

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on April 4, 1995, at
8:00 a.m.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John G. Harp (R)
Sen. Dorothy Eck (D)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Renée Podell, Committee Secretary

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

Committee Business Summary:

Hearing:
Executive Action: HB 561, HB 293, HB 589, HB 601
(Discussion: HB 565, HB 569)

EXECUTIVE ACTION ON HB 565

Discussion: CHAIRMAN DEVLIN explained HB 565 bill deals with the
average inventory taxation on livestock. He stated there will be
no refunds as outlined in Line 8 of Page 5. He remarked it would
be good to have a mechanism by which each county could pro rate
it.

SEN. MACK COLE asked if this will affect feed lot people who have
cattle in for part of the year. CHAIRMAN DEVLIN said they will
still pay the per capita fee.

SEN. DELWYN GAGE said new Section 3 does provide for a pro rate
in regard to the average inventory. CHAIRMAN DEVLIN commented
this section deals with per month paperwork.

Motion: SEN. LORENTS GROSFIELD MOVED DO CONCUR IN HB 565.

Discussion: SEN. MIKE FOSTER stated he agrees with SEN. GROSFIELD'S motion, however, the stock growers should find some way to pro rate this in order for each county to get what is fair.

SEN. GROSFIELD said since this is at the option of the livestock owners it isn't required and questioned SEN. FOSTER if he wanted to see this required. SEN. FOSTER remarked the pro ration could be optional, however, why close out one county and give it entirely to another.

Mr. Martin said the intent of the bill is to show each month where the cattle are located.

SEN. GAGE commented if there isn't some kind of pro ration the bill doesn't make any sense. He said look at Page 3, Line 13 in regard to the language "pro rated".

CHAIRMAN DEVLIN asked Mary Whittinghill, Department of Revenue, to help the committee with this issue. Ms. Whittinghill stated it is her understanding that the intent on the average inventory will allow the DOR to determine the average inventory by county. She said in the past the problem was the department wasn't sure if the counties had the livestock reported there. She explained there wasn't enough information among the counties to insure the livestock had been reported in two or three counties throughout the year. Ms. Whittinghill said if this bill passes it is the intent of the DOR to design a form which will make the owner report 100%, listing the counties underneath. She said the pro ration among counties is the intent of the average inventory.

SEN. ECK questioned why the fiscal note indicates this will result in a slight decrease in property taxes. SEN. GROSFIELD stated he asked the question in the hearing and the reason given was the livestock owners would tend to use whichever method gave them the lowest tax bill.

SEN. GROSFIELD said this bill has an intention in it which the DOR will carry out, however, it isn't explicit in the bill. He said the committee needs to make the intention explicit in the bill.

SEN. GROSFIELD asked Ms. Whittinghill if Page 1, Line 16 gives the DOR the authority to pro rate. Ms. Whittinghill commented she wasn't sure how to answer his question. CHAIRMAN DEVLIN said that particular line provides the option.

CHAIRMAN DEVLIN asked Ms. Whittinghill about the computer program being developed and questioned the costs associated with it. Ms. Whittinghill reported the DOR has determined it will cost approximately \$14,500.00 and the on-going costs for mailings and storage will cost \$7,000.00 between the counties.

SEN. ECK insisted Section 3 takes care of the issue and an amendment is not needed. Ms. Whittinghill explained once a method is chosen the livestock owner must stick with the method because the pro ration is automatically built into the average inventory calculation. She stated the department's attorney reviewed the bill and proposed the amendment in House Taxation on the clarification of pro ration.

SEN. GAGE suggested language be added on Page 1, Line 23 adding "and property tax pro rated" and on Page 2, Line 6 add "assessment and property tax must be based on this report".

SEN. ECK stated that section deals with the duty of the owner.

SEN. GAGE commented SEN. ECK is correct.

CHAIRMAN DEVLIN asked SEN. GAGE to work on amendments for this bill.

SEN. GROSFIELD WITHDREW HIS MOTION.

EXECUTIVE ACTION ON HB 561

Motion/Vote: SEN. GROSFIELD MOVED HB 561 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 293

Motion/Vote: SEN. GAGE MOVED AMENDMENTS (771144SC.SRF). MOTION CARRIED UNANIMOUSLY.

Motion: SEN. ECK MOVED HB 293 BE CONCURRED IN AS AMENDED.

Discussion: CHAIRMAN DEVLIN stated there is an additional hit on the taxpayer.

SEN. GAGE said these are trust funds and many employers put these in separate accounts.

SEN. ECK stated this is voluntary.

SEN. JOHN HARP remarked the filing is voluntary, however, the reporting is mandatory.

Vote: MOTION CARRIED 6 - 2 WITH SEN. DEVLIN AND SEN. HARP VOTING IN OPPOSITION TO THE MOTION.

EXECUTIVE ACTION ON HB 589

Motion: SEN. FOSTER MOVED HB 589 BE CONCURRED IN.

Discussion: SEN. FOSTER remarked this is an old issue from the 1993 session. He explained the DOR asked him to carry a bill that had no fiscal impact, however, it would shore up the state's arguments against Bonneville Power Administration, in case they tried to challenge our beneficial use tax. SEN. FOSTER said

this particular Elks Club was hit and they have been fighting with the DOR ever since. He acknowledged now the DOR says they are neutral on this bill because of the magnitude of the dollars involved. He encouraged help for the Elks Club.

SEN. ECK said every other Elks Club which serves alcohol pays taxes. She asked if there is a good reason why this particular Elks Club shouldn't pay a tax.

SEN. FOSTER stated he asked the question to the Elks Club. He acknowledged a non-profit organization pays taxes. He explained this particular Elks Club disclosed they didn't pay taxes in the past.

SEN. COLE asked **SEN. FOSTER** if this bill is opening up a big hole especially with ski resorts. **SEN. FOSTER** said the ski resorts aren't in this yet due to the DOR reviewing the issue. He stated he can't say if it opens up a hole, however, he is concerned with it.

SEN. GAGE said there isn't a lot of Elks Clubs or other organizations who occupy a building owned by a public entity.

Motion/Vote: **SEN. HARP MADE A SUBSTITUTE MOTION TO TABLE HB 589. MOTION CARRIED 5 - 2 WITH SEN. FOSTER AND SEN. VAN VALKENBURG VOTING IN OPPOSITION TO THE MOTION.**

EXECUTIVE ACTION ON HB 569

Discussion: **SEN. FOSTER** commented he would like to review the amendments and the bill itself.

SEN. GROSFIELD said SB 746 has been signed by the Governor and he didn't think the committee could amend a bill that has been signed by the Governor. **Mr. Martin** said one section would be codified with the rate that is contained in HB 569.

EXECUTIVE ACTION ON HB 601

Discussion: **CHAIRMAN DEVLIN** stated this bill has a fiscal bang to it.

SEN. HARP commented it has a \$¼ million bang.

CHAIRMAN DEVLIN stated this is a license tax and goes to the General Fund.

Motion/Vote: **SEN. ECK MOVED THE TECHNICAL AMENDMENT ON PAGE 3, LINE 2 MAKING IT CONSISTENT WITH THE REST OF THE BILL. MOTION CARRIED UNANIMOUSLY.**

Motion: **SEN. FOSTER MOVED HB 601 BE CONCURRED IN AS AMENDED.**

{Tape: 1; Side: B; Comments: Turn Tape.}

Discussion: SEN. HARP stated SEN. FORRESTER'S bill will do something for the contractors.

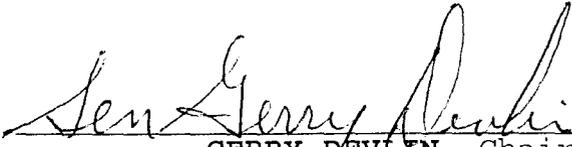
SEN. COLE said if this bill isn't repealed the contractors will pay \$25.00 plus \$80.00.

SEN. HARP stated this bill is a license tax. He acknowledged SEN. FORRESTER'S bill is a new source of revenue that would be paid by the contractors for the actual internal use for the Contractor's Association.

Motion: SEN. COLE MADE A SUBSTITUTE MOTION TO TABLE HB 601. MOTION CARRIED 6 - 2 WITH SEN. VAN VALKENBURG AND SEN. HARP VOTING IN OPPOSITION TO THE MOTION.

ADJOURNMENT

Adjournment: 9:20 a.m.



GERRY DEVLIN, Chairman



RENEE J. PODELL, Secretary

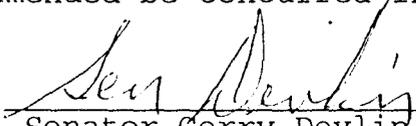
GD/rp

SENATE STANDING COMMITTEE REPORT

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MR. PRESIDENT:

We, your committee on Taxation having had under consideration HB 293 (third reading copy -- blue), respectfully report that HB 293 be amended as follows and as so amended be concurred in.

Signed: 

Senator Gerry Devlin, Chair

That such amendments read:

1. Page 5, line 16.
Strike: "\$499"
Insert: "\$1,199"

2. Page 5, line 28.
Strike: "\$500"
Insert: "\$1,200"

-END-


Amd. Coord.
Sec. of Senate

Van Valkenburg
Senator Carrying Bill

771144SC.SRF

SENATE STANDING COMMITTEE REPORT

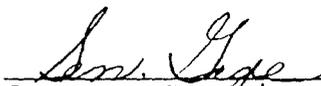
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MR. PRESIDENT:

We, your committee on Taxation having had under consideration HB 561 (third reading copy -- blue), respectfully report that HB 561 be concurred in.

Signed: 
Senator Gerry Devlin, Chair


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

771051SC.SRF