

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on January 27, 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. 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:

Rep. John "Sam" Rose (R)

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 287
HB 293
HB 156

Executive Action: None.

{Tape: 1; Side: A.}

HEARING ON HB 287

Opening Statement by Sponsor:

REP. BOB REAM, House District 69, Missoula, said that HB 287 was brought forward at the request of the Revenue Oversight Committee. He explained that the bill would conform the priority date for tax liens created by a Department of Revenue warrant for distraint to liens filed for withholding taxes and unemployment insurance contributions. He pointed out that currently there is \$26 million in accounts receivable for individual income tax and \$3 million in accounts receivable for withholding. This bill would help address this situation.

Informational Testimony:

Dave Woodgerd, Counsel for the DOR, defined "warrant for distraint" and provided testimony explaining the need for this legislation. His written comments are attached as EXHIBIT 1.

Proponents' Testimony:

None.

Opponents' Testimony:

Bob Pyfer, Montana Credit Unions League, explained that the League's concerns were that this would create another "hidden" lien that would have priority even though it had not been filed. It would also require additional paperwork and there would be additional costs for compliance which would have to be passed on to credit union members.

John Shontz, Montana Association of Realtors, objected to the bill because the county court house would have no record of a lien filed against the property by the state for non-payment of taxes. Every land transaction would require an affidavit.

Questions From Committee Members and Responses:

REP. ELLIOTT said he assumed that when an individual owes income tax, sells his house to a third party, and does not reveal that he owes the DOR money, the purchaser would be held responsible for the debt. Mr. Woodgerd said that could not happen because the priority date would not affect any property that the taxpayer didn't own at that point in time.

REP. ELLIOTT than asked if, after the warrant for distraint is filed, the person who owes the Department money sells his house and does not sign an affidavit or inform the third party, the purchaser would be responsible for the debt. Mr. Woodgerd said that would be true under present law. As a follow-up question,

REP. ELLIOTT asked if the language in this bill offered protection to the third party which is not available at this time. **Mr. Woodgerd** said it did not.

REP. WELLS asked if the language in the bill changed the priority date to the date the tax was due and, if so, would it be prior to the date the property was sold. **Mr. Woodgerd** said the bill was complex but before there can be a priority date, the Department must have a valid lien and the date they file that document, if the taxpayer does not own the property, there wouldn't be a valid lien. **REP. WELLS** said he assumed that title insurance would provide some protection against unknown debts. **Mr. Woodgerd** said he believed it would.

REP. STORY asked if the Department was filing these liens presently. **Mr. Woodgerd** replied that they file between 2,500 and 4,000 a year. To follow up, **REP. STORY** asked if this bill was passed, if it would put the state in a policy position to recognize DOR liens before IRS liens. **Mr. Schontz** suggested that what the language allows the Department to do is file a lien without going through the judicial process. **REP. STORY** asked if it would be possible for the taxpayer to transfer title of the property to someone else in order to avoid the lien and still have control of the property. **Mr. Heiman** explained that the bill does not address a date prior to the filing of the lien in the county courthouse. The priority date of the lien is different and that is what is under discussion. Several people could file liens against a property within a certain time period and how the money is distributed would be based in part on the priority date of the lien. The priority date reflects what the individual creditors would be working against and has nothing to do with third parties. **Mr. Schontz** said he understood that this bill would substantially change that because the priority date would be the date the taxes were due. **Mr. Heiman** said there is no priority date until the warrant is filed.

{Tape: 1; Side: B.}

REP. BOHLINGER referred to the testimony provided by Mr. Pyfer stating that this creates a hidden lean that is not on file and would add to the cost of compliance and he asked for comments. **Mr. Woodgerd** indicated that this is already in the law and what the bill would do is extend it to apply to other taxes. The cost of compliance would be minimal because it would require only one additional document to be signed and he did not think that would add that much to the cost of the loan. On the other hand, the Department will be in a much better position to collect because what usually happens is the Internal Revenue Service has an earlier priority date and they collect their taxes and sometimes there is not much left for the state. **REP. BOHLINGER** said he had also heard that it would be necessary for someone to sign an affidavit testifying to the fact that there no obligations against the property and he inquired about the cost of that. **Mr. Woodgerd** said it wasn't a matter of filing the affidavit, the

cost would be in the preparation and he assumed a form could be put together, signed and notarized for a minimal cost.

REP. NELSON asked for further clarification. **Mr. Woodgerd** said that under this bill, there are two aspects. First, they must have a valid lien, and once they have that, the priority date will determine who among the creditors will receive the money. As far as filing a lien after the property has been sold, this bill would not change anything, because under current law or under this law if it passed, the Department would not have a valid lien if the property is owned by someone else. **REP. NELSON** said his concerns were for the credit union and the private purchasers.

REP. ELLIOTT said he thought there were two issues -- the lien and the priority date. He understood that the Department would file a lien if the individual owed taxes. The property would be sold and the money would be distributed based on a judge's allocation based on the length of time the money had been owed. **Mr. Woodgerd** agreed. **REP. ELLIOTT** then addressed the matter of the lien. If that was not disclosed in the transaction, he understood that the buyer would be responsible. He asked if the affidavit would be a form of protection for the buyer which does not currently exist. **Mr. Woodgerd** said there is no need for the affidavit at this time because when DOR files the lien, there is notice in the county courthouse. With this legislation, the person providing the money for a loan would not want a lien coming in ahead of the transaction and the affidavit would then provide protection for the lender. If the affidavit is on file, the lender would then have the first priority over and above the state, the IRS or any other lien holder. If the affidavit is not there, it would be possible that the Department of Revenue could come in ahead of the lender who holds the mortgage. **REP. ELLIOTT** then asked if the affidavit protected the purchaser and the person holding the mortgage. **Mr. Woodgerd** said that was correct. **Mr. Pyfer** added that the affidavit provided protection against HB 287 because without the bill the protection is not needed because the lien is on file at the courthouse. This bill would make an exception for the Department to allow them to file a lien which would not be evident in the county courthouse records.

REP. FUCHS said he thought he understood the intent of the bill but he objected to the creation of more "red tape" which would increase the cost of doing business. He asked how long it had taken them to collect the \$32 million and how the Department decided a debt wasn't collectible. **Mr. Woodgerd** said he wasn't sure how long it had taken to collect that amount but the Legislative Auditor had given them the figures. They do have permission to write off some of the debts and he offered to obtain more information.

REP. WELLS asked if this bill would make a difference in the amount of taxes collected. **Mr. Woodgerd** said he had no way of knowing how much more would be collected but he was confident

that they would collect more. He emphasized that in many cases where they were unable to collect, it was because the Internal Revenue Service had gotten there first.

REP. ELLIOTT said he thought it would be helpful to the Committee to have information on the amount of money owed and the money collected in warrants of distraint where the Department was not in competition with anyone else. **Mr. Woodgerd** said he could obtain that information.

REP. STORY asked if the main benefit in the bill was not to put the state in front of commercial lenders, but to get ahead of the IRS. **Mr. Woodgerd** said that was the main reason for the bill. To follow up, **REP. STORY** asked if this legislation would create problems for the lending industry when they were negotiating a mortgage or personal loan. He asked if they investigated outstanding tax debts of borrowers. **Mr. Pyfer** said they would not look beyond what was filed at the county courthouse. Under the current system, when a warrant for distraint is filed, it would show in the records and there would be no need to look further.

REP. ARNOTT asked the Department to explain why they were not more current in filing warrants. **Mr. Woodgerd** replied that they consider filing a warrant for distraint the last step because they make every effort to collect the taxes before they file, and they also must provide legal notice to the taxpayer, and 30 days to file an objection or request a hearing. **REP. ARNOTT** then asked how this process differs from the IRS. **Mr. Woodgerd** said the difference is that they have a process similar to what the DOR is asking for in the bill. Once they file a lien at the courthouse, they relate it to the date they sent the assessment to the taxpayer.

{Tape: 2; Side: A.}

REP. BOHLINGER commented that this is a confusing issue, but what was clear was that in order for lending institutions to protect themselves, it will be necessary for them to secure affidavits to certify to the debt that might exist on a piece of property and that would add to the cost of the process. He asked if this legislation would put the lenders at a disadvantage. **Mr. Pyfer** said that was how he understood the bill. The problem would arise if a loan was made after the warrant for distraint was issued.

REP. MURDOCK asked if this would present a problem for the title insurance companies. **Mr. Shontz** said the real issue was whether title insurance would cover. What would happen is that insurers would not insure any liens made by the State of Montana, so the person paying for the insurance would have no coverage.

CHAIRMAN HIBBARD asked if this legislation had been introduced in a previous session. **REP. REAM** said he did not know. **Mr.**

Woodgerd explained that previous legislation gave them authority to use this method in collecting withholding tax but it did not extend beyond that.

Closing by Sponsor:

REP. REAM said the reason he agreed to sponsor this bill was that it was related to a matter of fairness. The vast majority of Montanans pay their taxes and he was irritated that there are people who try to get around paying what they owe. He said he was also a believer in states' rights and the state should be in line ahead of the IRS. The DOR does everything possible to collect taxes before they file a warrant for distraint and REP. REAM agreed that this was the appropriate procedure. Judy Paynter will furnish the Committee with more statistics on this issue prior to executive action.

HEARING ON HB 293

Opening Statement by Sponsor:

REP. BOB REAM, House District 69, Missoula, said everyone is aware that we are moving into the electronic age, and in "reinventing government" it is time to look at the efficiencies that could be provided to state agencies. HB 293 would require employers to submit state income tax withholding and old fund liability taxes by electronic transfer. The bill was originally written to phase the process in over the next three years. Many businesses are already using this system for federal income tax withholding. REP. REAM explained that, although the bill uses the term "require," the DOR has prepared amendments which would make electronic submission an option. EXHIBIT 2.

Informational Testimony:

Char Maharg, Supervisor, Income and Miscellaneous Tax Division, DOR, said this bill was brought before the Committee because it is time they change the way they do business to provide better service and simplify requirements for employers. Electronic transfer would safeguard and streamline operation for the DOR. Ms. Maharg reviewed the provisions of the bill as outlined in EXHIBIT 3. Some of the benefits would be the elimination of paper, increased accuracy in filing, and eventual decreased processing costs for the Department.

{Tape: 2; Side: B.}

Proponents' Testimony:

Riley Johnson, National Federation of Independent Business, rose in support of the bill with the appropriate amendments to make the system optional. He recommended to the Committee that the

\$500 threshold for annual filing be increased to \$1,500 because it would go a long way toward helping the small employer.

Jerry Driscoll said the federal government provides a coupon book which is taken to the bank and the funds are transferred to the IRS. With the amendments making the system optional, it will reduce the paperwork that small employers have to do. He would not be in favor of the bill if it required small employers to purchase equipment to make the transfers.

Jim Tutwiler, Montana Chamber of Commerce, went on record in support of the bill. He advised that he had contacted three CPA firms who recommended that the provisions should not be made mandatory. He complimented the Department for providing the option in the amendments to the bill. He also asked the Committee to consider raising the \$500 threshold and allowing more people to report on an annual basis.

Riley Johnson, representing Tom Harrison, testified that the **Montana Association of Certified Public Accountants**, would go on record in support of HB 293 as amended.

Mary Craig, C.P.A., representing Montana Society of Certified Public Accountants Legislative Group, said the certified public accountants in Montana that HB 293 is a "wonderful bill." It will make it much easier for the small business people. **Ms. Craig** also advised that she was a past Director of the DOR and this bill will move the Department into the future.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. ORR asked if the Department would be amenable to raising the threshold to \$1,500 as suggested by the proponents. **Ms. Maharg** said they would like an opportunity to look at their statistics to see how many businesses that would affect and would provide the information to the Committee.

CHAIRMAN HIBBARD asked the DOR to be prepared to report to the Committee by Tuesday, January 31.

REP. REAM said he had asked the Department to provide figures on lowering the threshold to \$1,200.

REP. ARNOTT asked what the reduction in FTE's would be under this legislation. **Ms. Maharg** said they do not anticipate a reduction in this biennium, there is a possibility that there would be a reduction in the next biennium, depending upon the number of people who use the system. **REP. ARNOTT** then asked if the technology was in place to provide these services. **Ms. Maharg** replied that they are currently involved in a pilot project with

several employers who are filing electronically. There will be administrative costs and she understood they were included in the Governor's budget. They will have to obtain equipment to scan documents. **REP. ARNOTT** said she had a problem with the department communicating by computer with taxpayers because she sensed there might be some resentment. **Ms. Maharg** explained how the system would work. She also explained that an employer could have its bank do the communication.

CHAIRMAN HIBBARD asked if the bill were passed without the amendment, how small employers, who don't have computer equipment, could comply with the legislation. **Ms. Maharg** said the way the bill is written, the small employer can elect not to use the system and would continue to file using paper reports the same as they do now.

REP. SOMERVILLE asked if it would be possible for a small business that did not have computer equipment to have an accountant do the filing. **Ms. Maharg** said they hoped to set up some filing vendors.

REP. STORY asked if a new business with no filing history coming into the system would have to file monthly. **Ms. Maharg** said a new employer would be required to file quarterly.

Closing by Sponsor:

REP. REAM asked the Committee to refer to the handout and note the tremendous amount of employers who are at the low end of the scale. The advantage to all these people is that they will file annually. One disadvantage is that money will be collected from the large employers more rapidly because they will pay every time there is a payroll. He pointed out that with the speeded up schedule, the DOR will not be collecting more revenue but they will be collecting it sooner and therefore collecting interest on the revenue. For the first year of the biennium that would amount to \$420,000 for the general fund, and \$80,000 for workers comp payroll account, for a total of \$500,000 for the first year and an estimated \$600,000 the second year. Because there is an uneven flow in income tax revenue throughout the year, the state issues tax revenue anticipation notes. With a more even flow of revenue, the state would not have to go to this expense of issuing and paying interest on the notes, thereby reducing debt service by \$1.6 million. The result would provide a \$2.9 million positive impact for the biennium.

{Tape: 3; Side: A.}

HEARING ON HB 156

Opening Statement by Sponsor:

REP. JOHN COBB, House District 50, Augusta, said HB 156 provides that personal property which has depreciated to where it has a

salvage value of less than \$1,000, would be considered to have no market value. Taxing these items could be considered a "nuisance tax" and removing them from taxation would not cost much money.

REP. COBB said he would have no objection to lowering the salvage value to \$500.

REP. ERNEST BERGSAGEL, House District 95, Malta, presented an amendment to HB 156 which would not change the salvage value but would stimulate economic growth in Montana by providing an exemption on personal property for a two-year period. At the end of that period the property would be placed back on the tax rolls at the current rate. This would suggest to the people who are complaining about high personal property tax that the legislature is willing to do something about stimulating the economy by reducing personal property taxes. EXHIBIT 4.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said this was one good approach to personal property tax but it would not be a substitute for reducing the current rates. He commented that this would have a fairly significant revenue impact.

Jim Tutwiler, Montana Chamber of Commerce, rose in support of the bill. In regard to the amendment, Montana businesses think that personal property tax on businesses is a bad idea. This bill would address reducing the burden. From the Chamber's point of view, they would like to see a more expansive program addressing the level of tax, however, they felt this bill did have merit.

Riley Johnson, National Federation of Independent Business, said that passage of this bill would be a major strike in favor of small business in Montana. He said the \$1,000 value would benefit the most people and suggested that supplies used to operate a business should also be excluded.

Susan Good, Montana for Tax Reduction, said she was encouraged to hear discussions on bold moves to reduce taxes. She spoke in support of Rep. Cobb's bill and the Bergsagel amendment. She said it was time for the Montana Legislature to do some serious personal property tax reductions but this bill should not be used in lieu of permanent personal property tax reductions.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. RANEY asked the DOR if his personal business, a gift shop, which has a lot of small equipment valued at under \$1,000, would be tax-free. **Ms. Paynter** replied that, under her interpretation of the bill, it would be.

REP. ELLIOTT asked why Rep. Cobb had not signed the fiscal note. **REP. COBB** said the DOR did not have the data base to provide an accurate cost; therefore, he did not sign the fiscal note. **REP. ELLIOTT** then asked if this would remove revenue from local governments. **REP. COBB** said it might but his interest in this bill was to encourage more businesses who would pay more taxes at the local levels over the long term. **REP. ELLIOTT** asked Rep. Bergsagel if he had any idea what the fiscal impact would be on local governments. **REP. BERGSAGEL** said the bill talks about potential purchases in the future. Therefore, there would be no impact on local governments. At the end of two years, there would be a positive impact as a result of the new equipment purchased during the two year window. **REP. BERGSAGEL** said the purpose of the amendment was to stimulate the economy and enhance the opportunity for the small business to acquire the equipment to enhance their business, better serve the public, offer greater opportunities to enhance income and pay more taxes to help pay for the government we have. If this legislature has the faith to enact tax policy that encourages stimulation of the economy, the economy will grow.

REP. ELLIOTT said he also believed in stimulating the economy but he would want to make sure that the tax break being given would be paid back. He said it had been his experience that would not happen. He requested that the Committee be furnished with a better fiscal note. He asked if Rep. Bergsagel would be willing to include a mechanism in the bill to provide for local governments to be made whole by the state. **REP. BERGSAGEL** said he would not because the bill would not take anything the local governments now have away from them.

{Tape: 3; Side: B.}

REP. STORY asked if the equipment being brought back on the tax rolls at the end of two years would be at the depreciated value or the assessed value. **REP. BERGSAGEL** said it would be at the depreciated value. **REP. STORY** asked for an explanation of the tax rates. **Ms. Paynter** explained that when a piece of equipment is purchased in Montana for \$1,000, the tax rate would be 9% to get the assessed value and you would multiply that amount times the mill levy to get the amount of tax due. If the mill levy is high, the taxes against \$1,000 worth of equipment would be a higher percentage.

REP. HARPER said he understood the way the bill was written, it would apply to everyone equally whether new business or existing business. He asked for an explanation of the theory of economic expansion and the actual reality that this puts an existing business that can't afford to buy new equipment at a competitive disadvantage. **REP. BERGSAGEL** said the economic reality of the world we live in is we should only buy and pay for what we can afford. He said he, personally, would probably never be able to take advantage of this legislation because he cannot afford new equipment, and, therefore, he buys second-hand. A company in

existence for many years might have the ability to purchase new equipment. **REP. HARPER** asked if it wouldn't make better sense, and be more equitable, to treat new and used equipment in the same way. **REP. BERGSAGEL** explained that the difficulty with including used equipment would be that an individual could sell all his equipment to a neighbor, retain the use, and not have to pay taxes for two years. It is too difficult to define an "arms length transaction."

REP. BOHLINGER asked if consideration had been given to how the cost might be offset. **REP. BERGSAGEL** said he was convinced that if a policy like this is enacted, the economy will be stimulated and there will be the opportunity for enhanced revenue.

REP. SWANSON said she did not agree that there would not be a loss of revenue. She asked the DOR to provide information on how they estimate revenue trends on new property acquisition. **Ms. Paynter** said it was very difficult but she would try again. Obtaining this data would require the services of a mainframe programmer and she was not sure she could justify interrupting the regular work schedule. She did agree to see what information she could obtain without going into the data base.

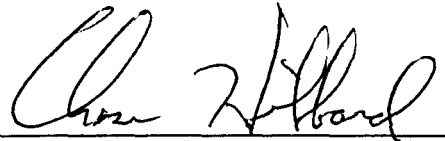
CHAIRMAN HIBBARD asked if it would be possible to address this in theory which would give the Committee something to base their decision on. **Ms. Paynter** said that over the last five years, the personal property taxable value has grown an average of 4.5% a year. Last year it grew 7.9%. This is income that county governments are using. If no new property is coming in, theoretically, it would not stay at 4.5% because everything would be depreciated and the tax base would go down.

Closing by Sponsor:

REP. COBB closed.

ADJOURNMENT

Adjournment: 10:55 a.m.



CHASE HIBBARD, Chairman



DONNA GRACE, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE 1/27/95

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	✓		

Testimony In Support of HB 287
Introduced Copy

Department of Revenue
January 27, 1995

This bill conforms the priority date for tax liens created by a Department of Revenue warrant for distraint to those liens filed for withholding taxes and unemployment insurance contributions. It will allow the Department to collect a larger share of the taxes assessed and reduce the tax burden on the vast majority of Montanans who pay their fair share.

When the Department can not collect taxes owed the state, it issues a warrant for distraint which is a lien upon any property owned by the debtor. The problem is that the debtor is usually in trouble with the IRS in addition to the state. The priority date of a lien or warrant for distraint determines the order in which the creditors receive payment. The earlier the priority date, the more likely that the creditor will receive any money.

Presently a Department warrant for distraint priority date is the date the warrant is filed. This bill will conform all liens for all taxes collected by the Montana Department of Revenue. The priority date for all liens will be the date the tax is due.

The Department of Revenue currently files between 3,500 and 4,000 warrants for distraint a year. The Department often finds itself in competition with the Internal Revenue Service in order to collect taxes owed to the State of Montana. If this bill passes, the Department will be in a better position to collect state taxes when the IRS is trying to collect federal taxes.

Liens created by the Internal Revenue Service are effective upon assessment. The Service must file their lien in the same manner as the state but their priority date is the date of assessment. All that is required to establish the priority date is that the Service issue an assessment. Once the information regarding the assessment is put into the IRS computer, the Service's position is secured.

The State of Montana therefore is at a great disadvantage when competing with the Internal Revenue Service. Oftentimes there is a span of time between the time the tax liability occurred and the warrant for distraint is filed. This is because the Department must satisfy certain legal requirements, such as notice prior to issuing a warrant for distraint. This process takes time.

The language in HB 287 is identical to that found in §15-30-208, MCA which applies to withholding taxes. It is also similar, to the statute relating to the certificates of lien for unemployment insurance contributions, §39-51-1304, MCA. Included in HB 287, §39-51-1304 and §15-30-208, MCA is a provision protecting innocent parties' liens and interest in the real or personal property. This language was originally adopted after an agreement was reached with certain creditors and the land title companies. A creditor can protect their interests by asking the debtor to sign an affidavit that the taxes have been paid. If the creditor files a lien before the Department's warrant and has such a document, they would have first priority.

Passage of this bill will put the State of Montana in a better position in its tax collection efforts. The state will collect a larger percentage of the taxes assessed. The Department currently has an accounts receivable of around \$32 million. This bill will help reduce this large collection problem. It is unfair to the taxpaying citizens of Montana who must foot the bill for those few who do not pay their fair share.

Amendments to House Bill 293
Introduced Copy

Prepared by Department of Revenue
1/26/95 5:41pm

REASON FOR AMENDMENT: This amendment removes that language in the bill which required electronic filing and remittance for certain employers. The amendments makes electronic fling and remittance optional; an employer may elect to file and remit electronically, but is not required to do so under the bill.

1. Title, line 6.

Following: "BY"

Strike: "REQUIRING THE USE OF"

Insert: "PROVIDING THE OPTION OF USING"

2. Page 1, line 15.

Following: "Section 1."

Strike: "Taxes to be paid and returns to be filed by"

3. Page 1, lines 16 through 21.

Following: "electronic reporting"

Strike: subsection (1) in its entirety

Insert: "-- employer option."

Renumber subsequent subsections

4. Page 1, line 23.

Following: "elect to"

Strike: "be exempt from the electronic payment and filing requirements"

Insert: "remit and file state income tax withholding and old fund liability tax electronically"

5. Page 1, line 25.

Following: "months."

Insert: "An employer may cancel the election provided in this section by submitting written notice of such cancellation to the department."

6. Page 1, line 26.

Following: "employer"

Strike: "required"

Insert: "who elects"

7. Page 1, line 29 through page 2, line 2 .

Strike: subsection 4 in its entirety.

8. Page 2, lines 16 through 22.

Strike: Section 4 in its entirety

Renumber subsequent sections

MODERNIZATION OF STATE INCOME TAX WITHHOLDING AND OLD FUND
LIABILITY TAX LAWS

SUMMARY

Requires Electronic Filing and Payment of State Income Tax Withheld and OFLT - A Phased-In Approach

*Election provided - an employer may elect out by simply returning an election form provided by DOR

*Provision affects only those employers whose annual state income tax withholding is \$500 or more (if not required to withhold state income tax, Old Fund Liability Tax will be used)

*New requirement is phased-in over a three year period

*Effective date determined by a "lookback" at an employer's 12-month filing history (ending June 30)

Thresholds	Requirement Effective
\$100,000 or more	1-1-96
\$ 12,000 or more	1-1-97
\$ 500 or more	1-1-98

*An employer whose withholding is less than \$500 may elect to report and pay electronically

Timing of Filing and Payment - Alignment with Federal

*Filing and payment schedule is dependent upon the tax liability in the previous "lookback" period

Threshold	Current Law		Proposed Legislation	
	Payment Due	Filing Due	Payment Due	Filing Due
\$300,000 or more	Federal Schedule	Quarterly Annual W-2's	Federal Schedule	Quarterly Annual W-2's
\$12,000 or more	Quarterly	Quarterly Annual W-2's	Federal schedule	Quarterly Annual W-2's
\$500 - \$12,000	Quarterly	Quarterly Annual W-2's	Monthly (15th)	Annually w/ W-2's
Less than \$500	Quarterly	Quarterly Annual W-2's	Annually	Annually w/ W-2's

*A scanable payment coupon will accompany remittances

*A delinquent annual filer may be placed on a monthly remittance schedule

*Effective 1-1-96

Other States' Requirements

Electronic Funds Transfer - 43 states have an electronic funds transfer programs in place; 28 are mandatory at some level

Accelerated Filing and Payment - Of the 50 states,

8 have no income tax

1 does not require withholding

39 require payment more frequently than quarterly

31 are aligned in some manner with federal

Threshold Information

Thresholds	# Employers	Annual Withholding	%/ \$
> \$12,000	2,904 (9%)	\$ 213,345,048	82%
\$500-\$12,000	15,317 (46%)	\$ 44,649,261	17%
< \$500	15,279 (45%)	\$ 1,888,579	1%

Benefits

*Eliminates/reduces paper and paperwork

*Simplifies filing requirements for 30,000 employers

*Follows federal tax deposit requirement

*Decreases processing costs

*Frees up available resources for compliance vs processing

*Increases accuracy - electronic returns are edited immediately

*Accelerates cash receipts

Drawbacks

*Change - tempered by the fact that employers have experience with federal tax deposit requirements

*Lost float

*Employers may not have the necessary equipment

EXHIBIT 4
DATE 1/27/95
HB 156

Amendments to House Bill No. 156
First Reading Copy

Requested by Rep. Bergsagel
For the Committee on Taxation

Prepared by Lee Heiman
January 25, 1995

1. Title, line 6.
Following: "PURPOSES;"
Insert: "PROVIDING THAT NEW CLASS EIGHT PROPERTY IS EXEMPT FROM
TAXATION FOR 2 YEARS;"
2. Title, line 6.
Strike: "SECTION"
Insert: "SECTIONS 15-6-201 AND"
3. Title, line 7.
Following: line 6
Insert: "EFFECTIVE DATES AND"
4. Page 2, line 26.
Insert: "NEW SECTION. Section 2. New personal property --
exempt from taxation for two years. (1) New property that is
classified as class eight property under 15-6-138 is exempt from
taxation in the 2 tax years following the year in which it was
acquired.
(2)(a) For the purposes of this section, "new property"
means property that:
(i) has not previously been operated for consideration or
owned for any purpose other than as inventory;
(ii) has not previously been rented or leased by any person,
firm, corporation, or association; or
(iii) was acquired from a manufacturer, dealer,
distributor, or importer of the property.
(b) Property used for an insubstantial period of time for
the purposes of demonstrating the property is considered new
property.
(c) Property upon which ad valorem taxes, other than ad
valorem taxes on inventory, have been paid in this state or in
another state or province is not new property.
(3) To qualify for the elimination of market value under
this section, the owner of the property shall make an affidavit
to the department, on a form provided by the department, setting
forth:
(a) a statement that the property is new class eight
property that satisfies the provisions of subsection (2);
(b) a detailed description and, if possible, identification
of the property, such as a serial number; and
(c) the location of the property.

Section 3. Section 15-6-201, MCA, is amended to read:
"15-6-201. Exempt categories. (1) The following categories
of property are exempt from taxation:

- (a) except as provided in 15-24-1203, the property of:
 - (i) the United States, except:
 - (A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or
 - (B) as provided in 15-24-1103;
 - (ii) the state, counties, cities, towns, and school districts;
 - (iii) irrigation districts organized under the laws of Montana and not operating for profit;
 - (iv) municipal corporations;
 - (v) public libraries; and
 - (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- (b) buildings, with land they occupy and furnishings in the buildings, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;
- (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.
- (d) property that meets the following conditions:
 - (i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
 - (ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
 - (iii) is not maintained and operated for private or corporate profit;
- (e) property owned by institutions of purely public charity and directly used for purely public charitable purposes;
- (f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;
- (g) public museums, art galleries, zoos, and observatories not used or held for private or corporate profit;
- (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;
- (i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.
- (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- (k) motor homes, travel trailers, and campers;
- (l) all watercraft;
- (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit

corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit, and property owned and used by an organization owning and operating facilities for the care of the retired, aged, or chronically ill, which are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and not held or used for private or corporate gain or profit. For purposes of this subsection (q), "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, or other personal property;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) beginning January 1, 1994, timber as defined in 15-44-102; and

(v) all trailers and semitrailers with a licensed gross weight of 26,000 pounds or more. For purposes of this subsection (v), the terms "trailer" and "semitrailer" mean a vehicle with or without motive power that is:

(i) designed and used only for carrying property;

(ii) designed and used to be drawn by a motor vehicle; and

(iii) either constructed so that no part of its weight rests upon the towing vehicle or constructed so that some part of its weight and the weight of its load rests upon or is carried by another vehicle; and

(w) all class eight property . This exemption applies only for the 2 tax years following the year in which the property was acquired, as provided in [section 2].

(2) (a) The term "institutions of purely public charity" includes any organization that meets the following requirements:

(i) The organization qualifies as a tax-exempt organization

under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(ii) The organization accomplishes its activities through absolute gratuity or grants; however, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

NEW SECTION. Section 4. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [section 2].

NEW SECTION. Section 5. Effective dates. (1) [Sections 2 and 3] and this section are effective on passage and approval.

(2) [Sections 1, 4, and 5] are effective October 1, 1995."

Renumber: subsequent section

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 287
DATE 1/27/94 SPONSOR(S) Rep. Ream

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Dave Woodgerd	Dept. of Revenue	#8 287		X
John Shontz	Int Assoc REAFTS	287		✓
Bob Pyfer	MT Credit Unions League	287	X	

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HOUSE OF REPRESENTATIVES

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 DATE 1/27/95 SPONSOR(S) Rep Dean

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Charles Brooks	Hqs Chamberlain	293		✓
Jim Tutwiler	MT Chamberlain	293		✓ AS AMER
Maury L Craig	self / ment Sec CPAs	293		X
Char Meharg	DOR	293		X
Jeff Miller	DOR	293		X
Arden my hne	State Fund	293		✓
Jerry Driscoll	Self	293		✓

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Riley Johnson	NFIB	H B 293		with Amend.

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 156
 DATE 1/27/95 SPONSOR(S) Rep. Cobb

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Riley Johnson	NFIB	HD 156		✓
M Susan Good	MT Tax Reduction Movement	HB 156		✓
Jim Twilizer	MT Chamber	HB 156		✓
Jennab Bwaz	MOATAX	156		✓

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