

MINUTES

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

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on March 22, 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. 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:

Rep. John C. Bohlinger (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: SB 407
SB 397
HB 598
HB 601

Executive Action: HB 590 - Do Pass as Amended
SB 138 - Concur as Amended
HB 598 - Do Pass
HB 601 - Do Pass as Amended
HB 582 - Tabled

{Tape: 1; Side: A.}

HEARING ON SB 407

Opening Statement by Sponsor:

SEN. "CHUCK" SWYSGOOD, Senate District 17, Dillon, presented SB 407, a bill to establish the value of industrial garnets and associated byproducts for the net proceeds tax. Garnets were omitted from the legislation passed in 1991. None are mined in Montana at the present time but they expect to start this year. The bill establishes the price at \$20 per ton and the price will increase yearly in relation to the Consumer Price Index. At the request of the Department of Revenue, producers of less than 1,000 tons would be exempt. He said the Department of Revenue (DOR) supported the bill in the Senate.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, rose in support of SB 407. He said that over the years it has become apparent that the net proceeds concept does not work well for local governments or for companies. This is one of the last net proceeds tax laws on the books. The problem for local governments in the past has been unpredictability of revenue and in some years there is a lot of overburden to remove which drives up expenses and there is nothing left to go on the tax rolls. The changes that have been made have not reduced anyone's tax. The bill will make tax collections predictable for local government and tax projections predictable for companies and the changes will be beneficial to both entities. He urged the Committee to support SB 407.

High Moore, Cominco American, said his company will be entering the industrial garnet mining business in the Alder area. The project will be reclamation and mining of the old Alder gold mining areas. Industrial garnets have become very useful for industrial purposes to replace silica which produces health hazards. He asked for the Committee's favorable support.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. ELLIOTT asked for a broader explanation of the use of garnets. Mr. Moore said sandblasting is the primary use. Another use is filtration of water systems.

Closing by Sponsor:

SEN. SWYSGOOD thanked the Committee for the hearing. He said he was attempting to bring one of the last net proceeds taxes into the same realm as the others. He explained that the operation at

Alder will also include a reclamation project. He said he would appreciate the Committee's support.

HEARING ON SB 397

Opening Statement by Sponsor:

SEN. DOROTHY ECK, Senate District 15, Bozeman, said the Legislature had passed a bill that allowed for taxation of governmental entities that are rented out for profit. At the time the bill was passed, the Legislature was looking at federal property. The City of Bozeman has leased two houses for use in the homeless program and found they were receiving a large tax bill. The bill would allow property leased from a governmental property by a non-profit institution for charitable purposes to be tax exempt. She said this was a worthwhile bill and would allow the use of leased property for charitable purposes.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. WELLS asked if only two properties were involved. **SEN. ECK** said there were only two at the present time but the properties come up quite often. They are negotiating for the use of the old Army Reserve building at the present. **REP. WELLS** asked what was meant by a "minimal" fiscal note. **SEN. ECK** said it was about \$3,600.

REP. STORY asked how "public charities" was defined. **SEN. ECK** said it is in the section of the law that defines tax exempt property. She said it had been suggested that Revenue Oversight might want to look at the issue.

REP. ROSE asked if this would create competition with private ownership in the Bozeman area. **SEN. ECK** said competition in Bozeman is almost non-existent but, even if it weren't, there is always a need for taking care of people in need and Bozeman is noted for not having a homeless program.

REP. HARPER asked if the property is used solely for charitable purposes. **REP. ECK** said it was. The DOR has looked at the bill carefully.

Closing by Sponsor:

SEN. ECK asked for the Committee's support of what she felt was a very good bill.

HEARING ON HB 598**Opening Statement by Sponsor:**

REP. CHASE HIBBARD, House District 54, Helena, said the bill was the result of a request from the DOR for a committee bill.

Informational Testimony:

Dave Woodgerd, Attorney, Department of Revenue, explained that the bill concerns the Department's duty to ensure that assessment notices and other tax documents are sent to the appropriate persons. A copy of Mr. Woodgerd's testimony is attached. EXHIBIT 1.

Proponents' Testimony:

Randy Wilke, Property Assessment Division, DOR, said the most important element of the property taxation system is the ownership information. That information is the "reservoir" of information used by local governments to meet the demands of taxpayers for mailing assessment and tax notices and for jury lists. Mr. Wilke provided an example which illustrates how the process would work if HB 598 is passed. EXHIBIT 2.

{Tape: 1; Side: B.}

Mr. Wilke submitted copies of correspondence he had received following the Kasun court decision which prompted the request for this legislation. EXHIBIT 3. He also called attention to a letter from Anaconda-Deer Lodge County which opposes the bill because it doesn't go far enough. EXHIBIT 4. Mr. Wilke said that passing the legislation would eliminate the need to file an appeal in the Kasun decision.

Paul Stahl, Deputy County Attorney, Lewis and Clark County, spoke in support of the bill because County Clerk and Recorders do not want to be responsible for whether a deed is valid or not. When the actual owner of a piece of property cannot be determined, it causes a lot of problems for county governments. The bill will help to eliminate some of those problems.

Chuck Carlson testified on behalf of Chief Executive Jack Lynch and County Attorney Robert McCarthy, Butte Silver Bow County. He indicated that the legislation is very important to Butte Silver Bow County.

Debbie Jursich, Supervisor of Office Operations, DOR Region 6 Property Assessment Division, said she had been actively involved in transfers of property. As proposed, the bill would grant statutory authority to question breaks in the chain of title and allow them to retain the last ownership on the property along with the new ownership. If the law is not changed to allow them to question breaks in the chain of title, property taxes could become delinquent and the county could take the property which would cause frustration for the taxpayers and place the county in a precarious position for possible lawsuits. She presented examples of recorded documents from Butte Silver Bow and Anaconda Deer Lodge counties that contain breaks in the chain of title. EXHIBIT 5.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. STORY asked who would get the assessment notice when there is a break in the chain of title. **Mr. Wilke** said both parties would receive a copy of the notice. The DOR staff will work with the individuals in an effort to determine the current owner. Most of the problems are the result of human error.

REP. ARNOTT referred to the comment that the bill "didn't go far enough." She asked what was needed to make the law more effective. **Mr. Woodgerd** said they could draft amendments to make it more strict. The Department's concern was that it would put the DOR in the middle of determining the owner of the property and the Department did not want to assume that role. The bill was drafted as an alternative that says they will note the problem by putting both names on the notice to assure that everyone is aware of the problem and let them work it out.

Closing by Sponsor:

REP. HIBBARD closed.

HEARING ON HB 601

Opening Statement by Sponsor:

REP. ROGER SOMERVILLE, House District 78, Kalispell, said the intent of HB 601 is to repeal legislation passed in 1935 establishing the contractor's license program. The original program required all contractors working on publicly-funded projects to pay a fee to become licensed by the Department of Commerce. Since that time, approximately \$50 million has been collected for deposit in the general fund. There are no minimum qualifications to become a contractor and there are no enforcement or disciplinary capabilities in the program, and

there is no consumer protection. He advised that a Senate bill has been introduced, and is proceeding through the system, which establishes a program for licensure and bonding of independent contractors and will provide consumer protection. He said he would offer an amendment during executive action to coordinate this bill with other sections of the law.

Proponents' Testimony:

Jeff Miller, Administrator of Miscellaneous Tax, DOR, said the Department would take no position on this bill. He explained that the license is associated with the Public Contractor's Tax and, to make it workable, some amendments would be necessary. A summary of the amendments is contained in EXHIBIT 6.

SEN. GARY FORRESTER, Senate District 8, said the bill is long overdue and he complimented the Montana building industry for bringing the bill forward. He said he believed that if the state collected money, it should provide services, and this was a good example of the state taking money and doing nothing for it. He said the program had always been worthless and the time had come to get rid of it.

{Tape: 2; Side: A.}

Mark Lindsay, Montana Building Industry Association, spoke in support of the bill. A copy of his testimony is attached. EXHIBIT 7.

Don Bost, Lewistown, said he agreed with the other proponents and would appreciate the Committee's support.

Jim Kembel, Helena, said he agreed with the proponents. There are no benefits to the public. He encouraged the Committee to repeal the law.

Carl Schweitzer, Montana Contractors Association, provided some history of the Act. He said it was originally created to provide for licensure of contractors based on minimum qualifications. The bill was amended several years ago and all that remained was the fee. He said the Contractors Association supports the amendments offered by the DOR. The purpose of the gross receipts tax is to give Montana contractors a 1% edge in bidding in Montana because all contractors who do public work pay the tax but the Montana contractor can take a credit on their income tax return. He said it is not necessary to have both a registration act and a licensing act in the statutes and they support SB 354 which puts some teeth into regulating construction in Montana.

Steve Meloy, Bureau Chief, Department of Commerce (DOC), said the program was transferred to the DOC in 1983 although no appropriation was ever made to fund the program. He agreed that the program is worthless and he urged the Committee to support HB 601.

Chris Racicot, Montana Building Industry Association, said he would concur with the other proponents and the DOR technical amendments.

Chuck Hunter, Department of Labor and Industry (DOL), said the DOL would be the agency that would receive the contractor registration program under SB 354. The way that program is set up would be for all contractors in the state to register with the DOL and pay an \$80 fee beginning July 1, 1996. He said there will be a financial disincentive for contractors to register prior to July 1, 1996 and the Department sees a need for education. To avoid a huge rush of business prior to July 1, 1996, and to avoid a large non-compliance program, they will be asking for an appropriation under HB 2 for start-up funds for the program. If HB 601 does not pass, they would propose that the license fees for the next fiscal year be transferred to the DOL. That would give them the funds they need for education and start-up costs. He asked the Committee to consider amendment of the bill to transfer the funds to the DOL.

REP. JIM ELLIOTT, House District 72, Trout Creek, rose in support of the bill because he had never heard a bill where so many proponents called the act "worthless."

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

REP. SOMERVILLE closed.

EXECUTIVE ACTION ON HB 590

Motion:

REP. FUCHS MOVED THAT HB 590 DO PASS.

Discussion:

REP. FUCHS spoke to his motion. He said everyone recognizes that the tax structure/balance in Montana needs to be examined. It is the Legislature's responsibility to continue to look at ways to balance taxation and, at the same time, bring the public into the discussion so they understand what has happened over the last ten years in relation to taxes in Montana.

CHAIRMAN HIBBARD asked Rep. Fuchs what his expectation of the results of the bill might be. **REP. FUCHS** said bringing the

public in and having them become more educated in relation to taxation was important. He said many things have been done that the taxpayers haven't approved of. The press has not done a good job in the past. Setting up a tax policy task force and encouraging the press to be more helpful would get the information out to the public on what has happened in the past. He said it was also important to be proactive and look at the industries that will be taxed in the future if the state is to continue on a path toward a cleaner environment in relation to industry and natural resources. It will be necessary to look at alternatives for taxation. The people of Montana should be a part of the decisions that will have to be made.

REP. REAM said he and Rep. Fuchs would recommend some amendments to the bill. EXHIBIT 8. The amendments would provide for an immediate effective date, delete the reference to "consensus," attach the task force to the Department of Revenue rather than the Department of Commerce for administrative purposes, provide for staffing by the Legislative Fiscal Analyst, and revise the method of naming members to the Committee.

Motion:

REP. REAM MOVED THE AMENDMENTS BE ADOPTED.

Discussion:

REP. SOMERVILLE asked Rep. Ream if he would support the amendments if he were a member of the majority party. **REP. REAM** said he would because there have been problems in the past in appointing committees.

REP. HARPER said he had submitted the same amendments in two different sessions of the Legislature. The amendment would provide for a bi-partisan committee and the Governor, the Speaker, and the President of the Senate would not have to "take the full heat" of the recommendations.

REP. SWANSON spoke in favor of the amendments.

REP. WELLS asked if the vote would be on all the amendments. **CHAIRMAN HIBBARD** said the motion covered the amendments in their entirety.

Motion:

REP. WELLS MOVED TO SEGREGATE AMENDMENTS 4, 5 AND 6 FROM THE WHOLE.

Discussion:

REP. WELLS said he would prefer to leave the bill the way it was written because the Speaker can consult with the minority leader

and determine whether he thinks what is recommended is appropriate.

REP. ELLIOTT asked for an explanation of the rule on segregation of amendments.

{Tape: 2; Side: B.}

REP. HARPER said the Constitution guarantees one subject matter for one bill and guarantees every member a right to vote. Therefore, he said Rep. Wells should have the right to segregate any amendment. The House Rules say that any Representative may move to divide a question and it is up to the Committee to vote on the motion. **REP. HARPER** said he was of the opinion that the Chairman could grant the request and, if any member protests, the Committee could be forced to go to a vote.

CHAIRMAN HIBBARD said there had been segregation of amendments in the Committee in the past and, rather than debate the procedure, he said he would allow Rep. Wells' request.

The question was called on amendments 1, 2, 3, 7, 8 and 9.

Vote:

On a voice vote, the motion passed.

Motion:

REP. WELLS MOVED THAT AMENDMENTS 4, 5 AND 6 DO NOT PASS.

Discussion:

REP. RANEY said that anyone in the minority would want these amendments because the recommendations of the Minority Leader are not always accepted by the Speaker of the House.

Substitute Motion:

REP. ELLIOTT MOVED THAT AMENDMENTS 4, 5 AND 6 DO PASS.

Discussion:

REP. ELLIOTT said, as a member of the minority party, he agreed with Rep. Raney. He pointed out that the Committee has worked together irrespective of political party throughout the session. The selection of a committee of this magnitude should not be a political process. If the amendments do not go on, the Committee and the bill will have become politicized to an extent. He said he knew the members of the majority party have implicit faith in Speaker Mercer's "even handed and good judgment," but experience in the past has been that the minority party gets punished by the majority party, no matter which party is in the majority. He said it is extremely important to the minority party that they

have members of their own choosing on this study committee. He said it would be a shame for the Committee to become decisive at this time.

REP. HARPER spoke in favor of the amendment. He said the bill is important.

REP. WELLS said that contrary to Rep. Elliott's arguments, partisan issues are important. If they aren't, the elections in November were a waste of time. He said he wasn't even in favor of the Taxation Committee. If there is no sense of direction in the Committee with the party in majority, it's also a waste of time. He said minority people will be appointed to the Committee, and they might be the more conservative members, but that is what the average taxpayer in Montana wants. He said he was not in the Legislature to provide a more liberal view of the tax structure in Montana and he would vote against the substitute motion.

REP. FUCHS said he did not have a problem with the change. His main concern is that Montanans get people on the committee who will look at the situation and come up with solutions and recommendations.

Vote:

On a roll call vote, the substitute motion passed, 14 - 5.

Motion/Vote:

REP. SWANSON MOVED AN AMENDMENT TO ALLOW THE TASK FORCE TO PRIORITIZE AND DEFINE ITS SCOPE. The motion passed unanimously.

Motion/Vote:

REP. HANSON MOVED THAT HB 590 AS AMENDED DO PASS. The motion passed 13 - 5.

EXECUTIVE ACTION ON SB 138

REP. ROSE said he would like the Committee to reconsider its action on SB 138. It is an important bill and there was a considerable amount of confusion about it.

Motion:

REP. ROSE MOVED TO REMOVE SB 138 FROM THE TABLE. On a voice vote, the motion passed unanimously.

Motion:

REP. RANEY MOVED THAT SB 138 BE CONCURRED IN.

Motion:

REP. RANEY MOVED TO AMEND SB 138.

Discussion:

REP. RANEY provided an explanation of what the amendment would accomplish. EXHIBITS 9 and 10. On land between 20 and 160 acres which does not qualify as agricultural, the land beneath the residence would be valued at market value. He said agricultural land should be taxed as such and non-agricultural land should not.

CHAIRMAN HIBBARD said he agreed and would support the amendment.

REP. ELLIOTT objected to the amendment based on the number of parcels of land, 21,800, assessed as non-qualified ag land. EXHIBIT 11.

Vote:

On a voice vote, the Raney amendment was adopted, 19 - 1.

Vote:

On a voice vote, SB 138 as amended was concurred in, 19 - 1.

{Tape: 3; Side: A; Comments: Executive Action on HB 598 occurred while the tape was being changed and was not recorded.}

EXECUTIVE ACTION ON HB 598

Motion:

REP. HANSON MOVED THAT HB 598 DO PASS.

Discussion:

None.

Vote:

On a voice vote, HB 598 passed unanimously, 20 - 0.

EXECUTIVE ACTION ON HB 601

Motion:

REP. HANSON MOVED THAT HB 601 DO PASS.

Discussion:

CHAIRMAN HIBBARD said there were amendments to the bill. EXHIBIT 12.

Motion/Vote :

REP. HANSON MOVED THE AMENDMENTS BE ADOPTED. On a voice vote, the motion passed, 20-0.

Motion\Vote:

REP. HANSON MOVED THAT HB 601, AS AMENDED DO PASS. On a voice vote, the motion passed unanimously, 20 - 0.

EXECUTIVE ACTION ON HB 582Motion:

REP. JORE MOVED THAT HB 582 AS AMENDED DO PASS.

Discussion:

REP. JORE appealed to the Committee to be honest enough to evaluate the bill in the sense of what is conducive to good education in Montana. He said he sensed a concern in the testimony of the opponents that there was a misconception that we have had the same type of educational system since the country was founded and that is not true. He said that is why he had questioned Mr. Feaver regarding his statement that the bill presents a "frontal assault on our sense of community." He said he hears quite often from the educational system that parents aren't involved and he would agree with that. However, the bill is an instance where parents can be given control and the system opposes it adamantly. A serious question that must be asked is whether it is conducive to education to have a monopolistic system that is centralized under state control or whether it would be better to incorporate some free market principals in education. He said there is a realization among even those in the education establishment as to whether public education is justified. He quoted from a Teacher of the Year who advocated institution of the free market system because "experts in education have always been wrong and their ideas are expensive and never work." After hearing the testimony, he said it was hard for him not to conclude that the motives of some of the individuals in education are "sub-servient." He said little was said by the opponents about quality education and comments were all directed toward maintaining centralized control by the education establishment.

REP. WELLS said he would support Rep. Jore's comments. He said he did not believe the students in school today are receiving the same quality of education that he had received. Parents are

upset and concerned. He said it was difficult to take on the "giant steamroller" and make any headway against the leaders of the system. They say they protect and fight for the best for the students, but he did not believe that was true. He said the costs in Montana are \$2,000 more per student than they are in neighboring states which adds up to \$332 million a year. The educational system in Montana consumes 65% of the state's budget and it is constantly asking for more. He commented that the courts decided that Montana had an unconstitutional system, yet 17 other states have persisted in carrying on against that particular judgment. When it comes down to the taxpayers, they are getting "ripped off." This bill would send a message to the people and to the administrators of public schools that they need to do a better quality, more economical job. He said there are a lot of good teachers and administrators who are motivated to do a good job but the bureaucracy in the system is stifling those people. He said HB 582 would not ruin the public school system as the opponents indicated. He said he would like to see the bill debated on the floor; although he did not think it would pass, it might send a message to the educational system that they can do a better job.

REP. ROSE said he opposed the bill. There is no definition of "school" and there would be a proliferation of self-serving small schools that perpetuate cultures or ethnic groups without benefit to the children of Montana. Public schools are available to every student and parents have the right to go in at any time. People can choose their schools now. Quality education is provided in Montana as proven by those who go on into the university system. The top three out of the 13 students nationwide receiving Goldwater scholarships are Montana children. He said the taxpayers are dissatisfied with leadership so they are going to punish a lot of people in the State of Montana and that is a weak way of meeting responsibility as citizens and voters.

REP. NELSON said he had been asked by Rep. Bohlinger to offer an amendment to the bill which provides that in order to receive the tax credit, the child must attend an accredited school. EXHIBIT 13.

Motion:

REP. NELSON MOVED THE AMENDMENT BE ADOPTED.

Discussion:

REP. REAM asked if there was a definition of "generally recognized accrediting association." **Don Waldron, Montana Rural Education Association**, said he was sure the amendment referred to the accreditation standards set up by the Board of Education.

REP. HARPER asked if it wouldn't be more appropriate to say "a school accredited by the generally recognized accrediting

association" or by the "state recognized." Mr. Waldron said it would.

REP. ROSE said it should say "accredited by the State Board of Education."

Substitute Motion:

REP. NELSON MOVED TO CHANGE HIS AMENDMENT TO SAY "ACCREDITED BY THE STATE BOARD OF EDUCATION" RATHER THAN "GENERALLY RECOGNIZED ACCREDITING ASSOCIATION."

Discussion:

REP. WENNEMAR said he would speak against the amendment because a number of the parochial schools are not accredited because they don't have librarians and counselors. In order for a small school to obtain those services, they would have to invest a lot of capital to comply with the standards and he questioned whether they could do that.

Vote:

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

Discussion:

REP. WENNEMAR spoke against the bill because everyone in a community is paying for education. If taxes are to be collected for the indoctrination of children into our culture, there should be a community standard. If an individual wants to deviate from the norm, they should pay for it.

REP. MURDOCK said she would support the bill in response to the many young people who had talked to her about the dissatisfaction they have with the public school system and the need for alternatives. These people pay into the system but wish to educate their children under another system they believe would be more responsible and productive.

REP. ORR said the bill represents policy. It is people's growing lack of trust with the policies the public schools are setting, not the teachers, and it comes from the perception that the schools are indoctrinating rather than educating. They feel the schools are teaching children what to think rather than how to think. He said when he had gone to the schools to discuss this issue, he was totally shut out and told they didn't have to listen to what he had to say. Folks want to put their children in a school that teaches what they believe in and HB 582 is a moderate step toward giving people that chance.

REP. ELLIOTT said parents have the choice of taking their children out of public school now if they wish. They also have the choice of becoming involved in the community. The school

boards represent the opinions of the majority of the community and, if people wish to change that opinion, they need to get involved with the school and the board. It is more important for people to work within the system. **REP. ELLIOTT** called for a vote on the previous question.

{Tape: 3; Side: B.}

Vote:

On a roll call vote, the motion failed, 10 - 8.

Discussion:

REP. HARPER said HB 582 is a very important bill and, without a question, the private educational system is important but the public education system needs strengthening. This bill would weaken public education and is a step away from what is shared in common as a state and community. He said he would vote against the bill.

REP. SOMERVILLE asked if Mr. Heiman could comment on the constitutionality of the bill. **Mr. Heiman** said it was his opinion that there is a good constitutional question on the refundability of the tax credit. It would be an indirect appropriation of state money and it is probably an unconstitutional provision. He said he had questions about whether, if that was taken out, it would be constitutional or not.

REP. REAM said he did not feel the educational system in Montana is monopolistic or centralized. There are over 500 school districts, representing 10% of all school districts in the nation. There should be more parent involvement than there has been and he would argue that the issue that our schools are worse than they were "when we went to school" is not true. Students are being taught to think. He said he would argue strongly against the bill.

REP. NELSON said he was opposed to the bill because it is not good tax policy and the public schools are doing a good job. The private school system should remain. He said he had struggled with his decision on this bill more than he had with any other during his four terms as a Legislator. If there is something wrong with the public schools, it's time to get the parents involved and fix them. The bill presents a destructive approach.

REP. RANEY said the purpose of the bill is not to pass judgment on public schools. The purpose is to ask for a tax break similar to the coal companies, the oil industry or agriculture asking for tax breaks. The question is whether or not it is good tax policy to give a tax break for this purpose. He said he did not think it was good tax policy.

Vote:

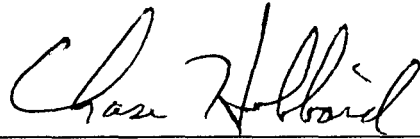
On a roll call vote, the motion failed, 12 - 8.

Motion/Vote :

REP. HANSON MOVED TO TABLE HB 582. On a voice vote, the motion passed.

ADJOURNMENT

Adjournment: 11:00 a.m.



CHASE HIBBARD, Chairman



Donna Grace, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE 3/22/95

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	✓		



HOUSE STANDING COMMITTEE REPORT

March 22, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that House Bill 590 (first reading copy -- white) do pass as amended.

Signed: _____

A handwritten signature in cursive script, appearing to read "Chase Hibbard".

Chase Hibbard, Chair

And, that such amendments read:

1. Title, line 9.
Following: line 8
Insert: "IMMEDIATE"
2. Page 1, lines 16 through 18.
Strike: lines 16 through 18 in their entirety
3. Page 3, line 3.
Page 4, line 11.
Page 4, line 17.
Strike: "commerce"
Insert: "revenue"
4. Page 3, lines 10 and 11.
Strike: "no more than" on line 10
Strike: "may" on line 10
Insert: "must"
Strike: "of the same political party," on lines 10 and 11
Following: "house" on line 11
Insert: "and two must be appointed by the house minority leader"
5. Page 3, line 12.
Strike: "no more than"
Strike: "may"
Insert: "must"
Strike: "of the same political party,"

Committee Vote:

Yes 13, No 5.

661431SC.Hbk

6. Page 3, line 13.

Strike: "committee on committees"

Insert: "president of the senate and two must be appointed by the senate minority leader"

7. Page 3, line 14.

Strike: "July"

Insert: "May"

8. Page 3, line 18.

Insert: "(5) The legislative fiscal analyst and the department of revenue shall provide staff assistance."

9. 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

10. Page 3, line 28.

Strike: "September"

Insert: "July"

11. Page 4, line 4.

Page 4, line 11.

Page 4, line 13.

Strike: "6"

Insert: "7"

12. Page 4, line 20.

Strike: "July 1, 1995"

Insert: "on passage and approval"

-END-



HOUSE STANDING COMMITTEE REPORT

March 22, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 598 (first reading copy -- white) do pass.

Signed: _____

A handwritten signature in cursive script, appearing to read "Chase Hibbard".

Chase Hibbard, Chair

Committee Vote:
Yes 20, No 0.

661430SC.Hbk



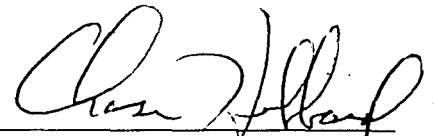
HOUSE STANDING COMMITTEE REPORT

March 22, 1995

Page 1 of 3

Mr. Speaker: We, the committee on Taxation report that **House Bill 601** (first reading copy -- white) do pass as amended.

Signed: _____


Chase Hibbard, Chair

And, that such amendments read:

1. Title, line 6.

Following: "SECTIONS"

Insert: "15-50-101,"

Strike: "AND"

Insert: ", "

Following: "15-50-206,"

Insert: "AND 18-1-106,"

2. Page 1, line 12.

Insert: "**Section 1.** Section 15-50-101, MCA, is amended to read:

"15-50-101. **Definition Definitions.** As used in this chapter, the following definitions apply:

(1) "Department" means the department of revenue as provided in 2-15-1301.

(2) ~~In this chapter, for the purposes hereof, "gross~~ "**Gross receipts**" means all receipts from sources within the state, whether in the form of money, credits, or other valuable consideration, received from, engaging in, or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses, or any other expense whatsoever. However, gross receipts ~~shall~~ does not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the

Committee Vote:
Yes 20, No 0.

661428SC.Hbk

person.

(3) (a) "Public contractor", means any person who submits a proposal to perform or enters into a contract for performing public construction work in the state with the federal government or state of Montana; with any board, commission, or department of the state; with any board of county commissioners, any city or town council, or 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 of which exceeds the sum of \$5,000.

(b) The term public contractor includes subcontractors undertaking to perform work within their field of contracting and within the limits of their class of license covered by the original contract or any part of the contract when the contract cost, value, or price of which exceeds the sum of \$5,000."

Renumber: subsequent sections

3. Page 1, lines 21 through 29.

Strike: subsection (3) in its entirety

4. Page 2, line 20.

Insert: "NEW SECTION. Section 5. Inspection of books of contractor. The books and records of a public contractor must be subject to inspection by the department during reasonable hours.

NEW SECTION. Section 6. Estimation of tax upon failure to file statement or pay tax -- notice. (1) If a person fails, neglects, or refuses to file the statement required by 15-50-206 within the time required or fails to pay the tax required by this chapter on or before the date payment is due, the department shall proceed to inform itself as best it may regarding the total gross income of the person from its contracting business within this state during the quarter.

(2) The department shall compute the amount of license taxes due from the person and shall mail to the person a letter and tax assessment statement setting forth the amount of delinquent license tax, penalty, and interest due. The letter must advise that if payment is not made, a warrant for distraint may be filed.

NEW SECTION. Section 7. Penalty and interest for delinquency -- waiver. (1) License taxes due under this chapter become delinquent if not paid within 30 days after payment to the contractor. The department shall add to the amount of all delinquent license taxes a penalty of 10% of the amount of license taxes plus interest at the rate of 1% per month or fraction of a month, computed on the total amount of license taxes. Interest is computed from the date the license taxes were due to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-50-206 or pay the tax due is provided to the department.

NEW SECTION. Section 8. Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any claim, lien, or demand that is filed and recorded after the warrant is issued.

NEW SECTION. Section 9. Disposal of license taxes. License taxes collected under this chapter must be deposited by the department with the state treasurer, who shall credit them to the general fund of the state.

Section 10. Section 18-1-106, MCA, is amended to read:

"18-1-106. Department of commerce to determine residency of selected contractors -- applications for redetermination -- determination as prima facie evidence. (1) The department of commerce shall determine whether or not certain contractors, ~~issued public contractor's licenses under the provisions of Title 37, chapter 71,~~ are residents of the state of Montana within the meaning of 18-1-102 and 18-1-103. Any public agency charged by law with the responsibility for the execution of any contract subject to the provisions of 18-1-102 may request that a determination of resident/nonresident status be made by the department. All requests must specify the name and address of the licensed public contractor for whom a determination of resident/nonresident status is required.

(2) If a determination is made that a ~~licensed~~ public contractor is not a resident but ~~he~~ thereafter qualifies as ~~such~~ a resident, ~~he~~ the contractor may apply to the department of commerce for a redetermination of ~~his~~ residency. If, upon redetermination, the ~~licensed~~ public contractor is found to qualify as a resident, ~~he shall~~ the contractor must be furnished a letter by the department attesting to ~~such~~ resident status.

(3) The determination of the department of commerce that a ~~licensed~~ public contractor is or is not a resident within the meaning of 18-1-102 and 18-1-103 is prima facie evidence of that fact."

NEW SECTION. Section 11. Codification instruction. [Sections 5 through 9] are intended to be codified as an integral part of Title 15, chapter 50, part 3, and the provisions of Title 15, chapter 50 apply to [sections 5 through 9]."
Renumber: subsequent sections.

-END-



HOUSE STANDING COMMITTEE REPORT

March 22, 1995

Page 1 of 4

Mr. Speaker: We, the committee on Taxation report that Senate Bill 138 (third reading copy -- blue) be concurred in as amended.

Signed: _____

A handwritten signature in cursive script, appearing to read "Chase Hibbard".

Chase Hibbard, Chair

Carried by: Rep. Hibbard

And, that such amendments read:

1. Title, line 5.

Following: "ACT"

Insert: "REVISING THE TAXATION OF CERTAIN LAND BY"

Strike: "TAXATION"

Insert: "CLASSIFICATION"

Following: "ACRE OF"

Insert: "QUALIFYING"

2. Title, line 6.

Following: "AGRICULTURAL"

Insert: "AND CLARIFYING THE VALUATION OF LAND DESCRIBED IN SECTION 15-6-133 (1) (C), MCA"

3. Title, line 7.

Following: "SECTIONS"

Insert: "15-6-133,"

Strike: "AND"

Following: "15-7-206"

Insert: ", AND 15-7-221"

Following: "PROVIDING AN"

Insert: "IMMEDIATE EFFECTIVE DATE, AND"

Strike: "DATE"

Insert: "DATES"

Committee Vote:

Yes 19, No 1.

661432SC.Hbk

4. Title, line 8.

Strike: "AND" through "PROVISION"

5. Page 1, line 30.

Following: "~~value~~"

Insert: ", including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value"

6. Page 4, line 5.

Following: "LAND"

Insert: ", other than land described in 15-6-133(1)(c)"

7. Page 5, line 13.

Insert: "Section 4. Section 15-6-133, MCA, is amended to read:

"15-6-133. Class three property -- description -- taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1). The land may not be devoted to a commercial or industrial purpose.

(2) Class three property is taxed at the taxable percentage rate applicable to class four property, as provided in 15-6-134(2)(a).

(3) The land described in subsection (1)(c) is valued at the productive capacity value of grazing land, at ~~a production level set by the department~~ the average grade of grazing land, and the taxable value is computed by multiplying the value by

seven times the taxable rate for agricultural land."

Section 5. Section 15-7-221, MCA, is amended to read:

"15-7-221. Phase in of the taxable value of agricultural land. The increase or decrease in taxable value of agricultural land resulting from the change in the method of determining productive capacity value under 15-7-201 must be phased in beginning January 1, 1994, as follows:

(1) For the year beginning January 1, 1994, and ending December 31, 1994, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 25% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(2) For the year beginning January 1, 1995, and ending December 31, 1995, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 50% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(3) For the year beginning January 1, 1996, and ending December 31, 1996, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 75% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(4) Beginning January 1, 1997, the taxable value of agricultural land in each land use and production category is equal to 100% of the productive capacity value of agricultural land determined under 15-7-201 times the class three tax rate.

(5) This section does not apply to land described in 15-6-133(1)(c)."

Renumber: subsequent sections

8. Page 5, lines 14 through 18.

Strike: section 4 in its entirety

Renumber: subsequent sections

9. Page 5, line 20.

Strike: "[This act] applies"

Insert: "(1) [Sections 1 through 3] apply"

10. Page 5.

Following: line 21

Insert: "(2) [Sections 4 and 5] apply retroactively, within the

March 22, 1995

Page 4 of 4

meaning of 1-2-109, to tax years beginning after December 31, 1994.

NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval."

-END-

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/22 BILL NO. 590 NUMBER _____

MOTION: Elliott Sub Motion ~~to~~
to pass on ~~Aggregate~~ Amend 7, 8 & 9.

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	✓	

14 5

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/22 BILL NO. SB138 NUMBER _____

MOTION: Raney Amendment

NAME	YES	NO
Vice Chairman Marian Hanson		
Vice Chairman Bob Ream		
Rep. Peggy Arnott	<i>Vote</i>	
Rep. John Bohlinger		
Rep. Jim Elliott	<i>Passed</i>	
Rep. Daniel Fuchs		
Rep. Hal Harper		<i>1</i>
Rep. Rick Jore		<i>3</i>
Rep. Judy Rice Murdock		<i>No</i>
Rep. Tom Nelson		<i>11</i>
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		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/22/95 BILL NO. 582 NUMBER _____

MOTION: Nelson Amendment
Bohlinger

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		✓

10

10

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/22 BILL NO. 582 NUMBER _____

MOTION: HB 582 ~~do pass as amended~~ *for none previous question*

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		✓

9 *10*

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/22 BILL NO. 582 NUMBER ~~582~~

MOTION: do pass as amended

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		✓

8 12

2011



The Big Sky Country

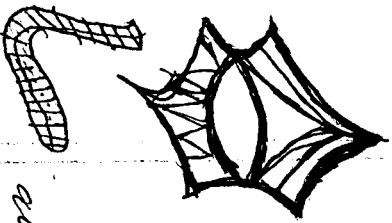
MONTANA HOUSE OF REPRESENTATIVES

Wednesday
March 22, 1975

Dear Tom & Clara,

I will be unable to attend our House Taxation meeting today, Wednesday, March 22nd, because I will be in Billings attending Marie Thompson's funeral.

Please move my amendment to HRS 582 that will require students to be enrolled in accredited schools before parents are able to receive the \$1,000⁰⁰ tax credit. Please vote for this



March 29 - 1945

I give my proxy on HOSR2 and
all amend mnds to Rich Tate.

Richard Tate

HOUSE TAXATION

HOUSE OF REPRESENTATIVES

ABSENTEE VOTE

Date Mar 22 - 95

Mr. Chairman/Mr. Speaker:

I, the undersigned member, hereby vote absentee on:

All Bill No.'s I Bill Ryan vote

Emily Swanson

Representative W. J. Ryan voting

(aye or no)

Proxy

~~SB 138~~ yes on Amendment yes on bill

~~HB 582~~ yes on Amendment No on bill

~~HB 598~~ yes

~~HB 601~~ yes

SB 397 yes

SB 407 yes

Dan Fuhs

TESTIMONY IN SUPPORT OF
HB 598

Department of Revenue

This bill concerns the Department's duty to ensure that assessment notices and other tax documents are sent to the appropriate persons. A State District Court recently ruled that the Department did not have the authority to ensure that notices were being sent to the correct person. The court ruled that if a deed is filed the Department must substitute the new name on the deed for the old name, without asking any questions.

The problem is that in some instances the deed may not match the current records. If the person selling the property is not the same person that owns the property, according to the tax records, a problem exists which needs to be resolved. The Department's solution, in HB 598, is to note the problem and send the notices to both persons until they can resolve the problem. Both the old name and the new name would remain in the Department's records until the issue has been resolved.

The Department does not want to get into the business of correcting titles, but it must be sure that the tax notices are sent to the correct address. If any problems exist, we want to make sure the parties are aware of the issue and have an opportunity to resolve it.

The second change is simply to clarify the reporting of information on the Realty Transfer Certificate (RTC). HB 598 provides that parties to certain types of transactions are not required to provide sales information on the form. Thus, these parties will provide the names and addresses of the parties but nothing else. This is the way the Department has always interpreted the statute. However, it could be read to say that parties meeting the criteria are exempt from filing the RTC. If this were the case, the Department would not be able to obtain the name and address of the new owner.

EXHIBIT 2
DATE 3/22/95
HB. 598

HOUSE TAXATION COMMITTEE

House Bill 598
(March 22, 1995)

PROPERTY TRANSACTION EXAMPLE

Legal Description: Capitol Subdivision
Block 1 Lot 1

Owner of Record: Rep. Hanson

Deed Filed: Rep. Arnott (Grantor or seller)
to
Rep. Murdock (Grantee or buyer)

METHOD REQUIRED BY COURT DECISION

Before Transaction: Rep. Hanson

After Transaction: Rep. Murdock

METHOD REQUIRED BY PROPOSED LEGISLATION

Before Transaction: Rep. Hanson

After Transaction: Rep. Hanson
% Rep. Murdock

STATE OF MONTANA

Marc Racicot, Governor


 EXHIBIT 3
 DATE 3/22/95
 HB 598

 Dolores Cooney, Region 6 Manager 723-8282
 Les Taylor, Field Operations 883-4000
 Debbie Jurcich, Office Operations 583-8421

DEPARTMENT OF REVENUE

Mick Robinson, Director

PROPERTY ASSESSMENT DIVISION

TO: Randy Wilke, Chief, Appraisal / Assessment Bureau, Property Assessment Division

FROM: Dolores Redensek Cooney, Regional Manager Region # 6, Property Assessment Division

DATE: January 24, 1995

RE: Butte-Silver Bow - District Court Decision - Kasun

We in Butte-Silver Bow have grave concerns regarding the decision rendered by Judge Purcell in the matter of Debra Morrissy Kasun. Involved is the procedures which we use to process ownership information for the assessment record. The process utilized ensures that the integrity of the chain of title is maintained and documented through the deed process.

For the last eighteen years Butte-Silver Bow has funded a county position specifically for the process of reviewing ownerships. Prior to the establishment of the position of Ownership Clerk in Butte-Silver Bow and the creation of the Realty Transfer Act, the ownership records in Butte-Silver Bow were in terrible shape. Deeds were filed and ownership information on assessments were changed without a standard review process in place. Today we still encounter problems from that period.

The organized and systematic method by which we process the deed and ownership information must continue. Judge Purcell's decision would, if it is put in place, mandate that assessment ownership information be changed even if there was a break in the chain of title. The current method of assurance that we have that the chain of title is unbroken and supported by deeds would be eliminated. The improvements we have seen over the last eighteen years in Butte-Silver Bow's ownership process would be endangered.

**THE ORIGINAL OF THIS DOCUMENT
IS STORED AT THE HISTORICAL
SOCIETY AT 225 NORTH ROBERTS
STREET, HELENA, MT 59620-1201.
THE PHONE NUMBER IS 444-2694.**

AN EQUAL OPPORTUNITY EMPLOYER

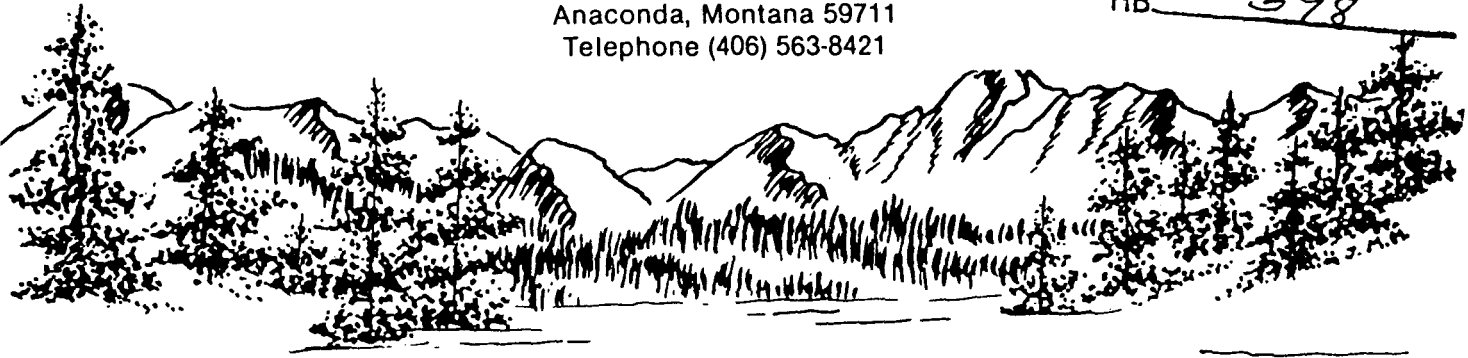
Beaverhead County, 2 Pacific Cluster No 1, Dillon, MT 58725-2788 (406) 883-4000
 Deer Lodge County, 800 S Main, Anaconda MT 59711-2888 (406) 583-8421
 Granite County, PO Box 38, Philipsburg, MT 58858-0038 (406) 858-3521

Madison County, PO Box 287, Virginia City, MT 58755-0287 (406) 843-6336
 Silver Bow, 155 West Granite, Butte, MT 59701-8258 (406) 723-8282

ANACONDA-DEER LODGE COUNTY

Courthouse - 800 South Main
Anaconda, Montana 59711
Telephone (406) 563-8421

EXHIBIT 4
DATE 3/22/95
HB 598



March 21, 1995

Mr. Gary Devlin, Chair
House Taxation Committee
Capitol Building
Helena, Montana 59620

Dear Mr. Devlin:

I write to oppose House Bill 598 before your committee as currently written. This legislation would create errors in the property tax records. Therefore, may I suggest that you amend the bill to reflect that changes would not be made to the property tax records if a break in the chain of title were discovered in the filing process.

Currently, when errors are discovered in land transfers, the assessor's office requests correction of deed before making the official transfer on the property tax records. This process ensures that the tax roles reflect an unbroken chain of title on a given piece of property, therefore, transfer is without the introduction of errors into the system.

If amended to reflect my requested change, I would support House Bill 598.

Respectfully,

Cheryl S. Beatty
Chief Executive
Anaconda-Deer Lodge County

AB-43 1084

STATE OF MONTANA
DEPARTMENT OF REVENUE
PROPERTY ASSESSMENT DIVISION

Silver Bow County Assessors Office

Butte, Montana 59701



REALTY TRANSFER CERTIFICATE COMPLETION OR ERROR CORRECTION

EXHIBIT 35
DATE 3/22/95
HB 598

Mailed to: John Franklin
1150 W. Woolman St.
Address: Butte, Montana 59701
Date Mailed: September 6, 1994

THE ORIGINAL OF THIS DOCUMENT
IS STORED AT THE HISTORICAL
SOCIETY AT 225 NORTH ROBERTS
STREET, HELENA, MT 59620-1201.
THE PHONE NUMBER IS 444-2694.

Property Record Information (Roll, Volume, Card, Page, Etc.)

Recorded in Roll 152, Card No. 593 on 3/31/94

Lot 3 Burt Lode (MSB)

The Montana Realty Transfer Act 15-7-304 MCA, requires that a Realty Transfer Certificate be filed in order for ownership records to be changed for the assessment or taxation of real property.

Your recent real estate transaction is subject to the provision described above. Please note the incomplete or incorrect items checked below regarding the Realty Transfer Certificate for that transaction.

- A Realty Transfer Certificate was not received for this transaction.
- Grantee's or grantor's address is missing or incomplete. (This address is the one to which tax notices are mailed. Part 1)
- Sales date is not properly entered. (This must be specifically the date of sale, not the filing date or other related date. Part 1)
- The property description is not properly entered. (Part 3)
- Actual consideration is not properly entered. (Part 5)
- Signature of preparer is missing.
- Break in chain of title. (Seller is not the last owner of record.)
- No change of ownership can be made. Property is in the name of Savo Dretzun.

The incomplete or incorrect items checked above are also indicated on the attached Realty Transfer Certificate. Please make the necessary changes and return the certificate to this office. If you need assistance, please call the Assessors office at the number listed. Your cooperation is appreciated.

Assessors office phone no. 723-8262 Ext. 258

HOUSE BILL 601
Repeal of the Public Contractors License

House Bill 601 proposes to repeal the Public Contractor's License. The license is associated with the Public Contractor's Tax. The Public Contractor's Tax is withheld (1%) from contractor payments (prime and subcontractor) and submitted to the Department of Revenue. The amount withheld is then used as a credit against income tax and as a refund of property tax paid by the contractor.

The license functions were moved to the Department of Commerce in 1983 and codified in Title 37. The Department of Revenue relies upon the licensing statutes in administering the tax. The following amendments incorporate those sections into Title 15, address current practice, and clarify the penalty for failing to remit withholdings.

Amendments

- 1, 2 and 3 Conform the title of the bill with the amendments
- 4 and 5 Strike the amendment adding the definition of public contractor to 15-50-205 and adds that definition and others currently in Title 37 to 15-50-101 which is the definition section.
- 6 Strikes the reference to public contractor's license in 18-1-106.
- 7 New Section 5 incorporates the substance of 37-71-102 in 15-50 related to audit of contractor's records.
- New Section 6 reflects the current administration of the tax. We currently estimate tax due.
- New Section 7 provides for the assessment of penalty and interest for failing to remit the tax. 15-50-206 provides a penalty (10%) for the prime contractor who fails or timely fails to submit the allocation reports (directing the Department to allocate credits to subcontractors).
- New Section 8 reflects the current administration of the tax related to the filing of warrants for distraint.
- New Section 9 incorporates 37-71-105 in 15-50 directing the Department to deposit collections into the General Fund. (15-50-207 addresses income tax credits and refund of property taxes.)
- New Section 10 is the codification instruction.

Amendments to House Bill 601
Introduction Reading Copy

Prepared by Department of Revenue
3/21/95 5:15pm

REASON FOR AMENDMENT: This amendment is designed to clarify the contractors gross receipts tax by incorporating the administrative provisions and definitions of Title 37, chapter 71 and the standard taxing provisions found in other chapters of Title 15.

AMENDMENTS

1. Title, line 6.
Following: "AMENDING SECTIONS"
Insert: "15-50-101,"
2. Title, line 6.
Following: "15-50-205"
Strike: "AND"
Insert: ", "
3. Title, line 6.
Following: "15-50-206,"
Insert: "AND 18-1-106,"
4. Page 1, line 21.
Strike: line 21 through line 29 in their entirety.
5. Page 2.
Following: line 19.
Insert: "Section 3. Section 15-50-101, MCA, is amended to read:
"15-50-101. Definition. The following words, terms and phrases in this chapter are defined as follows:
(1) "Department" means the department of revenue as provided in 2-15-1301.
(2) In this chapter, for the purposes hereof, "g Gross receipts" means all receipts from sources within the state, whether in the form of money, credits, or other valuable consideration, received from, engaging in, or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses, or any other expense whatsoever. However, gross receipts shall not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.
(3) "Public contractor" means 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.

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

6. Page 2.

Following: line 19.

Insert: "Section 4. Section 18-1-106, MCA, is amended to read:

"18-1-106. Department of commerce to determine residency of selected contractors -- applications for redetermination -- determination as prima facie evidence. (1) The department of commerce shall determine whether or not certain contractors, ~~issued public contractor's licenses under the provisions of Title 37, chapter 71,~~ are residents of the state of Montana within the meaning of 18-1-102 and 18-1-103. Any public agency charged by law with the responsibility for the execution of any contract subject to the provisions of 18-1-102 may request that a determination of resident/nonresident status be made by the department. All requests must specify the name and address of the licensed public contractor for whom a determination of resident/nonresident status is required.

(2) If a determination is made that a ~~licensed~~ public contractor is not a resident but he thereafter qualifies as such, he may apply to the department of commerce for a redetermination of his residency. If, upon redetermination, the ~~licensed~~ public contractor is found to qualify as a resident, he shall be furnished a letter by the department attesting to such status.

(3) The determination of the department of commerce that a ~~licensed~~ public contractor is or is not a resident within the meaning of 18-1-102 and 18-1-103 is prima facie evidence of that fact."

7. Page 2.

Following: line 19

Insert: "NEW SECTION. Section 5. Inspection of books of contractor. The books and records of a public contractor must be subject to inspection by the department during reasonable hours.

NEW SECTION. Section 6. Estimation of tax upon failure to file statement or pay tax -- notice. (1) If a person fails,

neglects, or refuses to file the statement required by 15-50-206 within the time required or fails to pay the tax required by this chapter on or before the date payment is due, the department of revenue shall proceed to inform itself as best it may regarding the total gross income of the person from its contracting business within this state during the quarter.

(2) The department shall compute the amount of license taxes due from the person and shall mail to the person a letter and tax assessment statement setting forth the amount of delinquent license tax, penalty, and interest due. The letter shall advise that if payment is not made, a warrant for distraint may be filed.

NEW SECTION. Section 7. Penalty and interest for delinquency -- waiver. (1) License taxes due under this chapter becomes delinquent if not paid within 60 days after the end of each calendar quarter. The department of revenue shall add to the amount of all delinquent license taxes a penalty of 10% of the amount of license taxes plus interest at the rate of 1% per month or fraction of a month, computed on the total amount of license taxes. Interest is computed from the date the license taxes were due to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-50-206 or pay the tax due is provided to the department.

NEW SECTION. Section 8. Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any claim, lien, or demand thereafter filed and recorded.

NEW SECTION. Section 9. Disposal of license taxes. License taxes collected under this chapter shall be deposited by the department with the state treasurer, who shall credit them to the general fund of the state.

NEW SECTION. Section 10. Codification instruction. [Sections 5 through 9] are intended to be codified as an integral part of Title 15, chapter 50, part 3, and the provisions of Title 15, chapter 50 apply to [sections 5 through 9]."

Renumber: subsequent sections.

EXHIBIT 7
DATE 3/22/95
HB 601

March 22, 1995
Representative Chase Hibbard
House Taxation Committee

Mr. Chairman, Members of the Committee,

My name is Mark Lindsay and I am here representing the Montana Building Industry Association. I am also a general contractor here in Helena specializing in custom homes and light commercial projects.

The MBIA is an organization comprising nearly 1,000 building trade businesses from around the state of Montana. The MBIA is an industry leader in encouraging professional and responsible business and building principles.

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. Conversations with the Dept. of Commerce here revealed that out of state contractors immediately apply for a public contractor's license and gladly pay the fee even though the type of work they are doing does not require any license at all. These contractors are using the system to legitimize their operation by being able to advertise that they are "licensed" by the state of Montana.

This license is unfair to the contractors of this state. Normally when a license is required for a particular industry the fees that are generated are earmarked and used exclusively for the benefit and control of that particular industry. Not only has the industry paid millions of dollars over the years for absolutely no service but the money has been deposited in the general fund.

I am sure most of you are aware of Senator Forrester's Senate Bill No. 354 which has passed the Senate and just yesterday was passed out of the House Business and Labor Committee. This bill requires that all contractors be registered with the Dept. of Labor. His bill addresses some of the concerns I have mentioned and attempts to get a handle on the construction industry in Montana. Many contractors would be required to purchase two licenses if the Public Contractors License is not repealed.

It is for these reasons that the Montana Building Industry Association requests that this committee support HB601 and repeal the Public Contractor's License Program.

Amendments to House Bill No. 590
First Reading Copy

Requested by Rep. Ream
For the Committee on Taxation

Prepared by Lee Heiman
March 21, 1995

1. Title, line 9.
Following: line 8
Insert: "IMMEDIATE"
2. Page 1, lines 16 through 18.
Strike: lines 16 through 18 in their entirety
3. Page 3, line 3.
Page 4, line 11.
Page 4, line 17.
Strike: "commerce"
Insert: "revenue"
4. Page 3, lines 10 and 11.
Strike: "no more than" on line 10
Strike: "may" on line 10
Insert: "must"
Strike: "of the same political party," on lines 10 and 11
Following: "house" on line 11
Insert: "and two must be appointed by the house minority leader"
5. Page 3, line 12.
Strike: "no more than"
Strike: "may"
Insert: "must"
Strike: "of the same political party,"
6. Page 3, line 13.
Strike: "committee on committees"
Insert: "president of the senate and two must be appointed by the
senate minority leader"
7. Page 3, line 14.
Strike: "July"
Insert: "May"
8. Page 3, line 18.
Insert: "(5) The legislative fiscal analyst and the department
of revenue shall provide staff assistance."
9. Page 3, line 28.
Strike: "September"
Insert: "July"

EXHIBIT 9
DATE 3/22/95
~~SB~~ SB 138

Amendments to Senate Bill No. 138
Third Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
March 21, 1995

1. Title, line 5.
Following: "ACRE OF"
Insert: "QUALIFYING"

2. Page 1, line 30.
Following: "~~value~~"
Insert: ", including 1 acre of real property beneath improvements
on land described in 15-6-133(1)(c). The 1 acre must be
valued at market value"

3. Page 4, line 5.
Following: "LAND"
Insert: ", other than land described in 15-6-133(1)(c)"

Explanation of SB138 (Mesaros) and Proposed Amendment

Land Status	Current Law	SB138	SB138 Plus Amendment
<u>Less than 20 acres</u>			
Ag Qualifying Main Land	Value = Ag value	Value = Ag Value	Value = Ag Value
Residence Land	Value = Market Value	Value = highest Ag value (irrig)	Value = highest Ag value (irrig)
Non - Ag Qualifying Main Land	Value = Market Value	Value = Market Value	Value = Market Value
Residence Land	Value = Market Value	Value = Market Value	Value = Market Value
<u>Between 20 and 160 Acres</u>			
Ag Qualifying Main Land	Value = Ag Value	Value = Ag Value	Value = Ag Value
Residence Land	Value = Market Value	Value = highest Ag value (irrig)	Value = highest Ag value (irrig)
Non - Ag Qualifying Main Land	Value = 7 times grazing	Value = 7 times grazing	Value = 7 times grazing
Residence Land	Value = Market Value	Value = highest Ag value (irrig)	Value = Market Value
<u>Greater than 160 acres</u>			
Main Land	Value = Ag Value	Value = Ag Value	Value = Ag Value
Residence Land	Value = Market Value	Value = highest Ag value (irrig)	Value = highest Ag value (irrig)

EXHIBIT 10
 DATE 3/22/95
~~SB~~ SB 138

EXHIBIT 11
DATE 3/22/95
~~SB~~ SB 138

Parcels Assessed as Non-Qualified Ag Land

Number	21,800
Estimated Total Current Taxable Value	3,307,016
Estimated Total Taxable Value if Included in SB 138	824,861
Change in Taxable Value	(2,482,156)
<i>Impact (in addition to fiscal note impact)</i>	
Universities (6 mills)	(14,893)
SEA (95 mills)	(235,805)
Counties (76.36 mills)	(189,537)
Local Schools (158.54 mills)	(393,521)
	<hr/>
	(833,756)

EXHIBIT 12
DATE 3/22/95
HB 601

Amendments to House Bill No. 601
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
March 22, 1995

1. Title, line 6.

Following: "SECTIONS"

Insert: "15-50-101,"

Strike: "AND"

Insert: ", "

Following: "15-50-206,"

Insert: "AND 18-1-106,"

2. Page 1, line 12.

Insert: "Section 1. Section 15-50-101, MCA, is amended to read:

"15-50-101. Definition Definitions. As used in this chapter, the following definitions apply:

(1) "Department" means the department of revenue as provided in 2-15-1301.

(2) ~~In this chapter, for the purposes hereof,~~ "gross "Gross receipts" means all receipts from sources within the state, whether in the form of money, credits, or other valuable consideration, received from, engaging in, or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses, or any other expense whatsoever. However, gross receipts ~~shall~~ does not include cash discounts allowed and taken on sales and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, or payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.

(3)(a) "Public contractor", means any person who submits a proposal to perform or enters into a contract for performing public construction work in the state with the federal government or state of Montana; with any board, commission, or department of the state; with any board of county commissioners, any city or town council, or 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 of which exceeds the sum of \$5,000.

(b) The term public contractor includes subcontractors undertaking to perform work within their field of contracting and within the limits of their class of license covered by the original contract or any part of the contract when the contract cost, value, or price of which exceeds the sum of \$5,000."

Renumber: subsequent sections

3. Page 1, lines 21 through 29.

Strike: subsection (3) in its entirety

4. Page 2, line 20.

Insert: "**NEW SECTION. Section 5. Inspection of books of contractor.** The books and records of a public contractor must be subject to inspection by the department during reasonable hours.

NEW SECTION. Section 6. Estimation of tax upon failure to file statement or pay tax -- notice. (1) If a person fails, neglects, or refuses to file the statement required by 15-50-206 within the time required or fails to pay the tax required by this chapter on or before the date payment is due, the department shall proceed to inform itself as best it may regarding the total gross income of the person from its contracting business within this state during the quarter.

(2) The department shall compute the amount of license taxes due from the person and shall mail to the person a letter and tax assessment statement setting forth the amount of delinquent license tax, penalty, and interest due. The letter must advise that if payment is not made, a warrant for distraint may be filed.

NEW SECTION. Section 7. Penalty and interest for delinquency -- waiver. (1) License taxes due under this chapter become delinquent if not paid within 30 days after payment to the contractor. The department shall add to the amount of all delinquent license taxes a penalty of 10% of the amount of license taxes plus interest at the rate of 1% per month or fraction of a month, computed on the total amount of license taxes. Interest is computed from the date the license taxes were due to the date of payment.

(2) The 10% penalty may be waived by the department if reasonable cause for the failure or neglect to file the statement required by 15-50-206 or pay the tax due is provided to the department.

NEW SECTION. Section 8. Warrant for distraint. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any claim, lien, or demand that is filed and recorded after the warrant is issued.

NEW SECTION. Section 9. Disposal of license taxes. License taxes collected under this chapter must be deposited by the department with the state treasurer, who shall credit them to the general fund of the state.

Section 10. Section 18-1-106, MCA, is amended to read:

"18-1-106. **Department of commerce to determine residency of selected contractors -- applications for redetermination -- determination as prima facie evidence.** (1) The department of commerce shall determine whether or not certain contractors, ~~issued public contractor's licenses under the provisions of Title 37, chapter 71,~~ are residents of the state of Montana within the meaning of 18-1-102 and 18-1-103. Any public agency charged by law with the responsibility for the execution of any contract subject to the provisions of 18-1-102 may request that a determination of resident/nonresident status be made by the department. All requests must specify the name and address of the licensed public contractor for whom a determination of resident/nonresident status is required.

(2) If a determination is made that a ~~licensed~~ public contractor is not a resident but ~~he~~ thereafter qualifies as ~~such a resident~~, ~~he~~ the contractor may apply to the department of commerce for a redetermination of ~~his~~ residency. If, upon redetermination, the ~~licensed~~ public contractor is found to qualify as a resident, ~~he shall~~ the contractor must be furnished a letter by the department attesting to ~~such~~ resident status.

(3) The determination of the department of commerce that a ~~licensed~~ public contractor is or is not a resident within the meaning of 18-1-102 and 18-1-103 is prima facie evidence of that fact."

NEW SECTION. Section 11. Codification instruction.

[Sections 5 through 9] are intended to be codified as an integral part of Title 15, chapter 50, part 3, and the provisions of Title 15, chapter 50 apply to [sections 5 through 9]."

Renumber: subsequent sections.

EXHIBIT 13
DATE 3/22/95
HB 582

Amendments to House Bill No. 582
First Reading Copy

Requested by Rep. Bohlinger
For the Committee on Taxation

Prepared by Lee Heiman
March 20, 1995

1. Page 2, line 5.

Following: "tuition"

Insert: "to a school accredited by a generally recognized
accrediting organization"

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Location _____ COMMITTEE _____ BILL NO. HB 598
 DATE 3/22/95 SPONSOR(S) Rep. Hibbard

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Robert McCarthy ^{CO} city	Butte Silver Bow	598		✓
Jack Lynch Chief Executive	Butte Silver Bow	598		✓
Chuck Krause ^{animator}	Butte Silver Bow	598		✓
Debbie Jurcick ^{Supervisor} Office Operations	Dept of Rev.	598		✓
Gordon Morris	MACo	598		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

taxation COMMITTEE BILL NO. HB 601
 DATE 3/22/95 SPONSOR(S) Rep. Somerville

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Jeff Miller</i>	<i>DOR</i> <i>opponent</i>			
<i>W. James Kembel</i>	<i>Self</i>	<i>HB 601</i>		<i>✓</i>
<i>Mark Lindsay</i>	<i>MT Building Ind. Assoc</i>			<i>✓</i>
<i>LANCE MELTON</i>	<i>DEPT OF COMMERCE</i>			<i>X</i>
<i>Don Boef</i>	<i>East Coast</i>			<i>X</i>
<i>Carl Schociten</i>	<i>Mont Cont Ass'n</i>			<i>X</i>
<i>Chris Racicot</i>	<i>Mont Home Bldg</i>			<i>✓</i>

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