MINUTES

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

## COMMITTEE ON TAXATION

**Call to Order:** By **CHAIRMAN CHASE HIBBARD**, on January 26, 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. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

**Members Excused:** Rep. William M. "Bill" Ryan (D)
Rep. Emily Swanson (D)

**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 237
HB 238

Executive Action: HB 238 - Tabled
HB 199 - Do Pass
HB 143 - Do Pass as Amended
SB 45 - Concurred In as Amended
SB 57 - Concurred In

*{Tape: 1; Side: A.}*

## HEARING ON HB 237

**Opening Statement by Sponsor:**

**SAM KITZENBERG, House District 96, Glasgow,** presented HB 237 which amends the present small business investment tax credit statutes. The bill would provide an investment tax credit for the purchase of new or replacement equipment put to use in Montana. The text of Rep. Kitzenberg's presentation is contained in EXHIBIT 1. He also referred to the fiscal note and indicated that he did not agree with the information provided. EXHIBIT 2. **REP. KITZENBERG** emphasized that this bill would do something for the economy and business climate in Montana and encouraged the Committee's careful consideration.

**Proponents' Testimony:**

**Jim Tutwiler, Montana Chamber of Commerce,** rose in support of HB 237. He said the enactment of this bill would significantly impact Montana's business climate by encouraging business to expand, to purchase more production equipment, and ultimately generate more economic activity in the form of good paying jobs. Prepared testimony is attached as EXHIBIT 3.

*{Tape: 1; Side: B.}*

**Dennis Burr, Montana Taxpayer Association,** testifying in favor of the bill, said this bill should be considered a "Montana catch up" bill because this legislation is in effect in many other states. He said there are publications available that list incentives for companies wishing to locate to other states and Montana's list is considerably smaller than most states. **Mr. Burr** indicated that he thought this was a good bill and it was time for the Legislature to send out signals that Montana wants to expand business and jobs.

**Don Allen, Montana Wood Products Association,** said the lack of an investment tax credit is the most outstanding discrepancy between doing business in Montana and other states. A lot of investment has been made in Montana in the last few years for equipment used to add value to products produced in Montana. These are the facilities that will be able to survive in Montana. This bill would provide an important part of encouraging industry growth in Montana so they would support the bill.

**Robert White, Bozeman Area Chamber of Commerce,** stated that Montana has a high personal property tax, a workers' compensation rate three times the national average, and this bill would be the first step toward bringing and retaining businesses in Montana. He asked for the Committee's positive support.

**Ron Klaphake, President and Chief Executive, Missoula Area Economic Development Corporation, and President of the Montana**

**Economic Developers Association,** said that for Montana to compete with other business locations on a worldwide basis, the Legislature should remove the disincentives for doing business in the state. This particular bill might not be the answer but the problem must be addressed. Montana is growing from a population standpoint but the industrial and manufacturing base are not keeping pace. For companies to be competitive, they must have the latest equipment which is expensive and, when the equipment and machinery are provided, the result will be higher paid jobs. He urged Committee support of this bill.

**Steve Turkiewicz, Montana Auto Dealers Association,** addressed what is happening in the automobile dealership business to meet the needs of customers. There have been dramatic improvements in technology under the hood of automobiles which require expensive equipment. It has also been mandated that car dealerships must recapture and recycle freon and antifreeze and the equipment needed to do this is expensive. The Montana Auto Dealers Association stands in favor of HB 237.

**Charles Brook, Billings Area Chamber of Commerce,** reported that prior to each legislative session, the Chamber meets with businesspeople in Billings to prepare a position paper on issues they expect to be discussed when the Legislature meets. The position on taxes is to encourage a favorable business climate and develop programs, plans and legislation to help businesses grow and prosper. He urged the Committee to give careful consideration to this bill.

**Gloria Paladichuk, Richland Development,** said that because Richland County borders North Dakota, they are always aware of what the neighboring state is doing. This bill would not only attract businesses to Montana, it would help expansion of current businesses and put Montana in a more competitive position.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

**REP. BOHLINGER** said that in recognition of the cost of this tax credit, comparing it with the Governor's proposal for a reduction of personal property tax, and also realizing that any proposal must be offset by a reduction in expenditures, he asked which proposal would be the preferred solution. **Mr. Burr** replied that he wasn't aware of any proposals for reduction of the 9% personal property tax but he did feel it was important for this Legislature to take action of some kind. Reduction of the tax rate would have a positive effect on more businesses than this bill and, in his opinion, probably be more important.

**REP. ROSE** asked what the fiscal impact would be on the state. **Judy Paynter, DOR,** said the impact would be ongoing and would be approximately $22.5 million a year. This is a significant impact and there is also a philosophical question on the bill that the Committee should consider relative to how many jobs this would create. That would soften the impact. She said the DOR had no way of determining how many jobs might be created but there is the possibility of attracting new businesses which would provide jobs.

**REP. WELLS** said he noticed that vehicles were excluded and he would like to know why. **REP. KITZENBERG** said that was done in the drafting and he did not know why but he would have no objection to amending the bill to include vehicles.

**REP. ARNOTT** asked if this was only for new equipment or included replacement equipment. **REP. KITZENBERG** said there might be a misconception in the bill but the reason he liked the bill was that it also included replacement equipment for current businesses. As a follow up question, **REP. ARNOTT** asked what kind of businesses might be attracted to the state as a result of an investment tax credit. **REP. KITZENBERG** said that the data from Idaho indicated an increase in the number of individual small businesses.

*{Tape: 2; Side: A.}*

**REP. ROSE** commented that he was from a grain growing area and they had recently lost an Anheuser Busch plant to Idaho. He asked if someone from the Chamber of Commerce had any idea of why that had happened. **Mr. Tutweiler** said he could only address the matter in general terms and he assumed that it was a combination of things, including a good domestic workforce, a stable workers' compensation system, no personal property tax, and the investment tax credit in Idaho. Economic growth in Idaho has accelerated and it has a huge edge over surrounding states in attracting new industry.

**REP. REAM** noted from the list of tax incentives provided in other states, that many of them were limited to certain industries and he requested comments on this issue. **Mr. Tutweiler** said that in his opinion HB 237 says something positive has to be done but he would not take the position that the bill had been finely tailored, but it would be a starting point. There are many other considerations that could be included in the bill and he did not know what the best combination would be for Montana. As a follow up question, **REP. REAM** said no bills would be sent from the Committee unless they were revenue neutral or had a contingent voidness clause attached. He asked Mr. Tutweiler if he had any idea how $20 million could be made up or cut from the budget. **Mr. Tutweiler** said the best they could hope for was to have the Committee look at all economic development bills and keep this bill alive until they could determine where there might be a tradeoff. He said the real issue was how committed the Legislature actually was about doing something positive that would have a major impact on the quality and number of jobs in the state.

**REP. REAM** advised the Committee that Ron Klaphake had done much for the City of Missoula in terms of economic development. He asked him the same question he had asked of Mr. Tutweiler. **Mr. Klaphake** said he believed the best thing that could be done would be to remove disincentives. He reported that Missoula had lost significant a business to North Dakota on a tie-breaker because North Dakota would provide a $1 million interest free loan. He said it is very frustrating when there is nothing to work with and he would like to be able to offer something in addition to quality of life. His position was that business equipment should never be taxed because it is a means of production and should not be considered wealth. **REP. REAM** then commented that Mr. Klaphake had been instrumental in getting the Rocky Mountain Elk Foundation to locate their national headquarter in Montana, producing approximately 150 jobs.

**CHAIRMAN HIBBARD** asked if the figure in the fiscal note included a factor for growth in investment in business equipment because of this incentive and, if the legislation worked as intended, would it increase economic activity which, in theory, would have a lessening effect on fiscal impact. **REP. KITZENBERG** said it did not include the factor but he did agree that the theory was correct.

<u>Closing by Sponsor</u>:

**REP. KITZENBERG** said he was extremely pleased to bring forth this bill because it had been identified as a major need in his district. If nothing is done about economic development during this session he will be disappointed because it is desperately needed in Eastern Montana. He said he would appreciate having the opportunity to take this bill to the floor of the House.

## <u>HEARING ON HB 238</u>

<u>Opening Statement by Sponsor</u>:

**SAM KITZENBERG, House District 96, Glasgow,** brought HB 238 before the Committee. He said the bill was the result of a recommendation made by the Pupil Transportation Task Force and it would replace the county transportation levy with a statewide mill calculated to raise the same amount. He explained that the Task Force was a 29-member group organized by State Superintendent Nancy Keenan to examine the process used for state funding of pupil transportation in Montana. The text of **REP. KITZENBERG'S** testimony, with attachments, is attached as EXHIBIT 4.

<u>Proponents' Testimony</u>:

None.

<u>**Opponents' Testimony**</u>:

**Dennis Burr, Montana Taxpayers Association (MONTAX),** said his organization's position was that statewide levies should be lowered rather than raised. Establishing school bus routes should be a local option and he assured the Committee that there would be additional costs if the state were to subsidize school transportation.

**Gordon Morris, Montana Association of Counties (MACO),** indicated that he was opposed to HB 238. MACO has had a longstanding position on the role property tax plays in Montana and the effect would be a further exacerbation of the property tax dilemma and does not address the goal of equalization because it just shifts the burden. The solution would be to come up with total tax restructuring. He urged the Committee to look at the long range needs of Montana which this bill does not address.

**John Shontz, Montana Association of Realtors,** said this is an on-going problem and represents a tax shift. The people who live in geographically small areas tend to pay for those who live in large areas. He also addressed the question of constitutionality and reported that, in the State of Washington when similar legislation was passed, it was determined that in order to address equality, every student in the state had to be provided with transportation to school with no restrictions. This included providing free passes on city transportation. This bill would result in tremendously increased costs. The Montana Association of Realtors opposes this legislation.

**Mark Pinkerton, Rosebud County Commissioner,** testified that this legislation would have a devastating effect on his county. It would change the levy from 1.74 mills to 6 mills and they would still have to levy for off-schedule bus routes. He asked the Committee to oppose this bill.

**Gloria Paladichuk, Richland Development,** said this was a bad bill. Her experience as a former County Treasurer and County Commissioner would indicate that when local control is lost, costs go up rapidly. She urged the Committee to vote do not pass on this bill.

**Jim Halvorsen, representing the 33 counties in Montana having oil, gas, and coal production,** said the distribution of net proceeds is distributed among the taxing jurisdictions in a county by the previous year's mill levy. If another six mills were added, it would take that amount from the other taxing jurisdictions and it would be necessary to increase levies to make up the difference. He opposed the bill.

<u>Questions From Committee Members and Responses</u>:

**REP. BOHLINGER** asked if the sponsor thought this bill had much chance of passing out of the Committee. **REP. KITZENBERG** replied that it probably did not.

**REP. RANEY** asked where the concept had come from that everyone should pay for transportation. When people started moving into subdivisions in the country by choice, they should be responsible for paying their own transportation costs. He explained that the transportation program originally was intended for people involved with agriculture for whom it was necessary to live in the country. **REP. KITZENBERG** said he would agree.

**REP. SOMERVILLE** asked if the State of Washington had considered eliminating the transportation program. **Mr. Shontz** said it was a political choice considering that two-thirds of the population lived in urban areas of the state. He said there are fundamental problems with equalization. For example, if the kids in a large school have a swimming pool, then the kids in a small community should have one. The focus has not been on equal opportunity, it has been on equal funding. Montana has dealt with the costs and must start thinking about the benefits.

*{Tape: 3; Side: A.}*

<u>Closing by Sponsor</u>:

**REP. KITZENBERG** closed.

**<u>EXECUTIVE ACTION ON HB 238</u>**

<u>Motion/Vote</u>: **REP. ROSE MOVED THAT HB 238 DO NOT PASS. The motion passed unanimously.**

<u>Motion/Vote</u>: **REP. REAM MOVED TO TABLE HB 238. The motion passed unanimously.**

**<u>EXECUTIVE ACTION ON HB 199</u>**

<u>Motion</u>:

**REP. ELLIOTT MOVED THAT HB 199 DO PASS.**

<u>Discussion</u>:

**REP. ELLIOTT** distributed a copy of a page from a DOR publication which indicated that a college contribution credit could also be claimed as an itemized deduction. EXHIBIT 5. **REP. ELLIOTT** reminded the Committee that this bill offers a 10% income tax credit for contributions to public and private colleges in Montana that offer a B.A. degree. HB 199 would remove the sunset provision in the current statute. He said it had been a successful program and urged the Committee to vote in favor of the bill.

**REP. BOHLINGER** spoke in support of the bill. He said he had served on the Board of the Eastern Montana College Foundation and had solicited contributions from the business community and this credit is an incentive which encourages contributions.

**REP. RANEY** questioned whether it was a good idea to include private colleges. If it is done for private colleges, he assumed the next step would be to include a tax credit for private high schools and elementary schools. **REP. ELLIOTT** said all this bill does is remove the sunset. If there was interest, a bill could be drafted which would include private high schools and elementary schools.

**REP. SOMERVILLE** said he would support the bill because money from contributions to colleges would help reduce the taxpayer's load. He asked why community colleges had been excluded from the list. **REP. ELLIOTT** replied that he did not know why they were excluded but the statute does require that the college must offer a B.A degree. However, if they are a part of the university system there should be the same incentive for contributions.

**Mr. Heiman** explained that the B.A. only applies to the private colleges and the credit would apply to the entire university system, therefore, community colleges would be included.

**REP. ARNOTT** asked why, if this was good tax policy, the amount contributed was becoming smaller. **Judy Paynter** clarified that the contributions were but they have shown consistent growth.

**REP. NELSON** said he would oppose this legislation because it is discriminatory against other foundations that are also in education. He also thought there was no need to give both a credit and a deduction for the contribution.

**REP. ROSE** said he was in favor of the bill because it gives the business community an opportunity to contribute to the system.

**REP. WENNEMAR** assumed the bill was accomplishing its purpose and there was no reason to let it sunset.

**REP. ELLIOTT** responded to Rep. Nelson's concerns by suggesting that anyone could bring forth a bill that would offer the same tax credit for other foundations. For those people who do not itemize deductions, this bill gives them a benefit for making a donation to a college.

<u>Vote</u>: **On a roll call vote, HB 199 passed 17-3.**

**EXECUTIVE ACTION ON SB 57**

**Mary Whittinghill, DOR,** provided an explanation of the current property tax appeal process and responded to questions from the Committee. A document outlining the appeal process was distributed to Committee members. EXHIBIT 6.

**REP. RANEY** questioned whether 15 days was an appropriate length of time in which to file an appeal. He commented that a person could be on vacation when the notice arrived or there could have been some other delay. He asked what affect extending the time to 30 days would have on the appeal boards. **Ms. Whittinghill** said it might slow the process but the DOR was not opposed to giving taxpayers an additional amount of time to file. She explained that the DOR recognized that there could be delays and they are not extremely rigid about receiving them in exactly 15 days and usually provide an extra five-day window for submission.

**REP. BOHLINGER** said he supported the concept of extending the time period and suggested that the assessment notice should be subject to review because it is not a "user-friendly" form. He said that taxpayers should be able to understand it and know exactly what the taxes would be for the current year compared to the previous year. He said he realized this could not be done by amending the bill but it should require study.

**Ms. Whittinghill** said that the DOR was aware that they must do a better job of educating the taxpayer and the intention is to develop an instructional brochure clarifying the assessment and appeal processes.

**Ms. Paynter** advised that the DOR has changed the assessment notice and it will be used in tax year 1995 for new or revised assessment notices and will also be used for the mass reappraisal in 1997.

*{Tape: 3; Side: B.}*

<u>Motion/Vote</u>: **REP. ARNOTT MOVED THAT SB 57 BE CONCURRED IN. On a voice vote, the motion passed unanimously.**

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At this point in the meeting, **CHAIRMAN HIBBARD** said it would be appropriate to continue the discussion relative to the tax assessment form.

**REP. BOHLINGER** said he was pleased to know that the DOR is aware of shortcomings in the way they communicate with property owners. He suggested that to be totally understandable, there should be comparative figures.

**Ms. Paynter** said at the time the assessment notice is mailed it is not possible to tell taxpayers what they will be paying because the notices are sent out before the county has set the mills. What the Department could do is explain to the taxpayer what the valuation means to them.

**REP. STORY** said his last assessment did include the previous years' values but it was difficult to understand.

**Ms. Paynter** said she realized that the form used had to be torn apart and did not work well, so that will also be changed.

**REP. RANEY** proposed that it should be clear on the assessment form that it is the form to be used in an appeal. He said he did not believe people realized that and when the tax notice arrived, it was too late. **Ms. Paynter** said the appeal rights and instructions are printed on the assessment form. She advised that in the last year 26,000 individuals exercised their appeal rights which would indicate that they were reading the notice.

**REP. WENNEMAR** asked what procedure was being used to refine the forms. **Ms. Whittinghill** advised that a committee had been formed to study the notices and they had also been distributed state-wide to county commissioners for comments.

## EXECUTIVE ACTION ON SB 45

**CHAIRMAN HIBBARD** said that Senator Tveit, sponsor of SB 45 had requested an amendment to the bill. **REP. BOHLINGER** explained that the amendment was to include language that would make the withholding of taxes from royalty interest mandatory. EXHIBIT 7.

Motion/Vote: **SEN. BOHLINGER MOVED THAT THE AMENDMENTS TO SB 45 BE ADOPTED. The motion passed unanimously.**

Motion/Vote: **REP. HANSON MOVED THAT SB 45 AS AMENDED BE CONCURRED IN. The motion passed unanimously.**

**REP. HANSON** will carry SB 45 on the House floor.

## EXECUTIVE ACTION ON HB 143

**CHAIRMAN HIBBARD** announced that prior to action on this bill, the Committee should define materiality in relation to bills which will require the contingent voidness clause. **CHAIRMAN HIBBARD** said he had discussed this matter with **VICE CHAIRMAN REAM** and they would suggest that the threshold be set at $350,000 per biennium. Bills under that amount would have to rise or fall on their own merit and the contingent voidness clause would not be attached.

Motion/Vote: **REP. ROSE MOVED THAT THE COMMITTEE ACCEPT THE RECOMMENDATION. The motion passed unanimously.**

**REP. NELSON** commented that his concern was that when a threshold is placed on a bill, it would mean that all bills less than that would have to go to Appropriations. **CHAIRMAN HIBBARD** said that was not necessarily true because that decision would be made in the Taxation Committee.

**Motion:**

**REP. HARPER MOVED THAT HB 143 BE AMENDED TO STRIKE THE NEW $5 FEE FROM THE BILL AND TAKE THE SAME AMOUNT FROM FEES NOW BEING DEPOSITED IN THE GENERAL FUND.**

**Discussion:**

**CHAIRMAN HIBBARD** said he had been advised by the Office of Budget and Program Planning that the amendment would decrease state general fund revenues by approximately $150,000 to $162,000 in each year of the biennium. EXHIBIT 8.

**REP. ARNOTT** said she would oppose the amendment because she thought $5 was a small fee for people to pay for utilization of public records. She objected to taking money from the general fund even though it was a small amount. **REP. ARNOTT** called attention to a letter from Charmaine Fisher, Clerk of the District Court, Yellowstone County, regarding this issue. EXHIBIT 9.

**REP. REAM** said he would agree with Rep. Arnott but he would still support the bill, with or without the amendment, because he felt the preservation of public records was important.

**Vote: On a voice vote, the motion to amend passed 19 - 1.**

**Motion: REP. REAM MOVED THAT HB 143 DO PASS AS AMENDED.**

**Discussion:**

**REP. STORY** spoke against the bill, not that it wasn't a good idea, but he thought it was important that the county commissioners have responsibility for budgets. He suggested that there might be more bills from the Judicial Unification and Finance Committee which were also requesting increases in fees.

**REP. ORR** also spoke against the bill because he was not in favor of fee increases of any kind.

*{Tape: 4; Side: A.}*

**REP. RANEY** said his opinion was that everyone benefits from the District Courts, it should be a state function, and everyone should share in the cost.

**Vote:**

**On a voice vote, HB 143 passed as amended.**

## ADJOURNMENT

**Adjournment:** 11:15 a.m.

Chase Hibbard

**CHASE HIBBARD**, Chairman

Donna Grace

Donna Grace, Secretary

# HOUSE OF REPRESENTATIVES

## Taxation

ROLL CALL DATE Jan 26, 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 | ✓ | | |
| Rep. Scott Orr | ✓ | | |
| Rep. Bob Raney | ✓ | | |
| Rep. Sam Rose | ✓ | | |
| Rep. Bill Ryan | | | ✓ |
| Rep. Roger Somerville | ✓ | | |
| Rep. Robert Story | ✓ | | |
| Rep. Emily Swanson | | | ✓ |
| Rep. Jack Wells | ✓ | | |
| Rep. Ken Wennemar | ✓ | | |

# HOUSE STANDING COMMITTEE REPORT

January 26, 1995



Mr. Speaker: We, the committee on **Taxation** report that **House Bill 199** (first reading copy -- white) **do pass**.

Signed: Chase Hibbard

*Chase Hibbard, Chair*

Committee Vote:
Yes 17, No 3.

221321SC.Hbk

# HOUSE STANDING COMMITTEE REPORT

January 26, 1995


(NO PAGE 2)

Mr. Speaker: We, the committee on **Taxation** report that **House Bill 143** (first reading copy -- white) **do pass as amended.**

Signed: ______________________
*Chase Hibbard, Chair*

**And, that such amendments read:**

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1. Title, line 7.
Strike: "THE INCREASE IN"
Insert: "A PORTION OF"

2. Page 1, line 28.
   Page 1, line 29.
Strike: "$85"
Insert: "$80"

3. Page 1, line 30.
   Page 2, line 1.
Strike: "$125"
Insert: "$120"

4. Page 2, line 2.
Strike: "$65"
Insert: "$60

5. Page 2, line 6.
Strike: "$2"
Insert: "$3"

6. Page 2, line 12.
Strike: "$25"
Insert: "$5"
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Committee Vote:
Yes 10, No 0.

221345SC.Hbk

# HOUSE STANDING COMMITTEE REPORT

January 26, 1995



Mr. Speaker: We, the committee on **Taxation** report that **Senate Bill 45** (third reading copy -- blue) **be concurred in as amended**.

Signed: Chase Hibbard

*Chase Hibbard, Chair*

**Carried by: Rep. Marion Hanson**

And that such amendment read:

1. Title, line 6.
Following: "WELLS;"
Insert: "MAKING THE WITHHOLDING OF TAXES FROM ROYALTY INTERESTS MANDATORY;"

2. Page 4, line 16.
Strike: "may"
Insert: "shall"

-END-

Committee Vote:
Yes 20, No 0.

# HOUSE STANDING COMMITTEE REPORT

January 26, 1995



Mr. Speaker: We, the committee on **Taxation** report that **Senate Bill 57** (third reading copy -- blue) **be concurred in**.

Signed: Chase Hibbard

*Chase Hibbard, Chair*

**Carried by: Rep. DeBruycker**

Committee Vote:
Yes 20, No 0.

221323SC.Hbk

## HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

DATE ____________ BILL NO. 199 NUMBER ____

MOTION: Do Pass

| NAME | YES | NO |
|---|---|---|
| Vice Chairman Marian Hanson | ✓ | |
| Vice Chairman Bob Ream | ✓ | |
| 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 | | ✓ |
| Rep. Scott Orr | ✓ | |
| Rep. Bob Raney | ✓ | |
| Rep. Sam Rose | ✓ | |
| Rep. Bill Ryan | ✓ | |
| Rep. Roger Somerville | ✓ | |
| Rep. Robert Story | ✓ | |
| Rep. Emily Swanson | ✓ | |
| Rep. Jack Wells | ✓ | |
| Rep. Ken Wennemar | ✓ | |
| Chairman Chase Hibbard | ✓ | |
| | 17 | 3 |

## HOUSE OF REPRESENTATIVES

## ABSENTEE VOTE

Date 1-26-95

Mr. Chairman/Mr. Speaker:

I, the undersigned member, hereby vote absentee on:

Bill No. HB 143

Representative ______ voting No (aye or no)

Mr. Chairman/Mr. Speaker:

I, the undersigned member, hereby vote absentee on:

House Bill No. 143, 199 & SB's 45, 57

Representative ______ voting ______ (aye or no)

Mr. Chairman/Mr. Speaker:

I, the undersigned member, hereby vote absentee on:

~~HB~~ Bill No. 143

Representative ______ voting Aye (aye or no)

Sommerville

EXHIBIT 1
DATE 1/26/95
HB 237

*The Big Sky Country*

# MONTANA HOUSE OF REPRESENTATIVES


**REPRESENTATIVE SAM KITZENBERG**
HOUSE DISTRICT 96

HELENA ADDRESS:
CAPITOL BUILDING
HELENA, MONTANA 59620-0400
PHONE: (406) 444-4800

HOME ADDRESS:
130 BONNIE STREET
GLASGOW, MONTANA 59230
PHONE: (406) 228-8518

COMMITTEES:
EDUCATION
STATE ADMINISTRATION


House Bill 237 is an investment tax credit for the purchase of new or replacement equipment put to use in Montana. Current Montana law provides for a 5% investment tax credit for new equipment with a credit limit of $500. HB 237 replaces the current statute by providing a 3% credit for new and replacement equipment, limiting the credit to 45% of corporate or personal income tax due, and providing for a seven year carry forward of the tax credit.

Here is an example:

A business purchases $400,000 worth of new equipment for use in Montana. The investment tax credit would be $12,000. If the company's corporate income tax liability is $26,667 or more, the entire credit is taken in one year (26,667 x 45% = $12,000). If the corporate income tax due is less, say $10,000, the company is limited to a deduction of $4,500 the first year. It can claim a credit each year up to seven years until the entire $12,000 credit has been claimed.

DESCRIPTION OF NEW INVESTMENT TAX CREDIT

January 23, 1995

First of all what it does. It amends the present small business investment tax credit section. The reason I did that is because there is no longer a federal investment tax credit, but there is reference to the former investment tax credit in this section. What we are going to be doing is referencing out a federal law that is no longer on the books. Since it is hard to put former law into the books as a new section, I used the old reference. That is the reason we are using the old investment tax credit section for the new investment tax credit.

Secondly, it is a better deal than the old one so that we are not having any problems because of the small businesses. They will get a better tax credit under this one than they did under the former one.

Page 1, line 24. Formerly it allowed a credit of only against corporate license and income taxes and I inserted in there "individual income taxes," so that a sole proprietor or a partnership could also avail itself of this credit. I amended it to say that the credit is carryovers and the tax credits for the year and that is limited later on but you can take credits from former years and you can take the credits for the present year.

$100,000 ferris wheel you get a $3,000 investment tax credit that year. Because it is a credit it goes directly into taxes. If you were just giving a deduction then you get to deduct a certain amount of money from your income to determine your taxes on this. This comes down to you can determine your taxes and then you have a credit against that tax equal to this 3% of the investment. So 3% is fairly small as it is coming off the taxes owed. It turns out to be a good deal of money as far as real taxes go. It is limited to 45% of the tax liability to the taxpayer for that year.

Page 2, line 17. Where we talk about the carryovers. If it exceeds the 45% of the tax liability to the taxpayer, which it well may do on a start-up company because in the first two or three years they may not have anything that is taxable - no income at all, you can carry it forward up to seven years so that they seven years in which to use up the tax credit. Also, when they start making money and the tax credit is 50% or 60% of the liability they can take the difference and carry that forward to use the earliest - that is basically bookkeeping language. The carryover is important but how they use it I don't think is particularly important. Also, it does limit it that the carryover has to be on property still used in Montana, so you can't have brought in the ferris wheel and used it for three years in Montana and then on the fourth and fifth year you may have carryovers on it. You are not allowed to use that carryover now on that ferris wheel now back in Idaho or someplace else.

Basically, what does this bill do?

This bill basically provides that for any business, a business that has been in existence for 10,000 years or one who starts up specifically in the middle of next year,when they purchase depreciable property that are listed in those IRS pages, basically business equipment, except the small trucks and automobiles, when they purchase that equipment they are allowed to take an investment tax credit equal to 3% of their acquisition cost of that equipment. That 3% is a credit that goes against their taxes, either individual or corporate taxes, and you can't take more than 45% of your tax liability in any one year, but if you don't have that much tax liability you can carry it forward up to seven more years, so that hopefully during that period you will be able to take the total investment tax credit against your income taxes or corporate license taxes. One interesting thing about this is that if you a start-up company it is a good way to eliminate tax liability in the very beginning and hopefully for awhile. Anything over 45% you can take it off the next year. In any one year you can't pay more than 45% of the taxes owed by these investment tax credits. But any one investment tax credit can be forward up to seven years. If you purchase qualifying property every year, every year the credits for that property can be carried forward up to seven more years. But the carryover quits if the property is taken out of state or if you sell the property prior to its expected depreciable life, that this one applies to almost every business in Montana as opposed to just a subchapter S corporation that is currently in existence?

Right.

What type of tax break does the current subchapter S law allow? Definition of subchapter S. Page 1, line 18 through 23. It only allowed them an investment tax credit not to exceed $500. It was linked to the federal law and it allowed 5% of the qualified investment not to exceed $500. It was a very limited tax credit.

When I first brought in the bill I also amended it to currently what Idaho is doing. What was that difference? It has been in existence for many years but they wanted to change theirs. Can you explain that difference?

To cut back some of the qualifying paperwork. They used to have that the tax credit couldn't exceed 50% of the tax liability, they cut that back down to 45% of the tax liability. The reason they did that had something to do with the apportionment of unitary taxes in and outside of the state and by doing it at 45% rather than 50% there was a basic wash for all the corporations. Their investment tax credit had the unitary tax mechanism within their law. Our unitary tax provisions are in a separate section of our code.

I'm not sure what you are saying there, could you rephrase it?

2

EXHIBIT 2
DATE 1/26/95
HB 237

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0237, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act providing for a general investment tax credit; providing that a 3 percent credit for qualified investments is allowed against individual income taxes or corporate license taxes; limiting the investment tax credit in any 1 year to no more than 45 percent of the taxpayer's tax liability; providing for a 7-year carryforward of unused investment tax credits if the underlying investment remains in Montana; and providing a delayed effective date and an applicability date.

ASSUMPTIONS:
1. This legislation applies to tax years beginning January 1, 1996.
2. The State of Idaho has a similar 3% investment tax credit currently in place; differences in the Idaho law and the proposed legislation are that Idaho law excludes from the credit investment expenditures to replace technically obsolete property, a 5-year carryover period instead of a proposed 7-year period, and a current year cap of 50% of tax liability rather than a proposed 45%.
3. The 7-year carryover versus the 5-year period in Idaho (a 40% increase) would tend to increase the negative revenue impact of the proposed law over time as compared with the impact of the current Idaho legislation; the proposed 45% cap versus the 50% cap (a 10% decrease) would have the opposite effect; it is assumed that these two effects cancel each other out (MDOR).
4. If the Idaho law did not have the technical obsolescence exclusion, the additional investment credits claimed would be about $2.2 million (Idaho State Tax Commission).
5. For Idaho returns processed during 1994, individuals claimed $6.723 million in investment tax credits and businesses (primarily corporations) claimed $17.859 million in investment tax credits; these figures include some carryovers (Idaho State Tax Commission).
6. Investment expenditures in Montana are approximately 83% of expenditures in Idaho (U.S. Bureau of the Census and MDOR).
7. Investment credits claimed under the proposed law will follow the same percentage pattern, Montana versus Idaho, as investment expenditures.
8. Prorated investment tax credits for hypothetical Montana returns processed in 1994, assuming the provisions of the Idaho legislation, would have been $5.58 million for individuals and $14.823 million for corporations or a total of $20.403 million; the individual income tax share of the total being 27% (5.58/20.403) and the corporation license tax share being 73% (14.823/20.403) (MDOR).

(continued page 2)

Dave Lewis 1-23-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Sam Kitzenberg 1-24-95
SAM KITZENBERG, PRIMARY SPONSOR DATE
Fiscal Note for HB0237, as introduced

HB 237

EXHIBIT 3
DATE 1/26/95
HB 237


# MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730 • HELENA, MONTANA 59624 • PHONE 442-2405


TESTIMONY BY
JAMES TUTWILER
BEFORE HOUSE TAXATION COMMITTEE
ON HB 237
AN ACT PROVIDING FOR A GENERAL INVESTMENT TAX CREDIT
THURSDAY, JANUARY 26, 1995

My name is James Tutwiler and I am here today representing the Montana Chamber of Commerce. We wish to commend Representative Kitzenberg for bringing HB 237 to the Committee's attention.

We support HB 237 because we believe its enactment would significantly impact Montana's businesses climate by encouraging businesses to expand, to purchase more production equipment, and ultimately to generate more economic activity in the form of good paying wage jobs.

The advantageous of the bill are three fold.

First, enactment of HB 237 would place Montana in a more competitive position with other states. In researching the bill, Idaho provided us with a summary of business incentives offered in other states, copy enclosed. Unfortunately, Montana does not strongly compete. Idaho is a good example. While their corporate tax rate is similar to ours, they offer a investment tax credit. Moreover, their general sales tax exempts the purchase of equipment used in production.

Second, by focusing on equipment tax investment credit, we believe we would be targeting a work category that could reasonably be expected to produce high wage jobs. The recent growth in Montana's economy and the favorable projections for continued growth are encouraging. However, Montana still lags woefully in terms of per capita income, a fact that suggests that our growth is not focused on activities that generate higher wages. HB 237 would move us in the direction of more robust wages.

Third, the mechanics of this bill do not take away from the tax base of cities and counties. It is a bill in which something positive has to occur, i.e. the purchase of equipment used to further economic activity, before there is triggered a reduction in tax revenues.

(MORE)

The Montana Chamber realizes that this bill has an estimated 11 $ million price tag beginning in FY 97. In addressing the certain question of where is the money to come from, we would recommend that this committee seriously consider the merits of this bill, examine competing bills that will be presented before this Committee, and put it on the floor as a high priority under the new off setting revenue rule.

We appreciate the opportunity to appear before this Committee. We recommend a due pass on HB 237.

SUMMARY OF
STATES WITH AN ITC STATUTE
1993 DATA

| | STATE | APPLICATION | REPLACEMENT PROVISION |
|---|---|---|---|
| 1. | Alabama | Enterprise zone; Jobs oriented | No |
| 2. | California | Limited to manufacturing equip | No |
| 3. | Colorado | Limited to $1,000 | No |
| 4. | Illinois | Enterprise zone; Jobs oriented | No |
| 5. | Maine | Increase in wages required | No |
| 6. | Massachusetts | Limited to certain industries | No |
| 7. | Missouri | Enterprise zone; Jobs oriented | Yes |
| 8. | Montana | Small business-limited to $500 | No |
| 9. | New York | Limited to certain industries | No |
| 10. | Ohio | Limited to manufacturing equip | No |
| 11. | Oklahoma | Enterprise zone; Jobs oriented | No |
| 12. | Rhode Island | Limited to manufacturing equip | No |
| 13. | Tennessee | Limited to industrial machinery | No |
| 14. | Vermont | Minimum investment required | No |
| 15. | Virginia | Limited to $15,000 | No |

## SUMMARY COMPARISON OF ALL STATES WITH AN ITC STATUTE

ALABAMA:

Part of an enterprise zone credit. It has a jobs-oriented structure. Rate is as follows: 10 percent on first $10,000 invested; 5 percent on the next $90,000 invested; 2 percent on remaining investment. Qualifying property definition is former federal criteria.

Improvements to existing facilities qualify, provided that at least 5 new permanent employees are hired.

Limitation: total credit may not exceed $2,500 per new employee. Unused credits can be carried forward two years.

CALIFORNIA:

Recently installed provision. It is technically a "sales tax credit". It began as a sales tax bill (HB 671). It was intended to grant an exemption, but its fiscal impact was too high. It ended up as a credit in lieu of sales tax. That is, one must have paid the sales tax in order to receive the investment credit.

It applies only to manufacturers and manufacturing equipment (SIC classifications 2000 to 3999). Qualifying property is generally defined as tangible section 1245 property.

The rate is 6 percent of cost. No limitation was installed. The effective date is January 1, 1994. Seven year carryover for large entities (9 years for small business) is permitted.

COLORADO:

Their definition of qualifying property is that which existed in the federal IRC before its repeal. The property must have a Colorado situs.

The credit is 10 percent of what the IRC (section 38) credit would have been had it not been repealed.

Limitation: the lesser of $1,000 or taxpayer's net tax liability. Unitary sharing provisions exist. Unused credits can be carried forward three years.

ILLINOIS:

They have a jobs oriented structure. Broad definition of qualified property. It is any item that is depreciable for federal purposes, has a class life of four years or more, and not previously used in Illinois. It is tangible property new or used, including buildings and structural components.

They have two segments: one for an enterprise zone and one for "high impact" businesses (those who contribute to higher per capita income, decrease unemployment, etc). The latter requires a minimum investment of $12 million that will create 500 new jobs, or $30 million and will retain 1,500 existing jobs. No minimum criteria exit for investments in an enterprise zone.

The rate for both is 0.5 percent of the cost basis of the property. It extends to partnerships and S corporations. Unused credits can be carried forward five years.

MAINE:

Their credit applies to manufacturing machinery and equipment first devoted to service in Maine (commencing in 1990). Qualifying criteria specifically are that such equipment must be depreciable, have a situs in Maine, and be used directly and primarily in the production of tangible personal property.

The rate is 1 percent of the ITC base which means the total original basis for federal purposes. Limitation: $25,000 plus 75 percent of the taxpayer's tax liability over $25,000 for the taxable year. A carryover of 5 years is permitted.

MASSACHUSETTS:

Restricted to certain industry segments: manufacturing, R & D, agriculture, or commercial fishing.

Rate is 3 percent of the federal basis of qualifying property. They define it as tangible property (including buildings and structural components) that is depreciable, and having a useful life of 4 years or more.

No limitation exists (unless minimum tax is hit). Three year carry over is allowed.

MISSOURI:

They have a jobs-oriented structure.

Taxpayers (excluding public utilities) are allowed a credit for establishing or expanding business facilities. Their definition is former federal criteria, including land. Offices qualify, but a certain number of employees are required. They have some "replacement type" of provisions.

Expansions of existing facilities require investments of $1.0 million or more. The credit for expanded facilities is $100 per new employee plus $100 for each $100,000 investment. The credit for new facilities is $75 per new employee plus $75 for each $100,000 investment.

Taxpayers can claim the credit each year for 10 years. No carry over is permitted.

If operating (and expanding) a business facility within an enterprise zone, then -to the above- add $400 per employee plus the following: 10% for first $10,000 investment; 5% for next $90,000 investment; then 2% for remaining investment within the zone.

They also have a tax credit for investors who make a qualified investment in a Missouri small business. Up to 30% of the investment can be sheltered.

MONTANA:

They have a "small business" ITC statute.

Rate is 5 percent of the amount of the former federal ITC.

Limitation: $500 per corporation.

NEW YORK:

A credit is allowed for several types of businesses (except electrical generation). Qualifying property includes investments in tangible property, including personal property, buildings, and structural components. Must be depreciable under IRC 167.

Rate is 5 percent on the first $350 million of ITC base and 4 percent for the remaining investment. Rate goes to 9 percent for R & D property. Seven year carry over allowed.

OHIO:

Their credit is restricted to section 179 machinery and equipment used solely in the manufacturing process. It is effective for the 18 month period commencing January 1, 1995.

The rate is 20 percent of the acquisition cost basis. However, in order to get the credit, the acquisition cost must be at least equal to 20 percent of the taxpayer's aggregate corporate investment in all tangible personal property throughout the nation.

Limitation: $500,000 or the credit (whichever is less). A carryover of 3 years is permitted.

OKLAHOMA:

They have a jobs-oriented structure. Minimum investment is $50,000. Property that qualifies is machinery, fixtures, equipment, buildings, or substantial improvements thereto.

Rate is the greater of 1 percent of the cost of qualified property or $500 for each new employee. If a business moves into an enterprise zone, the rate is 2 percent or $1,000 per new employee, respectively. Carryover is nine years.

They also have ITC on investments which reduce hazardous waste.

RHODE ISLAND:

A credit is allowed for investments in tangible personal property, and for buildings and structural components that are depreciable under IRC section 167 which have a useful life of four years or more. Property must be acquired for purchase. No lease provisions exist.

Must be in manufacturing, processing or assembling industries.

Rate is 4 percent of the cost of qualifying property. No limitation (unless minimum tax is hit). Seven year carryover is allowed.

TENNESSEE:

A credit of 10 percent of cost for industrial machinery (fabricating personal property) is allowed.

Limitation: credit may not exceed 50 percent of tax liability. Carry forward of 15 years is permitted.

VERMONT:

A credit is allowed on capital expenditures of at least $4 million (made during a two-year period) for plant, equipment and machinery located in Vermont.

The credit can equal the amount of the expenditure.

Limitation: credit cannot reduce taxpayer liability by more than 80% of year-to-year incremental tax. Minimum employment criteria exist. Unused credits can be carried over until 2005.

VIRGINIA:

Credit of 10 percent granted for "new Virginia based business activity investment". Broadly defined as meeting former federal criteria (section 46).

Limitation: for 1994 returns = cannot exceed tax imposed or $15,000. For 1995 returns = $30,000. Five year carryforward is allowed.

EXHIBIT 4
DATE 1/26/95
HB 238

The Big Sky Country

# MONTANA HOUSE OF REPRESENTATIVES

**REPRESENTATIVE SAM KITZENBERG**
HOUSE DISTRICT 96

HELENA ADDRESS:
CAPITOL BUILDING
HELENA, MONTANA 59620-0400
PHONE: (406) 444-4800

HOME ADDRESS:
130 BONNIE STREET
GLASGOW, MONTANA 59230
PHONE: (406) 228-8518

COMMITTEES:
EDUCATION
STATE ADMINISTRATION

January 24, 1995

**State Transportation Issues in School Funding Litigation**

The issue of whether transportation is "in" or "out" of the equalization lawsuit continues to be discussed. Under the current constitution provisions, below is what the courts have stated:

(1) In 1989, Judge Henry Loble ruled that:

> Regardless of whether education is considered to be a fundamental right, it is a right of "extreme" importance under the Montana Constitution. (Citation) Under that assumption, the school finance system is, at the minimum, required to meet the middle-tier level of constitutional analysis. Tested by this middle-tier analysis, Montana's school finance system violates the equal protection provision of Article II, section 4, of the Montana Constitution. (Loble decision, Feb. 1, 1989, pp. 3-4)

In the findings of facts accompanying the decision, Judge Loble listed in finding #34 the transportation budget as one of the "budgeted" funds, and in finding #49 discussed the funding of the on-schedule and off-schedule transportation costs. (See pages 16 and 21)

(2) On appeal to the Montana Supreme Court, Justice Weber, writing for the Court, affirmed Judge Loble's holding on narrower grounds. In its statement of the issues raised, the Court mentioned a district's transportation budgeted fund as one of the funds used in school funding. (See p. 3) In holding that Montana's school system violated Article X, section 1, of the Montana Constitution, the Court also stated:

> ... our opinion [affirming the District Court's ruling of unconstitutionality] is not directed at only one element of the system of funding public schools in Montana. (See p. 14)

Lobel

state interest, so long as Plaintiffs are able to prove, as they have in this case, that the educational rights of persons in this State have been infringed upon, burdened, or denied. State ex rel. Bartmess v. Board of Trustees, ___ Mont. ___, 726 P.2d 801, 43 St.Rptr. 1713 (1986); Serrano v. Priest, 18 Cal.3d 728, 135 Cal.Rptr. 345, 557 P.2d 929; Washakie County School District #12 v. Hershler, 606 P.2d 310 (Wyo. 1980)

A right is fundamental under Montana's Constitution if it is "found within Montana's Declaration of Rights or, if it is not, that it is a right 'without which other constitutionally guaranteed rights would have little meaning.'" See Bartmess, supra. The right to an education is set forth in section 1 of Article X. While the right is not found within Montana's Declaration of Rights (Article II), it is a right expressly guaranteed in the Constitution and is most assuredly a right "without which other constitutionally guaranteed rights would have little meaning."

As noted by the Montana Supreme Court in Bartmess at p. 17[illegible] 43 St.Rptr. and p. 804 of 726 P.2d, the strict scrutiny test requires the State to show a compelling state interest and is seldom satisfied. See also Butte Community Union v. Lewis, 712 P.2d 1309, 1312, 43 St.Rptr. 65 (1986). In this case, the State did not meet the strict scrutiny test.

Regardless of whether education is considered to be a fundamental right, it is a right of "extreme" importance under

SB 82 - Legislative admitted

the State under the Foundation Program and for the districts under the voted levy system. We are not able to reach that type of a conclusion. As previously indicated, the 1985-86 school funding involved more than 20 different funds. The control of such funds is primarily in the Legislature. Our opinion is not directed at only one element of the system of funding public schools in Montana, as we recognize that the Legislature has the power to increase or reduce various parts of these elements, and in addition to add other elements for such funding.

While this opinion discusses spending disparities so far as pupils are concerned, we do not suggest that financial considerations of that type are the sole elements of a quality education or of equal educational opportunity. There are a number of additional factors which are a significant part of the education of each person in Montana, including but not limited to such elements as individual teachers, classroom size, support of the parents of students, and the desire and motivation on the part of the student which moves him or her to seek earnestly after an education. By not discussing these elements, we do not in any way suggest they are irrelevant, for the financing of education is only one aspect of equal educational opportunity. Our opinion is intentionally limited to the elements discussed in the opinion.

II

Should this Court clarify the District Court's findings regarding the accreditation standards promulgated by the Montana Board of Public Education?

Under Art. X, Sec. 9(3), Mont.Const., the Montana Board of Public Education (Board) has general supervisory power over the public school system. The Board has adopted statewide accreditation standards for elementary and secondary schools. Those standards require teachers to be certified by manner prescribed by law. The district then has the power of expending the budget whether it has cash monies or not. If there is not enough cash available to the school district, the county treasurer must borrow money, by registering warrants to pay the current obligations. (Section 20-9-201(1)(a), MCA; Agreed Fact No. 9)

34. Budgeted funds include:

(A) General Fund
(Title 20, Chapter 9, Parts 1 and 3, MCA)

(B) Transportation Fund
(Section 20-10-143, MCA)

(C) Tuition Fund
(Sections 20-5-307 and 20-5-312, MCA)

(D) Retirement Fund
(Section 20-9-501, MCA)

(E) Bus Depreciation Fund
(Section 20-10-147, MCA)

(F) Comprehensive Insurance Fund
(Section 2-9-212, MCA)

(G) Adult Education Fund
(Section 20-7-705, MCA)

(H) Non-Operating Fund
Section 20-9-505, MCA)

(I) Debt Service Fund
(Section 20-9-438, MCA)

(J) Building Reserve Fund
(Section 20-9-503, MCA)

(Agreed Fact No. 11)

b. <u>Non-Budgeted Funds</u>

35. As the description implies, school districts do not

EXHIBIT 5
DATE 1/26/95
HB 199

**Line 91—College Contribution Credit—See Form CC for instructions.**

You may be entitled to a credit for deductible contributions made during 1994 to a general endowment fund of the Montana university system foundations or to a general endowment fund of a private Montana college or its foundation. The credits is 10% of the contribution with a maximum of $500 and is non refundable. To be eligible for the credit the college must offer a baccalaureate degree level education program. The contribution may also be claimed as an itemized deduction on Form 2A, subject to the normal limitations.

**Line 92—Elderly Care Credit**—see Form ECC for instructions.

You may be eligible to receive a credit for paying certain expenses of an elderly family member who is 65 or older or has been determined disabled for Social Security purposes.

**Line 93—Credit Allowed for Income Tax Paid Other States or Countries. (Full year or part year resident)**

You are entitled to a credit for income tax liability paid to another state or country. Part-year residents who have income that was taxed in another state while a Montana resident may take the credit if the income from the other state(s) is included in Montana total income on Schedule III.

Part year residents please complete Schedule VII, Form 2A, page 3 to compute the credits. Residents may compute the credit on Schedule V, Form 2A page 3.

Enter the credit on line 93, Schedule II, Form 2A. The credit claimed must be supported by a copy of your tax return filed with the other state or country. A separate computation must be made for each state or country for which a credit is claimed. Your total credit cannot exceed your tax liability.

**Line 94—Contractor's Gross Receipts Tax Credit**
You're allowed a credit against Montana income tax liability for the public contractor's gross receipts tax you paid. If you report your income from contracts on a percentage-of-completion basis, the credit must be pro-rated accordingly. The allowable credit is the actual gross receipts tax paid after taking the personal property tax credit. This cannot be in excess of your tax liability. Attach schedule to return showing the contractor's name, date and amount of contract, primary contractor, subcontractor, and location of job.

**Line 95—Qualified Investment Credit**
You may claim a credit of 5% of your 1994 Federal investment tax credit. The property claimed for credit must have been placed in service in Montana and used in the production of Montana income. To take the credit, complete Schedule VI, Form 2A page 3, and attach a copy of Federal Form 3468 which shows a computation of the federal credit.

Credit for the taxable year may not exceed $500. No unused portion of the credit earned in 1994 may be carried back or forward to other years. **For limitations applying to carryforwards of years prior to 1983 call the Department of Revenue at (406) 444-2837.**

If you have a combination of current year investment tax credit and carryforward credit from years prior to 1983, apply the current year credit first. Then apply the carryforward credit. Please attach a copy of your carryforward/carryback computations.

The credit may not be allocated to your spouse if he or she is not a partner in the business, partnership or a shareholder in the S corporation.

If the property is used ~~both inside and outside~~ the state, the credit is pro-rated according to the number of days the property is used in Montana and the length of time owned during the year.

**No investment credit is allowed for Rehabilitation property.**

**Line 96—Credit for Installation of Biomass/Geothermal Energy Systems (Only residents of Montana can claim this credit.)**
You may claim a credit against tax liability if you're a resident who installs or acquires a low emissions wood, wood pellet, biomass combustion device or geothermal systems. See instructions on Form ENRG-B which must be completed and attached to claim this credit.

**Line 97—Credit for Energy Conservation Installations**
You may claim a credit against your tax liability for some of the cost of an investment for energy conservation purposes in a building. Montana law defines an eligible expense as "the installed cost of materials and equipment which reduce the waste or dissipation of energy or reduce the amount of energy required to accomplish a given amount of work."

The maximum credit for residential purposes is $150 and for commercial purposes $300. Form ENRG-C must be completed and attached to return.

**Line 98—Credit for Wind-powered Generation Equipment**
You may claim a credit against your Montana income tax for a qualified investment of $5,000 or more. The commercial wind-powered electrical generation system must be located in Montana. Complete Form 2 WPC and attach it to the return.

**Line 99—Recycling Credit**—Credit for investments in depreciable equipment or machinery to collect, process or manufacture a product from reclaimed material. Please see Form RCYL for complete instructions.

**Line 100—Alternative Fuel Credit**—You may claim a credit against your tax liability for conversion of a motor vehicle to an alternative fuel in 1994. See instructions on Form AFCR. Form AFCR must be completed and attached to the return.

**Line 101—Montana Capital Company Credit**—You may claim an income tax credit for investments in Montana capital companies. The company must be certified by the Montana Department of Commerce and privately capitalized at $200,000 or more. The credit is limited to 50% of the investment up to a maximum of $150,000 per taxpayer. The total amount of tax credits authorized for one capital company may not exceed $1,500,000. Attach a copy of the certification.

A capital company that fails to make qualified investments must pay a penalty equal to all the tax credits allowed to taxpayers investing in that company. This penalty will be paid to the Montana Department of Revenue. Attach a detailed explanation of your claim for the credit.

**Line 102—Dependent Care Assistance Credit (DCAC)**
An employer may claim a credit against his personal income taxes for amounts paid or incurred during the taxable year by the employer for dependent care assistance provided to employees. Fill out form DCAC available from the department.

**Line 103—Credit for Health Insurance for Uninsured Montanans** (i.e. Health Insurance)—This credit is available to employers who make disability insurance available to employees. See Form HI for details.

**Line 104**—Enter any other allowable credits.

**Line 105—Add credits and enter total on line 43, Form 2**

EXHIBIT 6
DATE 1/26/95
HB SB 57

# APPEAL PROCESS

## Request For Property Adjustment (AB–26) *

A Property Adjustment Form (AB–26) must be filed with the Department within 15 days after the assessment notice is received in order for a property adjustment to be considered for the current tax year. AB–26's filed after 15 days of receipt of an assessment can only be considered for the following tax year. The taxpayer may provide information supporting their request for an adjustment and request an informal meeting if desired. A written decision of the Department's review will be provided to the taxpayer. The taxpayer has 15 days upon receipt of the Department's decision to file an appeal with their county tax appeal board if they are dissatisfied with the decision.

## COUNTY TAX APPEAL BOARD *

A Property Tax Appeal Form must be filed with the County Tax Appeal Board as follows:

(1) An appeal may be filed directly with the County Tax Appeal Board without going through the AB–26 process. However, a direct appeal must be filed by the first Monday in June or 15 days after receiving an assessment notice, whichever is later.

(2) An appeal must be filed with the board within 15 days after receiving an AB–26 decision from the Department.

## STATE TAX APPEAL BOARD *

If dissatisfied with the decision of the County Tax Appeal Board, the taxpayer may file an appeal with the State Tax Appeal Board. In order to appeal to the State Tax Appeal Board a Property Tax Appeal Form must be filed with the board within 30 days of receipt of the County Tax Appeal Board's decision.

## DISTRICT COURT *

If dissatisfied with the decision of the State Tax Appeal Board, the taxpayer may file an appeal in District Court. In order to appeal to District Court the taxpayer must file a petition of appeal with the court within 60 days of receipt of the State Tax Appeal Board's decision.

## SUPREME COURT *

If dissatisfied with the District Court decision, the taxpayer may file an appeal with the Supreme Court. In order to appeal to the Supreme Court the taxpayer must file an appeal with the court within 60 days of receipt of the District Court Decision.

* If a taxpayer's appeal is in process when their property taxes become due, the disputed taxes must be paid under protest according to tax protest procedures defined under Title 15, MCA.

EXHIBIT 7
DATE 1/26/95
SB 45

Amendments to Senate Bill No. 45
Third Reading Copy

Requested by Sen. Tveit
For the Committee on Taxation

Prepared by Lee Heiman
January 20, 1995

1. Title, line 6.
Following: "WELLS;"
Insert: "MAKING THE WITHHOLDING OF TAXES FROM ROYALTY INTERESTS MANDATORY;"

2. Page 4, line 16.
Strike: "may"
Insert: "shall"

EXHIBIT 8
DATE 1/26/95
HB 143

Amendments to House Bill No. 143
First Reading Copy

Requested by Rep. Harper
For the Committee on Taxation

Prepared by Lee Heiman
January 24, 1995

<u>Recorrected version, added last amendment.</u>

1. Title, line 7.
Strike: "THE INCREASE IN"
Insert: "A PORTION OF".

2. Page 1, line 28.
   Page 1, line 29.
Strike: "<u>$85</u>"
Insert: "$80"

3. Page 1, line 30.
   Page 2, line 1.
Strike: "<u>$125</u>"
Insert: "$120"

4. Page 2, line 2.
Strike: "<u>$65</u>"
Insert: "$60

5. Page 2, line 12.
Strike: "<u>$25</u>"
Insert: "$5"

6. Page 2, line 13.
Strike: "<u>$30</u>"
Insert: "$10"

7. Page 2, line 17.
Strike: "<u>$75</u>"
Insert: "$70"

8. Page 3, line 6.
Strike: "$40"
Insert: "$35"

9. Page 3, line 21.
Strike: "<u>$20</u>"
Insert: "$15"

10. Page 4, line 15.
Strike: "<u>20</u>"
Insert: "$15"



hb014302.alh

# OFFICE OF THE GOVERNOR
# BUDGET AND PROGRAM PLANNING

STATE OF MONTANA

EXHIBIT____________
DATE____________
HB____________

MARC RACICOT
GOVERNOR

PO BOX 200802
HELENA, MONTANA 59620-0802

## MEMORANDUM

TO: Representative Chase Hibbard, Chair
House Taxation Committee

FROM: Mike Walsh
Mike Walsh, Administrative Officer
Office of Budget & Program Planning

DATE: January 25, 1995

SUBJECT: Rep. Harper's amendment to HB 143

The proposed amendment by Representative Harper, dated January 24, 1995 by Lee Heiman, would decrease state general fund revenues by approximately $150,000 - $162,000 in each year of the biennium.

(This information was supplied by Harlan P. Goan, Assistant Administrator, Court Administration, Montana Supreme Court, in consultation with the clerks of the district court).

TELEPHONE: (406) 444-3616 FAX: (406) 444-5529

EXHIBIT 9
DATE 1/26/95
HB 143


*County of Yellowstone*

**CHARMAINE R. FISHER**
CLERK OF THE DISTRICT COURT

(406) 256-2860
BOX 35030
BILLINGS, MT 59107


January 23, 1995

The Honorable Chase Hibbard
Chairman, Taxation Committee
Montana House of Representatives
Capitol Station
Helena, MT 59620

Dear Chase & Committee Members:

This letter is in regard to HB #143, "An act requiring counties to establish a fund for District Court record retention, preservation and technology.

This Bill would allow clerks all over the state to be able to start taking proper care of the records. Records are put in nooks and crannies in the courthouses and very few of the clerks have been able to address this issue as it is not a prime worry of anyone but the Clerks. It was felt that money could be better spent on visible things and there just wasn't funds for everything.

Beverly Bennetts, my Chief Deputy, compiled some figures to illustrate how much money this Bill would generate and this is the very reason the fund should be on-going. We would have had approximately $16,455.00 in 1994. This is not a lot of money when you have to buy a reader/printer, pay for microfilming, purchase file cabinets to store them, and there should always be two sets of microfilm (one at the courthouse and one off-site in a proper storage facility). We just purchased our first copier two years ago and we saved for over two years for it.

The Clerk & Recorder collects $5.00 on each filing so they can generate more monies than we can. Our $5.00 would be levied on only first appearances, state, city & justice court appeals, complaints, petitions for dissolution of marriage and probate.

I believe the Bill, where it says "must be deposited in the county District Court fund" should say what is stated in the new section

(1)(2)(3) so there is no confusion as to what the fund is intended for and who is in charge of the fund.

Thank you for this opportunity to express my concerns about this bill.

Sincerely,

Charmaine

Charmaine R. Fisher
Clerk of District Court

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB237

DATE 1/26/95 SPONSOR(S) ____________

PLEASE PRINT PLEASE PRINT PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|---|---|---|---|---|
| Mark Pinkerton | Rosebud Co. | HB 238 | X | |
| Jim Tutwiler | MT Chamber | HB 237 | | ✓ |
| Charles R. Brooks | Billings Chamber | 237 | | ✓ |
| Robert White | Bozeman Chamber | 237 | | ✓ |
| Gordon Morris | MACo | 238 | X | |
| Gloria Paladichuk | Richland Development | | | 237 ✓ |
| Don Allen | Mt. Wood Products Assn | HB 237 | | ✓ |
| Steve Turkiewicz | Mt. Auto Dealers Assn | HB 237 | | ✓ |
| Gloria Paladichuk | Richland Development | HB 238 | ✓ | |
| Dennis Burr | MONTAX | HB 237 | | ✓ |
| Dennis Burr | MONTAX | HB 238 | ✓ | |
| J. Shontz | MT Assoc. Realtors | 238 | Y | |
| | | | | |

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

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

HB 238

Taxation COMMITTEE BILL NO. HB 238

DATE 1/26/95 SPONSOR(S)

**PLEASE PRINT PLEASE PRINT PLEASE PRINT**

| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|---|---|---|---|---|
| Gloria Paladichuk | Richland Develop. | | ✓ | |
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