special session. He stated the Legislature needed to focus on the fact that property taxpayers were facing a \$134 million tax increase over two years; HB 45, he noted, would take a relatively small portion of that increase and put it "back in the pockets" of taxpayers who had been hit hardest by the increases. He commented that not too many citizens were in attendance although some were present at the hearing on HB 29 to express their support for a rebate. He said they had not attended the hearing on HB 45 because they viewed the funding of the rebate program as a technicality, something the Legislature needed to work out. He stated those people had faith that the Legislature would find a "fair and reasonable" funding source, and, he noted, the Arts Trust might "look a little better as time goes on".

HEARING ON SENATE BILL 52

Opening Statement by Sponsor:

Senator Weeding, Senate District 14, said SB 52 was the result of testimony presented at the hearing on SB 43. At that hearing, he explained, the fact was uncovered that snowmobilers who had earmarked accounts with the refund probation were receiving their refunds from the highway account's general fund instead of those earmarked accounts. He stated it would be much fairer if the refunds received by these claimants came out of the actual fund into which their taxes were paid. Unfortunately, he noted, the language in SB 52 had not been drafted to accomplish his intent and he distributed a set of amendments that would correct the language (Exhibit #12). **Senator Weeding** stated if amended SB 52 would mean a \$20,000 annual reduction from the snowmobile, off-highway vehicle (OHV) and propelling boat accounts and a similar gain to the highway account. He noted the snowmobile account alone would be reduced about \$17,000 annually.

Senator Weeding informed committee members that a possible "glitch in the law" had been uncovered while working on SB 52. He said the Department of Transportation (DOT) was the trustee of the funds and had been making distribution on the basis of gross gallons. He stated, however, that since some of the taxes were exempted and some had refund provisions, \$0.27 on the gross gallon was not deposited into the highway account even though DOT was distributing that revenue to the ear marked accounts as if it had received that \$0.27. He noted there was a difference of opinion between the Legislative Council and DOT about whether a problem did, in fact, exist. If it was decided that a conflict did exist between the statutes which regulated the collection and deduction of fuel tax monies and the distribution of appropriate refunds, **Senator Weeding** stated he would soon have amendments that would resolve the issue. He noted DOT would like to have that issue decided so that it had a legal basis for its administrative duties in this respect.

Senator Weeding repeated that deducting the refunds from the appropriate special revenue account would put an additional \$20,000 yearly into the highway fund. He stated an additional \$100,000 would accrue to the highway fund if the conflict was resolved and DOT was directed to apportion those funds from the net instead of the gross amount it received. He said the monies would flow from the three special accounts in either case.

Proponents' Testimony:

Arnie Olson, Fish Wildlife and Parks (FWP), spoke from written testimony in support of SB 52 (Exhibit #13). He stated, however, that his statement had been prepared for the original version of SB 52. He addressed the concept **Senator Weeding** had mentioned, which, he said, was an extremely complicated issue about which FWP had just been informed. He stated FWP had not had the time to thoroughly analyze the situation and, as a result, could not inform the Committee as to the actual Legislative intent related to the program and take an official position. **Mr. Olsen** commented, however, that FWP believed that the original intent of the 1977 study which allocated .5 percent of the fuel tax to snowmobiles, based that .5 percent on total fuel sales. He added that **Greg Petesch, Director, Legal Services Division, Legislative Council** supported FWP's interpretation. **Mr. Olsen** informed committee members that FWP was doing a comprehensive study in conjunction with UM which would hopefully resolve the question. He said another study determining how much of the fuel actually went to snowmobile use was "overdue". He added FWP would support the results of that study and would work to implement policy which reflected those results. **Mr. Olson** stated FWP would recommend waiting until the regular session to resolve the issue when there was better data available.

Ken Hoovestol, Montana Snowmobile Association (MSA), said he had been trying to decide whether to support or oppose SB 52. He explained MSA had been under the impression that the system was

already working in the manner that SB 52 would have it work and had been working on another legislative proposal to present to the 1995 Legislature. He said that proposal would eliminate any refunds over the .5 percent in a manner similar to the aeronautics portion of the statute. Mr. Hoovestol stated he had spoken with those people who were receiving the refunds under discussion; they were, he said, just doing what the law provided and could not really be blamed for exercising that privilege. He noted, however, that the applications for refunds had been relatively limited up until now, but expressed his concern that the number of applications would "snowball" now that "the word was out". He stated the better solution to the problem addressed by SB 52 would be to simply eliminate any refunds over the .5 percent.

Russ Ritter, Washington Contractors, Missoula Mt, stated his organization supported any type of legislation that would either curb a diversion of money from the Highway Fund or generate more dollars for improving and maintaining Montana's highways.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Senator Weeding explained that most of the refunds were being claimed by big resort operators not individuals with their five gallon gas cans. He noted the majority of the program's benefits were going to West Yellowstone and the Gallatin Valley; one resort in West Yellowstone got a \$10,000 refund last year alone. He agreed that the MSA proposal to eliminate refunds above the .5 percent should be the ultimate solution. He said, however, the situation was very complex and that action might be better taken during the 1995 session after FWP had presented the results of their study and the issue had been thoroughly revisited. In the interim, however, he suggested the Committee approve SB 52 because it would stop abuse. He stated the fairness of SB 52 was "perfectly obvious"; the Legislature had never intended to allow any "double-dipping" even if it was legal. He said the current situation took money from the highway program that could be leveraged six or seven times with federal dollars; the extra \$20,000 currently paid out in rebates or the extra \$60,000 to \$70,000 that would be available if the monies were distributed to those accounts on a net basis would both translate into quite a lot of road repair and construction on Montana's highways. He stated he would provide the Committee with the amendments when they were drafted.

EXECUTIVE ACTION ON SENATE BILL 41**Discussion:**

Chair Halligan asked whether the Committee would like to discuss HB 41 in order to decide what to do about that proposal to privatize the liquor retail business in Montana.

Senator Eck stated she thought SB 41 inappropriate legislation for a special session. She noted, however, if the Legislature were to privatize the retail sale of liquor, it should address the concomitant increase in value all-beverage licenses would undergo. She suggested by including a provision that would abolish the quota system for all-beverage licenses over a six to eight year period. She stated the Legislature had very little opportunity to address the issue of the ever-increasing values of those licenses.

Senator Van Valkenburg suggested that the Committee consider a motion to table SB 41 in order to see how much support there was before spending a lot of time on amendments that would probably not help its passage.

Motion:

Senator Van Valkenburg moved SB 41 BE TABLED.

Discussion:

Senator Van Valkenburg agreed a certain public perception existed that the state should not be in the retail liquor business. He stated, however, the proposal in SB 41 had not been well thought out. He noted his motion would not negatively affect the budget projection because the revenue SB 41 would generate had not been included in the current fiscal status sheet. He stated entering into ten year contracts with the agents only to inform them two weeks later that DOR was proposing legislation that would put them out of business was "almost unconscionable". He said SB 41 would also cause the price of liquor to skyrocket because private business would demand and require a 30 percent to 40 percent margin of profit. He stated there would be a very negative reaction from "tens of thousands of Montanans" when they found out that privatization meant a \$9 bottle of liquor would now cost \$12.

Chair Halligan stated the council created during the Steven's administration had brought together people representing all facets of the industry. He noted that council's deliberations had addressed the possible purchase of the inventory and equipment by state employees and agents. He stated that idea had a lot of potential and offered to work with the administration, industry representatives, and state employees to explore that possibility within the next 1.5 years. He said if the state

employees and agents were given the opportunity to buy that inventory, the liquor retail business would be privatized without giving the all-beverage liquor licensees the strangle hold on packaged liquor. **Senator Halligan** stated he objected to SB 41 because it would enormously enhance the value of all-beverage liquor licenses without giving the state anything in return.

Senator Gage said he was concerned that SB 41 did not provide enough money to reimburse agents and agency stores for those investments they might have made based on their new 10-year contracts. **Senator Gage** stated he, like **Senator Eck**, believed that SB 41 would cause the value of all-beverage licenses to escalate. He noted the people who had originally purchased those licenses "paid almost nothing for them", but since then values had skyrocketed and people were paying \$250,000. He expressed his concern that, at some point, licensees might get stuck when the state decided to reform the system by making those licenses non-transferable or eliminating the quota system completely. He stated SB 41 would just exacerbate the situation.

Senator Stang noted that DOR had cited survey results which indicated that the public wanted the state out of the liquor business. He stated, however, if the state got out of the liquor business, it should get completely out and not maintain warehouses and distribute liquor. He said his idea of "getting out of the liquor business" would make the tavern association cringe, because it would devalue their licenses. He stated he thought anybody who wanted to sell liquor should be able to buy a license and the state should only collect the liquor tax. He noted his understanding of what the public wanted, was not the same as DOR's interpretation.

Senator Towe agreed. He said all-beverage liquor licensees already had a monopoly on open bottle drinks and on gambling machines. He stated a monopoly on packaged liquor would definitely drive the values of those licenses even higher.

Senator Brown commented that he did "not hear a great deal of support" for SB 41. He agreed that the state should not be in the retail or wholesale liquor business and that the Legislature had "created a monster" with the liquor quota system. He stated, however, legislators had grappled with those problems for several sessions and had not been able to achieve any kind of resolution. He said that inability illustrated how difficult it was to change the status quo even though public sentiment indicated that the state ought not to be in the liquor business and the \$3 million would help to balance the budget.

Senator Yellowtail said that his name was on SB 41 and asked for the chance to defend himself. He explained he had signed SB 41 before he realized that DOR had signed contracts with those agency people literally days before announcing that the state intended to renege on those contracts. He stated he felt "astonished and a bit betrayed" and would support **Senator Van**

Valkenburg's motion to table SB 41 because he did not think "the state was acting in good faith by carrying on in this manner".

Vote:

The MOTION TO TABLE SB 41 CARRIED with **Senator Brown** voting NO.

EXECUTIVE ACTION ON HOUSE BILL 57

Discussion:

Chair Halligan said he had prepared a set of amendments for HB 57 and passed out copies to committee members (Exhibit #14). He noted the Committee might want to segregate or word some amendments in a different way. He turned the chair over to **Vice-Chair Eck** for purposes of executive action on the amendments.

Motion:

Senator Halligan moved to AMEND HB 57 (Exhibit #14).

Discussion:

Senator Harp stated he would like to have the purpose of the specific amendments explained before the Committee decided whether or not to segregate any from the whole.

Senator Halligan explained the amendments would provide credits for only those federal retirees who filed timely returns. He noted HB 57 in its current form would apply to any federal retiree who had a tax liability during the years 1983 to 1987. With the amendment, he said, HB 57 would provide refunds to approximately 6,000 persons. He stated the amendment would provide actual refundable credits; a person would receive tax credits in the amount of 25 percent of their claim per year and, at the end of the fourth year, they would receive a cash refund for any credit they had not taken.

Jeff Martin explained a person would receive the credit plus any carry over amounts in the succeeding tax years until tax year 1998. He stated the amount of the credit plus any carry over from subsequent years would be fully refundable in tax year 1998.

Senator Halligan noted the system would resolve the issue and ensure that there would be no liability refund after that fourth year.

Senator Towe asked whether it would be correct to say that if \$400 was certified as a retiree's refund, that retiree could not take a credit of more than \$100 per year, however, if that retiree only had a \$50 tax liability the first year, \$50 would

carry over into the next year and s/he could take a credit of the \$100 plus the \$50 for \$150 the second year.

Jeff Martin replied no, a federal retiree could only take the amount equal to the tax liability. He explained if the retiree's tax liability remained the same, that retiree would only get \$50 in 1995, \$50 in 1996, \$50 in 1997, but in 1998, the last year, the retiree would receive the \$50 plus any carry over from previous years.

Senator Towe said if that retiree had a tax liability of \$150 in the second year, then s/he would get \$150 in tax credits: the \$100 which was the original 25 percent plus the \$50 carryover from the first year. **Jeff Martin** agreed.

Senator Halligan asked **Jeff Martin** to explain how the specific amendments carried out that specific idea.

Jeff Martin said amendment seven established that the credit was fully refundable at the end of the refundable period and that the credit or any carry-over amounts could not be taken after December 31, 1998.

Senator Harp recalled that in HB 57 without the amendments \$7.8 had been included for those retirees who had filed late. He noted the amendment would only concentrate on the \$14 million due to those federal retirees who had filed their claims on time. **Senator Halligan** agreed. **Senator Harp** asked whether it would be fair to say that the amendments would phase-in HB 57 and the \$14 million owed to federal retirees over a period of four years.

Senator Halligan replied the amendments would provide for a straight income tax credit for the next biennium as was proposed in SB 22. He explained the amendments would not provide for any cash payout during the current biennium as contemplated in the House version of HB 57 which 57 currently provided for cash immediately and credits for the next biennium.

Senator Harp said there would be no cash, no credits this biennium, but from that point on there would be credits issued in 25 percent increments. **Senator Halligan** replied yes.

Senator Towe added the amendments would address just the principle owed and no interest.

Jeff Martin stated amendment seven on page two under section two under the new language 2(a) and 2(b) would basically insert the provisions in SB 22, but under 2(c) a married taxpayer filing a joint return would not only be allowed to claim the taxpayer's retirement benefit but also the retirement benefit of a deceased spouse (Exhibit #14).

Senator Towe noted section 2(b) was "very difficult" to read (Exhibit #14). He said the intent would not be damaged and the

passage would be much easier to understand if the phrase "as the result of personal services performed by the taxpayer" after the words "pension income" on the third line were struck. He said the language would then read "who did not receive federal pension income for any of the tax years 1983 to 1987 may not file a claim for credit".

Motion:

Senator Halligan accepted **Senator Towe's** suggestion as a friendly amendment to his amendments.

Discussion:

Jeff Martin said subsections (d) and (e) closely mirrored the language in SB 22 and would require all federal retirees to make an application while allowing a personal representative of the taxpayer to file a claim if the retiree was incapacitated. He stated section e(ii) provided that beneficiaries and fiduciaries of a deceased taxpayer's state or trust could claim the full amount of the credit and carryover at the time the estate and trust were settled.

Senator Halligan commented that SB 22 was originally drafted not to allow the estate to collect any of the credits still owed federal retirees at the time of their death. He stated that the amendments ensured that the spouse or personal representative could apply for and receive 100 percent of the money immediately upon a retiree's death.

Senator Towe noted he had not proposed any change but wanted the Committee to be aware that sometimes returns might take more than one year and it might be difficult to ascertain when that money would be available. He stated, however, DOR could figure out those circumstances.

Jeff Martin said the rest of the amendments to 15-30-147 MCA would insert basically the same provisions as in SB 22 (Exhibit #14, amendment 7). He stated that New Section 5 contained a contingent termination (Exhibit #14, page three). He suggested the Committee needed to decide how to handle the possible consequences of a court ordered decision regarding the refunds. He said the language in the amendments provided that the act would terminate when the "director of DOR certified to the Governor that a final decision in *Sheehy v. DOR* had ordered the payment of refunds of taxes paid on federal pension income for the relevant tax years and that the payment of the refund would be adjusted by any credit that the taxpayer had received prior to the final judgement".

Senator Halligan explained the contingent termination's purpose was to make sure that the Legislature did not set a precedent of paying out money to anyone who was suing the state. He stated litigation was pending and HB 57 actually contained language to

that effect. He noted that the amendment would tie the case, somewhat, to the outcome of the litigation.

Senator Towe noted he approved of the purpose of the contingent termination, but stated he had a problem with the option **Senator Halligan** had chosen. He said the amendment would provide that the act would terminate upon the certification of a final court decision. That would mean, he noted, that some people could receive some money before a court decision finalized that matter. He argued that the contingent termination should "be the other way around"; the act should not become effective until a court decision determined that federal retirees were entitled to credits or refunds. In order to accomplish that, he said, in new section four the effective date would have to be changed to "the date upon which DOR certified to the governor the final decision". Since the court might rule in a few different ways, **Senator Towe** noted that the language would have to fit several different contingencies and the following possibilities needed to be incorporated: if the court ruled against the federal retirees, then the act would terminate; if the court ruled that a refund was due in a lesser amount than in HB 57 "the department shall certify the amount authorized by the court as the refundable amount"; if the court ruled that the refund to any individual was more than the amount than the department would otherwise certify, "then the excess may not be refunded or applied against a refund on taxes without further appropriation of the Legislature".

Senator Gage asked whether, in the case that the court decision ruled against federal retirees, those retirees who had filed for credits would be required to repay that money. He also noted that the retirees who did not have any tax liabilities would receive nothing under the proposed amendments.

Chair Halligan said the repayment of credits had been discussed but added nothing specific had been included in the amendments. He responded that federal retirees would not be shut out completely; any credit and carryover amounts could be claimed in 1998.

Senator Towe noted they could be claimed with no interest. **Senator Van Valkenburg** asked where it said no interest. **Senator Halligan** replied a DOR representative had indicated that interest was not normally awarded or allowed on tax credits. He said he was not sure whether that was determined by a policy or rule.

Mick Robinson agreed that no interest accrued on the carryover of the credit, but asked about the \$6.2 million of interest that had already accrued on the taxes paid by federal retirees between 1983 and 1987. He noted he would interpret the language in both the proposed amendments and HB 57 to be dealing with just the \$8.8 million in taxes paid and not the interest that had accrued up to this point on that money.

Senator Gage noted subsection (3) on page three of the amendments contained the language "for purposes of this section federal pension income means pension income received from the US government or an agency of the US government". He asked whether that would also include social security and railroad retirement.

Jeff Martin said he did not know the specific answer to **Senator Gage's** question. He noted, however, that section should be clarified by the definition of pension income in 15-31-101 MCA.

Senator Towe asked **Mick Robinson** whether the Davis and Harper decisions would also include railroad retirement income. **Mr. Robinson** replied he thought railroad retirement income was exempt under federal law and that the state had not had the ability to tax it.

Senator Towe asked whether it would be a good idea to add "as a result of personal services performed by the retiree" to the definition "any income received from the US government or an agency of the US government". He asked whether that reflected the intent. **Mick Robinson** responded that did reflect the intent.

Senator Halligan asked **Jeff Martin** whether the current definition did not already cover that. **Jeff Martin** replied the definition stipulated "payments received as a result of past service and cessation of employment" which would also cover military.

Senator Towe suggested that the Committee ought to make sure reference was made to "as a result of the performance of personal services" in the amendments either through another definition or through language.

Senator Gage asked that the concept of "performing" be clarified as distinguished from getting it from the personal services of another person like a spouse. He asked how else would a person get federal pension income.

Jeff Martin said the term pension annuity income referred to "systematic payments which was a definitely determinable amount from a qualified pension plan", which, he said would cover the definition of federal pension income.

Senator Halligan noted the reference would then be 15-30-101 MCA instead of the subsection (3) definition (Exhibit #14, page 3). He asked **Mick Robinson** whether DOR had any rules which further clarified the definition of federal pension income. He asked which method of clarification would be best for DOR. **Mr. Robinson** replied he did not know that DOR had any further rules. He stated the language in subsection (3) of the amendments covered that definition adequately. He explained when DOR had drafted the language in HB 57, the same wording "or an agency of the US government" had caused concern that social security benefits might fit into that category. He noted, however, that the DOR had decided it could be comfortably certain that social

security benefits would not be included since that wording was already in statute.

Senator Towe asked whether the Committee should strike subsection (3) altogether since sufficient definition already existed. **Mick Robinson** replied DOR felt comfortable that the language in HB 57 provided a sufficient enough definition. He noted the language in the amendment was similar and should suffice, but offered to double check.

Motion:

Senator Halligan accepted striking subsection (3) as a friendly amendment to his motion (Exhibit #14).

Discussion:

Senator Halligan identified the amendments as an attempt to "find a first stage of middle ground" since the current budget estimates did not indicate that the state had enough money to provide federal retirees with cash refunds. He stated the amendments would resolve some of the cash problems the state would have with this payment.

After being asked by **Senator Towe**, **Jeff Martin** said all the whereas clauses in HB 57 would be retained.

Senator Harp wondered if the Committee would be interested in including the interest on taxes paid. He said the Legislature was exposing itself to potential litigation by not including the interest which had accrued up to the point that the credits become available. He said he personally wondered whether the state had an obligation for the \$7.8 million for untimely filers and stated he would agree to excluding the late-filers from HB 57 if the \$6.2 million in interest was included. He noted he was not sure the extent to which people should be allowed to benefit when they had not taken the initiative to step forward. He offered that as a possibility for some middle ground and "a friendly day" at least in the Senate.

Senator Halligan stated the issue of interest for that tax liability already incurred was a valid point. He agreed that the Legislature might be exposing itself if the interest for those years was not included in HB 57. He noted, however, he did not know how **Dave Woodgerd**, Chief Counsel, DOR, would respond.

After reminding the Committee that he was not a lawyer, **Mick Robinson** said the various settlements and court decisions nationwide have been different; some of them involved cash payments, some credits, and some a combination. He stated if something were put together that would deal with the interest up through this point and time and would use that as a credit in the future would perhaps "go a long way" toward finalizing the litigation. He reminded the Committee that the testimony from some of the

federal retirees on HB 57 had indicated that they were somewhat flexible. He agreed that possibilities existed to combine HB 57 and SB 22 in some way.

Vice-Chair Eck asked whether **Mr. Robinson** were suggesting that past interest be included, but a freeze be placed on the interest which might accrue from this point on. Basing his remarks on the court decisions and settlements nation-wide, **Mick Robinson** said it was his opinion that the state would face continued litigation if interest up to the point of settlement was not included. He noted some states were issuing credits without interest but that in most states where there had been a final court decision, interest on taxes paid was a part of the final decision.

Vice-Chair Eck asked whether the court would order that nine percent interest be paid. **Mick Robinson** said he thought so because that nine percent was in statute.

Senator Halligan asked whether the effective date of the interest would need to be the effective date of the act or the effective date of the court decision. **Mick Robinson** replied he thought it possible to use effective date of the act. **Senator Halligan** asked **Senator Towe** if he could quickly draft language to that effect.

Senator Gage asked whether any committee member had gotten the feeling that federal retirees were only interested in negotiating a settlement if it also included those who had not filed timely. **Senator Halligan** stated he had not talked with any federal retiree who felt an obligation was owed to those who had not timely filed.

Senator Gage asked if those who had not timely filed were part of the court case. **Senator Halligan** said they were not as of yet.

Senator Towe said the one discussion he had was with the attorney, **Ed Sheehy, Jr.**, who had indicated at the hearing that he had already written to DOR asking that they open negotiations. **Senator Towe** stated he had been gotten the impression that federal retirees were willing to listen to virtually anything. He said he thought they would be willing to settle with half of the taxes without interest if Legislature was not going to give them any money and they would, instead, have to get it from the court case.

Senator Gage asked if it was possible to estimate how much time would elapse before the court issued a decision on the case. **Senator Halligan** replied the issue had been remanded to district court and a hearing had been set for April 1, 1994 for the retroactivity and the pre-deprivation issues.

Senator Gage said as he understood the amendment a spouse or estate could claim a 100 percent refund for any credits due. He asked whether the state would be able to recoup any money that

had been distributed if the court eventually ruled against the federal retirees. **Senator Halligan** replied that money would be gone.

Senator Towe noted the amendment he had suggested providing that the act would not become effective until the court ruled would take care of that situation. In response to **Senator Halligan's** request for language regarding the interest, **Senator Towe** suggested the committee add "the amount certified hereunder shall include interest to the date of passage and approval of this act only" to the end of section 2(2)(f) (Exhibit #14, page three).

Jeff Martin agreed with **Senator Towe**. He stated, however, it might be helpful instead to add "is allowed a tax credit imposed by 15-30-103 MCA plus accumulated interest through the effective date of this act" to a new section one and to make that section immediately effective upon the date of approval. **Senator Towe** agreed that would also work.

Motion:

Senator Halligan suggested that section four and five and the contingency termination be severed from the rest of the amendments. He noted the Committee could vote on the rest of the amendments and then discuss the contingency and interest issues separately.

Discussion:

Senator Gage asked whether the Committee was or should be trying to structure HB 57 in a way that would give federal retirees more incentive to negotiate or terminate this process. **Senator Halligan** replied that possibility had been informally discussed. He said that discussion had not yet yielded anything concrete and noted it was necessary to "expand the circle of wisdom and light" and invite other input. He said taking executive action was one way to accomplish that.

Vice-Chair Eck asked if **Mr. Robinson** had any comment. **Mr. Robinson** said he was unsure whether he could "shed a great deal of light on the topic". He stated the two provisions in the amendments which might adversely affect a possible resolution of the litigation were the lack of an immediate cash payment and the exclusion of federal retirees who did not file timely. He explained without an immediate cash refund, federal retirees might be concerned that they would not be fully reimbursed, although, he noted, the full cash payment the amendment would allow in 1998 might address that problem. He added the lack of immediate cash might also negatively affect the attorney's willingness to build a settlement since he would be looking for his attorneys fees.

Senator Halligan asked if there was any more discussion on his motion, which, he repeated, dealt neither with the issue of interest nor the contingency date.

Senator Towe expressed his support for the motion.

Vote:

Senator Halligan's motion to AMEND HB 56 CARRIED UNANIMOUSLY (Exhibit #14 minus sections four and five).

Motion:

Senator Harp moved HB 57 BE AMENDED TO INCLUDE THAT INTEREST ACCRUED UP TO THE PASSAGE OF THE ACT.

Discussion:

Jeff Martin asked whether the federal retirees would argue that they should receive interest on the taxes paid through the end of tax year 1994 since the credit would not be available until 1995.

Senator Towe replied the effective date of the act was a clear and legally arguable cutoff point for interest. He opposed the interest motion, although, he said, he did "not feel that strongly about it". Given the legal arguments involved, he stated, the Legislature had a strong case for refusing to authorize any interest and, in fact, would "do well" to authorize the principal only if the court so decided.

Senator Gage spoke against the amendment. He stated federal retirees were entitled to interest on their money until they had the opportunity to start using it. Many federal retirees, he said, did not have a tax liability and their money would be sitting for four years without any interest. He noted, however, that nine percent interest might be too high.

Senator Halligan stated he would like to adopt **Senator Harp's** amendment and request that DOR analyze whether that decision would provide a legal basis for the litigation to continue. He noted if it was necessary to allow the interest on taxes paid to accrue until the credits start taking effect, the Legislature could still change the effective date before the end of the special session.

Senator Van Valkenburg asked that the motion be clarified. He noted he had understood that **Senator Harp's** motion was to provide interest at nine percent on the amount of money timely filers would be entitled to take as credits on future income.

Senator Harp noted it was **Senator Gage** who would like to have the interest accrue until the time when the first credit was available. **Senator Harp** repeated his motion would establish that the interest which had accrued up to the passage and approval of

the act be included in amount of credit each taxpayer would receive. He noted that **Senator Halligan** had indicated his willingness to revisit the issue if DOR's analysis showed it would be "sticky" to cut the interest off 14 months before the credits were actually available.

Vote:

The MOTION TO AMEND HB 57 CARRIED with **Senators Gage and Towe** voting NO.

Motion:

Senator Towe MOVED TO AMEND HB 57 WITH THE LANGUAGE HE HAD PREVIOUSLY READ ELIMINATING SECTION FOUR AND INCLUDING IN SECTION FIVE THE FOLLOWING LANGUAGE: "THIS ACT BECOMES EFFECTIVE ON THE DATE THE DIRECTOR OF REVENUE CERTIFIES TO THE GOVERNOR THAT A FINAL DECISION IN SHEEHY V. DOR AND HAS ORDERED THE PAYMENT OF REFUNDS AND TAXES PAID ON FEDERAL INCOME FOR THE YEARS OF 1993 THROUGH 1987". AND SUBSECTION (2) "IF THE COURT RULES AGAINST THE FEDERAL RETIREES THIS ACT SHALL TERMINATE AND IF THE COURT RULES THAT A REFUND IS DUE IN A LESSER AMOUNT THAN WOULD OTHERWISE BE CERTIFIED BY THE DEPARTMENT UNDER SUBSECTION 2(2)(f) THE DEPARTMENT SHALL CERTIFY THE AMOUNT AUTHORIZED BY THE COURT AS REFUNDABLE. IF THE COURT RULES THAT THE REFUND TO ANY INDIVIDUAL IS MORE THAN THE DEPARTMENT MAY CERTIFY UNDER SUBSECTION 2(2)(f) THAN THE EXCESS MAY NOT BE REFUNDED OR APPLIED AS A CREDIT WITHOUT A FURTHER APPROPRIATION OF THE LEGISLATURE".

Discussion:

Senator Towe stated his motion would provide for the three eventual situations that might arise from the court decision: if the court decided federal retirees were entitled to nothing then the act would terminate; if the court decided they were entitled to less than provided in HB 57, DOR would certify only that amount; if the court decided they were entitled to more, the Legislature would need to appropriate those additional funds. Under HB 57 as currently amended, he explained, the court might determine that the state had no obligation to federal retirees after the state had already started to pay them. He stated his amendment would allow for the parties to negotiate a settlement and persuade the court to issue an order pursuant to that settlement.

Senator Brown asked whether the Committee would have accomplished anything if **Senator Towe's** amendment were adopted. **Senator Towe** responded, the court case would not have been resolved, but, he said, because the mechanism for payment would be contingent upon the court case it would greatly facilitate a settlement.

Jeff Martin asked whether the court could mandate the way the refunds were to be issued. **Senator Towe** noted it was possible that the court would issue a decision not allowing for the refund

as provided in HB 57 and order the Legislature to pay it directly. He said he did not know whether such a court directive would override such legislation. He said he did not think the court would issue such a directive, but, he added, the court conceivably could if they decided HB 57 represented an interference with the judicial prerogative of the court to decide the case.

Senator Harp asked **Mick Robinson** to comment on the proposed amendment. **Mr. Robinson** stated he did not like the amendment because it tied the issue of payment back to the legal question and the litigation. He agreed the amendment would perhaps give impetus for settlement prior to the final conclusion of that litigation, but repeated he did not like the direct connection it made between payment and the conclusion of the case. He noted there would be no reason for the legislation, DOR could just proceed with the case and finalize the litigation through the courts. **Mr. Robinson** noted **Governor Racicot's** support for HB 57 was based on the issues of fairness and equity and the fact that the US Supreme Court had already ruled that the state had illegally collected those taxes.

Senator Gage asked whether federal retirees would have to file amended tax returns for 1994 if the Committee accepted the amendment and the court case was decided in favor of the federal retirees in October of 1996. **Senator Towe** replied a couple of options would be available to federal retirees. He said an amended return was a possibility as was amending the statute to allow another four years for payment consistent with the Legislature's original intent. He noted amending the statute might be the easiest administrative solution, although interest would once again be an issue. He state he would hope that the court case would be resolved before three years had past.

Vote:

The MOTION to AMEND HB 57 FAILED four to seven by ROLL CALL VOTE.

Motion:

Senator Halligan moved SECTIONS FOUR AND FIVE (Exhibit #14)

Discussion:

Senator Towe stated the adoption of sections four and five would mean, in effect, that the state was going to reimburse federal retirees and the courts might just as well rule in favor of the federal retirees because there was no provision for recouping that money once the payments were made. He asked the committee members who supported the concept how they conceived of recouping that money.

Senator Halligan noted that **Mick Robinson, Director, DOR**, might be able to help. **Mr. Robinson** agreed it was administratively

difficult if not impossible to recoup any payment that had already been made. Especially, he said, since many of the recipients of these refunds no longer lived in Montana or filed income taxes.

Senator Grosfield asked if the purpose of the section was to allow the act to terminate when the court issues a decision since the court would probably spell out what form those payments would take. **Senator Halligan** yes. **Jeff Martin** said that was the assumption he made when drafting the amendment.

Senator Grosfield said he did not understand why it was important to terminate the act. **Senator Halligan** stated he had initially thought a contingent termination was unnecessary because the court decision could very well void any action the Legislature might take. He said, however, the contingency statement would clarify HB 57. He added, however, the contingency in section five might actually be backwards.

Senator Towe asked if he correctly understood that the language in section five would only terminate the act if DOR certified that the court had ordered a payment of refunds. If that were the case, he said, the act would not terminate if the court decided against the federal retirees and they would still receive the full amount authorized by the law.

Jeff Martin stated the point raised by **Senator Towe** was a policy question; should the state provide refunds for illegally collected taxes regardless of the court decision.

Senator Gage agreed the section was backwards; it provided a mechanism for refunds if the court ruled that they were entitled to refunds. He stated if the court ruled that federal retirees were not entitled to refunds, the act needed to terminate. **Senator Halligan** agreed.

Vice-Chair Eck suggested that the language could be changed to simply indicate that the act would terminate when the court issued its decision.

Senator Harp suggested that the Committee could just take section five out and send it to the conference committee to have it worked on further.

Senator Grosfield noted that **Senator Gage** had indicated that instead of reading "has ordered the payment", the intent would be to have it read "has denied the payment" in order for the act to terminate. He asked **Senator Halligan** if that was his intent. **Senator Halligan** responded yes. **Senator Grosfield** said he could understand that approach to a contingent termination.

Senator Towe noted that the language would need to be adjusted to provide for termination if the court "has denied the payment of refunds of taxes".

Motion:

Senator Halligan accepted **Senator Towe's** suggestion as a friendly amendment to his original motion, changing "ordered" to "denied" and striking subsection (2).

Discussion:

Senator Towe said the Legislature would not have an option to address the possibility of the court ordering a payment of a lesser amount.

Jeff Martin asked why the court would order a lesser amount. **Senator Towe** responded the court could, for example, grant no interest.

Vote:

The MOTION TO AMEND HB 57 BY ADDING SECTION FOUR AND SECTION FIVE AS AMENDED CARRIED with **Senator Towe** voting NO (Exhibit #14, page three).

Motion:

Senator Halligan moved HB 57 BE CONCURRED IN AS AMENDED.

Discussion:

Senator Yellowtail said it was "quite apparent" that HB 57 was ill-timed and "entirely inappropriate". He stated the DOR legal staff had testified that DOR was continuing to aggressively pursue the state's case. And, he noted, the attorney had expressed some optimism that the state's case was strong. He stated it was crazy for the Legislature to make provisions to pay for an obligation when neither the outcome nor the quantification of the final settlement or judgement were clear. But worse yet, he noted, such legislative action could serve to prejudice the outcome of this case. He argued the 1995 Legislature would meet in good time to react to a court decision in favor of the federal retirees.

Senator Towe echoed **Senator Yellowtail's** sentiments. He stated he did not have a problem with giving the court some direction on how a settlement might be structured, and how the state could make the payments. He stated, however, any legislation should be contingent upon the court decision and should become effective not terminate when the court issued its decision. He stated he opposed the motion.

Jeff Martin asked if the interest would accrue up to the effective date of HB 57. **Senator Towe** said interest would accrue up to the passage and approval of HB 57, which was, he noted, the effective date. **Jeff Martin** asked whether the Committee would

leave the location of that provision up to his judgement. Vice-Chair Eck replied yes.

Senator Van Valkenburg stated the Committee ought to consider including in HB 57 the provision that no interest will be payable on refunds of income taxes due any taxpayer for any reason for the years 1983 through 1987 as of the act's effective date.

Vice-Chair Eck asked if the Committee would have rules problems with that.

Senator Van Valkenburg said he thought there would be no rules problems with his suggestion. The problem he was concerned about, he explained, was that HB 57 in its current form could be construed as discriminatory against federal retirees because it would deny interest on these refunds but provide interest to other taxpayers. He asked Mr. Robinson how many taxpayers still had refunds coming for tax years 1983 through 1987. Mr. Robinson replied he would doubt that there were any outstanding refund claims for 1983 through 1987 aside from the federal retirees'. He noted, however, DOR would probably have included interest on any claim for refund that had been filed and approved.

Senator Van Valkenburg asked Mick Robinson what he thought of the point. Mr. Robinson replied he was not sure he understood Senator Van Valkenburg's point and how it would apply to the issue.

Senator Halligan asked whether Senator Van Valkenburg was referring not only to the interest from 1983 through 1987 but also from the effective date forward.

Senator Towe noted if HB 57 contained the provision that no one who claimed a refund relating to the period between 1983 and 1987 was entitled to any further interest, then federal retirees would not be discriminated against. He stated that provision would make sense for any cases not already settled.

Motion:

Senator Halligan withdrew his MOTION THAT HB 57 BE CONCURRED IN AS AMENDED in order to allow Senator Van Valkenburg's amendment.

Motion:

Senator Van Valkenburg moved HB 57 BE AMENDED TO PROVIDE THAT THERE BE NO MORE INTEREST ACCRUED ON ANY REFUNDS APPLICABLE TO TAX YEARS 1983 THROUGH 1987 AFTER THE EFFECTIVE DATE OF HB 57 AND TO PROVIDE THAT THE TITLE BE AMENDED IN ACCORDANCE WITH THE MOTION IF NECESSARY.

Discussion:

Senator Yellowtail asked if Senator Van Valkenburg's amendment would really relieve the equal protection potential since there had undoubtedly been refunds issued for that time period that were granted interest.

Senator Van Valkenburg stated interest would be granted up until the effective date of HB 57. He noted that amendment would suffice to eliminate any equal protection claim since everyone would receive interest up until the effective date and after the effective date, no one would receive any more interest.

Vote:

The MOTION TO AMEND HB 57 CARRIED UNANIMOUSLY

Motion/Vote:

Senator Halligan moved HB 57 BE CONCURRED IN AS AMENDED. The MOTION CARRIED 8 TO 3 by ROLL CALL VOTE.

ADJOURNMENT

Adjournment: 1:23 p.m.



SENATOR MIKE HALLIGAN, Chair



BETH E. SATRE, Secretary

MH/bs

ROLL CALL

SENATE COMMITTEE TAXATION DATE December 16, 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		

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
December 16, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 57 (third reading copy -- blue), respectfully report that House Bill No. 57 be amended as follows and as so amended be concurred in.

Signed: 
Senator Mike Halligan, Chair

That such amendments read:

1. Title, lines 6 through 9.

Strike: "APPROPRIATING" on line 6 through "INCOME;" on line 9

Following: "A" on line 9

Insert: "TAX"

2. Title, line 10.

Strike: "PERSONS"

Insert: "FEDERAL RETIREES"

Strike: "FAILED TO"

Strike: "FILE"

Insert: "FILED"

Following: "REFUND"

Insert: ", INCLUDING INTEREST,"

3. Title, line 11.

Following: "INCOME"

Insert: "DURING THE PERIOD FROM 1983 THROUGH 1987"

4. Title, lines 11 through 13.

Strike: "APPROPRIATING" on line 11 through "REFUNDS" on line 13

Insert: "PROVIDING THAT THE CREDIT AND ANY CARRYOVER IS

REFUNDABLE FOR TAX YEAR 1998; PROVIDING THAT THE CREDIT AND

ANY CARRYOVER IS REFUNDABLE TO THE TAXPAYER'S ESTATE OR

TRUST; REQUIRING APPLICATION FOR THE CREDIT; PROHIBITING THE

ACCUMULATION OF INTEREST ON REFUNDS DETERMINED FOR TAX YEARS

1983 THROUGH 1987 AFTER THE EFFECTIVE DATE OF THIS ACT"

5. Title, line 14.

Following: "~~IMMEDIATE~~"

Insert: "AN IMMEDIATE EFFECTIVE DATE AND"

6. Title, lines 14 and 15.

Strike: "EFFECTIVE" on line 14 through "APPLICABILITY" on line 15

Insert: "TERMINATION"

7. Page 3, line 9 through page 7, line 5.

Strike: everything following the enacting clause

Insert: " NEW SECTION. Section 1. Credit for taxes paid on

federal pension income. (1) For the tax year beginning after

December 31, 1994, and for the succeeding 3 tax years, a taxpayer who was required to pay a tax on federal pension income for any of the tax years 1983 through 1987 and who filed a timely claim for a refund is allowed a tax credit against the taxes imposed by 15-30-103 for the amount certified pursuant to 15-30-147(2)(f). The credit may be claimed on returns filed after December 31, 1995.

(2) Except as provided in subsection (3), the maximum credit that a taxpayer may claim on any year's tax liability is 25% of the original amount certified pursuant to 15-30-147(2)(f), not to exceed the total amount of the taxpayer's tax liability for the year in which the credit is claimed. That portion of the credit that exceeds the taxpayer's liability in any year may be carried over to be applied to the succeeding year's tax liability in addition to the percentage amount that the taxpayer is eligible to claim.

(3) For tax year 1998 only, if the credit and any carryover amount exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer. A credit, including any carryover amount, may not be claimed for tax years beginning after December 31, 1998.

Section 2. Section 15-30-147, MCA, is amended to read:

"15-30-147. Application for revision -- appeal -- application for tax credit for federal pension income. (1) An application for revision may be filed with the department by a taxpayer within 5 years from the last day prescribed for filing the return as provided in 15-30-145(3), regardless of whether the return was filed on or after the last day prescribed for filing. If the department has revised a return pursuant to 15-30-145(3), the taxpayer may revise the same return until the liability for that tax year is finally determined. If the taxpayer is not satisfied with the action taken by the department, the taxpayer may appeal to the state tax appeal board.

(2) (a) A taxpayer who included federal pension income in Montana adjusted gross income that resulted in the payment of a tax and who filed a timely claim for a refund of taxes paid on federal pension income for any of the tax years 1983 through 1987 may file an application for a tax credit to be used for the payment of future tax liabilities as provided in [section 1].

(b) A taxpayer who filed an income tax return, using the status of married filing jointly, and who did not receive federal pension income for any of the tax years 1983 through 1987 may not file a claim for a credit.

(c) A taxpayer who filed an income tax return, using the status of married filing jointly for any of the tax years 1983 through 1987, who along with the taxpayer's spouse received federal pension income, and whose spouse is now deceased may file

a claim for a credit for the amount of federal pension income received by the taxpayer and for the amount received by the deceased spouse.

(d) The application for credit must be made between [the effective date of this act] and June 30, 1994. The application may be made only for tax years 1983 through 1987.

(e) (i) For a taxpayer who is physically or mentally incapacitated, a claim for the credit may be filed on the taxpayer's behalf by a person authorized by law to handle the taxpayer's affairs or to act for the taxpayer.

(ii) For a deceased taxpayer, a claim for the credit may be filed by either the fiduciary or the beneficiary of the deceased taxpayer's estate or trust for the full amount of the credit and for any carryover amounts. If the amount of the credit exceeds the tax liability of the estate or trust, the amount of the excess must be refunded to the estate or trust.

(f) Upon receipt of the application, the department shall review the application for completeness and accuracy. After review, the department shall certify to the taxpayer the amount of the taxpayer's credit for taxes paid on federal pension income, including accumulated interest on taxes paid for tax years 1983, 1984, 1985, 1986, and 1987 through [the effective date of this act]."

NEW SECTION. Section 3. Refunds not to include accumulated interest. Subject to the provisions of 15-30-147(2)(f), interest may not be accumulated for tax years 1983, 1984, 1985, 1986, or 1987 on refunds determined after [the effective date of this act].

NEW SECTION. Section 4. Codification instruction. [Sections 1 and 3] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 1 and 3].

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 6. Contingent termination. [This act] terminates on the date that the director of revenue certifies to the governor that a final decision in Sheehy v. Department of Revenue, 250 Mont. 437, 820 P.2d 1257 (1991), has denied the payment of refunds of taxes paid on federal pension income for the tax years 1983 through 1987."

-END-

ROLL CALL VOTE ①

SENATE COMMITTEE

TAXATION

BILL NO. HB 57

DATE December 16, 1993

TIME 1:02 p.m.

A.M. P.M.

NAME _____

YES

NO

[illegible]

BEYLI SATESE
SECRETARY

VICE-CHAIR Eck
CHAIR

MOTION: Senator Torres's amendment providing for a contingent effective date and providing specific instructions for the three potential ^{categories of} court decisions.

COAL SEVERANCE TAX TRUST FUND FLOW OF FUNDS SUMMARY

JANUARY 1993

LOAN REPAYMENTS FROM
BORROWERS UNDER COAL
SEVERANCE
TAX LOAN PROGRAM

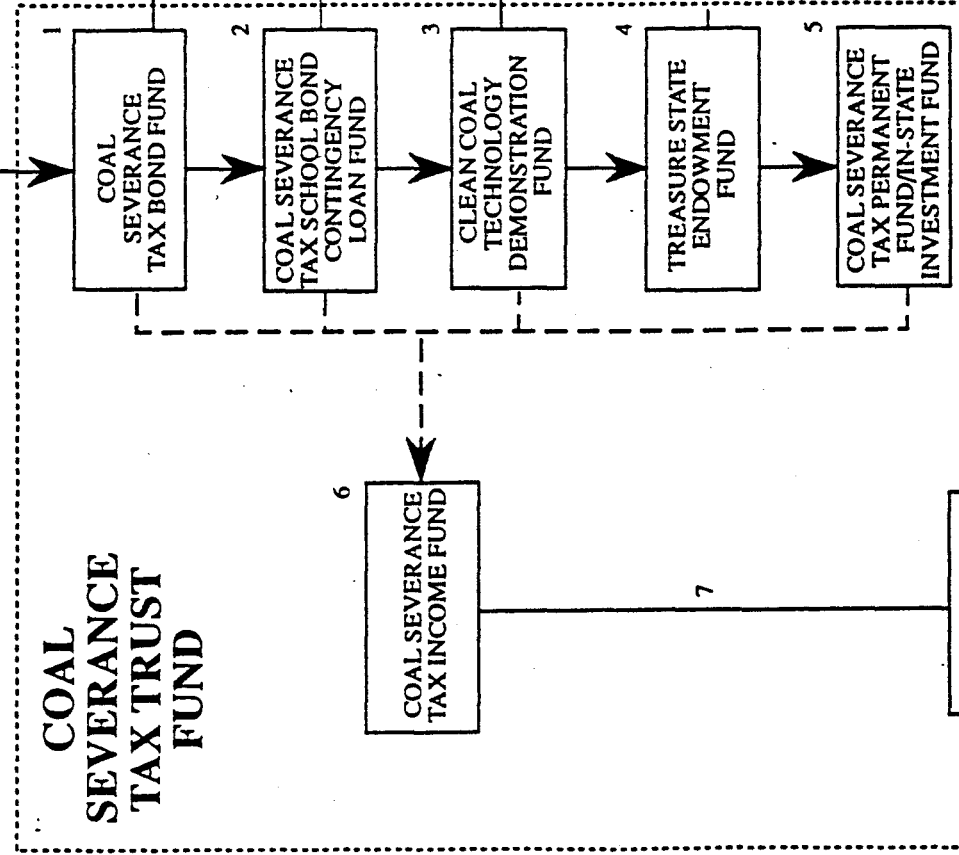
SENATE TAXATION

EXHIBIT NO. 1

DATE December 16, 1993

BILL NO. HB 60

50% OF COAL
SEVERANCE
TAX
REVENUES



COAL SEVERANCE
TAX PROCEEDS

INTEREST
EARNINGS

- (1) Within 30 days of the end of each calendar quarter, coal severance taxes are paid to the state, 50 percent of which are deposited in the Coal Severance Tax Trust Fund (the Trust). Six accounts are established within the Trust: 1) the Coal Severance Tax Bond Fund, 2) the School Bond Contingency Loan Fund, the Clean Coal Technology Demonstration Fund, 4) the Treasure State Endowment Fund, 5) the Coal Severance Tax Permanent Fund (within which is established the In-state Investment Fund), and 6) the Coal Severance Tax Income Fund.

Coal tax revenues which flow in to the Trust are initially deposited in the Bond Fund and made available for payment of debt service on the Coal Severance Tax Bonds (see footnotes 8, 9, and 10). All amounts in excess of the amount needed to secure outstanding Coal Severance Tax Bonds for the next two ensuing semiannual payments shall be transferred to the Coal Severance Tax School Bond Contingency Loan Fund.

- (2) The January 1992 Special Legislative Session passed an Act creating the Coal Severance Tax School Bond Contingency Loan Fund. A total of \$25 million of School Bonds were authorized to be issued and secured by this fund. For as long as there are any outstanding school district bonds secured by the Contingency Loan Fund, an amount equal to the next 12 months of principal and interest payments due on any School Bonds will be retained in the Contingency Loan Fund. Any amounts in excess of the balance needed to secure outstanding School Bonds, shall be transferred to the Clean Coal Technology Demonstration Fund.
- (3) The 1991 Legislature passed an Act creating the Clean Coal Technology Demonstration Fund. On July 1, 1991, \$25 million was transferred into the Demonstration Fund. From July 1, 1991 through June 30, 1997, a maximum of \$5 million per year will be transferred into the Demonstration Fund from the Contingency Loan Fund. In total a maximum of \$55 million will be deposited in the Demonstration Fund. Any amounts in excess of the \$5 million retained in the Demonstration Fund will be transferred to the Treasure State Endowment Fund.
- (4) The Treasure State Endowment Fund was established when voters approved the measure on the June 2, 1992 ballot. All funds in excess of what is retained in the Bond Fund, the Contingency Loan Fund, and the Demonstration Fund will be deposited in the Endowment Fund. Annually, interest earnings required to meet the obligations of the state under this program are transferred to the Treasure State Endowment Special Revenue Account. Interest earnings not transferred to the Revenue Account are to be retained in the Endowment Fund. From time to time 50 percent of the principal transferred into the Endowment Fund will be transferred to the Permanent Fund.
- (5) Twenty-five percent of the receipts to the Coal Severance Tax Permanent Fund are segregated into the In-state Investment Fund. As the name indicates, the purpose of this sub-fund is making investments in Montana.

- (6) Investment income on the monies in the **Bond Fund**, the **Contingency Loan Fund**, the **Demonstration Fund**, and the **Permanent Fund** are periodically transferred to the **Income Fund**. The only exception to this is the **Endowment Fund** where any interest earnings are either transferred to the **Revenue Account** or retained in the **Endowment Fund**.
- (7) Eighty-Five percent of the balance in the **Income Fund** is transferred to the state's **General Fund**; the remaining 15 percent is transferred to the state's **School Foundation Program**.
- (8) Under the **Coal Severance Tax Loan Program**, the state sells coal severance tax bonds and loans the proceeds to local government entities for various water projects. The borrowers make semiannual loan payments, which upon receipt are credited to a **Debt Service Account**. The terms of the loans vary, but generally involve an interest rate subsidy for the first five years of the loan followed by a direct pass-through of interest rate on the Bonds for the remaining life of the loan.

The Act creating the **Endowment Fund** also expanded the loan authority from strictly water projects and now includes all local government infrastructure projects approved under this Act.

- (9) Debt service payments on the Bonds are due each June 1 and December 1. To the extent funds on hand in the **Debt Service Account** from loan repayments are insufficient to pay principal and interest on the Bonds when due, funds are transferred to the **Debt Service Account** from the **Bond Fund**.
- (10) On each June 1 and December 1, the state pays debt service on the Bonds from amounts on hand in the **Debt Service Account**.

Description of Proposal

- Applies to Class 4 and Class 11 property
- Rebates calculated using a 3.86% taxable valuation rate for Class 11 farmstead property
- Commercial caps: Minimum \$50; Maximum \$200
- Residential and farmstead caps: Minimum \$25; three-fourths of tax in excess of 10% increase
- All relief is provided through income tax credits

Biennial Revenue Impact

Rebate amount for Class 4 residential property	\$ 6,227,817
Rebate amount for Class 11 farmsteads	635,793
Rebate amount for Class 4 commercial property	<u>1,824,711</u>
Total Annual Rebate	\$ 8,688,321
 Impact on Current Biennium:	 \$ 13,032,482
 Impact in Fiscal Year 1996:	 \$ 4,344,160

Office of Legislative Fiscal Analyst

Fiscal Impact of Percentage Cut

Agcy Code	Agency Name	House Bill 2 Fiscal 1994	Adjustments Fiscal 1994	2 % Cut Fiscal 1994	House Bill 2 Fiscal 1995	Adjustments Fiscal 1995	2 % Cut Fiscal 1995
1101	Legislative Auditor	1,244,570		24,891	1,271,277		25,426
1102	Legislative Fiscal Analyst	820,673		16,413	838,779		16,776
1104	Legislative Council	1,945,418		38,908	2,132,018		42,640
1111	Environmental Quality Council	276,518		5,530	272,830		5,457
2110	Judiciary	5,396,800	(5,396,800)	0	5,416,962	(5,416,962)	0
3101	Governors Office	2,244,327		44,887	2,225,952		44,519
3201	Secretary of States Office	45,543		911	67,770		1,355
3202	Commissioner of Political Prac	124,258		2,485	121,332		2,427
3401	State Auditors Office	1,932,504		38,650	1,907,358		38,147
3501	Office of Public Instruction	49,525,435	(45,699,646)	76,516	42,366,201	(39,434,425)	58,636
3511	Billings Vo Tech	1,214,510		24,290	1,194,378		23,888
3512	Butte Vo Tech	1,271,869		25,437	1,243,160		24,863
3513	Great Falls Vo Tech	1,698,658		33,973	1,675,801		33,516
3514	Helena Vo Tech	1,922,930		38,459	1,897,449		37,949
3515	Missoula Vo Tech	2,030,105		40,602	2,006,884		40,138
4107	Crime Control Division	455,472		9,109	459,607		9,192
4108	Highway Traffic Safety	180,701		3,614	180,696		3,614
4110	Department of Justice	12,626,825	(1,314,476)	226,247	9,345,990	(1,350,492)	159,910
5101	Board of Public Education	107,559		2,151	105,438		2,109
5102	Commissioner of Higher Ed	322,559		6,451	9,178,483		183,570
5103	University of Montana	25,305,945		506,119	25,342,171		506,843
5104	Montana State University	30,985,467		619,709	31,075,236		621,505
5105	Mont College of Min Sc & Tech	8,516,676		170,334	8,507,278		170,146
5106	Eastern Montana College	9,679,183		193,584	9,668,074		193,361
5107	Northern Montana College	5,452,942		109,059	5,425,267		108,505
5108	Western Montana College	3,282,955		65,659	3,260,355		65,208
5109	Agricultural Exper Station	7,226,947		144,539	7,263,780		145,276
5110	Cooperative Extension Service	2,786,119		55,722	2,738,897		55,778
5111	Forestry & Cons Exper Station	702,762		14,055	702,782		14,056
5113	School For The Deaf & Blind	2,561,891	(2,561,891)	0	2,475,990	(2,475,990)	0
5114	Montana Arts Council	116,725		2,335	118,380		2,368
5115	Library Commission	1,267,636		25,353	978,150		19,563
5117	Historical Society	1,322,105		26,442	1,273,706		25,474
5119	Fire Services Training School	251,466		5,029	230,853		4,617
5201	Department of Fish, Wildlife & Parks	291,105		5,822	275,937		5,519
5301	Department Health & Environ Sciences	3,055,714	(585,590)	49,402	2,877,621	(474,590)	48,061
5401	Department of Transportation	131,072		2,621	31,689		634
5501	Department of State Lands	8,152,914		163,058	8,072,323		161,446
5603	Department of Livestock	406,322		8,126	398,337		7,967
5706	Department Nat Resource/Conservation	3,214,905		64,298	3,119,398		62,398
5801	Department of Revenue	20,650,092		413,002	20,336,602		406,732
6101	Department of Administration	3,909,995		78,200	3,769,900		75,398
6201	Department of Agriculture	476,507		9,530	411,587		8,232
6401	Department of Corrections & Human Services	76,217,279	(76,217,279)	0	77,167,531	(77,167,531)	0
6501	Department of Commerce	1,413,336		28,267	1,074,600		21,492
6602	Labor & Industry	810,922		16,218	780,605		15,612
6701	Department of Military Affairs	1,953,545		39,071	1,927,673		38,553
6901	Department Social & Rehab Services	114,631,264	(102,195,913)	248,707	120,048,681	(107,216,067)	256,652
6911	Department of Family Services	37,314,131	(18,030,202)	385,679	32,482,154	(16,043,773)	328,768
Totals		\$457,475,156	(\$252,001,797)	\$4,109,464	\$455,794,452	(\$249,579,830)	\$4,124,296

Probable Impact of HB 45

Amendment on Agency HB 2

Approved.

SENATE TAXATION

EXHIBIT NO. 3

DATE December 16, 1993

BILL NO. HB 45

Impact to Personal Property Reimbursements -- HB045 (As Amended by House Tax)

DATE December 16, 1993

BILL NO. HB-5

County	COUNTY GOVERNMENT			CITIES/TOWNS			SCHOOLS			TOTAL		
	Original Payment	Reduction	Revised Payment	Original Payment	Reduction	Revised Payment	Original Payment	Reduction	Revised Payment	Original Payment	Reduction	Revised Payment
Beaverhead	\$58,496	\$10,578	\$47,918	\$10,186	\$132	\$10,055	\$50,105	\$37,715	\$12,390	\$118,787	\$48,424	\$70,362
Big Horn	256,532	0	256,532	8,865	78	8,788	58,262	23,634	34,628	325,388	23,712	301,676
Blaine	69,120	0	69,120	8,478	729	7,749	35,381	23,077	12,304	114,988	23,806	91,182
Broadwater	40,117	0	40,117	3,220	0	3,220	14,055	14,055	0	70,277	14,055	56,222
Carbon	44,617	0	44,617	9,782	1,219	8,563	36,650	24,022	12,628	93,443	25,241	68,202
Carter	19,963	0	19,963	1,248	39	1,210	7,402	5,407	1,995	28,613	5,445	23,167
Cascade	228,477	104,809	123,668	164,848	39,767	125,081	242,123	68,614	173,509	684,891	213,190	471,701
Chouteau	95,325	0	95,325	7,868	0	7,868	65,985	32,486	33,499	193,066	32,489	160,577
Custer	76,862	3,106	73,756	31,625	1,470	30,155	40,292	4,109	36,184	148,833	8,685	140,148
Daniels	54,201	0	54,201	4,377	1	4,376	34,412	19,186	15,226	93,049	19,187	73,863
Dawson	113,729	5,295	108,434	26,806	0	26,806	52,424	17,506	34,918	193,576	22,801	170,775
Deer Lodge	33,123	17,059	16,064	1,236	2	1,233	15,928	15,464	465	58,570	32,525	26,045
Fallon	68,857	0	68,857	6,661	42	6,619	5,956	4,530	1,426	82,270	4,530	77,740
Fergus	95,504	0	95,504	21,393	4,154	17,238	83,252	27,063	56,190	202,583	31,217	171,366
Flathead	310,074	188,256	121,819	245,820	88,370	157,450	229,122	167,875	61,247	796,597	444,500	352,096
Gallatin	226,753	6,090	220,663	126,143	10,550	115,594	211,588	115,245	96,342	575,511	131,885	443,626
Garfield	27,944	5,578	22,366	811	0	811	5,821	2,144	3,677	34,576	7,723	26,853
Glacier	45,031	45,031	0	12,204	1,140	11,064	43,800	43,800	0	102,456	89,972	12,484
Golden Valley	8,621	0	8,621	303	12	291	6,627	4,638	1,988	15,774	4,650	11,124
Granite	27,957	23,891	4,066	1,943	576	1,366	19,002	19,002	0	51,311	43,470	7,841
Hill	123,883	8,565	115,317	25,432	9,170	16,262	76,858	61,400	15,458	228,744	79,135	149,609
Jefferson	110,688	64,640	46,048	2,702	1,009	1,693	101,050	40,680	60,371	219,583	106,328	113,255
Judith Basin	33,850	1,254	32,595	1,032	88	943	17,720	9,498	8,222	53,393	10,841	42,552
Lake	67,867	54,075	13,792	21,271	5,142	16,129	41,327	40,006	1,322	136,411	99,223	37,187
Lewis And Clark	186,322	34,155	152,168	139,834	50,314	89,520	199,284	188,543	10,741	525,558	273,012	252,547
Liberty	38,922	0	38,922	1,319	35	1,283	22,300	15,262	7,038	62,775	15,298	47,478
Lincoln	131,669	32,532	99,137	10,923	366	10,557	169,836	21,670	148,167	314,597	54,568	260,029
Madison	71,964	0	71,964	4,540	393	4,147	47,254	33,390	13,864	134,152	33,783	100,369
McCone	57,424	0	57,424	3,611	0	3,611	23,073	18,116	4,957	84,140	18,116	66,023
Meagher	14,617	3,950	10,666	1,679	0	1,679	7,638	7,531	107	24,706	11,481	13,224
Mineral	32,081	32,081	0	2,452	696	1,756	37,012	8,289	28,723	73,139	41,046	32,092
Missoula	655,110	103,044	552,066	287,666	121,977	165,689	479,373	374,849	104,524	1,524,452	599,870	924,582
Musselshell	37,952	23,146	14,805	2,738	0	2,738	11,293	9,276	2,017	52,037	32,423	19,614
Park	45,935	4,410	41,525	24,264	3,902	20,362	53,997	42,264	11,733	125,871	50,576	75,295
Petroleum	6,396	0	6,396	56	56	0	5,586	4,149	1,438	12,038	4,204	7,834
Phillips	62,703	11,114	51,589	6,849	0	6,849	55,826	30,375	25,451	126,552	41,489	85,063
Pondera	73,246	21,137	52,109	8,774	1,244	7,530	55,695	21,408	34,287	140,789	43,790	97,000
Powder River	85,293	8,313	76,979	1,794	0	1,794	15,366	7,885	7,481	102,570	16,198	86,372
Powell	41,334	4,124	37,210	4,084	1,012	3,072	33,324	33,814	11,533	79,103	6,565	72,538
Prairie	28,297	924	27,372	2,119	6	2,113	4,173	4,173	0	34,647	5,104	29,543
Ravalli	59,873	45,856	14,017	22,637	5,748	16,889	57,401	28,291	29,110	143,911	79,895	64,016
Richland	174,441	0	174,441	15,859	2,265	13,594	143,570	93,617	49,953	333,869	95,881	237,988
Roosevelt	110,835	45,715	65,120	11,219	18	11,201	41,016	24,342	16,673	168,848	70,075	98,772
Rosebud	26,757	26,757	0	6,887	287	6,600	29,769	23,187	6,582	81,814	23,755	58,059
Sanders	44,076	0	44,076	7,514	568	6,947	80,690	9,339	71,352	204,853	12,609	192,244
Sheridan	110,027	2,924	107,103	8,862	346	8,516	261,815	41,457	220,358	625,900	85,047	540,854
Silver Bow	284,365	43,374	240,991	29,185	216	28,969	261,815	41,457	220,358	625,900	85,047	540,854
Stillwater	84,459	10,637	73,821	11,021	1,917	9,104	58,403	20,235	38,168	161,814	32,790	129,024
Sweet Grass	26,037	4,629	21,408	4,410	10	4,400	18,597	7,263	11,334	49,044	11,901	37,143
Teton	76,754	3,344	73,410	5,560	0	5,560	51,817	21,084	30,733	135,535	24,427	111,107
Toole	112,296	8,184	104,112	12,580	3,282	9,298	36,908	11,186	25,722	164,300	22,652	141,648
Treasure	16,332	728	15,606	1,089	73	1,016	11,150	11,150	0	28,668	11,849	16,720
Valley	75,981	8,427	67,554	16,401	218	16,183	72,804	18,949	53,855	165,529	27,595	137,935
Wheatland	16,496	0	16,496	1,932	33	1,899	10,393	8,383	2,010	26,889	8,416	18,473
Wibaux	35,171	15,846	19,325	2,159	11	2,148	7,542	3,906	3,635	45,772	19,763	26,009
Yellowstone	779,641	50,663	728,979	283,362	58,205	225,156	718,973	451,363	267,610	1,826,651	566,232	1,260,419
TOTAL	\$5,840,396	\$1,090,243	\$4,750,154	\$1,687,650	\$416,888	\$1,270,762	\$4,362,369	\$2,417,314	\$1,945,315	\$12,270,277	\$3,924,445	\$8,345,832

DATE November 16, 1993

Personal Property Tax Reimbursement - Fiscal Year 1994 and Beyond

HB 45

County	County Government	County Education	Total County	Cities and Towns	Local Schools	Miscellaneous Districts	Total County Reimbursement	Reimbursed Directly				Grand Total
								University System	Statewide 40 Mills	Statewide 55 Mills	State Assump Of Welfare	
Beaverhead	45,805.67	12,690.13	58,495.80	10,186.17	50,104.76	0.00	118,786.73	3,526.67	23,511.11	32,327.77	0.00	178,522.88
Big Horn	175,590.98	80,941.17	256,532.15	8,865.02	58,262.30	1,728.13	325,387.59	16,974.73	113,164.86	155,601.69	0.00	611,128.87
Blaine	37,778.26	31,342.17	69,120.43	8,477.89	35,380.54	2,009.31	114,988.17	3,503.88	23,359.17	32,118.86	0.00	173,970.07
Broadwater	32,989.02	7,128.23	40,117.24	3,220.12	14,055.27	12,884.54	70,277.18	2,689.56	17,930.39	24,654.29	0.00	115,551.42
Carbon	27,221.38	17,395.53	44,616.90	9,782.00	36,650.10	2,394.09	93,443.09	2,892.02	19,280.16	26,510.22	0.00	142,125.50
Carter	16,036.09	3,926.42	19,962.52	1,248.46	7,401.78	0.00	28,612.76	1,024.73	6,831.53	9,393.35	0.00	45,862.37
Cascade	158,270.01	70,206.93	228,476.94	164,848.27	242,123.26	29,442.62	664,891.09	13,861.19	92,407.94	127,060.92	27,722.38	925,943.52
Chouteau	72,770.20	22,554.34	95,324.54	7,868.22	65,985.26	23,887.55	193,065.57	5,868.43	39,122.90	53,793.98	0.00	291,850.88
Custer	41,760.57	35,101.48	76,862.05	31,625.45	40,292.05	53.26	148,832.80	2,984.40	19,895.98	27,356.97	0.00	199,070.15
Daniels	38,133.34	16,067.52	54,200.86	4,376.65	34,411.85	60.10	93,049.46	2,152.38	14,349.20	19,730.16	0.00	129,281.20
Dawson	60,126.12	53,602.49	113,728.61	26,805.79	52,424.29	617.03	193,575.72	4,469.98	29,799.85	40,974.80	0.00	268,820.35
Deer Lodge	29,031.76	4,091.65	33,123.41	1,235.69	15,928.22	8,283.15	58,570.47	1,114.89	7,432.61	10,219.83	2,229.78	79,567.58
Fallon	31,670.27	37,186.86	68,857.13	6,661.39	5,955.83	795.26	82,269.61	6,814.94	45,432.94	62,470.29	0.00	196,987.78
Fergus	66,930.72	28,572.95	95,503.68	21,392.90	83,252.47	2,434.21	202,583.26	5,613.55	37,423.65	51,457.51	0.00	297,077.96
Flathead	196,130.64	113,943.81	310,074.45	245,819.54	229,122.01	11,580.82	796,596.82	13,817.64	92,117.63	126,661.74	27,635.29	1,056,829.12
Gallatin	156,103.37	70,650.05	226,753.42	126,143.18	211,587.59	11,026.72	575,510.91	14,369.50	95,796.67	131,720.43	0.00	817,397.52
Garfield	19,910.58	8,032.93	27,943.51	811.14	5,821.27	0.00	34,575.92	1,159.57	7,730.48	10,629.41	0.00	54,095.38
Glacier	36,349.28	8,681.97	45,031.24	12,203.64	43,800.21	1,420.42	102,455.52	5,047.65	33,651.03	46,270.17	0.00	187,424.37
Golden Valley	5,819.69	2,801.31	8,621.00	302.60	6,626.61	223.93	15,774.14	685.76	4,571.71	6,286.10	0.00	27,317.70
Granite	21,017.01	6,939.78	27,956.79	1,942.73	19,001.88	2,409.53	51,310.93	1,387.49	9,249.96	12,718.69	0.00	74,667.07
Hill	87,652.73	36,230.18	123,882.91	25,431.52	76,857.74	2,571.81	228,743.98	7,439.46	49,596.42	68,195.08	0.00	353,974.94
Jefferson	81,110.62	29,577.14	110,687.76	2,701.59	101,050.09	5,143.56	219,583.00	7,845.39	52,302.63	71,916.11	0.00	351,647.13
Judith Basin	26,273.10	7,576.85	33,849.95	1,031.68	17,719.86	791.68	53,993.17	1,803.30	12,021.97	16,530.21	0.00	83,748.65
Lake	46,497.05	21,370.43	67,867.47	21,271.39	41,327.42	5,944.41	136,410.70	4,157.67	27,717.81	38,111.98	8,315.34	214,713.50
Lewis And Clar	133,589.25	52,733.02	186,322.27	139,834.13	199,284.02	117.88	525,558.30	10,336.43	68,909.53	94,750.61	20,672.86	720,227.74
Liberty	35,531.22	3,391.14	38,922.36	1,318.52	22,299.66	234.91	62,775.45	2,496.55	16,643.65	22,885.02	0.00	104,800.67
Lincoln	58,748.40	72,920.94	131,669.34	10,923.25	169,836.19	2,168.70	314,597.48	11,761.44	78,409.61	107,813.21	23,522.88	536,104.63
Madison	50,842.69	21,121.21	71,963.90	4,539.95	47,254.43	10,393.79	134,152.07	5,223.71	34,824.74	47,884.02	0.00	222,084.54
McCone	46,811.08	10,613.04	57,424.11	3,611.17	23,073.34	31.01	84,139.63	2,451.99	16,346.61	22,476.59	0.00	125,414.82
Meagher	11,801.76	2,814.96	14,616.72	1,679.37	7,638.05	771.43	24,705.57	976.29	6,508.58	8,949.30	0.00	41,139.73
Mineral	22,053.75	10,027.52	32,081.27	2,452.33	37,012.13	1,592.92	73,138.65	1,701.02	11,340.14	15,592.70	3,402.04	105,174.55
Missoula	465,609.98	189,499.62	655,109.60	287,665.71	479,373.15	102,303.60	1,524,452.06	31,356.80	209,045.36	287,437.37	62,713.61	2,115,005.20
Musselshell	22,261.71	15,690.04	37,951.75	2,737.65	11,292.68	54.50	52,036.58	1,532.06	10,213.71	14,043.85	0.00	77,826.19
Park	31,833.16	14,102.15	45,935.31	24,264.28	53,996.69	1,675.02	125,817.30	3,799.41	25,329.41	34,827.93	7,598.82	197,426.87
Petroleum	4,917.08	1,478.92	6,396.00	55.55	5,866.28	0.00	12,037.83	377.92	2,519.46	3,464.26	0.00	18,399.47
Phillips	43,581.63	19,121.17	62,702.81	6,848.99	55,826.21	1,173.69	126,551.70	5,984.72	39,898.12	54,859.92	0.00	227,294.45
Pondera	58,324.12	14,922.36	73,246.48	8,773.58	55,695.25	3,073.92	140,789.22	3,984.61	26,564.06	36,525.58	0.00	207,863.47
Powder River	73,606.29	11,686.46	85,292.75	1,793.66	15,365.95	117.51	102,569.87	3,508.05	23,386.97	32,157.08	0.00	161,621.96
Powell	27,889.86	13,444.16	41,334.02	4,083.68	33,323.90	360.97	79,102.57	2,687.04	17,913.61	24,631.22	5,374.08	129,708.53
Prairie	22,444.50	5,852.00	28,296.50	2,119.31	4,173.34	57.62	34,646.77	1,225.55	8,170.33	11,234.21	0.00	55,276.86
Ravalli	42,846.87	17,025.63	59,872.50	22,637.30	57,400.98	3,999.84	143,910.62	4,188.35	27,922.32	38,393.19	8,376.70	222,791.17
Richland	114,982.71	59,458.25	174,440.96	15,858.50	143,569.93	0.00	333,869.40	11,489.52	76,596.78	105,320.58	0.00	527,276.28
Roosevelt	54,993.82	55,841.23	110,835.05	11,218.59	41,015.55	5,778.41	168,847.60	5,631.05	37,540.32	51,617.94	0.00	263,636.91
Rosebud	16,139.80	10,617.22	26,757.02	6,887.00	45,347.34	8,076.10	87,067.46	13,110.38	87,402.51	120,178.45	0.00	307,758.80
Sanders	30,572.91	13,502.72	44,075.63	7,514.45	29,768.76	454.82	81,813.66	2,862.77	19,085.12	26,242.04	0.00	130,003.58
Sheridan	49,825.37	60,201.14	110,026.51	8,881.95	80,690.33	5,253.83	204,852.62	8,185.06	54,567.09	75,029.75	0.00	342,634.52
Silver Bow	220,304.83	64,060.21	284,365.04	29,184.71	261,814.94	50,535.62	625,900.31	12,048.94	80,326.28	110,448.63	24,097.88	852,822.05
Stillwater	56,509.85	27,948.73	84,458.58	11,020.72	58,403.17	7,931.27	161,813.74	4,689.38	31,262.56	42,986.02	0.00	240,751.70
Sweet Grass	18,987.54	7,049.50	26,037.04	4,409.59	18,596.95	0.00	49,043.58	1,316.02	8,773.49	12,063.55	0.00	71,196.65
Teton	56,744.11	20,009.89	76,754.00	5,560.23	51,816.98	1,403.38	135,534.59	3,840.67	25,604.47	35,206.15	0.00	200,185.88
Toole	78,073.33	34,222.38	112,295.71	12,579.93	36,908.19	2,516.24	164,300.07	6,583.34	43,888.91	60,347.26	0.00	275,119.58
Treasure	12,890.58	3,441.70	16,332.28	1,088.95	11,149.98	96.90	28,668.11	1,003.90	6,692.67	9,202.42	0.00	45,567.09
Valley	45,365.72	30,615.64	75,981.36	16,401.45	72,803.98	342.65	165,529.44	4,706.48	31,376.52	43,142.72	0.00	244,755.15
Wheatland	12,481.28	4,015.01	16,496.29	1,932.47	10,392.91	0.00	28,821.67	923.70	6,158.00	8,467.25	0.00	44,370.61
Wibaux	26,845.66	8,325.28	35,170.94	2,158.72	7,541.60	901.05	45,772.31	2,108.56	14,057.04	19,328.42	0.00	81,266.33
Yellowstone	550,345.23	229,296.26	779,641.49	283,361.61	718,973.27	44,674.41	1,826,650.79	46,557.62	310,384.11	426,778.16	0.00	2,610,370.67

Comparison of Class 4 Credit and HB 20 Reimbursement Reduction Impact to 1995 Biennium

SENATE TAXATION

EXHIBIT NO. 6

DATE December 16, 1993

BILL NO. HB 45

County	Class 4 Credit to Taxpayers	HB 20 Reimbursement Reduction to Local Governments	Combined Impact
Beaverhead	195,599	(48,424)	147,174
Big Horn	25,920	(23,712)	2,208
Blaine	41,585	(23,806)	17,779
Broadwater	51,449	(14,055)	37,393
Carbon	39,717	(25,241)	14,476
Carter	4,602	(5,445)	(844)
Cascade	900,148	(213,190)	686,958
Chouteau	33,641	(32,489)	1,152
Custer	130,656	(8,685)	121,971
Daniels	10,351	(19,187)	(8,836)
Dawson	48,432	(22,801)	25,632
Deer Lodge	177,704	(32,525)	145,179
Fallon	42,946	(4,573)	38,373
Fergus	57,501	(31,217)	26,284
Flathead	1,999,556	(444,500)	1,555,056
Gallatin	797,046	(131,885)	665,161
Garfield	5,064	(7,723)	(2,658)
Glacier	271,476	(89,972)	181,504
Golden Valley	8,063	(4,650)	3,412
Granite	133,926	(43,470)	90,457
Hill	207,771	(79,135)	128,636
Jefferson	195,130	(106,328)	88,802
Judith Basin	22,380	(10,841)	11,539
Lake	812,871	(99,223)	713,648
Lewis And Clark	705,289	(273,012)	432,277
Liberty	19,707	(15,298)	4,409
Lincoln	233,442	(54,568)	178,873
Madison	140,236	(33,783)	106,453
McCone	9,691	(18,116)	(8,425)
Meagher	43,374	(11,481)	31,893
Mineral	97,659	(41,046)	56,613
Missoula	1,403,611	(599,870)	803,741
Musselshell	25,628	(32,423)	(6,795)
Park	247,915	(50,576)	197,339
Petroleum	1,614	(4,204)	(2,591)
Phillips	69,120	(41,489)	27,631
Pondera	46,842	(43,790)	3,052
Powder River	25,386	(16,198)	9,187
Powell	54,665	(6,565)	48,099
Prairie	11,439	(5,104)	6,336
Ravalli	465,093	(79,895)	385,198
Richland	205,585	(95,881)	109,704
Roosevelt	66,350	(70,075)	(3,725)
Rosebud	65,611	(60,858)	4,753
Sanders	133,397	(23,755)	109,642
Sheridan	14,928	(12,609)	2,319
Silver Bow	516,792	(85,047)	431,745
Stillwater	99,245	(32,790)	66,455
Sweet Grass	20,233	(11,901)	8,332
Teton	24,103	(24,427)	(324)
Toole	52,788	(22,652)	30,136
Treasure	14,080	(11,949)	2,131
Valley	92,805	(27,595)	65,210
Wheatland	5,705	(8,416)	(2,711)
Wibaux	18,822	(19,763)	(942)
Yellowstone	1,887,799	(566,232)	1,321,568
TOTAL	13,032,482	(3,924,445)	9,108,038

Revised Administrative Impact of HB-29

Property Assessment Division

<u>COSTS</u>	<u>FY94</u>	<u>FY95</u>
Personal Services		
Information Systems Specialist (1.0 FTE, Grade 14)	\$18,450	\$0
Property Tax Clerk (2.0 FTE, Grade 8)	<u>36,850</u>	<u>0</u>
Subtotal	\$55,300	\$0
Operating Expenses		
Application/notification expenses	\$33,100	\$0
Computer costs	15,000	0
Staff operating expenses	1,800	0
Information advertisements (newspaper)	<u>1,500</u>	<u>0</u>
Subtotal	\$51,400	\$0
Equipment	<u>\$8,460</u>	\$0
TOTAL	\$115,160	\$0

Income Tax Division

<u>COSTS</u>	<u>FY94</u>	<u>FY95</u>
Personal Services	\$31,866	\$63,730
Operating Expenses	26,563	28,505
Equipment	<u>\$10,960</u>	<u>\$0</u>
Total	\$69,389	\$92,235

GRAND TOTAL

\$184,549

\$92,235

Montana League of Cities and Towns



SENATE TAXATION

EXHIBIT NO. 8

DATE December 16, 1993

BILL NO. HB 45

TESTIMONY ON HB-45

This bill, as amended by the House Taxation Committee, will permanently reduce personal property tax reimbursements to local governments by more than \$4 million per year. This is supposed to be a property tax reform bill, but two words, "and thereafter", hidden on line 10 of page 8 will permanently reduce the payments authorized by the 1989 legislature to compensate local jurisdictions for the effects of House Bill 20.

These reimbursement payments have been and will continue to be an issue for legislative discussion, but this is a separate question that should not be answered in a bill dealing with an entirely different subject. If the legislature intended to permanently reduce reimbursement payments, a bill dealing with this issue should have been introduced, and local governments should have been given an opportunity to comment during the committee hearings.

This bill should also be amended to assure that voter approved levies that were imposed for the first time in the current year are not included in the calculation that is used to apportion the cost of property tax credit payments in FY-95. Voted levies are not covered by the rebates and credits, and they should not be used to divide the costs of the program among local governments.

For example, Missoula voters approved a levy of 3.83 mills for fire station expansion and improvements. If this levy, which was imposed this year, is included in the formula that determines the local cost of 1995 property tax credits, Missoula will pay more than \$76,000. If this voted levy is not included, the cost will be reduced by more than \$20,000.

With these amendments, the formula in HB-45 is acceptable, because it directly connects the costs of the program with the increases in tax revenue.

SENATE TAXATION

EXHIBIT NO. 9

DATE December 16, 1993

BILL NO. HB 45

Amendments to House Bill No. 45
Third Reading Copy

Requested by Representative Davis
For the Committee on Taxation

Prepared by Greg Petesch
December 15, 1993

1. Page 3, line 15.

Strike: "75% OF"

2. Page 3, line 16.

Following: "\$25"

Insert: "multiplied by a percentage figure based on income and
determined from the following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier
	Head of Household	

\$ 15,001 and greater	\$20,001 and greater	0%
12,251-	15,000	15,001- 20,000 25%
7,501 -	12,250	10,001 - 15,000 50%
3,751 -	7,500	5,001 - 10,000 75%
0-	3,750	0 - 5,000 100%

AMENDMENT HB45, THIRD READING COPY

SENATE TAXATION

EXHIBIT NO. 10

DATE December 16, 1993

BILL NO. HB 45

1. Title, lines 20 and 21.
Following: "SYSTEM;"
Strike: "APPROPRIATING" on line 20 through "REVENUE;" on
line 21.
2. Page 22, line 25.
Following: "FUND."
Insert: "The department may transfer general fund
appropriation authority to the state auditor for
the purpose of paying the costs associated with
increased warrant production."
3. Page 23, lines 1 through 5.
Strike: subsection (4) in its entirety
Renumber subsequent subsections

-END-



MONTANA HIGHER EDUCATION SYSTEMS

Office of Commissioner of Higher Education

2500 Broadway • PO Box 203101 • Helena, Montana 59620-3101 • (406) 444-0684

SENATE BILL NO. 71

EXHIBIT NO. 11

DATE December 16, 1993

BILL NO. HB 45

From the Office of the Commissioner of Higher Education

The perception is often expressed that funding cuts to higher education are not real, that perceived cuts are covered with increased tuition, that the burden is simply passed on to students and parents.

With the latest amendment to HB45 that takes an additional \$4.3 million from higher education, the total decrease in the biennial general fund appropriation since the 1991 regular session is \$50 million. How has the Montana University System managed these reductions?

For every dollar of this general fund reduction,

- (1) 56 cents has been recovered via tuition increases to students and their families;
- (2) 13 cents has been covered with increased six-mill revenue; and
- (3) 31 cents for a total of \$15.6 million has been absorbed in real cuts to the system.

At the same time that general fund support has been decreasing, the Montana University System has added another 2,000 students. For those who might think that higher education is sometimes not dealing in the real world, the figures provide a dramatic reality check--decreased state support, tuition increases, and more students to educate with reduced state funding.

How do we grasp the meaning of these numbers? Education is an investment; it is the single greatest asset that this state has for the future. In Montana we are investing less, and we are kidding ourselves if we think we will not bear the consequences of this recent investment trend. We understand clearly that efficiency in education must be pursued. We understand the adverse impact that each increase in tuition has on our students. These are important issues. Our concerns in the education community are not cries of "wolf." Rather we are raising important questions for Montanans. The system does not belong to those in higher education. The system belongs to the people of Montana. We in education are irresponsible if we do not put these issues on the agenda for Montanans to consider.

The cuts in the past three years have been real. The Montana University System can shift part of the reductions to tuition increases, in recent history 56 cents to the dollar.

If the goal is to see the system bleed, the goal is being accomplished. As the Great Falls Tribune reported October 11, 1993: "Montana spends less on instruction per student in public institutions than any other state in the union." "Montana pays its faculty less than any other state." "Montana also ranks 50th in research expenditures per full-time faculty member. . . ." These statistics are before the current round of budget cuts. What kind of a higher education system does Montana want? The answer to this question is important to every citizen of this state.

The \$11.7 million cut in HB2 is \$5.0 million more than the percentage of general fund that goes to higher education. We argued our case for a fair share (\$6.7 million) before the appropriate committees and are prepared to shoulder the responsibility of the amount now included in HB2. The intent of the commissioner's office is to recommend to the regents that \$6.0 million come from millage, and that the remaining \$5.7 million come from any identifiable savings plus cost cutting and tuition increases. The across-the-board cuts of an additional \$4.3 million should not be assessed, however. We respectfully urge that the amendment to HB45 now under consideration be defeated.

EXHIBIT 1
12-16-94
HB 45

MONTANA UNIVERSITY SYSTEM STATE SUPPORT

	FY92	FY93	TOTAL		FY94	FY95	TOTAL
1991 REGULAR SESSION							
GENERAL FUND	\$130,339,390	\$131,878,910	\$262,218,300		\$113,478,580	\$114,608,051	\$228,086,631
MILLAGE	11,887,000	12,131,000	24,018,000		12,518,000	12,567,000	25,085,000
TOTAL	\$142,226,390	\$144,009,910	\$286,236,300		\$125,996,580	\$127,175,051	\$253,171,631
1992 SPECIAL SESSION							
GENERAL FUND	\$128,118,869	\$123,154,959	\$251,273,828		\$103,986,823	\$108,046,727	\$212,033,550
MILLAGE	11,887,000	13,762,781	25,649,781		16,956,631	13,899,000	30,855,631
TOTAL	\$140,005,869	\$136,917,740	\$276,923,609		\$120,943,454	\$121,945,727	\$242,889,181
1992 SPECIAL SESSION II							
GENERAL FUND	\$128,118,869	\$118,323,716	\$246,442,585				
MILLAGE	11,887,000	13,762,781	25,649,781				
TOTAL	\$140,005,869	\$132,086,497	\$272,092,366				
1993 REGULAR SESSION							
GENERAL FUND							
MILLAGE							
TOTAL							
1993 SPECIAL SESSION (CURRENT STATUS)							
GENERAL FUND (W/HB45 REDUCTIONS)							
MILLAGE							
TOTAL							

State support for higher education has steadily decreased since the 1991 regular legislative session. The 1991 regular session appropriated \$262,218,300 of General Fund and \$24,018,000 of six mill levy revenue to the Montana University System for a total state support of \$286,236,300. After the reductions contained in HB002 and HB45, the Montana University System is appropriated \$212,033,550 of general fund and \$30,808,631 of six mill levy revenue for a total state support of \$242,840,181. In one biennium, general fund support to the Montana University System has decreased by over \$50,000,000 and total state support has decreased by approximately \$43,500,000.

MONTANA UNIVERSITY SYSTEM TUITION INCREASES

	FY93	FY92	FY94	TOTAL	ESTIMATED	NET
	FYFTE	FTE	FTE	TUITION	TUITION	TUITION
	STUDENTS	TUITION	TUITION	INCREASES	WAIVERS	INCREASES
TUITION INCREASES						
RESIDENT STUDENTS	21,581	\$1,017	\$1,358	\$7,359,121	\$721,194	\$6,637,927
WUE STUDENTS	4,007	1,526	2,037	2,049,581	0	2,049,581
NON-RESIDENT STUDENTS	3,330	3,384	5,250	6,213,780	869,929	5,343,851
VO-TECH STUDENTS	2,314	804	1,148	796,016	0	796,016
TOTAL				\$15,622,482	\$1,591,123	\$14,031,358

The facts do not support the claim that tuition has entirely offset the impact of budget reductions on the Montana University System. As can be seen above, the net (spendable) effect of increased tuition has been approximately \$14,000,000 per year or \$28,000,000 over a biennium. The \$50,000,000 in general fund reductions were only partially offset by \$28,000,000 in increased tuition and \$6,800,000 in increased six mill levy revenue. This still leaves a general fund reduction of \$15,600,000 that has not been offset by increased tuition or increased six mill levy revenue.

In addition to the \$28,000,000 available as a result of tuition increases, the Montana University System will have approximately \$8,000,000 of additional net tuition (biennium total) available as a result of increases in the number of students and changes in student mix. FY94 enrollments will exceed the FY92/FY93 budgeted enrollment level by over 2,000 FTE students. It should be remembered that serving 2,000 additional students also requires increased obligations and expenditures. Based on a student to faculty ratio of 17.5 students to one faculty member. Two thousand (2,000) additional students would require 115 additional faculty at a biennial cost of approximately \$10,000,000. In addition to faculty salaries, support and plant costs also increase as a result of additional students.

The Montana University System has additional fixed obligations during the FY94/95 biennium as a result of legislative action. For example, pay and insurance increases authorized by the 91 & 93 legislatures have increased personal service costs in the FY94/95 biennium by \$10,000,000 above the FY92/93 biennium. Additional costs have also been imposed for the workers' compensation payroll tax (\$1,175,000), OLA audit fees, warrant writing charges, and DoA insurance charges. Inflation on library materials, utilities and other supplies and services have also occurred since the FY92/92 biennium.

Amendments to Senate Bill No. 52
First Reading Copy

Requested by Senator Weeding
For the Senate Committee on Taxation

Prepared by Roger Lloyd
December 16, 1993

SENATE TAXATION

EXHIBIT NO. 12

DATE December 16, 1993

BILL NO. SB 52

1. Page 1, line 24 through page 2, line 9.

Strike: line 24 on page 1 through line 9 on page 2 in their entirety.

Insert: "(a) 9/10 of 1% of all money, minus the amount attributable to refunds for use in propelling boats, must be deposited in the state park account;
 (b) 1/2 of 1% of all money, minus the amount attributable to refunds for use in propelling snowmobiles, must be deposited in a snowmobile account in the state special revenue fund;
 (c) 1/8 of 1% of all money, minus the amount attributable to refunds for use in propelling off-highway vehicles, must be deposited in an off-highway vehicle account in the state special revenue fund; and

{ Office of Legislative Fiscal Analyst

444-2986}

SENATE TAXATION

EXHIBIT NO. 13

DATE December 16, 1993

BILL NO. SB 52

SB 52
December 16, 1993

Testimony presented by Arnold Olsen
Department of Fish, Wildlife & Parks
before the Senate Finance & Claims Committee

Because of the revenues involved, we feel SB 52 is primarily a snowmobile issue.

The snowmobile program was established in 1977 and was funded with gas tax revenue for the purpose of providing a statewide program to develop, operate and maintain a groomed trail system and to promote user safety. Since this fuel is purchased at the gas pumps but not burned on the state highway system, users are provided a collective refund for purposes which enhance snowmobiling opportunities.

We agree with the concept embodied in SB 52, which attempts to account for the apparent duplication of a collective refund for all snowmobiles in addition to a refund to certain commercial businesses. The options appear to be, 1) subtracting the commercial refund from the fund balance which goes to all users as this bill does or 2) eliminating the commercial refund entirely.

Our department has been contacted by some of the primary beneficiaries of the commercial refund in West Yellowstone who were planning on suggesting elimination of the commercial refund during the 1995 full legislative session. Therefore, we prefer the option of eliminating the commercial refund over the option embodied in SB 52. However, we would be happy to work with the Senate Finance and Claims Committee to resolve this issue in a constructive manner.

Amendments to House Bill No. 57
Third Reading Copy

Requested by Senator Halligan
For the Committee on Taxation

Prepared by Jeff Martin
December 15, 1993

SENATE TAXATION

EXHIBIT NO. ~~74~~ 14

DATE December 16, 1993

BILL NO. HB 57

1. Title, lines 6 through 9.

Strike: "APPROPRIATING" on line 6 through "INCOME;" on line 9

Following: "A" on line 9

Insert: "TAX"

2. Title, line 10.

Strike: "PERSONS"

Insert: "FEDERAL RETIREES"

Strike: "FAILED TO"

Strike: "FILE"

Insert: "FILED"

3. Title, line 11.

Following: "INCOME"

Insert: "DURING THE PERIOD FROM 1983 THROUGH 1987"

4. Title, lines 11 through 13.

Strike: "APPROPRIATING" on line 11 through "REFUNDS" on line 13

Insert: "PROVIDING THAT THE CREDIT AND ANY CARRYOVER IS
REFUNDABLE FOR TAX YEAR 1998; PROVIDING THAT THE CREDIT AND
ANY CARRYOVER IS REFUNDABLE TO THE TAXPAYER'S ESTATE OR
TRUST; REQUIRING APPLICATION FOR THE CREDIT"

5. Title, line 14.

Following: "IMMEDIATE"

Insert: "AN IMMEDIATE EFFECTIVE DATE AND"

6. Title, lines 14 and 15.

Strike: "EFFECTIVE" on line 14 through "APPLICABILITY" on line 15

Insert: "TERMINATION"

7. Page 3, line 9 through page 7, line 5.

Strike: everything following the enacting clause

Insert: " NEW SECTION. Section 1. Credit for taxes paid on
federal pension income. (1) For the tax year beginning after
December 31, 1994, and for the succeeding 3 tax years, a
taxpayer who was required to pay a tax on federal pension
income for any of the tax years 1983 through 1987 and who
filed a timely claim for a refund is allowed a tax credit
against the taxes imposed by 15-30-103 for the amount
certified pursuant to 15-30-147(2)(f). The credit may be
claimed on returns filed after December 31, 1995.

(2) Except as provided in subsection (3), the maximum
credit that a taxpayer may claim on any year's tax liability
is 25% of the original amount certified pursuant to 15-30-
147(2)(f), not to exceed the total amount of the taxpayer's

tax liability for the year in which the credit is claimed. That portion of the credit that exceeds the taxpayer's liability in any year may be carried over to be applied to the succeeding year's tax liability in addition to the percentage amount that the taxpayer is eligible to claim.

(3) For tax year 1998 only, if the credit and any carryover amount exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer. A credit, including any carryover amount, may not be claimed for tax years beginning after December 31, 1998.

Section 2. Section 15-30-147, MCA, is amended to read:

"15-30-147. Application for revision -- appeal --

application for tax credit for federal pension income. (1) An application for revision may be filed with the department by a taxpayer within 5 years from the last day prescribed for filing the return as provided in 15-30-145(3), regardless of whether the return was filed on or after the last day prescribed for filing. If the department has revised a return pursuant to 15-30-145(3), the taxpayer may revise the same return until the liability for that tax year is finally determined. If the taxpayer is not satisfied with the action taken by the department, the taxpayer may appeal to the state tax appeal board.

(2) (a) A taxpayer who included federal pension income in Montana adjusted gross income that resulted in the payment of a tax and who filed a timely claim for a refund of taxes paid on federal pension income for any of the tax years 1983 through 1987 may file an application for a tax credit to be used for the payment of future tax liabilities as provided in [section 1].

(b) A taxpayer who filed an income tax return, using the status of married filing jointly, and who did not receive federal pension income as the result of personal services performed by the taxpayer for any of the tax years 1983 through 1987 may not file a claim for a credit.

(c) A taxpayer who filed an income tax return, using the status of married filing jointly for any of the tax years 1983 through 1987, who along with the taxpayer's spouse received federal pension income, and whose spouse is now deceased may file a claim for a credit for the amount of federal pension income received by the taxpayer and for the amount received by the deceased spouse.

(d) The application for credit must be made between [the effective date of this act] and June 30, 1994. The application may be made only for tax years 1983 through 1987.

(e)(i) For a taxpayer who is physically or mentally incapacitated, a claim for the credit may be filed on the taxpayer's behalf by a person authorized by law to handle the taxpayer's affairs or to act for the taxpayer.

(ii) For a deceased taxpayer, a claim for the credit may be filed by either the fiduciary or the beneficiary of the deceased taxpayer's estate or trust for the full amount of the credit and for any carryover amounts. If the amount of the credit exceeds the tax liability of the estate or trust, the amount of the excess must be refunded to the estate or trust.

(f) Upon receipt of the application, the department shall

review the application for completeness and accuracy. After review, the department shall certify to the taxpayer the amount of the taxpayer's credit for taxes paid on federal pension income.

(3) For purposes of this section, "federal pension income" means pension income received from the United States government or an agency of the United States government."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval."

NEW SECTION. Section 5. Contingent termination -- reduction to court-ordered refund. (1) [This act] terminates on the date that the director of revenue certifies to the governor that a final decision in Sheehy v. Department of Revenue, 250 Mont. 437, 820 P.2d 1257 (1991), has ordered the payment of refunds of taxes paid on federal pension income for the tax years 1983 through 1987.

(2) The payment of a refund resulting from a final judgment must be reduced by the amount of the credit received under 15-30-147."

DATE 16 DecemberSENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: SB 52, HB 45, HB 60

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Tom Schneider</i>	<i>WIPEH</i>	<i>HB 45</i>		<input checked="" type="checkbox"/>
<i>Randy Johnson</i>	<i>MLGA</i>	<i>HB 45</i>		<input checked="" type="checkbox"/>
<i>Mark Peterson</i>	<i>MAES</i>	<i>HB 45</i>		<input checked="" type="checkbox"/>
<i>Scott St Arnold</i>	<i>AFSCME</i>	<i>HB 45</i>		<input checked="" type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 16 DemberSENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: SB 52, HB 45, HB 60

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Leonard Wortman	Jeff. Co.	45		X
JEFF BAISER	Higher Ed.	45		X
Mae Mage	MSU	11		X
Ray Deek	IDWRC	60	X	
Gloria Hernandez	MT Cult. Adv			X
Mt Farmers Union		45		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY