

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - 2nd SPECIAL SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By Chairman Mike Halligan, on July 15, 1992, at  
1:02 p.m.

**ROLL CALL**

**Members Present:**

Mike Halligan, Chairman (D)  
Dorothy Eck, Vice Chairman (D)  
Robert Brown (R)  
Steve Doherty (D)  
Delwyn Gage (R)  
John Harp (R)  
Francis Koehnke (D)  
Gene Thayer (R)  
Thomas Towe (D)  
Fred Van Valkenburg (D)  
Bill Yellowtail (D)

**Members Excused:** none

**Staff Present:** Jeff Martin (Legislative Council)

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

**Announcements/Discussion:** none

**HEARING ON HOUSE JOINT RESOLUTION 2**

**Presentation and Opening Statement by Sponsor:**

Representative Bob Gilbert, District 22, said the proposals  
in HJR 2 were worked over by the Revenue Oversight Committee  
(ROC), who did not go into all categories or assumptions.

Representative Gilbert explained that there is \$21.54  
million less in general fund dollars than in January, 1992, and  
that the deficit was increased by \$5 million. He advised the  
Committee that the Legislative Fiscal Analyst's (LFA) ending fund  
balance was \$64.556 million.

**Proponents' Testimony:**

Terry Johnson, LFA, provided revenue estimate comparisons (Exhibit #1), and said the gray columns are revenue estimates as they left the House. He explained that there is a \$16 million difference between the LFA and what the ROC adopted, all dealing with revenue activities posted to the accounting system in conformity with GAAP. He said it is required to book payables in the accounting system which affects the fund balance statement.

Terry Johnson advised the Committee there are adjustments in individual income tax, and that the \$16 million impact affects both the general fund and the SEA account. He said the House Taxation Committee adjusted HJR 2 by \$5.1 million in the corporations tax audit program. Mr. Johnson explained that estimated collections of \$23.4 million in FY92-93 were exceeded by \$5 million in 92 and will be approximately \$8.1 million in 93, so collections over the biennium will be about the same.

Mr. Johnson further advised the Committee that the \$30.4 million assumed audit collection for individual income tax in FY92-93 should be revised downward by about \$1 million, as DOR determined that amount won't materialize in 1993.

Jeff Miller, Income Tax Division Administrator, DOR, said his position from the January, 1992 presentation did not correlate with the Governor's and should be revised downward from \$16.397 million to \$15.397 million, as stated by Terry Johnson. He advised the Committee that the Division did achieve 96.8 percent of the goal it promised in January, 1992, and asked them to make this adjustment.

Lynn Chenowith, Corporations Tax Bureau Chief, Natural Resource and Corporation Tax Division, DOR, explained that Corporations Tax was given two auditor positions in the January, 1992 special session with the understanding the Bureau would collect \$23 million over the biennium. He explained that the Bureau collected \$15.3 million or \$5.3 million more than estimated in 92, so it won't be collecting the \$13 million projected for 93, but closer to \$8.1 million.

**Opponents' Testimony:**

There were no opponents of HJR 2

**Questions From Committee Members:**

Senator Towe asked if the Division could have collected an additional \$1 million if it had four FTE instead of two. Jeff Miller replied that was correct.

Senator Towe asked why DOR wanted to take the FTEs and dollars out rather than leave them alone. Jeff Miller replied there are \$127,000 in those FTEs, and they are the positions of least impact to meet requested budget cuts.

Senator Towe asked if the Conference Committee on HB 2 put \$127,000 back in DOR, they could collect the funds. Jeff Miller replied they could.

Senator Towe asked if the Division had reduced the inventory of corporate audits. Lynn Chenowith replied they were supposed to collect \$10.1 million in 92 and \$13.2 million in 93. He explained that there were six protested tax hearings between mid-May and mid-June, 1992, which were settled and collected in 1992, putting the Division \$5 million ahead of its 1992 estimate.

Senator Towe asked why that manpower can't be used to generate more collections this year. Mr. Chenowith replied that was his intent, and that he believed \$8 million was a good, conservative figure for 1993.

Senator Towe asked if the \$5 million was taken in after May 15, 1992. Terry Johnson replied it was, and said it is built into FY92 numbers. He commented that if the FTE were tied to dollars and the FTE were not there, the Division would have to reduce collections. He said the HJR 1 column on the LFA's revenue estimate comparisons (Exhibit #1), is the revised estimates adopted in the January, 1992 Special Session - adjusted for legislation passed during that special session.

Senator Towe commented that Steve Bender, Office of Budget and Program Planning (OBPP) had thought in January, 1992 that those figures were as good as they were going to get. Terry Johnson replied that the executive figures are those provided after the beginning of this session. He advised the Committee that when the LFA was preparing its recommendations, it was unaware of the accrual process at year end - \$4.3 million. He explained that there were a host of refund payables, some included and some not, but these are not incorporated into the ROC and House Taxation recommendations.

Senator Van Valkenburg asked about the excess of \$20 million in receivables. Jeff Miller replied that FY92 is correct actually \$22.9 million and \$17 million the previous year.

Senator Van Valkenburg asked if DOR had any plans to reduce receivables significantly. Jeff Miller replied that is the number one priority in the Income Tax Division. He said \$21 million assessed in FY92 is all being added to accounts receivable, and \$14 million collected for \$7 million in growth. Mr. Miller told the Committee DOR has also reassigned staff, and transferred receivables more frequently to the State Auditor's bad debt option. He explained that DOR looked at an outbound automated dialing system, and could not implement it within the necessary time frame, but is in a better position now than last January.

Senator Van Valkenburg asked if it is DOR's position to reduce estimated revenue by \$1 million. Denis Adams replied it was not, and said that is the Division's recommendation, as to where it felt cost cuts could be absorbed. He said DOR's role is to collect revenue, but he did not know where else the Division could make cuts.

Senator Van Valkenburg said it was rather surprising that refunds were being made in Corporations and Natural Resource Tax areas. Denis Adams replied that refunds are not made without audits.

Senator Towe stated he had heard rumors that refunds were being made on RIT (resource indemnity trust fund). Denis Adams replied that no refunds have been made on RIT, and that he did not anticipate any.

Senator Towe asked if DOR has refused to give information to the Legislature concerning deductions on returns. Denis Adams replied that the confidentiality issue was discussed earlier. He explained that the statute is no longer appropriate, and that DOR would be coming in with a change to put Montana into conformity.

Senator Doherty asked about the letter Representative Ream drafted to the ROC requesting the Legislative Auditor to check DOR. Senator Brown replied that he received a copy of a letter drafted to Scott Seacat, Legislative Auditor.

Senator Gage asked if getting revenue were just a matter of speeding things up because there were more people. Lynn Chenowith replied the Division is doing more audits and completing them more quickly. He explained that four entry level positions were filled, but it was six months before they were sent into the field. Mr. Chenowith advised the Committee that corporations tax collections are \$600-800,000 per year, going back 8 years, presenting a \$1.2 million to \$1.6 million loss per year to the state if two auditors are lost. Jeff Miller stated that the Income Tax side is reading more cases than ever before, and that the Division is cross-referencing at the federal level to get better information.

Senator Gage commend that the Committee can't look at this as all revenue.

Senator Eck asked if there were separate audit staff for each tax. Denis Adams replied there are different auditors for Corporate, Individual Income Tax, etc. Senator Eck asked if there were any flexibility to shift them around. Denis Adams replied there is a lot of difference in training between divisions, but better dollar returns are in corporations audits.

**Closing by Sponsor:**

Representative Gilbert told the Committee the bill is not good news. He said he could not commit on the \$1 million as it would depend on whether the \$127,000 stays in HB 2. He explained that it is difficult to believe the numbers can be that good. Representative Gilbert cautioned the Committee, and said he was concerned that the figures are wrong almost every time. He said he asked the House Taxation Committee to further increase the deficit by three percent, but they declined. Representative Gilbert again stated he was concerned that if the Committees are not careful, they will be back again. He asked that Senator Brown carry the bill.

**HEARING ON HOUSE BILL 12****Presentation and Opening Statement by Sponsor:**

Representative Francis Bardanouve, District 16, said HB 12 revised the time in which the county treasurer must remit money belong to the state and collected by the county treasurer during the months of June and December. The bill amends section 15-1-504, MCA, and provides an immediate effective date. He explained that assessments for property payments in May and November would be moved up to the 25th instead the end of the month.

Representative Bardanouve commented that people are used to paying at the end of the month, and that several million dollars come in after the deadline. He advised the Committee that in order to pay off Tax Anticipation Revenue Notes (TRANS), the money must be in before the end of the fiscal year. Representative Bardanouve stated that the county treasurers may complain, but the change can work, and will result in less criticism of the legislature by taxpayers.

**Proponents' Testimony:**

Denis Adams, Director, Department of Revenue, said the Department supports the bill.

**Opponents' Testimony:**

Cort Harrington, Montana County Treasurers Association, told the Committee that the Governor's bill assumed a date of May 31. He explained that the treasurers don't receive money until June, and transmit monies to the state in July.

Mr. Harrington advised the Committee that the original estimate showed a \$17 million positive cash flow, if the bill were enacted, but the fiscal note says \$10 million. Mr. Harrington further advised the Committee that May books are held open a few days in all but five counties. He stated that June transmittal for Rosebud County was \$8-9 million, and is estimated to be only \$450,000 in July.

Mr. Harrington said the recommendations in the bill will mean more work for county treasurers, and that the impact is actually more like \$2-3 million than \$10 million. He provided proposed amendments, and said there is no reason to make the same change for December (Exhibits #2 and #3).

Mr. Harrington stated that the date in HB 13 frightened the Treasurers.

**Questions From Committee Members:**

Senator Eck asked about the difference between \$2-3 million and \$10 million. Denis Adams replied he heard Bob Marks, Director, Department of Administration, say he estimated the figure at \$4 million.

Senator Towe asked Representative Bardanouve to respond to Cort Harrington's statements. Representative Bardanouve replied that the argument is not how much comes in, but that there is a cash balance when money is needed.

Senator Towe asked why a June 15 cut-off date was used, instead of the 22nd or 23rd and remitting on the 27th day of the month. Representative Bardanouve replied that is not enough time for the County Treasurers. Cort Harrington replied that some Treasurers are concerned about the time-frame as they would have to transmit manually. He explained that the Treasurers have five days now, and that monies have to be in on the 25th day of the month.

Senator Towe asked if December payments are necessary. Representative Bardanouve replied that the cash dollars could be used to earn a little more interest.

Senator Gage asked if the bill assumes going to accrual affects only the fund balance. He said the Superintendent of Public Instruction is planning on accruing dollars in July which really came in the prior fiscal year.

Senator Thayer commented that it can't be both ways, and that one statute needs changing. Jeff Martin, Legislative Council, replied that on page 1, line 21, the State Treasurer may assess counties an interest charge of ten percent a year on all money not remitted within five days from the time required by Section 15-1-504, MCA.

**Closing by Sponsor:**

Representative Bardanouve advised the Committee that county officials always say changes won't work, and that they have been saying it since 1959. He said he could not agree, and urged the Committee to adopt the termination date.

**EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 2**

**Amendments, Discussion, and Votes:**

Senator Towe moved to amend HJR 2 on page 4, line 24 by striking \$16.397 and inserting \$15.397. The motion carried with all members voting aye, except Senator Van Valkenburg who voted no.

**Recommendation and Vote:**

Senator Towe moved that HJR 2 be concurred in as amended. The motion carried unanimously.

Senator Halligan will carry the bill.

**EXECUTIVE ACTION ON HOUSE BILL 12**

**Motion:**

Senator Van Valkenburg moved that HB 12 be concurred in.

**Discussion:**

There was none.

**Amendments, Discussion, and Votes:**

There were none.

**Recommendation and Vote:**

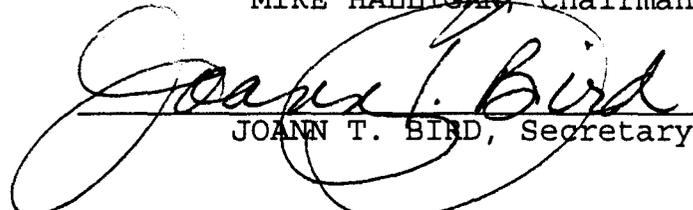
The motion made by Senator Van Valkenburg carried unanimously.

Senator Towe will carry the bill.

**ADJOURNMENT**

Adjournment At: 2:07 p.m.

  
MIKE HALLIGAN, Chairman

  
JOANN T. BIRD, Secretary

ROLL CALL

*Sen* TAXATION COMMITTEE

DATE 7/15/92

5<sup>th</sup> LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	✓		
SENATOR DOHERTY	✓		
SENATOR GAGE	✓		
SENATOR HARP	✓		
SENATOR KOEHNKE	✓		
SENATOR THAYER	✓		
SENATOR TOWE	✓		
SENATOR VAN VALKENBURG	✓		
SENATOR YELLOWTAIL	✓		
SENATOR ECK, VICE CHAIR	✓		
SENATOR HALLIGAN, CHAIR	✓		

Each day attach to minutes.





HJR

2

yes

Sew sharp

HB

#12

yes

Sew. sharp

Exhibit #2  
7-15-92  
HB 12

HB 12 Amendment to terminate  
this bill.

1. Page 2 Following line 14  
insert: New section Section 3 Termination  
This act terminates December 31, 1993.

7-15-92

HB 12

HB 12 Amendment to ~~delete~~ delete change in  
November/December

1. P2 line 5 through 12  
Strike in its entirety.

2. Title P. 1 line 7

Following line to

Strike: months

insert: month

following: June

Strike: "and December"

