EXHIBIT 2
DATE 4-20-07
SB 514

SB 514 – Sponsor's Testimony *(Sen. Joe Balyeat)*

SB 514 is my clean up bill for the Department of Revenue. I believe there are several issues where DOR is overcharging or otherwise making it needlessly difficult for MT taxpayers.

I've known of some of these issues for several years in my CPA practice, but didn't decide to do anything about it until this last year. I filed a proper extension on my taxes in April; completed my return before the October 15th extended due date, and sent it in together with the additional tax owing. I later received a bill for interest and penalties; I did the calculations and determined that the total annualized charges amounted to roughly 34% per annum. I later discovered that one of my clients; whose return we also filed by the extended 10/15 due date; faced similar charges amounting to over 33% per annum. I've spoken with several other CPA's who've seen similar exorbitant charges.

So here's what the bill does:

1) It reduces overly high MT late charges and conforms them with federal IRS rates for late payment.
2) It directs DOR to issue one combined deficiency notice to married couples for the combined amount owing, and one combined refund notice as well. Because the DOR recently changed their practices, many two wage-earner families were confused by multiple notices, and some faced complications and unnecessary tax increases on their federal returns.
3) It codifies the tax benefit rule as it relates to federal tax refunds, so that there is no more ambiguity --- Your federal tax refund is only subject to MT tax if it reduced MT taxes in the prior year. I recognize DOR has already backed away from earlier insistence on this issue, but I think it's preferable to have it right in statute rather than rule, so that no future DOR director could reverse that ruling again.
4) It eliminates an archaic rule allowing the DOR to charge the federal rate, or 8%, whichever is higher. I submit that if we have the technology to compute the federal rate for purposes of charging more than 8%, we can certainly also do that same computation for less than 8%; and everyone agrees its preferable that we conform our rules as much as possible to follow federal law.
5) It eliminates the DOR's ability to charge you a full month's interest when you're only one day or one week into the next month. And this is one issue which I've considered particularly egregious. In Senate Bus & Labor, we just had a bill this week attempting to clamp down on paycheck advance loans, because the APR can run as high as 300 or 400%. But during that hearing I did the calculations to show that DOR's interest rate can run as high as 432% if you're only 1 day into the next month, because of the Neanderthal practice of charging you a full month's interest for any portion of a month.
6) It clarifies a safe harbor rule for estimated tax payments, that you're not subject to an estimated tax underpayment penalty if you made substantially equal payments satisfying the estimated tax requirements.

The MT Society of CPA's has testified in favor of this bill. I believe the DOR will be informational here today. One potential problem which DOR highlighted in previous hearings is federal rules governing the issuance of 1099-G's for State refunds. I'd like the committee to note that MT DOR only recently changed their rules and started issuing separate refund notices when one spouse's refund went to pay the other spouse's balance due. Previously, MT combined them into one net refund notice; and the Feds never raised any issue with that practice. SB 514 just says to go back to doing it the old way. Moreover, the committee should be aware that the current practice actually results in a net reduction to MT tax revenue, because it results in higher federal taxes, which are deductible on MT income taxes. If we pass SB 514 as is, we make things simpler for MT taxpayers and accountants, lower federal taxes, and increase MT revenue. I can't imagine why we wouldn't want to do that.

With that, I'll distribute a written copy of my comments for the record, listen to proponents and opponents if any; answer questions, and reserve the right to close.