MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **VICE CHAIRMAN MARIAN HANSON**, on March 15, 1995, at 8:00 a.m.

ROLL CALL

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

Members Excused: None.

Members Absent: None.

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

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

Committee Business Summary:

Hearing:	HB 590
Executive Action:	HB 606 - Request for Committee Bill
	HB 601 - Request for Committee Bill
	HB 582 - Amendments Only
	HB 558 - Tabled

{Tape: 1; Side: A.}

HEARING ON HB 590

Opening Statement by Sponsor:

REP. DAN FUCHS, House District 15, Billings, said he was bringing a very important piece of legislation for the health and well-being of the people of Montana before the Committee.
The bill is a proposal to create a task force to develop a tax policy for Montana that would act proactively through a public forum, looking in detail at where the state has been in the past in relation to industry, environment and taxation and where the state is going in the future . He said the Legislature can no longer meet every two years to react to a current crises. He said the Legislature cannot afford to not pass this legislation. He said a broad-based discussion of the state's tax policy has not occurred. A public forum must be established to involve a wide variety of interests if significant tax reform is ever to be achieved. **REP. FUCHS** said there would be an amendment to the bill suggested by Rep. Swanson. The amendment would narrow the scope of the bill and allow the task force to decide what they want to work on during the first biennium and make recommendations for future projects. EXHIBIT 1. **REP. FUCHS** distributed copies of pertinent news articles. EXHIBIT 2.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association (MONTAX), endorsed HB 590. He said it was always difficult to determine how the structure of a task force should be organized. He said he liked the requirement for the task force to develop recommendations for 2-year, 10-year, and 25-year tax policy strategies for Montana. The bill presented a good approach and he hoped the Committee would consider it favorably.

Carl Schweitzer, Montana Contractors Association, rose in support of HB 590. He commented that in looking at tax policy, it is also necessary to look at spending policy. He said the companies that build roads like the long-term aspect of the study and feel that not only the general fund should be looked at. He said the state has not done a good job with its buildings and this aspect should also be considered.

Jerry Peterson, Chief Financial Officer, Montana Power Company, said his company pays 5.5% of all taxes paid in the State of Montana and they support the bill. He said their business, especially the electric utility business, is changing significantly and, without a change in tax policy, they will be unable to compete with other businesses in Montana. Both long- and short-term tax policy should be addressed.

Eric Feaver, Montana Education Association, spoke in support of the bill. He said they have participated in previous efforts to discuss and resolve tax distribution and they consider themselves one of the groups identified in the bill. They are a labor organization, a consumer of services and a taxpaying group. He said it would be interesting to know how much tax Montana teachers pay. He urged the Committee to pass the legislation.

Jim Tutweiler, Montana Chamber of Commerce, said the "whereases" cover the importance of the bill. He said changes are occurring in the way business is conducted in Montana and will have a great impact on future tax policy. He said the bill would serve a need. A tremendous amount of work was done by the Montana Tax Reform Coalition and the information and lessons derived from that experience would be useful. He said support and resources from the private sector would be available to get the job done and he submitted that organizations such as the Chamber have a responsibility to respond because they do have experience. If the bill passes, the Chamber would be willing to lend their resources and support.

REP. HAL HARPER, House District 52, Helena, said the proposal in the bill had been presented in previous sessions. People don't like studies by task forces but they are necessary to set the focus of public opinion and, at this point in time, the state needs to redirect its attention back to its tax problems. The reason there were so many special sessions in the past was because the ending fund balance was cut too close and because there was a downturn in the economy. He said the bill is a good idea and the structure of the task force could be adjusted. He said it was important that the group is directed to use consensus and every interested group should be included in designing whatever tax policy is recommended. The task force must be appointed from a broad base. **REP. HARPER** recommended that the Speaker of the House appoint two members, the minority leader appoint two, the President of the Senate appoint two, and the Senate minority leader appoint two to make sure no one could say the "committee was stacked." He said he would support the bill and commended Rep. Fuchs for introducing it.

REP. EMILY SWANSON, House District 30, Bozeman, said she would support the bill. She said there had been studies in the past; however, things have changed so much that the process is necessary in an on-going way. There have been attempts in the past that have been frustrated by a lack of a cohesive policy, and, therefore, it is a good idea to look at the long term. She agreed with Rep. Harper that the make-up of the task force should be considered seriously. She also suggested that staffing should be provided for in the bill. She said the scope of the study is overwhelming and an interim committee could not address all the issues. The committee should have the ability to narrow the scope and identify the areas of study it could accomplish and make recommendations on additional issues.

REP. BOB STORY, House District 24, Park City, said this would be the only occasion he would stand before the Committee in support of a bill. He said tax policy is a complicated issue. However, there are models for the process, such as the water planning process, although not as complex. That process consisted of doing scoping meetings, starting with grass roots input, appointing sub-committees to work on various issues, and then bringing them into a process where some consensus had been built.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. JORE said he had noticed that there were no instructions to the task force to develop a tax system philosophy or to identify what the tax system should do. **REP. FUCHS** said he would like to see guidelines developed for use by future Legislatures along the lines of rules developed by the different state agencies. He said the Legislature has no rules and each individual bill is considered separately without any consistency. **REP. JORE** asked if the task force, as identified in the bill, without a specific philosophy of taxation, could come to a consensus on tax reform that would be significantly different from what exists today. **REP. FUCHS** said it would be extremely difficult, as proven in the past, but if the Legislature continues to work on it, a balanced tax structure for Montana can be achieved. **REP. JORE** asked what specific groups would be included in the category of "consumers of government services." **REP. FUCHS** said that could include people who come to Montana, use the services, but pay no taxes, as well as the public in general.

REP. REAM asked the sponsor to address staffing for the Committee. He asked why the appropriation was to the Department of Commerce (DOC). **REP. FUCHS** said there was no particular reason, other than that was the way previous legislation had been drafted. He said he would agree to an amendment to provide for staffing for the task force. He said he anticipated a need for services from the Legislative Fiscal Analyst, the DOR and the DOC.

REP. REAM asked the sponsor if he would agree to the appointments suggested by Rep. Harper. **REP. FUCHS** said he would have no problem with the suggestion.

REP. RYAN said that tax policy would become evident if all the issues identified in the statement of intent were dealt with. **REP. FUCHS** said that was true and that would be the responsibility of the task force. He said that the tax on natural resources is declining rapidly and it will be necessary to determine what will be available to tax in ten or twenty years.

{Tape: 1; Side: B.}

REP. RANEY said the long-term aspect of the bill was a most important point. He said he thought it was important that the minority leaders in each house appoint members to the task force. In recent appointments, the minority leaders' recommendations for appointments have not been followed. To ensure that the minority is represented, it would be necessary for the minority leader to make the appointments. He also commented that two-thirds of the tax revenues are expended on education and one of the people on the task force should represent education. He said the Legislative Council or the Revenue Department would be the appropriate place for funding.

REP. SWANSON asked Mr. Burr to comment on the structure, scope and process proposed in the bill. **Mr. Burr** said the Legislature should be careful not to limit the task force. As the group begins the study they would see where they would have to limit themselves and could determine the scope. Commenting on the structure, he said that where the funding was placed was not that important because the agency would only provide administrative services and would make sure the money is used properly. He suggested allowing the task force to accept private donations which would be helpful in bringing in experts which could be costly. He said he thought private industry would be willing to help.

REP. ARNOTT asked why the Montana Tax Reform Coalition failed. **Mr. Burr** said the make up of the Committee was whoever wanted to show up and it was a broad based group with a semi-formal steering committee. It was obviously a sales tax promoting organization and a lot of people didn't like that aspect. He said a lot of background work was done on the tax structure and what was wrong with it. He said a lot of information the Coalition developed could be made available and would be valuable to the task force. He said they did not consider incremental planning and tried to do everything at once.

REP. MURDOCK said she had a concern with gifts and grants and asked where they would come from. **REP. FUCHS** said he thought they would come from business and industry concerned about the tax structure. **REP. MURDOCK** asked if the sponsor had any concerns about collusion. **REP. FUCHS** said he did not and would prefer to see the task force funded primarily with private funds, without any appropriation. The people of Montana would like to see it funded because the leadership of the Legislature has not come up with a solution.

REP. REAM said he did not agree that the Tax Reform Coalition failed because it did a good piece of work but the bill that was introduced as a result was something the Legislature could not deal with in a 90-day session. He said he had some concern with the timelines outlined in the bill because it requires that a report be prepared within a year. He suggested three years or even five years. **Mr. Burr** said the task force would have to be on-going and it should start before September but it might be difficult to get people to serve on the task force if they would have to commit to five years.

Closing by Sponsor:

REP. FUCHS thanked Committee Members who signed on the bill. He said he felt it was irresponsible for the leadership of the state to restrict the production of resources to environmentalist tax regulation while continuing to increase the state's budget and shift the needed tax revenues to the shoulders of working Montanans. There is a need to aggressively pursue taxation changes in relation to the business climate. The playing field must be leveled to pursue healthy economic growth and good jobs and develop a balance of taxation in reference to all aspects of industry, agriculture, forestry, mining, oil and gas, and tourism. He said he believed there is the leadership and commitment to find and achieve tax balance for Montana and there is a need to be bold and visionary, not apathetic and reactionary. He asked for the Committee's support.

REQUEST FOR COMMITTEE BILL (HB 606)

REP. SOMERVILLE distributed copies of a gray bill providing for a local option sales tax. EXHIBIT 3. He said the bill would help communities cover infrastructure costs and provide local property tax relief. Taxes paid in Montana should be equally and equitably divided among all who live in and use Montana. Numerous visitors travel through and use the infrastructure without directly contributing to the maintenance. In order to add fairness to current tax policy, the cities and counties should be allowed to vote on a local option business services or luxury tax on the goods and services used by the visiting public. These people pay state gasoline tax and federal income tax to support the highway system; but they do not support the infrastructure within cities and counties. The bill provides that the tax cannot exceed 3% on the approval of the voters in the taxing district. He said he would propose an amendment to the gray bill to add a statement of intent. **REP. SOMERVILLE** reviewed the bill by section and suggested areas where the Committee might want to offer amendments.

{Tape: 2; Side: A.}

REP. BOHLINGER asked if the sub-committee had talked with the DOR to learn how much money might be generated for property tax relief if 50% of the total revenues were dedicated to that purpose. **REP. SWANSON** said the only information they had was anecdotal from West Yellowstone. **REP. HARPER** said the bill introduced in 1987 calling for a statewide luxury tax had a fiscal note between $80 and $90 million a year statewide. The figure would have grown and would probably approach $100 million a year at this time.

REP. FUCHS said he had discussed this with the Billings City Manager and, if the City of Billings were to endorse this idea, it would be substantial in terms of tax relief.

REP. ORR asked if the sales tax proposed in the last session had a provision for administrative expense. **CHAIRMAN HIBBARD** said it did have a provision for administrative expenses from the proceeds.

REP. ELLIOTT asked what the retailer would receive for collecting the tax. **Mr. Heiman** said a pre-payment discount is provided to retailers. It would be set by the local government.

CHAIRMAN HIBBARD said the Committee would have to decide whether it wished to accept the report of the sub-committee. **REP. SOMERVILLE** recommended that the Committee go forward with a formal version of the bill, hold a public hearing, and then make a decision on whether it would be good or bad tax policy for the State of Montana.

REP. ELLIOTT asked if the sub-committee had considered the possibility of a local option income tax. **REP. SOMERVILLE** said there were a few counties in Montana that would not benefit from a local option sales tax and it might be a consideration for those counties. However, the sub-committee decided that it would make the bill too broad.

REP. ELLIOTT said he assumed the intention of the discussion was to adopt or reject the sub-committee report. **CHAIRMAN HIBBARD** said that was correct. If adopted, a formal committee bill would be requested and a hearing would be held.

<u>**Motion**</u>:

REP. ELLIOTT MOVED THAT THE SUB-COMMITTEE REPORT BE ADOPTED.

<u>**Discussion**</u>:

REP. HARPER said he would speak against the motion. He said it was impossible to put together tax policy in two weeks and local governments would not have ample opportunity to study the bill.

REP. REAM supported the motion and congratulated the sub-committee for preparing the gray bill. This is the first tax reform bill seen this session and it does have merit. He said he would like to know, before the hearing, what the relationship between the proposed legislation and I-105 would be.

REP. ARNOTT advised that the Billings City Administrator had estimated that the bill would produce approximately $142 million for the Billings community. She said her problem with the bill was that in the last election there had been a sound defeat of the sales tax, yet she heard many people in her district comment that a sales tax was needed.

REP. SWANSON spoke in favor of proceeding with the bill. She said the idea is not new because it has been before the Legislature previously and it will not be an easy task. It has come very close to succeeding in other Legislatures. Tax reform is something the Legislature needs to keep pushing at and the bill is worth debating. Many communities are financially stressed and would want to take advantage of the option.

REP. FUCHS spoke in favor of the bill based on the fact that the Committee passed the Whitefish bill and many other communities should have the opportunity to do the same thing if they wish.

REP. ROSE asked who would get the benefit of the tax relief. **REP. SOMERVILLE** said it focuses on real property and commercial property should be discussed.

REP. NELSON said he was in favor of the bill. He said some of the people who carried the sales tax petition were in favor of a sales tax and yet they became vehemently opposed to the bill that came out because it was poorly crafted. It was restrictive on business and commerce. A lot of people who were opposed to the sales tax might consider this bill because it agrees with what they were in favor of taxing. He said there was overwhelming support of a sales tax in his district and a cry for relief of property tax. This bill represents real tax reform with local control and he would like to see the bill move forward.

REP. ELLIOTT said he was not necessarily in favor of the bill as it stood because it should have more options. He said he did not like local option taxes because they represent "piecemeal" taxation. On the other hand, there is a need for public discussion.

REP. WELLS said he liked the idea but he did not like the approach being used. He said the amount of revenue to be used for property tax reduction should be more than the 50%.

CHAIRMAN HIBBARD said he appreciated the work accomplished by the sub-committee and the fact that the Committee was able to participate in a discussion. He said this was the way tax policy could be advanced. He expressed his administration for the Committee for discussing an issue that was only "brought out of the closet" during the last session with a great deal of difficulty.

<u>Vote</u>:

On a roll call vote, the motion passed 15 - 5.

{Tape: 2; Side: B.}

REQUEST FOR COMMITTEE BILL (HB 601)

Chris Racicot, Montana Building Industry Association, said the Department of Commerce Professional Licensing Division, the Montana Contractors' Association, and the Montana Building Industry Association would like the Committee the consider a bill that would eliminate the fee paid to the Department of Commerce for a public contractors license. **Mr. Racicot** outlined the reasons for the request in EXHIBIT 4.

Steve Meloy, Professional and Occupational Licensing Bureau, DOC, distributed copies of the proposed bill. EXHIBIT 5. He said the "regulation" of public contractors had become problematic for the DOC. He said the DOC Director had moved public contractors to Professional and Occupational Licensing and the problem is that the program is nothing like the other programs administered by the Licensing Bureau. There is no regulating board, no minimum requirements or grounds for discipline. The DOR handled the program in the 1980's and it was then transferred to the DOC and placed in the Building Codes Bureau. The reason it was moved from DOR was for regulation purposes but regulation never happened and the program has now been transferred to Professional Licensing. The program generates revenue but provides no regulation, and therefore there is no need for it. The proposed bill would repeal the act. Unless this situation is fixed, every contractor in the state will have to deal with two separate agencies to get certified and licensed and it is contrary to what the Governor wants to do with government. He said no funding has ever been appropriated to the DOC to run the program. With the blessing of the building industry, the DOC would like to have the act repealed.

REP. ELLIOTT asked for information on the bill sponsored by Sen. Forrester related to the same issue. **Mr. Meloy** said it had passed the Senate and would license all general contractors. All public contractors also have a general contractor license which results in a duplication. The proposed legislation would repeal only the licensing of public contractors.

REP. JORE asked if he assumed correctly that the contractors have been paying annual fees since 1935 and receive no benefits. **Mr. Racicot** said that was correct. The fees have gone to the general fund.

REP. ORR said that in order to consider the proposed bill, he would need more information on SB 354. He asked if it included a fee to be paid by the general contractors. **Mr. Racicot** said the fee they would pay is $80 and would be used to administer the program. The fee currently being paid to the DOC is $250. **REP. ORR** asked if the definition of a general contractor was "anyone who grabs a hammer." **Mr. Racicot** said that was correct. Under SB 354 the contractor would have to be bonded and committed to paying Worker's Comp fees. **REP. ORR** asked if the Senate bill would give the Department of Labor rulemaking authority to set regulations. **Mr. Racicot** said it would.

REP. SOMERVILLE asked for an explanation of the fees and gross proceeds tax paid by contractors. **Lance Melton, Attorney, DOC,** said that if the public contractors act is not repealed, the contractors will have to pay $250 for the old program and $80 for the new program. The gross receipts tax, imposed on public projects, is explained in current law. When a public contractor works on a public project, the gross receipts tax is 1% which is deposited in the general fund. In repealing the license requirement, the definition of public contractor is also repealed and, for purposes of maintaining the gross receipts tax, the definition was added as a new sub-section.

REP. ELLIOTT said he would agree with the intent of the proposed bill. He commented that introducing this bill would be a sensible thing to do.

<u>Motion</u>:

REP. ELLIOTT MOVED TO ACCEPT THE RECOMMENDATION TO DRAFT A COMMITTEE BILL.

<u>Discussion</u>:

REP. ELLIOTT asked what the fiscal impact would be. **Mr. Racicot** replied that it would be $250,000 per biennium that now goes to the general fund.

REP. HARPER said his understanding of the bill was that it did not necessarily have a connection with SB 354. The contractors are now paying the money but not getting any benefit. In all fairness, it should be repealed. **Mr. Racicot** said there was no connection other than the fact that the industry is paying twice and, with the first program, the consumers and the contractors are not protected and, under the second program, they would be.

{Tape: 3; Side: A.}

REP. NELSON asked what the requirements were for out-of-state contractors. **Mr. Racicot** said that under Sen. Forrester's bill, there would be a tremendous amount of protection in comparison to what is available now. If the out-of-state contractor is not registered, there is no protection for the public but under SB 354, if the out-of-state contractor is registered, the individual would be completely absolved of any responsibility.

REP. HARPER said he would support a committee bill.

CHAIRMAN HIBBARD said that regardless of the merits of the bill, the timing presents a problem because a contingent voidness file has been assembled which is now complete. The list will be prioritized and it will move to the floor to coincide with discussion on HB 2. If this bill is passed, the Committee would not have had time for a hearing and action on it. In effect, the bill would be elevated above the bills that have been deliberated in the Committee. If the bill is passed, additional money will have to be found to fund it at a later date.

REP. ELLIOTT said it does present a dilemma, but this is a tax that people are paying that doesn't do anyone any good. It is an increase in the cost of business for the contractor and the cost is passed on to the homeowner who hires the contractor. **REP. ELLIOTT** said his argument would be that if the bill was passed out without a contingent voidness clause, it would be subject to deliberations on HB 2. It could be sent to the Senate without a contingent voidness clause and they could put it on in Senate Taxation. **CHAIRMAN HIBBARD** said he would not disagree.

Vote:

On a voice vote, the motion passed, 15 - 3.

EXECUTIVE ACTION ON HB 582

CHAIRMAN HIBBARD announced that the executive action on HB 582 would consist discussions on the amendments only at this meeting. The reason would be to obtain a revised fiscal note to assist in further deliberations on the bill in its entirety.

Motion:

REP. JORE MOVED THAT HB 582 DO PASS AND THEN MOVED THAT THE PROPOSED AMENDMENTS BE ADOPTED.

Discussion:

REP. JORE said the amendments could clarify that the tax credit would be given for tuition only. EXHIBIT 6. The amendments would remove all references to fees. He said the intent was to make it clear that home schools, or a school that does not charge tuition, would not be included.

REP. ELLIOTT pointed out that in his district there are a number of out-of-state students who go to public schools in Montana and the parents are charged tuition.

REP. SWANSON asked if there had been any discussion about accredited schools. **REP. JORE** said there was not but there may be further amendments dealing with that issue.

Substitute Motion/Vote:

REP. ELLIOTT MOVED THAT THE JORE AMENDMENT BE AMENDED ON PAGE 2, LINE 5, FOLLOWING "TUITION" ADD "TO AN ACCREDITED SCHOOL." On a voice vote, the motion passed 18 - 2.

Discussion:

REP. ELLIOTT commented that the Catholic high schools are accredited but the grade schools are not because they don't have counselors or librarians.

Vote:

On a voice vote, the Jore amendment, as amended, was adopted unanimously.

Discussion:

Mr. Heiman said there were further amendments from Rep. Boharski which would tighten up who the tuition would be paid to -- schools operated by a charitable organization, public schools, and schools operated on a for-profit basis. The amendments also provide clarification of the phase-in credit. EXHIBIT 7.

{Tape: 3; Side: B.}

In response to a number of questions, **REP. BOHARSKI**, without objection, explained how the phase-in factors would work.

Motion/Vote:

REP. JORE MOVED THE BOHARSKI AMENDMENTS BE ADOPTED. On a voice vote, the motion passed unanimously.

Discussion:

Mr. Heiman said further amendments would be needed to make it clear that the tax credit is per child and not per family. An additional amendment would insure that the tax credit would apply to Montana resident children only.

REP. BOHLINGER said he would suggest a discount provision for additional children. He said his children had attended a Catholic school and they paid the full price for the first child and a lesser amount for each additional child.

REP. BOHARSKI said the credit is for $1,000 which is nowhere near the amount a parent must pay for tuition. He said he would be open to any suggestions.

REP. BOHLINGER said it would be a good idea to consult with the private schools to determine what the discount provisions might be.

REP. STORY asked how it would be determined whether the child was a resident. **Mr. Heiman** said he used the language "resides within the school district" so the parent, even though the child might be in a foster home, would receive the credit.

REP. STORY said he didn't understand what the school district had to do with it. **REP. BOHARSKI** said the amendment would take care of the scenario where a parent pays a minimum of income tax in Montana and sends a child to a school out-of-state. He said his preference would have been to have required the parent to be a Montana resident but that might not have passed the constitutionality test.

__Vote__:

On a voice vote, the amendments were adopted unanimously.

__Discussion__:

REP. BOHLINGER said that he had determined that in the Catholic schools in Billings, tuition for the first child is the full amount, the second child receives a 30% discount and the third child receives a 60% discount. Successive children pay 10% of the full tuition amount. **REP. BOHARSKI** said the Committee might want to amend the bill to reduce by 30% the second child and 30% for each additional child.

__Motion__:

REP. BOHLINGER MOVED THE AMENDMENT. The motion passed unanimously.

__Discussion__:

REP. STORY said that adding the accreditation requirement would change the fiscal note.

__Motion__:

REP. ORR MOVED AMEND THE BILL BY STRIKING ON LINE 5, "TUITION TO AN ACCREDITED SCHOOL."

__Discussion__:

REP. ORR said the amendments that have been considered, were to get a new fiscal note. The amendments do affect the cost. He said the accreditation provision will eliminate a lot of private schools. The proper time to debate this issue would be when the bill comes back with a fiscal note as intended by the sponsor.

REP. ROSE asked what would constitute a school. **REP. ORR** said that was the point, he did not think this was the proper time to debate that question. It is a major question.

REP. HARPER said the amendments had been endorsed by the sponsor. He commented that he did not like the bill but he had voted for the amendments. He suggested that the sponsor had the right to get a fiscal note on a bill in any way that he wished it amended.

He said he was not voting on the amendments on the basis of whether they were good or bad.

REP. STORY said that was his point in bringing the issue up. If "accredited" is taken out, it will expand the fiscal note. If the fiscal note is written on the smaller pool, the Committee would still not know what the cost of the bill could be.

Vote:

On a voice vote, the Orr amendment passed.

Discussion:

REP. REAM suggested that the information should be available both ways -- with the accreditation provision and without it.

CHAIRMAN HIBBARD asked the sponsor to request the information in the fiscal note. Further executive action on HB 582 will be delayed until a later date when a new fiscal note is available.

{Tape: 4; Side: A.}

EXECUTIVE ACTION ON HB 558

Motion:

REP. HANSON MOVED TO TABLE HB 558. On a voice vote, the motion passed unanimously.

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CHAIRMAN HIBBARD announced that the next order of business to come before the Committee would be to prioritize the bills on the contingent voidness list.

REP. REAM suggested tying one or two of the negative bills to the one positive bill and coordination language could be added to tie the bills together.

REP. ELLIOTT agreed but said it would still be necessary to prioritize the bills. He proposed that HB 293 be used to fund the highest priority and if there is money left over, it should be used for the next highest priority.

The results of prioritization were:

BILL NO.	TITLE	COST (Million)	PRIORITY
HB 209 Cobb	Establish a minimum standard deduction level for income taxes (1/31)	$ 1.100	3
HB 293 Ream	Electronic funds transfer of withholding of income tax & old fund tax (2/2)	.420 1.808 + $ 2.228	1
HB 90 Feland	Exempt first 3 barrels of stripper oil from state severance tax (2/21)	.466 .475 $ .941	5
HB 567 Hibbard	Revise qualified Montana small business investment capital company (3/8)	.500 .500 $ 1.000	4
HB 535 Harrington	Income tax credit for rehabilitation of historic buildings (3/8)	$ .287	6
HB 497 Bohlinger/ Swanson	Property tax - payment and program reforms (3/14)	$ 3.7	2
TOTAL IMPACT:		**$ 4.82**	

REP. REAM said there would not be enough money in HB 293 to fully fund HB 497; therefore, he suggested using HB 293 to fund HB 209 and HB 567. He said he expected strong support for HB 497 on the House floor.

REP. RYAN said he agreed but he reminded the Committee that bills had also been sent from the Committee without a contingent voidness clause and there would be quite a large tax bill and the floor might not be in a charitable mood.

REP. FUCHS also reminded the Committee that HB 90 was brought before the Committee because of the spike in oil prices, the oil companies had lost an exemption that should now be funded.

Motion:

REP. HARPER MOVED TO ADD COORDINATING LANGUAGE TO HB 209 AND HB 567 TO INDICATE THAT THEY WERE COORDINATED WITH HB 293 AND REMOVE THE CONTINGENT VOIDNESS CLAUSE FROM HB 209 AND HB 567.

Discussion:

REP. HARPER said that removing the contingent voidness clause would indicate that the Committee thought they were high priority bills and have funded them with the money available and it wouldn't be necessary for the Appropriations Committee to approve the Taxation Committee's action.

REP. ELLIOTT asked Rep. Bohlinger how he would feel about partially funding HB 497 rather than fully funding the other two bills.

REP. BOHLINGER said the Committee had expressed their feelings when the vote was taken. HB 497 was the overwhelming preference of the group and it would be a mistake not to fund it with the $2.2 million from HB 293. It would then go to the floor with a smaller fiscal note.

{Tape: 4; Side: B.}

REP. HARPER said the affect of that would be that the prioritization wouldn't mean anything because, unless there is enough money to cover the full cost of the other bills, the contingent voidness language must remain and all the Committee can do is recommend that they do pass on the floor.

REP. ELLIOTT said that illustrated the entire problem with the contingent voidness amendment. He said the bills would go to the Senate where they kill House bills and in this case what would happen is that the money would go to the general fund. He said the amendment obfuscates the issue of the goodness or badness of a bill.

REP. REAM said Jim Staendert of the Budget Office had told him that $2 million of the impact of HB 497 was general fund, therefore, the general fund portion of the bill could be funded by HB 293 but his preference would still be to fund the next two bills rather than HB 497.

REP. ARNOTT said her understanding had been that a list of prioritized bills would be sent to the House floor and they would not be tied to other bills. She asked what would happen if the House were to take out the funding for HB 293 and the $2 million might not be available.

Motion:

REP. ELLIOTT MOVED THAT THE FUNDS IN HB 293 BE TIED TO THE GENERAL FUND PORTION OF HB 497.

Discussion:

REP. HANSON said it was her understanding that Rep. Mercer had indicated that the ranking would be done on the House floor and it was "anybody's money."

CHAIRMAN HIBBARD said "that could be but this is cutting new ground and there isn't anything set in stone anywhere about how this will work." He said the Committee had gone forward with a "good faith" process and he hoped it would be accepted in the spirit in which it was intended.

REP. ROSE said the Committee had spent a lot of time on these bills and its recommendations should be respected.

REP. ELLIOTT said that if the bills are tied together, the contingent voidness clause would be removed from them. Rep. Hanson and Rep. Arnott were referring to bills that still had the clause attached.

REP. REAM said he remembered the Speaker commenting that the bills could be tied together. He said he felt strongly that the Taxation Committee should begin to wield some power.

REP. HARPER said he understood that the Committee was voting on the Elliott motion which would be to remove the contingent voidness clause from HB 497 and the general fund portion be funded by HB 293. If that motion should fail, the Harper motion would remove the contingent voidness clause from HB 209 and HB 567.

REP. RANEY said that if one of the bills fails on the floor, the coordinating language is going to "create a mess."

Vote:

On a roll call vote, the Elliott motion failed on a tie vote, 10 - 10.

Vote:

On a roll call vote, the Harper motion failed, 15 - 5.

Motion:

REP. REAM MOVED TO CHANGE HIS VOTE FROM NO TO YES ON THE ELLIOTT AMENDMENT. The motion passed on a voice vote, 16 - 4 . Therefore, the Elliott motion passed, 11 - 9.

ADJOURNMENT

Adjournment: 12:00 Noon.

Chase Hibbard

CHASE HIBBARD, Chairman

Donna Grace

DONNA GRACE, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL DATE 3/15/1995

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 OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/15/95 BILL NO. ________ NUMBER ____

MOTION: Parents Comm Bill

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	✓	
	15	3

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/15/95 BILL NO. ________ NUMBER ____

MOTION: to proceed with local option tax Committee Bill

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	✓	
	15	5

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/15 BILL NO. ________ NUMBER ____

MOTION: priority tie to 497 (Elliott)

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	✓	

Passed ~~Failed~~ 11 9

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/15 BILL NO. ________ NUMBER ____

MOTION: Harper's tie 293 to =

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	✓	

Failed 10 10

Proxy —

I give my proxy vote to Rep. Jore on Executive Action for HB 558 + 582 on 15 March 1995.

Jack M. Wells

Proxy for Rick Jore on HB 582 Amend.

yes on Bohonski Amends.

With Scott ~~[illegible]~~ ORR on any other Amends.

Rick Jore

EXHIBIT 1
DATE 3/15/95
HB 590

Amendments to House Bill No. 590
First Reading Copy

Requested by Rep. Fuchs
For the Committee on Taxation

Prepared by Lee Heiman
March 14, 1995

1. Page 3, line 26.
Insert: "NEW SECTION. **Section 4. Scope.** The task force may devise a strategy for outlining the scope of its study and prioritizing issues that it will address. It may limit its study to the most important issues. If the task force limits its study, it shall include in its report to the governor and the legislature any plan for addressing the remaining issues."
Renumber: subsequent sections

2. Page 4, line 4.
Page 4, line 11.
Page 4, line 13.
Strike: "6"
Insert: "7"

DISTRIBUTION REQUESTED EXHIBIT 2
BY Rep. Fuchs DATE 3/15/95
HB 590

State's economy helps to create a tax paradox

By DOUG YOUNG
Montana State University

BOZEMAN — During the November election, lots of numbers were generated to support many different points of view on Montana taxes. How could one person's views of Montana's taxes be so different from another's, and why did statewide averages sometimes fail to jibe with many people's gut feelings about taxes?

To a large extent, the differences in perception were due to:

- Declining natural resource taxes that reduced total taxes but increased tax burdens on Montanans.
- Taxpayers seeing the situation differently than did tax spenders.
- Individual situations varied greatly according to where people live, what was happening to their property values, and whether their incomes were keeping up with inflation.

Natural resources

Montana benefited greatly from the "energy crisis" of the 1970's and first half of the 1980's. Not only were jobs created and royalty incomes received, but state and local governments collected considerable amounts of revenue from taxes on coal, oil and gas. In 1985 these amounted to nearly $250 million, or almost a quarter of total tax revenues. Put another way, this was about the amount that a state of Montana's population would raise from a sales tax. According to some people, this WAS our sales tax.

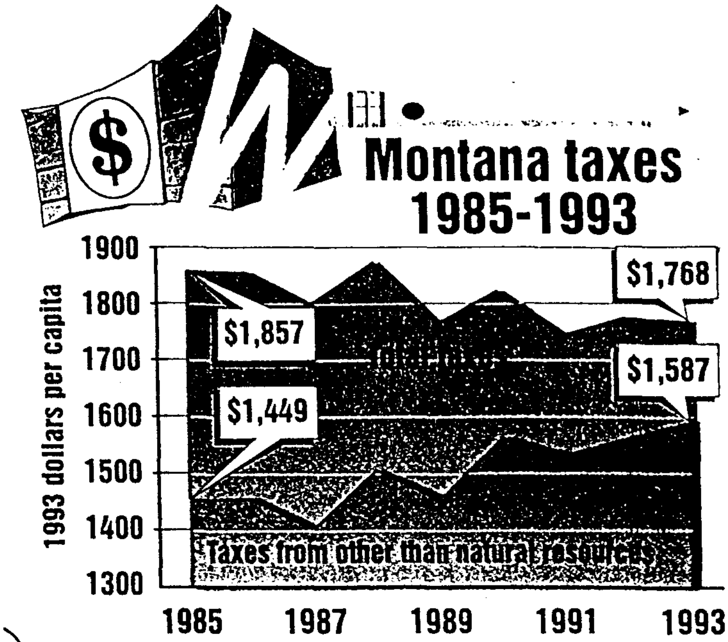
After the collapse of oil prices in the mid-1980's, however, the taxable value of natural resource production declined rapidly. And revenues from resource taxes fell right along with them, to about $120 million in 1994. The decline in natural resource revenues squeezed the budgets of those local governments which had relied on them, especially counties and schools. In part to make up for these losses, other taxes were increased.

These included property tax mill levies on non-resource property, and increases and surcharges on income taxes. These taxes — unlike the natural resource revenues — were paid directly by Montana citizens who felt the bite on their pocketbooks.

Taxpayers vs. tax spenders

To some extent, people will probably always think their taxes are too high, and government officials will think their budgets are too low. But in the last 10 years, there has been more reason than usual for both taxpayers and tax spenders to be concerned. As the accompanying figure shows, total state and local tax revenues per capita, adjusted for inflation, declined after 1985. This means that the purchasing power of the taxes available to the tax spenders was going down, and that budget cuts had to be made or other revenue sources found. To make matters worse (from the viewpoint of the tax spenders), the revenue declines weren't spread evenly over all levels of government or all parts of the state. Instead, as already noted, some county and school governments in rural Montana were hit very hard, while tax revenues actually increased in other areas.

Meanwhile, the typical Montanan was most aware of what he or she was paying in taxes — not how much the government was receiving. And Montanans were definitely paying more in taxes. As the lower line indicates, non-resource taxes — the property, income and other taxes which Montanans are most aware of paying — were increasing. Thus, tax spenders complained that revenues were falling behind inflation and population growth, while Montana taxpayers complained that their taxes were rising faster than inflation. And both were right.



SOURCES: Montana Taxpayers Association and Montana Dept. of Revenue

95 tax

Gazette graphic by JOHN POTTER

Individual differences

Of course not all Montanans' experiences were equally taxing. In the resource dependent counties of Eastern Montana, homeowners experienced declining home values at the same time that their property taxes increased. In the growth areas of Western Montana, higher property taxes often resulted from appreciating property values. Even within counties, individual situations varied a great deal. For example, when residential properties were reassessed in 1993, the average increase in Gallatin County was 10 percent. But 39 percent of residences were actually reappraised downward, lowering their values for tax purposes.

Income in Montana grew faster than inflation during this period. On a per capita basis the rise from 1985 to 1993 was about 9 percent more than inflation. Thus ability to pay was rising for the average Montanan. But averages again conceal the great diversity of experiences of individual Montanans: while some saw rapid growth in income and ability to pay, others saw little change or even declines. Thus, individual Montanans had very different perceptions about taxes, depending on where they lived and what was happening to them personally.

More information on Montana taxes is available in two publications available from MSU Extension Publications, Culbertson Hall, Bozeman, MT 59717. They are Extension Bulletin 129 "Property Taxes Since I-105," which costs $1, and Extension Bulletin 114 "Montana Taxation and Expenditures-1995 Update," for $2.

Doug Young is an economist at Montana State University-Bozeman.

Militia leader says war may be on the way

> "Go up and look legislators in the face, because some day you may be forced to blow it off."
>
> — Samuel Sherwood, leader of the U.S. Militia Association

BOISE, Idaho (AP) — The leader of the U.S. Militia Association says civil war could be coming, and with it the need to shoot Idaho legislators.

"Go up and look legislators in the face, because some day you may be forced to blow it off," Samuel Sherwood said in Boise on March 2, according to the latest edition of the Boise Weekly.

Friday, Sherwood said the quote was essentially correct.

"I said something about, 'You may have to be shooting them in the face,' and that may well happen," Sherwood said.

Sherwood, who leads the Blackfoot-based U.S. Militia Association, has appeared with a few statewide Republican leaders this year. But many GOP officials called his new predictions "frightening" and "uncivilized."

Sherwood, whose writing has advocated using militias to defy federal law, predicted on Friday that some Idaho lawmakers will betray Idaho and cling to Washington, D.C., when and if civil war erupts. Hence the need to shoot them, he said.

Sherwood has organized militia associations in several Idaho counties and in other Western states. He says history shows politicians frequently pick the wrong side in a revolution, and today's politicians are no different.

But Attorney General Alan Lance said Sherwood's warnihg "shows a lack of sensitivity and judgment," and Lt. Gov. Butch Otter condemned the remarks.

"Those of us who have for many, many years worshipped at the altar of individual liberty, private property, the Ninth, 10th and Second amendments to the Constitution, are done a great disservice, I believe, by comments such as that."

Otter attended the militia association's March 2 gathering, but left early after declaring he was "amongst friends." But on Friday he said militia supporters "violate the very covenants that they espouse to protect in the Constitution with statements like that."

Republican Gov. Phil Batt also is leery of Sherwood's comments.

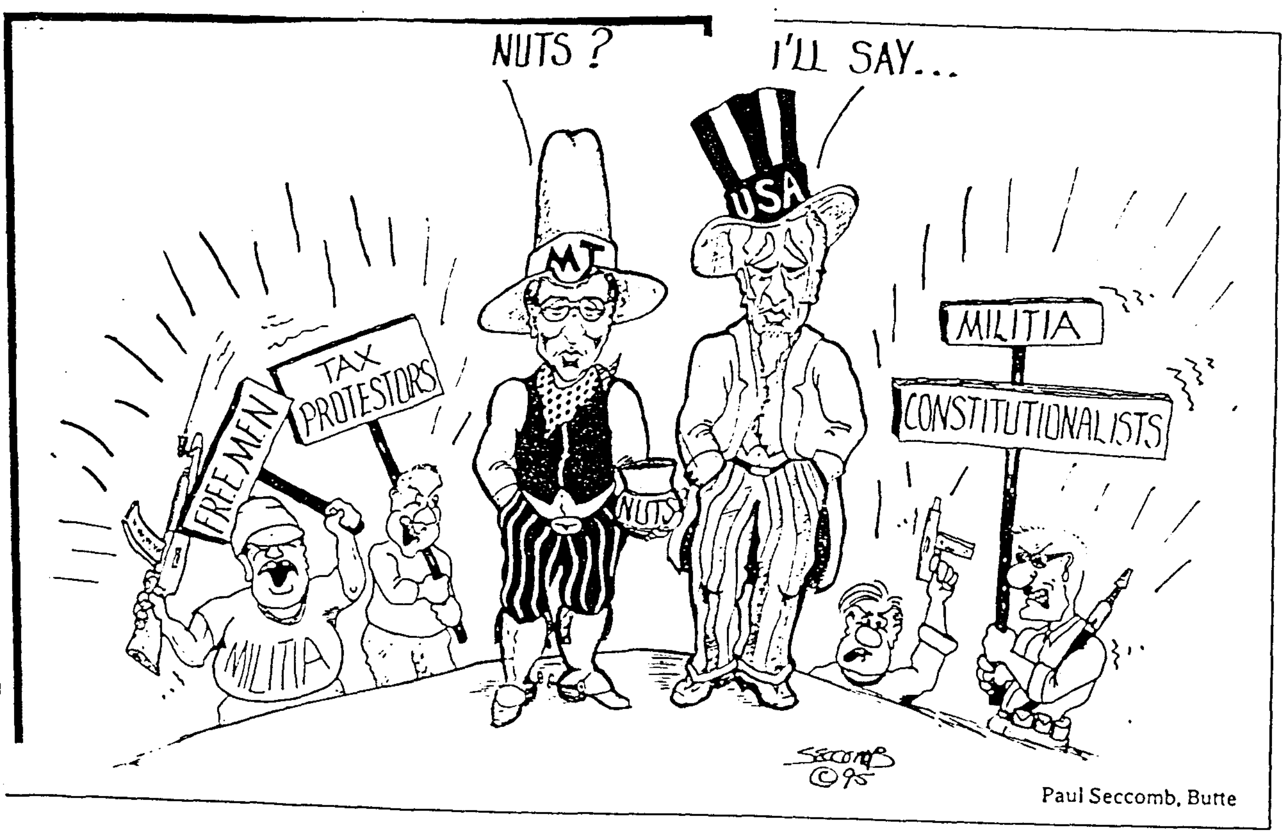
"He has no problem with people gathering or organizing peacefully under the law, but he does not support anyone who would condone violence," Batt spokeswoman Amy Kleiner said.

State Rep. Wendy Jaquet, D-Ketchum, called Sherwood's warning "extremism at its worst," and state Sen. Rod Beck, R-Boise, called it "clearly an irresponsible statement."

But state Schools Superintendent Anne Fox would not publicly question her militia association allies, who manned phone banks and worked vigorously to assure her election. She declined comment after hearing Sherwood's remarks.

Sherwood said the media are being irresponsible by focusing on inflammatory matters.

"The press had better stop trying to fan the flames of people's fear and paranoia," he said, warning it could lead to confrontation or "self-immolation."



Paul Seccomb, Butte

DISTRIBUTION REQUESTED BY Rep. Galvin

EXHIBIT 3
DATE 3/15/95
~~HB~~ Gray Bill

**** Bill No. ***

Introduced By *************

By Request of *************

A Bill for an Act entitled: "An Act providing for an optional local government tax on the sale of luxuries; providing a definition of luxuries; providing that the tax rate may not exceed 3 percent; providing that the tax may not be imposed without the approval of the electorate of the local government imposing the tax; providing for coordination and distribution of revenue of the tax where a county and municipalities in the county both levy the tax; an providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 7], the following definitions apply:

(1) "Governing body" means the governing body of a local government.

(2) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.

(3) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(4) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.

NEW SECTION. **Section 2. Local option luxuries tax authority -- specific delegation.** As required by 7-1-112, [sections 1 through 7] specifically delegate to the electors of each respective county, consolidated city-county government, incorporated city, and incorporated town the power to authorize their local government, within its boundaries, to impose a local option luxuries tax as provided in [sections 1 through 7].

NEW SECTION. **Section 3. Limit on local option luxuries tax rate -- goods subject to tax.** (1) The rate of the local option luxuries tax must be established by the election petition or resolution provided for in [section 4], but the rate may not exceed 3%.

(2) (a) The luxuries tax is a tax on the retail value of all goods and services sold within the local government jurisdiction by the following establishments:

(i) hotels, motels, and other lodging or camping facilities;

(ii) restaurants, fast food stores, and other food service establishments;

(iii) taverns, bars, night clubs, lounges, and other public establishments that sell beer, wine, liquor, or other alcoholic beverages;

[(iv) agency liquor stores, except when sold to a retail licensee for the purpose of resale;] and

(iv) destination ski resorts and other destination recreational facilities.

(b) Establishments that sell luxuries must collect a tax on such luxuries.

NEW SECTION. **Section 4. Local option luxuries tax -- election required -- procedure.** (1) A local government may not impose or, except as provided in [sections 5 or 6], amend or repeal a local option luxuries tax unless the local option luxuries tax question has been submitted to the electorate of the local government and approved by a majority of the electors voting on the question.

(2) The local option luxuries tax question may be presented to the electors by a petition of the electors as provided by 7-1-4130, 7-5-132, and 7-5-134 through 7-5-137 or by a resolution of the governing body of the local government.

(3) The petition or resolution referring the taxing question must state:

(a) the rate of the local option luxuries tax;

(b) the duration of the local option luxuries tax;

(c) the date when the tax becomes effective, which date may not be earlier than 35 days after the election; and

(d) the purposes that may be funded by the local option luxuries tax revenue.

(4) Upon receipt of an adequate petition, the governing body may:

(a) call a special election on the local option luxuries tax question; or

(b) have the local option luxuries tax question placed on the ballot at the next regularly scheduled election.

(5) The question of the imposition of a local option luxuries tax may not be placed before the electors more than once in any fiscal year.

NEW SECTION. **Section 5. Local option luxuries tax administration.** (1) Not less than 30 days prior to the date on which the local option luxuries tax becomes effective, the governing body shall enact an administrative ordinance governing the collection and reporting of the local option luxuries taxes. This administrative ordinance may be amended at any time that is necessary to effectively administer the local option luxuries tax.

(2) The administrative ordinance must specify:

(a) the times that taxes collected by businesses are to be remitted to the governing body;

(b) the office, officer, or employee of the governing body responsible for receiving and accounting for the local option luxuries tax receipts;

(c) the office, officer, or employee of the governing body responsible for enforcing the collection of local option luxuries taxes and the methods and procedures to be used in enforcing the collection of local option luxuries taxes due; and

(d) the penalties for failure to report taxes due, failure to remit taxes due, and violations of the administrative ordinance. The penalties may include:

(i) criminal penalties not to exceed a fine of $1,000 or 6 months' imprisonment, or both;

(ii) civil penalties if the governing body prevails in a suit for the collection of local option luxuries taxes, not to exceed 50% of the local option luxuries taxes found due plus the costs and attorney fees incurred by the governing body in the action;

(iii) revocation of a county or municipal business license held by the offender; and

(iv) any other penalties that may be applicable for violation of an ordinance.

(4) The administrative ordinance may include:

(a) further clarification and specificity in what constitutes the retail sale of goods that are subject to the local option luxuries tax consistent with [section 3];

(b) authorization for business administration and prepayment discounts. The discount authorization may allow each vendor and commercial establishment to withhold up a percentage of the local option luxuries taxes collected to defray their costs for the administration of the tax collection.

(c) other administrative details necessary for the efficient and effective administration of the tax.

NEW SECTION. **Section 6. Local option luxuries tax -- distribution of proceeds by countywide tax -- double taxation prohibited.** (1) A local option luxuries tax imposed by a county must be levied countywide, and unless otherwise provided by agreement with municipalities, the county shall distribute luxuries tax revenue in the following manner:

(a) 50% of the amount collected must be distributed to the municipalities and the county based on the ratio of the population of the municipalities to the population of the county derived from the most recent population estimates provided by the U.S. bureau of the census or, if estimates are not available, derived from the 1990 census; and

(b) 50% of the amount collected must be distributed to the municipalities and the county based on the point of origin of the local option luxuries tax revenue.

(2) Before making a distribution under subsection (1), a county shall make a pro rata deduction for its administrative expenses.

(3) A local option luxuries tax may not be levied on the same person or transaction by more than one local government. If the electorate of a county approves a local option luxuries tax after the electorate of a municipality in the county has approved a local option luxuries tax on the same transaction at the same or a higher rate, transactions in the municipality are exempt from the county tax as long as the municipal tax is in effect. If the municipal tax is at a lower rate than the county tax, the governing body of the municipality shall repeal its tax without a

vote of the electorate.

NEW SECTION. **Section 7. Local government tax -- property tax relief.** (1) Annually anticipated receipts from the local option luxuries tax must be applied to reduce the local government property tax levy for the fiscal year in an amount equal to at least 50% of the local option luxuries tax revenue derived during the preceding fiscal year. The property tax reduction may be implemented only by a reduction in the number of mills levied.

(2) A local government that received more local option luxuries tax revenue than had been included in the annual budget shall establish a local government property tax relief fund. All local option luxuries tax revenue received in excess of the budget amount must be placed in the fund. The entire fund must be used to replace local government property taxes by a reduction in the number of mills levied by the local government in the ensuing fiscal year.

NEW SECTION. **Section 8. Coordination instruction.** If House Bill No. 574 is not passed and approved, then the bracketed material in [section 2(3)(a)] is void.

NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 1995.

-END-

MBIA
Montana
Building
Industry
Association

EXHIBIT 4
DATE 3/15/95
HB

Christopher J. Racicot
Executive Director
Suite 4D, Power Block
Helena, Montana 59601
(406) 442-4479
(406) 442-4483 Fax

March 15, 1995

Representative Chase Hibbard
House Taxation Committee
Montana State Legislature
Helena, Montana 59620

Re: Proposed Committee Bill for the Public Contractors License Program

Dear Representative Chase Hibbard and Committee Members:

The Montana Building Industry Association and the Montana Contractors Association are organizations comprising nearly 1,500 building trade businesses from the around the state of Montana. The MBIA and the MCA are industry leaders in encouraging professional and responsible business and building principles.

It is for these reasons and the following that the MBIA, MCA and DOC requests that the House Tax Committee consider a committee bill to abolish the Public Contractors License Program. The following is a brief explanation about the Public Contractors Program to date.

For 60 years the public and the construction industry have been lead into believing that they were protected through a program known as the Public Contractors Licensing Program.

The consumers of Montana have thought they had protection by hiring contractors who claim to be licensed with the State through this program when in-fact there is absolutely no minimum qualifications and no enforcements and consequently no recourse. The industry has been mislead similarly yet has had to divvy up millions of dollars in addition to receiving no services.

-Program initiated in 1935
-Estimated Montana State General Fund contribution to date - $45,000,000 to $50,000,000
-No minimum qualifications to become a public contractor
-No enforcement or disciplinary capabilities with program
-No consumer protection with program
-No construction industry services provided from program
-2 Revenue Sources
    (1) Annual Fees estimate $250,000
    (2) Annual Gross Receipts Tax estimate $1,000,000

With this bill, we (the MBIA, MCA, DOC) are proposing to repeal all portions of this program except the Gross Receipts Tax revenue section. This again would be done for those reasons outlined above and one additional reason. Senator Gary Forrester has introduced SB 354, a contractors registration bill, that would take the place of this program and provide many more protections to the consumer, the construction industry and the State of Montana.

Further, without eliminating this first program, contractors will have to be registered with both the Department of Labor and Industry and the Department of Commerce, pay two fees - one of which is merely an excise tax and continue to be taxed unfairly.

Please give your favorable consideration this proposal.

Sincerely,

Christopher J Racicot
Executive Director, MBIA

Enclosures

~~HB 29~~ PUBLIC CONTRACTORS

PROGRAMS & SERVICES PROVIDED FOR BOARDS IN POL FUNDED BY LICENSE FEES

1. Evaluating Qualifications
2. Examining Applicants
3. Issuing Licenses
4. Issuing Licenses by Reciprocity
5. Mandating Continuing Education
6. Monitoring Continuing Education
7. Implementing Impairment Programs
8. Conducting Peer Reviews
9. Processing Complaints
10. Filing Injunctions for Non-Licensed Practice
11. Conducting Investigations
12. Imposing License Sanctions
13. Monitoring Compliance
14. Implementing Rule Changes
15. Conducting Administrative Hearings
16. Processing Renewals

PROGRAMS & SERVICES PROVIDED FOR PUBLIC CONTRACTORS FUNDED BY LICENSE FEES

1. Issuing Licenses
2. Processing Renewals

CD Draft Copy

Printed 8:14 am on March 15, 1995

EXHIBIT #5
DATE 3/15/95
~~HB~~ Gray Bill

**** Bill No. ***

Introduced By *************

By Request of *************

A Bill for an Act entitled:

"AN ACT REPEALING THE LICENSE REQUIREMENT FOR PUBLIC CONTRACTORS; REPEALING SECTIONS 37-71-101, 37-71-102, 37-71-103, 37-71-104, 37-71-105, 37-71-201, 37-71-202, 37-71-203, 37-71-204, 37-71-211, 37-71-212, 37-71-213, 37-71-301, AND 37-71-302, MCA, AMENDING SECTIONS 15-50-205 and 15-50-206, MCA, AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

<u>NEW SECTION.</u> **Section 1. {standard} Repealer.** Sections 37-71-101, 37-71-102, 37-71-103, 37-71-104, 37-71-105, 37-71-201, 37-71-202, 37-71-203, 37-71-204, 37-71-211, 37-71-212, 37-71-213, 37-71-301, and 37-71-302, MCA, are hereby repealed.

{Internal References to 37-71-101:
15-50-205 15-50-206 37-71-204
Internal References to 37-71-102: None.
Internal References to 37-71-103: None.
Internal References to 37-71-104: None.
Internal References to 37-71-105: None.
Internal References to 37-71-201: None.
Internal References to 37-71-202: None.
Internal References to 37-71-203: None.
Internal References to 37-71-204: 15-50-205
Internal References to 37-71-205: None.
Internal References to 37-71-211: None.
Internal References to 37-71-212: None.
Internal References to 37-71-213: None.
Internal References to 37-71-301: None.
Internal References to 37-71-302: None.}

Section 2. Section 15-50-205, MCA, is amended to read:

"15-50-205. ~~Additional license~~ ~~t~~<u>T</u>ax imposed <u>on gross receipts</u>

<u>from public contracts</u>. (1) ~~In addition to the fees enumerated in 37-71-204, e~~ <u>E</u>ach public contractor, unless he constructs or works on a federal research facility, shall pay to the department of revenue a~~n additional~~ license fee in a sum equal to 1% of the gross receipts, as defined in 15-50-101, from public contracts during the income year for which ~~the license is issued~~ <u>the public contractor receives payment</u>.

(2) The ~~additional~~ license fee shall be computed upon the basis of the entire contract for each separate contract let by any of the public bodies as specified in ~~37-71-101(3)~~ <u>this section</u>.

<u>(3) A "public contractor" within the meaning of this section, includes any person who submits a proposal to or enters into a contract for performing public construction work in the state with the federal government or state of Montana, or with any board, commission, or department thereof, or with any board of county commissioners or any city or town council, or with any agency of any of them, or with any other public board, body, commission, or agency authorized to let or award contracts for any public work when the contract cost, value, or price thereof exceeds the sum of $5,000.</u>

<u>(4) The term "public contractor" includes subcontractors undertaking to perform work within their field of contracting and covered by the original contract or any part thereof, the contract cost, value, or price of which exceeds the sum of $5,000.</u>"

{*Internal References to 15-50-205: None.*}

Section 3. Section 15-50-206, MCA, is amended to read:

"**15-50-206. Withholding license fee from payments -- refunds.** (1) The prime contractor shall withhold the additional 1% license fee from payments to his subcontractors and inform the department of revenue on prescribed forms of the amount of the additional 1% license fee in his account to be allocated and transferred to the subcontractor. The notification to transfer portions of the additional 1% license fee must be filed within 30 days after each payment is made to subcontractors. If any prime contractor fails to file the required allocation and transfer report at the time required by or under the provisions of this chapter, a penalty computed at the rate of 10% of the additional 1% license fee withheld from subcontractors shall be due from the prime contractor.

(2) The state, county, city, or any agency or department thereof, as described in ~~37-71-101(3)~~ 15-50-205 for whom the contractor is performing public work shall withhold, in addition to other amounts withheld as provided by law, 1% of all payments due the contractor and shall transmit such moneys to the department of revenue. In the event that the 1% of gross receipts, as defined in 15-50-101, is not withheld as provided, the contractor shall make payment of these amounts to the department within 30 days after the date on which the contractor receives each increment of payment for work performed by the contractor.

(3) Any overpayment of the 1% of gross receipts, as defined in 15-50-101, withheld or paid by any contractor hereunder shall be refunded by the department of revenue at the end of the income year upon written application therefor."

{*Internal References to 15-50-206: None.*}

NEW SECTION. **Section 4. {standard} Effective date.** (1) [Sections 1-3 and this section] are effective on passage and approval.

NEW SECTION. **Section 5. Coordination instruction.** If Senate Bill 354 is not passed and approved, then [this act] is void.

-END-

EXHIBIT 6
DATE 3/15/95
HB 582

Amendments to House Bill No. 582
First Reading Copy

Requested by Rep. Jore
For the Committee on Taxation

Prepared by Lee Heiman
March 14, 1995

1. Page 1, lines 21 and 22.
Strike: "it is" on line 21 through "portion of" on line 22

2. Page 1, line 23.
Strike: "and"
Insert: "are"

3. Page 2, line 6.
Strike: "and fees"

4. Page 2, lines 26 and 27.
Strike: "other" on line 26 through "residence" on line 27
Insert: "that charges tuition"

EXHIBIT 7
DATE 3/15/95
HB 582

Amendments to House Bill No. 582
First Reading Copy

Requested by Rep. Boharski
For the Committee on Taxation

Prepared by Lee Heiman
March 13, 1995

1. Page 2, line 6.
Strike: "and fees"

2. Page 2.
Following: line 8
Insert: "(c) To qualify for a credit under this section, tuition must be paid by the taxpayer to a third party, which may be:

(i) a school operated by a nonprofit entity with tax-exempt status under 26 U.S.C. 501(c)(3);

(ii) a public elementary or secondary school operated under Title 20; or

(iii) a school operated on a for-profit basis, in which case the tax identification number of the person or entity operating the school must be included by the taxpayer when claiming the credit granted under this section."

3. Page 2, line 15.
Following: "December 31, 1996"
Insert: ", but only for the amount by which those expenses have increased from the tax year beginning January 1, 1994"

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 590

DATE 3/15/95 SPONSOR(S) Rep Mucks

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Jim Tutwiler	MT CHAMBER	590		✓
Russ Ritter	Wash Corp			✓
Eric Feaver	MEA	590		✓

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