

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN CHASE HIBBARD**, on January 17, 1995,  
at 8:00 A.M.

**ROLL CALL**

**Members Present:**

Rep. Chase Hibbard, Chairman (R)  
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)  
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)  
Rep. Peggy Arnott (R)  
Rep. John C. Bohlinger (R)  
Rep. Jim Elliott (D)  
Rep. Daniel C. Fuchs (R)  
Rep. Hal Harper (D)  
Rep. Rick Jore (R)  
Rep. Judy Murdock (R)  
Rep. Thomas E. Nelson (R)  
Rep. Scott J. Orr (R)  
Rep. Bob Raney (D)  
Rep. John "Sam" Rose (R)  
Rep. William M. "Bill" Ryan (D)  
Rep. Roger Somerville (R)  
Rep. Robert R. Story, Jr. (R)  
Rep. Emily Swanson (D)  
Rep. Jack Wells (R)  
Rep. Kenneth Wennemar (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Lee Heiman, Legislative Council  
Donna Grace, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 171  
HB 144  
HJR 7

**Executive Action:** HB 144 - Do Pass

{Tape: 1; Side: A.}

HEARING ON HB 171

Opening Statement by Sponsor:

JOHN MERCER, HOUSE DISTRICT 74, POLSON, said he was the chief sponsor of HB 171 and he would defer to **THE HONORABLE GOVERNOR MARK RACICOT** to open.

**GOVERNOR RACICOT** said that during the 1993 session of the Legislature, there had been many serious financial challenges which were dealt with good sense and honest purpose. Throughout the course of this process those in both the executive and legislative branches were bound to undertake certain functions on behalf of the people of Montana with the sacred contract between the people and those who work for the government that the job would be done through their collective representatives for a certain period of time for a certain set amount of money. Because of the actions of that legislature, and because of the fact that the state has been experiencing a robust economy, it has been obvious for some time that there will be a projected revenue excess beyond what was originally, in good faith, projected. It is expected that the excess will probably rise to in excess of \$25 million beyond the original projection although that is not definite at this point. This money should be returned to the people who paid it because he believed, if we are going to keep faith with those people, we should operate pursuant to the contract that we originally entered into with them -- to do a certain job, in a certain length of time, for a set amount of money. It has been suggested that the state keep the funds and use them for other purposes.

**GOVERNOR RACICOT** said he was appearing before the committee to strongly support the legislation to return the money to the people who paid it, to keep faith with them, and operate pursuant to a sense of honest purpose and fair play. He said he had talked with and listened to hundreds of people and they had reaffirmed time and time again that this was the appropriate thing to do. There have been some people who have suggested that the funds should be utilized for some form of property tax refund, repairs on state infrastructure, or placed in a "rainy day" account. Putting the money in a "rainy day" account is not the wisest course to follow, not only because the people who paid this money should have it returned, but because rainy day funds get spent on sunny days. To provide property tax relief would not allow for the return of the funds to the same people who paid them in the same proportion to which it was paid. He strongly urged the Committee's favorable consideration of HB 171.

**CHAIRMAN HIBBARD** advised the Committee that the Governor had another commitment later in the morning but he would be willing to respond to questions at this point in the meeting.

**REP. WELLS** asked how many of the people surveyed agreed with the idea of returning the money to the taxpayers.

**GOVERNOR RACICOT** said that a representative of the media had done a tabulation which indicated that the return of the funds was favored by a significant number of individuals. He said that in his conversations with people throughout the state, the overwhelming majority favored the rebate.

**REP. RANEY** said he would be appearing as an opponent to the bill later in the meeting, not because he was opposed to returning the money, but he felt there were better things that could be done with the money. He said he would be supporting HB 116, to be introduced by Rep. Cobb, which would put \$20 million of this money into the Workers Compensation Fund which would provide for an average 11% cut in rates. He commented that he had spoken with 200 of his constituents and only 13 had asked for the money back. He asked for the Governor's comments.

**GOVERNOR RACICOT** said this was one option that had been discussed and deliberated on for quite some time. There were people who thought it would be an appropriate thing to do; however, it was not the preferred alternative because it would not achieve the same degree of equality and fairness.

**REP. HARPER** commented that during the campaign, he thought the promise to return excess money to the taxpayers probably had a lot to do with the defeat of Initiatives 66 and 67 which he felt was a good thing. He said that property taxes were raised during the last session to fund the state's portion of school money; therefore he asked if it wouldn't be more appropriate to refund the money to property tax payers.

**GOVERNOR RACICOT** replied that there was no strategy or decision made on his part to advocate in any way a linkage between those particular initiatives and the return of this money. There may have been some coincidental impact but it was not his intention. The intent was to play the game "straight up" with the people he works for. A case could possibly be made for any approach for returning these funds back to the people of Montana and it will have to be the considered decision of all those here, individually and collectively, as to what the preferred alternative will be. He indicated that he thought the significant majority would prefer it see it returned on the basis of their income tax return.

**REPRESENTATIVE ELLIOTT** said it was his understanding that the excess was the result of an increase in revenue during 1993-94 biennium and it was not just a one-time increase, the point being that this on-going increase is also accruing into the 1997 biennium. He asked if the funds would be budgeted for or, if there is an excess, would it also be returned. **GOVERNOR RACICOT** said that the taxes that produced this particular revenue increase would be used to pay increased costs in the next

biennium for such things as education, prison operation, or Medicaid. If the legislators are inclined to cut those programs, or change the law that requires these expenditures, a similar revenue excess could be returned. In the event there is an increase in revenue beyond what is budgeted by this legislature, the Governor would propose exactly the same thing.

**REPRESENTATIVE ELLIOTT** then asked what would become of the \$10 million which was budgeted for in HB 5. **GOVERNOR RACICOT** replied that you change the law, which is done fairly routinely, because there is a long-range building repair program that is designed to repair infrastructure needs which not only meets the requirements of HB 5, but far exceeds it for a truly meaningful, long-term infrastructure repair mechanism. It should be noted that conditions have changed and that particular wish of the legislature can be adjusted. The precise language of HB 5 says there must be a \$10 million cash balance available on June 30, 1995 and that may not be an easy condition to meet. The Governor said he did not see this as an overwhelming obstacle.

**CHAIRMAN HIBBARD** expressed his appreciation to Governor Racicot for taking the time to respond to questions and recognized that it was a departure from committee procedure.

**REP. MERCER** then continued with his opening statement. He said that this session is about applying Montana values to state government. Essentially, the working and retired people of Montana paid in more taxes than the government budgeted to spend. It was anticipated that the ending fund balance would be approximately \$24.4 million and it is now expected that there could be anywhere from \$20 to \$25 million above that. The old way of thinking was to spend it on something. What is proposed today is the new way of thinking. The money will be paid back in time to be used as a payment toward property taxes in November.

**REP. MERCER** distributed a handout illustrating how the rebate would be distributed. **EXHIBIT 1** He said that even though the excess did not come exclusively from income taxes, the refund will be based on the income tax model. Refunds will not be made if the amount is less than \$10 and no one would receive a check for more than \$1,000. In conclusion, **REP. MERCER** commented that legislators are often frustrated because the public does not appreciate what they do. It was his strong feeling that the reason for the lack of confidence is that legislators do not apply the public's values to the way government is operated. There are many other ways this money could be spent but that is not the way Montanans think. It's not the amount of money being returned that is significant, it's the recognition by our government that excess tax dollars belong to the people and not to the government.

**Proponents' Testimony:**

**SENATOR BRUCE CRIPPEN, Senate District 10, Billings,** said he is the Senate co-sponsor of HB 171 and he supports the bill because it changes the relationship between the state and the people. He said that when he first heard about the surplus, he thought of the many ways it could be spent or it could be put in a "rainy day" fund and spent later. The problem with this, he said, was he was thinking like a legislator, not as a representative of the people. Some of the questions asked of the Governor clearly illustrate that point. Education, renovation, workers comp are all important but they miss the point. The excess money belongs to the people of Montana, not the government, and to the people it shall return. **SEN. CRIPPEN** said he hoped this bill would be the catalyst for renewed faith in our system of government and he urged the Committee to pass HB 171.

**Jeff Miller, Administrator of the Income and Miscellaneous Tax Division, Department of Revenue,** advised the Committee that it would be the Department's responsibility to compute the percentage to be used for the rebate and issue the checks upon approval of the proposed legislation. He briefly explained the process to be used and said that the DOR would begin preparation as soon as the legislation is passed. Once the percentage rate was determined, it would remain constant and would not be affected by DOR audit adjustments or amended returns. It was expected that the checks could be mailed late in November or early December.

**REP. LARRY GRINDE, House District 94,** said he had heard the comment that the checks would only be about \$70, "a week's worth of groceries." To a lot of people, a week's worth of groceries means a lot. He said that the main reason he supports this legislation is that putting \$25 million of disposable income into the economy will provide a surge which will keep the economy moving for a longer period of time than it would if the money was kept in government.

**Bob Haseman** stated that he was in favor of the bill but was appearing before the Committee to ask to have the bill changed to eliminate the \$1,000 cap so that the state would pay back proportionately to all taxpayers who paid in. He indicated that there would be lawsuits if the cap is not eliminated. The text of Mr. Haseman's testimony is contained in EXHIBIT 2.

**Dennis Burr, representing the Montana Taxpayers Association,** said everyone can find a good way to utilize this money, but in this case, it's a matter of trust. People simply do not trust government and expect that when it gets a dollar, it will spend it whether it needs it or not. This particular legislation proves that they won't spend more than they need. If the government does not have the public's trust, none of the other problems will be adequately solved because they won't trust the government to do the right thing. Therefore, he said he had

concluded that it was proper to return it to the taxpayers of the state and felt that the Governor had thought this through thoroughly and concluded that the income tax was the proper method on which to base the refund. He said he would accept the Governor's judgment and support this legislation.

**David Owen, Montana Chamber of Commerce**, spoke in favor of the legislation on behalf of the Montana Chamber of Commerce. Members of the Chamber of Commerce believe that the message the rebate will send to the public is important.

**Laurie Koutnik, Executive Director of the Christian Coalition**, said this family-oriented organization advocates strong stewardship and moral integrity and a strong involvement in government affairs. The members of the organization she represents encourage the Committee to pass this bill in an effort to instill trust and confidence in their elected representatives. She asked for support of HB 171.

*{Tape: 1; Side: B; Approx. Counter: 001; Comments: The first portion on this section of the tape did not record.}*

#### Opponents' Testimony:

**REP. BOB RANEY, District 26, Livingston**, rose in opposition to the bill. He said he had interviewed 200 people in his district and told them that it was expected that there would be a surplus of over \$25 million at the end of the biennium because the economy in Montana was growing. He said only 13 told him they wanted the money back. He said he thought that Representative Cobb might have a better alternative and will introduce a bill recommending that the money be put into Workers Comp. If Workers Comp was given \$20 million, the rates could be lowered by approximately 11%. Rep. Cobb will testify that by doing this, unemployment could be reduced by 9% and the economy in Montana would grow by providing jobs for the people in Montana and those who want to move here. He emphasized that before a decision is made, there should be an opportunity to discuss the other options.

#### Questions From Committee Members and Responses:

**REP. SWANSON** asked for the number of people and the percentage of income that would be affected by the individuals exceeding the \$1,000 cap. **Jeff Miller, DOR**, referred Rep. Swanson to Exhibit 1 which provides this information based on the amount of the rebate pool. The chart was based on 1993 data and projected forward but it is the best available information at this time.

**REP. SWANSON** asked how the cap would be explained to those people whose rebate would be limited to \$1,000. **REP. MERCER** replied that this is not a rebate of income taxes, it is a rebate of excess tax. There are other taxes, including property tax, in

the excess and tying the rebate to the income tax is the method being used to give it back.

**REP. SWANSON** said it looked to her that this was a prejudice against a certain class of taxpayers. **REP. MERCER** said he did not agree because if it were given dollar for dollar based on the income tax, with no cap, all the excess tax dollars would be given to the income tax payers who paid the highest amount of income taxes and by doing that less weight would be given to the fact that other people in Montana paid other taxes that are not included in this method. The perfect way would be to take into account all taxes and every reason for the excess tax dollars and have some sort of a weighted formula so that it was distributed on that basis. Instead, it is being linked to income tax in order to offset the fact that property tax and other taxes are not being included and it is necessary to draw a line with the cap in order to bring that into the computation. The same people that have the very high incomes probably did not pay a lot of property tax over and above what other people paid. **REP. SWANSON** then asked why, if there was a more fair way to do it, it wasn't done, and **REP. MERCER** replied that the reason was that they had tried to keep it simple.

**REP. REAM** commented that the fundamental thing that bothered him about this, and because it is a symbolic thing, was that it might be a good thing to do, but at the time when there is discussion about giving this money back to the taxpayers, the legislature is incurring debt for the building and maintenance programs in the amount of \$72 million. This will indebt taxpayers of the future and he said this philosophy bothers him. He asked for Rep. Mercer's comments. **REP. MERCER** said that first of all, comments have been made that this is not very much money; however, it is equivalent to a 7.5% income tax surcharge -- which is a significant amount of money. He explained that two different budget periods were being discussed. In the last budget period the people of Montana were told that if they would pay taxes according to the schedules, it was estimated that there would be a \$24.4 million left over. Because of hard work and good fortune, they paid in more and the question now is, "Do we keep the change?" **REP. MERCER** said he thought the honest thing to do was to give back anything over what the price would be. He continued that this is a new legislative session and the price of government will be negotiated up front. **REP. MERCER** quoted from the Montana Republican Action Plan which says, "In the current budget period, people paid more state taxes than the government expected to receive. In the past we spent it. We propose to give it back." The Democratic "Blueprint for Change" says, "Use the budget surplus to reduce or eliminate other taxes." He said this indicated that both parties were saying that the money should be given back. He said he could not deny that there were a million ways that this money could be spent but in a prior budget period, a contract had been made and the money, which is a significant amount, should be given back.

**REP. HARPER** said he agreed that the budget was a contract made with the people in the state and he also agreed with the symbolic gesture. His question was whether the last budget contract was being broken so that the new contract could be fulfilled. He referred to the fiscal note, which indicates that the balance will be somewhat over \$44 million as an ending fund balance. House Bill 5 said that any amount over \$30 million, up to \$10 million would be appropriated to do some of the repairs needed on state buildings. As that was part of the last session's budget, it looks like last year's budget will have to be amended or they would be breaking that contract. Otherwise, only \$4 million would be available for refund. He asked if this interpretation was correct. **REP. MERCER** replied that the projection was that the ending fund balance would be \$24.4 and an amendment was added that if extra money came in, it was to be spent on long range building repairs. These amendments have been added to budgets in the past and been ignored in every session because they have not been taken seriously by the Legislature. He noted that \$10 million would not go far to solve the long range building program and that is why Governor Racicot has replaced it with a far more reaching maintenance program.

**REP. HARPER** pointed out that much has been made of the symbolism, the old versus the new, and new blood and new ideas are important to the Legislature; however, some legislators have been around long enough to remember that this same method of rebate was used by Governor Tom Judge on the Homestead Property Tax Exemption. So if you look back far enough, something that was tried in the old days sometimes looks new.

**REP. RANEY** asked what percent of the excess tax collection was income tax and what percent of it came from other sources. **Jeff Miller, DOR**, replied that he didn't have the information but, together with the Budget Office, would try to obtain the breakdown. **REP. RANEY** then asked if anyone could give an accurate prediction of what the cash balance would be at the end of the biennium. **Dave Lewis, Budget Director**, replied that projections are prepared by the accounting division. June 30 is the day the tax TRANS are paid. However, there are so many variables such as rate of expenditures or what the DOR transfers in, that it is difficult to anticipate what the ending balance will be. His personal opinion was that it was more likely that the anticipated balance would be there rather than that it would not.

**REP. RANEY** asked if there was reason to be concerned with the comments made by Mr. Haseman regarding the filing of lawsuits if the bill proceeds with the inclusion of caps. **REP. MERCER** said there is always the possibility of a lawsuit but he could not see that it would be successful because excess tax rather than income tax is being refunded.

**REP. ELLIOTT** asked why the bill had a termination date of July 1, 2001. **Mr. Miller** said this would allow a time period for any



adjustments or amendments to 1994 returns and it is also consistent with the five-year statute of limitations.

**REP. REAM** said that part of the surplus was from the railcar tax and there was some indication presented to the Revenue Oversight Committee that there might be a resolution of that issue before this session is over. He asked if Mr. Lewis had any information on this matter. **Mr. Lewis** said he was aware that there was some discussion of negotiation and also of a bill coming through to look at that tax but he could not predict what the negotiations would bring.

**REP. SWANSON** asked Rep. Mercer if there was a way to come up with twice as much money to return to the people of Montana, would he support it. **REP. MERCER** said it would depend on the proposal.

**REP. SWANSON** said her proposal was to use the money to reduce the amount that would be borrowed and therefore interest would be paid on a significantly reduced amount, which would save the taxpayers twice as much money. She said the legislature is proposing to borrow \$72 million for the long term building plan. If the amount were reduced by \$25 million, it would be necessary to borrow only \$47 million. The interest to be saved would be \$21 million and the taxpayers would have been saved \$46 million.

**REP. MERCER** said the calculation does not take into account what the people will do with their money when they get it back. He indicated that this reflected the old way of thinking "what's good for the government." That is, if the government kept this money and used it to reduce the amount of money that government would have to borrow, then government would have more money and therefore the people would have more money. **REP. MERCER** said that, in his opinion, this was flawed thinking.

**REP. ARNOTT** suggested that if the people didn't want their money, the people in a community could pool their rebate and do what they want. **REP. MERCER** said it was an excellent suggestion and they certainly could do that -- but he doubted they would send it to the Legislature!

**REP. HARPER** asked if it wouldn't be to the state's advantage to use money it had rather than money it had to pay interest on.

**REP. MERCER** replied that Rep. Harper was perceiving that it was the government's money and therefore in the best interest of the government when, in fact, the money belongs to the people. **REP. HARPER** said this wasn't fair because what was being discussed was giving back taxpayers' money that, if last year's budget is not amended, would go toward rebuilding and maintenance of buildings for which they would be asking for more money. He said the question to be determined was what was the best way, financially, to use this money. He asked Rep. Mercer to consider Rep. Swanson's suggestion as a possible wise use of the money. **REP. MERCER** said it all goes back to the old way of thinking, and he felt that budget lines should not be crossed. The major problem we have right now is the lack of public confidence and if the government were to do what has been suggested, they won't believe

us because they don't trust us because we would be putting money into what the public perceives as increased government spending. He concluded that Governor Racicot has proposed this and he is very popular, and it might be wise to listen to what he has to say.

{Tape: 2; Side: A.}

Closing by Sponsor:

**REP. MERCER** closed by defending the position of tying the rebate to the income tax and reminding that \$25 million is not being appropriated to be handed out to the people of Montana. The ending fund balance was projected to be \$24.4 million and whatever is actually in the bank when the books close, anything over that amount should be given back. He said that nothing discourages him more when serving as a state legislator than a lack of trust and confidence. He said he felt this would send a strong message to the folks back home that the legislature will keep its word. **REP. MERCER** encouraged rapid action on this bill.

**CHAIRMAN HIBBARD** advised the Committee that he understood it would be necessary to make a technical amendment to HB 171 and he would expect to take executive action on Wednesday, January 14. He encouraged anyone who would anticipate making an amendment to get it to Lee Heiman prior to that time.

**REP. RANEY** questioned such rapid executive action because another bill suggesting a use for this money would not be heard until the afternoon of January 14. **CHAIRMAN HIBBARD** replied that he would take Rep. Raney's comments under consideration.

HEARING ON HB 144

Opening Statement by Sponsor:

**REP. DAN HARRINGTON, House District 38**, explained that HB 144 was introduced at the request of the Montana Department of Revenue at the suggestion of the Legislative Auditor and would repeal 15-1-105, MCA, relating to the allocation of certain tax fines, forfeitures and penalties. This section of the law was enacted in 1891 as part of the original property tax legislation and says that all fines, forfeitures and penalties incurred by a violation of any of the provisions of the state tax laws, except those paid to a justice court, must be paid into the treasury for the use of the county where the person against whom the recovery is had resides. It made sense at that time because all taxes were collected by the county. The Legislative Auditor has recommended that this be repealed because it is no longer of any use. **REP. HARRINGTON** said this is simply a housecleaning bill and the repeal of this section is long past due.

**Proponents' Testimony:**

Dave Woodgerd, Chief Counsel for the DOR, explained why the Department is requesting this legislation. His testimony is attached as Exhibit 3.

**Opponents' Testimony:**

There were no opponents to the bill.

**Questions From Committee Members and Responses:**

None.

**Closing by Sponsor:**

In closing, REP. HARRINGTON said the bill was self-explanatory and he urged the Committee's favorable consideration.

**HEARING ON HJR 7****Opening Statement by Sponsor:**

REP. JOHN COBB, House District 50, Augusta, said that HJR 7 would ask the Legislative Audit Committee to conduct a performance audit of CAMUS, the computer system used by the Property Assessment Division of the Department of Revenue. This is new type of computer system and it will be used in the new appraisal period beginning January 1, 1997. From an audit point, it would be a good idea to have the system audited prior to the next reappraisal cycle to see if it is working correctly before the reappraisal takes effect so that any existing problems could be corrected. REP. COBB indicated that he thought this would cut down on the large number of lawsuits that are usually filed following a reappraisal. A report would be due back to the Department of Revenue by July 1, 1996 so that there would be time to correct any problems and recommendations for improvement could be implemented.

**Proponents' Testimony:**

Mick Robinson, Director, Department of Revenue, said he would welcome the Legislative Auditors but he did believe there has been significant improvement in the system since the previous performance audit in 1986-87. His only hesitancy comes from the demands on employees' time during an intensive audit. There is also some concern whether or not the Legislative Auditor's Office will need to use the DOR computers to do modeling as they are under significant workload pressure to complete the reappraisal cycle and have everything ready by January 1, 1997, and their computer capacity is at the maximum. Additional demands on the system could impact their ability to get the work done. Other than these concerns, the Department would work with the

Legislative Auditor's Office in terms of mitigating the impact and, as a result, have a report back to the Audit Committee regarding the benefits of the CAMUS system.

**Opponents' Testimony:**

**Ken Morrison, former DOR employee,** said he was not an opponent of audits because it would certainly enhance the credibility of the system; however, there are reasons to delay the audit until after the conclusion of the next reappraisal. The department has done one appraisal with the CAMUS system which was completed in 1993 and since that time they have improved the data and to really judge the system and the Department's work, it would be best to do it at the conclusion of the next cycle. The other issue to be considered is the workload. Having gone through many audits during his employment with the Department of Revenue, he said it takes a great deal of management and senior technicians' time to educate the legislative audit staff and provide them with information and, while that is occurring, directions aren't being given to other staff, technical issues aren't being addressed, and all attention is focused on getting information to the auditors. The quality of the reappraisal will suffer if staff is taken away from that work and focused on the audit. His recommendation was to schedule the audit in July, 1997.

**Questions From Committee Members and Responses:**

**REP. SWANSON** asked if she understood correctly that the system had not been on line and totally accurate during the last appraisal period and it would be wiser to wait until after the next reappraisal. **Mr. Morrison** replied that he did believe it would be a good idea to let the courts work out the review of the first reappraisal. The staff had not used the CAMUS system before and they have learned a lot so the quality of the work will be much better. A tremendous amount of data was put into the system in a relatively short period of time and required very complicated mathematical equations.

**REP. BOHLINGER** asked Director Robinson to comment on the concerns raised by Mr. Morrison with respect to the timing of such an audit. **Mr. Robinson** said it was a very valid point because they have a tremendous workload ahead of them in order to have the values ready by January 1, 1997. Every system improves over time and many identified improvements have already been put into place subsequent to the last appraisal. The Department does not have excess staff to devote to a lot of activities outside the appraisal and there are no specialists within the Legislative Auditor's Office that are specialists in appraisal so the result would be that the Department would have a tremendous amount of work to educate the auditors regarding appraisal. The question would be whether they were to devote time to the audit or to prepare for the next appraisal cycle.

**REP. REAM** recognized Ken Morrison for his long-time service to

the State of Montana and the Taxation Committee. During the past six sessions, he has been available to answer questions and provide information to the Committee, and the fact that he is appearing before the Committee following his retirement is an indication of his dedication to the State of Montana.

**CHAIRMAN HIBBARD** asked Rep. Cobb if there was a particular problem that had prompted this request for an audit. **REP. COBB** replied that he was concerned about the number of tax appeals and lawsuits filed following the last appraisal, and in particular, the problem in Cascade County resulting in the state having to return \$1 million. If the audit was not to be done until 1997, Rep. Cobb said he would cancel the bill.

**REP. FUCHS** asked what the cost of the audit would be. **REP. COBB** said the Legislative Auditor's Office has money in their budget for audits. Financial audits are done every two years to see how money is spent. Some money is set aside for performance audits and four or five can be done every year but priorities have to be set.

**Closing by Sponsor:**

**REP. COBB** said this was a request for a performance audit to see how the program works before the next reappraisal takes place. If there are any problems, they would have time to fix them. Every reappraisal has ended up with lawsuits and he thought the audit prior to the reappraisal would eliminate many of them.

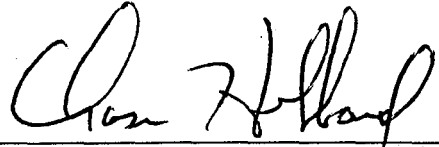
**EXECUTIVE ACTION ON HB 144**

**Motion:** **REP. RANEY MOVED THAT HB 144 DO PASS.**

**Vote:** On a voice vote, the motion passed unanimously, 20-0.

ADJOURNMENT

Adjournment: 10:15 A.M.



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CHASE HIBBARD, Chairman



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DONNA GRACE, Secretary

CH/dg

# HOUSE OF REPRESENTATIVES

## Taxation

ROLL CALL

DATE Jan 17, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman			
Rep. Marian Hanson, Vice Chairman, Majority			
Rep. Bob Ream, Vice Chairman, Minority			
Rep. Peggy Arnott			
Rep. John Bohlinger			
Rep. Jim Elliott			
Rep. Daniel Fuchs			
Rep. Hal Harper			
Rep. Rick Jore			
Rep. Judy Rice Murdock			
Rep. Tom Nelson			
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Rep. Bill Ryan			
Rep. Roger Somerville			
Rep. Robert Story			
Rep. Emily Swanson			
Rep. Jack Wells			
Rep. Ken Wennemar			




## HOUSE STANDING COMMITTEE REPORT

January 17, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that **House Bill 144** (first reading copy -- white) do pass.

Signed:   
Chase Hibbard, Chair

mm  
1/17  
Committee Vote:  
Yes 20, No 0.

141251SC.Hbk



**Distribution of \$25,000,000 Rebate  
Based on Actual 1993 Income Tax Filings**

Total Income Bracket	Amount of Rebate	Percentage of Rebate	Number of Taxpayers Rebated	Average Rebate
\$ 0 - \$ 1,999	0	0.00%	0	\$0.00
\$ 2,000 - \$ 3,999	0	0.00%	0	\$0.00
\$ 4,000 - \$ 5,999	10	0.00%	1	\$10.03
\$ 6,000 - \$ 7,999	36,236	0.14%	3,262	\$11.11
\$ 8,000 - \$ 9,999	115,708	0.46%	8,174	\$14.16
\$ 10,000 - \$ 11,999	170,463	0.68%	9,549	\$17.85
\$ 12,000 - \$ 13,999	225,531	0.90%	10,356	\$21.78
\$ 14,000 - \$ 15,999	280,951	1.12%	10,709	\$26.24
\$ 16,000 - \$ 17,999	329,731	1.32%	10,811	\$30.50
\$ 18,000 - \$ 19,999	374,497	1.50%	10,742	\$34.86
\$ 20,000 - \$ 24,999	1,081,443	4.33%	26,015	\$41.57
\$ 25,000 - \$ 29,999	1,275,562	5.10%	25,298	\$50.42
\$ 30,000 - \$ 34,999	1,483,708	5.93%	24,912	\$59.56
\$ 35,000 - \$ 39,999	1,666,350	6.67%	24,389	\$68.32
\$ 40,000 - \$ 44,999	1,713,390	6.85%	22,512	\$76.11
\$ 45,000 - \$ 49,999	1,729,719	6.92%	20,322	\$85.12
\$ 50,000 - \$ 54,999	1,565,840	6.26%	16,418	\$95.37
\$ 55,000 - \$ 59,999	1,390,260	5.56%	13,266	\$104.80
\$ 60,000 - \$ 64,999	1,183,227	4.73%	10,207	\$115.92
\$ 65,000 - \$ 69,999	1,006,330	4.03%	7,887	\$127.59
\$ 70,000 - \$ 74,999	830,664	3.32%	6,014	\$138.12
\$ 75,000 - \$ 79,999	710,783	2.84%	4,640	\$153.19
\$ 80,000 - \$ 89,999	1,055,077	4.22%	6,069	\$173.85
\$ 90,000 - \$ 99,999	768,465	3.07%	3,804	\$202.01
\$100,000 - \$109,999	625,810	2.50%	2,667	\$234.65
\$110,000 - \$119,999	522,568	2.09%	1,986	\$263.13
\$120,000 - \$129,999	414,472	1.66%	1,400	\$296.05
\$130,000 - \$139,999	385,024	1.54%	1,156	\$333.07
\$140,000 - \$149,999	353,037	1.41%	946	\$373.19
\$150,000 +	3,705,144	14.82%	7,184	\$515.75
Total, All Filers	25,000,000	100.00%	290,696	\$86.00

ORI/MDOR

09-Jan-95

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# INCOME TAX REBATE OPTIONS

Tax Year 1994

All Taxpayers

(\$1,000 Cap and \$10 Minimum Per Taxpayer)

REBATE POOL	REBATE PERCENT	AVERAGE REBATE	NO. OF REBATES	PERCENT OF TAXPAYERS		PERCENT UNDER MINIMUM	NUMBER CAPPED	PERCENT CAPPED
				REBATED	NO. UNDER MINIMUM			
\$10,000,000	3.10%	\$46	219,170	47.5%	242,324	52.5%	311	0.1%
\$15,000,000	4.58%	\$59	254,686	55.2%	206,808	44.8%	658	0.1%
\$20,000,000	6.10%	\$72	279,375	60.5%	182,119	39.5%	1,101	0.2%
\$25,000,000	7.68%	\$85	294,440	63.8%	167,054	36.2%	1,599	0.3%
\$30,000,000	9.31%	\$98	304,754	66.0%	156,740	34.0%	2,163	0.5%
\$35,000,000	10.96%	\$111	314,786	68.2%	146,708	31.8%	2,827	0.6%

Note: The rebate percent, number of rebates, and number of taxpayers under the minimum are subject to change depending on the tax year for which the rebate is made, and the exact size of the rebate pool.

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DON'T CAP THE TAX REFUND

EXHIBIT 2  
DATE 1/17/95  
HB 171

I'm here to ask you to change this bill to eliminate the "cap" so the state pays back the excess to all it's taxpayers as it was paid in.

I think the state will be making a big mistake if they cap this tax rebate for 2 reasons - it's unfair and it's not very smart. The cap is unfair because it discriminates against the top 1% of taxpayers. The taxes were paid in to pay for state expenses not to be used as a bonus pool so that the other 99% of taxpayers can get a bigger check. The governor himself has said on many occasions that he wants to return the excess tax to those who paid it in and he doesn't want to play "finders keepers" with the taxpayers money.

The cap is not very smart for 2 reasons. The first reason is that by discriminating against the top 1% of taxpayers the state is inviting a lawsuit. I don't know how much tax the top 1% of Montana taxpayers have paid in but I'm sure you could find that out. Let's say the top 1% paid 20% of the taxes. So if they weren't being discriminated against they would get 20% of the rebate. If the rebate is 25 million that would be 5 million dollars. With the cap those 1500 taxpayers would get 1.5 million so there would be 3.5 million in the "bonus pool" for the other 99%. I think many law firms would be eager to get a class action law suit going. Their contingency fee would probably exceed 1 million dollars. The state hasn't done well recently when they attempted to discriminate against a class of taxpayers such as the federal retirees or the Great Falls property owners and I for one don't think they would win in court on this proposed cap either.

The other reason I don't think the state should discriminate against these 1% of taxpayers is that these taxpayers are the states best tax supporters or if the state was a business they might be referred to as best customers. These are doctors, businessmen, industrialists, business owners that we as a state are trying to attract. They have paid their taxes according to an already very progressive tax scale. Why do you want to discriminate against them? The only answer that I can come up with is that by discriminating against the top 1% the state can pay a larger refund which is estimated at \$75 per taxpayer. If the state didn't discriminate, what would it be-\$50/taxpayer? Are the political benefits worth the risk?

*Testimony of Bob HASEMAN  
To the House taxation committee  
on 1/17/95*

## TESTIMONY IN SUPPORT OF HOUSE BILL 144

Montana Department of Revenue  
January 17, 1995

House Bill 144 is at the request of the Montana Department of Revenue. The Legislative Auditor suggested that the Department seek repeal of Section 15-1-105, MCA, in it's recent audit report. The Departmet concurred in this recommendation. The statute provides as follows:

**15-1-105. Fines and forfeitures to county.** All fines, forfeitures, and penalties incurred by a violation of any of the provisions of the state tax laws, except those paid to a justice's court, must be paid into the treasury for the use of the county where the person against whom the recovery is had resides.

This section of law was originally enacted in 1891 as part of the original property tax in Montana. It made some sense as part of a property tax system since the taxes were collected by the counties from county residents. However, the current placement of this statute makes it apply to all Montana taxes including those collected by the state. It makes no sense to have penalties collected by the state on state taxes go to the county where the taxpayer resides. This has never been the practice. In fact, the Department only became aware of this statute and it's potential effect on state taxes as a result of the audit.

The Legislative Auditor recommended repealing this statute because it is no longer of any use. It makes no sense to apply it to state taxes. In the case of county taxes, the county already receives penalties, fines and forfeitures. The counties do not need this statute in order to continue the present practice.

If you have any questions, we would be happy to answer them.

## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Taxation

COMMITTEE

BILL NO.

HB 171

DATE

1/17

SPONSOR(S)

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Jeff Miller	DOR	HB 171		✓
John Mercer	HD 74	171		✓
Bob HASEMAN	MYSELF	171		with amendment
David Owen	MT Chamber	171		✓
Laurie Kowalik	CHRISTIAN COALITION OF MT	171		✓
Larry Grindor	Rep			✓
Dennis Burr	MONTAX	HB 171		✓
John Vandenberg	SELF	HB 171		✓
Craig Thomas	BOP			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. HB 144  
DATE 1/17/95 SPONSOR(S) \_\_\_\_\_

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Dave Woodgerd	DOR	HB 144		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.