

MINUTES OF THE
SENATE RULES COMMITTEE

February 14, 1987

The meeting of the Senate Rules Committee was called to order by Chairman Van Valkenburg on February 14, 1987, in Room 331, State Capitol.

ROLL CALL: All members were present. Also present were Senator Neuman, Senator Halligan, Senator Crippen, Terry Cohea from the Governor's Office, John LaFaver from the Revenue Department, and Greg Petesch, legal counsel for the Legislative Council.

PURPOSE OF THE MEETING; Chairman Van Valkenburg stated that the purpose of the meeting was to consider Senate Bills No. 175 and 307 and certain objections that have been raised with respect to these bills.

Sen. Van Valkenburg stated that the Committee will take up Senate Bill No. 307 first. It is the bill introduced by Senator Neuman and is the Governor's Tax Reform Bill. Senator McCallum raised an objection on the floor of the Senate yesterday as to whether the bill encompassed more than one subject within the title. There is a constitutional provision that is also embodied in the Rules of the Legislature that would prohibit the consideration of any bill that had more than one subject in it. Sen. Van Valkenburg has asked Mr. Petesch from the Legislative Council to review this issue.

Senator McCallum stated that he has a great deal of concern over all the items that are covered in this bill and he thinks some of them reach further than Taxation bills. The title has been changed from what it was on the first draft.

Sen. Van Valkenburg said the bill is an attempt to amend most of the tax laws in Montana and to have broad-based tax reform. If you have a particular statute that provides for an exemption of taxation on a particular kind of income, and you're dealing with a bill that has a total subject of broad-based tax reform, he doesn't think it unusual that that provision would be amended.

Mr. Petesch responded that wehn he reviewed this bill, he felt that it was a bill to generally revise the tax laws in Montana. Article 5, Section II of the Constitution has an exception to the single-subject purpose for bills that generally revise laws. He felt that this bill was a general revision of the tax laws. He did some research into the background of the constitutional provision, which is a carry-over from the old constitution. In 1907 a case was decided that says that the object of this provision is to prevent the practice, which used to prevail, of

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joining in one act incongruous and unrelated matter. There was also a general case decided in 1914 that dealt with general revision bills and it dealt with the general revision of the laws on schools. The court said that general revision laws are so extraordinary in their nature that the members of the legislative body and the public are presumed to know what is being done in them and so long as the title gives notice that this is in fact a general revision, the bill is probably OK. There are other cases that say where you cite to the sections that are being amended, and those amendments are germane to the general purpose of the bill, that they are not unrelated and can be contained in the same bill. He summarized by saying that, viewing this bill as a general revision of the tax laws, that would be the one subject contained in the bill, which is an exception in the Constitution and the Legislative Rules.

Sen. Van Valkenburg asked for discussion.

Sen. Blaylock asked Sen. McCallum if he has some specific things in the bill that do not deal with tax revision. Sen. McCallum answered no.

Sen. Neuman said he would like to make the case that if you take this bill in its entirety, it is revenue neutral in that there are parts of the bill that raise some revenue and some that give revenue back. If we were to take this bill and divide it up, it then removes the continuity of the package and it is easy to pass those things that reduce revenue to the general fund and it is harder to pass those things that raise the revenue. If you start to take the package apart, then you don't have tax reform anymore, you have special interest type legislation and not a broad-based tax reform policy.

Sen. Aklestad explained that they felt it would be fair to the Taxation Committee and both sides of the aisle to bring this matter up prior to going in to hearings just in case there was a problem. There are so many different subject matters, most of them do pertain to taxation. Some deviate from it. Besides, the House might decide not to accept it. They wanted to make sure that a majority of the Rules Committee felt that it was in line before the four days of hearings on the bill start. They are concerned that there are too many variations and too many subjects in the bill- they are concerned that this might set a dangerous precedent.

Sen Crippen said there is a lot in this bill that has merit, but it is too much for the Taxation Committee. We are dealing with

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substantive changes in this bill and he feels that they should be addressed as the subject matter demands. He gave as an example of trying to revise the Criminal Code, which would take in lots of different subject matters.

Sen Van Valkenburg said that the Legislature did just that in 1973, when it generally revised the Criminal Code and dealt with everything that there was.

Sen. Farrell asked Mr. Petesch if the wording from the Constitution in 1914 is the same as the new Constitution. Mr. Petesch answered that it is very similiar; the Commission comments to the Constitution indicate that there is intended to be no change in the substantive nature of that provision.

Sen. Himsl said he thinks we could have a joint meeting of the House and Senate Rules Committee to see if we can together come up with an understanding.

Sen. Van Valkenburg answered; "That is not possible because we can't even get together with the house on the Rules for the session, much less to get together on this issue. There is a risk involved for Sen. Neuman in carrying this bill; that the House will decide that this doesn't violate the Rules and that he can even get the bill out of the Senate. That is the political risk associated with putting all things together in this bill. But legally, they can do that, and while as a matter of policy, we may disagree with that policy choice, it is one that the sponsor of the bill is entitled to make under the law."

Sen. Himsl said since it is a policy, it is all the more imperative that we have an agreement before we ask the Taxation Committee to spend a whole week on the bill.

Sen. McCallum stated that the main reason he is here is that this is a very important piece of legislation and he is sure the Taxation Committee wants to give it a fair hearing, but he questions whether it is fair to put all of it into one bill.

Sen. Van Valkenburg answered that it may not be fair, but it is legal.

Sen McCallum said that the title should be listed as a codification.

Sen. Aklestad questions whether it is legal; he thinks we are really stretching the imagination on the Rules and hates to see

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the Senate do it. "How far do we go before we break that Rule?" He said that he can get the House Rules (Republicans) together for a meeting on Monday to work out a solution.

Sen. Blaylock said he still hasn't heard anything that says this bill does not pertain to taxation. If this is a general revision of the taxation code, it fits under the Constitution and it fits under our Rules, legally it does fit.

Sen. Van Valkenburg asked for further discussion. Mr. LaFaver stated that they looked at the issue early on from a legal standpoint and he was assured by the legal staff that the way this piece of legislation was put together as a comprehensive piece to revise the tax code was legal.

MOTION; Sen. McCallum moved that there are too many subjects within the bill that don't fit the title. Question called. With Senators McCallum, Aklestad, Farrell and Himsl voting yes, and Senators Van Valkenburg, Norman, Jacobson and Blaylock voting no, the motion failed. The Chair ruled that the Committee has been unable, by virtue of a tie vote, to resolve this issue, and as such it is presumed that the bill does not violate the rules and that we will proceed to a hearing on the bill, starting Monday in the Taxation Committee. Sen. Van Valkenburg stated that he will inform the Senate during the floor session Monday.

NEXT ORDER OF BUSINESS; Sen. Halligan's bill No. 175. Sen. Regan made a motion that this bill be referred to the Rules Committee for consideration as to whether it is an appropriation bill.

Mr. Petesch said he looked at Senate Bill No. 175 when it was initially drafted as well as reviewing it again now and sees nothing in it that actually appropriates money. It requires that money appropriated in excess of an amount can be used for other purposes, but the actual appropriation of money is not in this bill.

Sen. Himsl explained the problem the Committee had with the bill: this money was generated from an assessment on automobiles for the purpose of covering the court expenses in criminal cases. That was done and there was money left over (\$750,000) over and above having met the criminal court costs in criminal cases. The question is does the money have to go to the general fund or can they divert it to the district court grants.

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Sen. Van Valkenburg said just because the word "appropriation" is in a title it does not mean that you are appropriating money. You must have operative language in a bill that gives spending authority to some entity. What Mr. Petesch is saying is that this says if money has been appropriated, then it shall be spent in such a fashion. The operative language of making an appropriation does not exist in this bill and therefore there is no grant of spending authority.

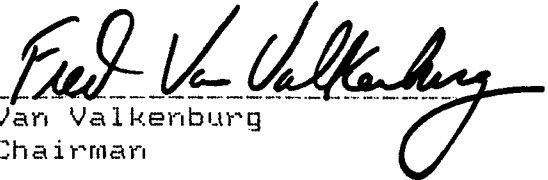
Mr. Petesch stated that the way he read the bill is that this is the same as earmarking money to be used for a purpose.

Mr. Gordon Morris from the Montana Association of Counties spoke to the Committee and explained that the revenue coming from the fee imposed on motor vehicles goes into the motor vehicle suspense fund and is then appropriated by the Legislature.

MOTION; Sen. Blaylock moved that the Committee decide that this is not an appropriation bill. Question called. The motion carried unanimously.

Sen. Van Valkenburg stated that he will propose to send the bill back to Finance and Claims.

Seeing no further business before the Committee, Sen. Van Valkenburg adjourned the Committee.


Van Valkenburg
Chairman

ROLL CALL VOTE

SENATE COMMITTEE RULES

Date 2/14/87 Bill No. 3 ^{SB}
307 Time 12:15 pm

NAME	YES	NO
SENATOR FRED VAN VALKENBURG		✓
SENATOR GEORGE MC CALLUM	✓	
SENATOR BILL NORMAN		✓
SENATOR GARY AKLESTAD	✓	
SENATOR JUDY JACOBSON		✓
SENATOR BILL FARRELL	✓	
SENATOR CHET BLAYLOCK		✓
SENATOR MATT HIMSL	✓	

N. Oberg
Secretary

Chairman

Motion: Senator McCallum moved that there are too many subjects within the bill that don't fit the title.

STANDING COMMITTEE REPORT

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MR. PRESIDENT

We, your committee on Senate Rules

having had under consideration Senate Bill No. 175

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color

USE EXCESS FUNDS APPROPRIATED FOR CRIMINAL EXPENSES FOR DISTRICT COURT GRANTS

Respectfully report as follows: That Senate Bill No. 175

The Senate Rules Committee recommends and advises the Senate as a whole that Senate Bill No. 175 is not an appropriations bill.

~~DO NOT PASS~~
DO PASS

~~DO NOT PASS~~
DO NOT PASS

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Chairman.