

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, on February 18, 1991,
at 9:05 a.m.

ROLL CALL

Members Present:

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

Members Absent: John Harp (R)

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: Chairman Halligan reminded those
testifying to sign the Visitor's Register.

Chairman Halligan told the Committee he spoke with the
Missoula local development corporation who were working on a
proposed amendment to Senate Bill 272. He explained he would
allow them to present it to the Committee. Missoula's local
development corporation want to expand to include private
infrastructure; the public infrastructure definition for
industrial with a separate definition for private infrastructure.
Senator Thayer recommended inviting Senator Farrell to be present
at the time of the presentation.

HEARING ON SENATE BILL 286

Presentation and Opening Statement by Sponsor:

Senator Larry Tveit told the Committee Senate Bill 286 would
lower the minimum capital from \$200,000 to \$50,000 in the Montana
Capital Company Act. The Montana Capital Company Act was enacted
in 1983 for the purpose of long-venture capital to create or
improve businesses in Montana. He explained the venture capital

generated by this must be used to encourage and assist the strengthening of the economy through loans, investments and other business transactions for the purpose of developing new small business and investry in Montana. He stated its developing, preserving, diversifying, expanding, and strengthening the agricultural, industrial, and business base of Montana's economy, particularly those small businesses. He told the Committee the bill would have to be extended because it runs out in July 1991.

Proponents' Testimony:

Hugh Williamson, a Certified Public Accountant from Sidney, Montana representing Richland County Economic Development Corporation spoke in support of Senate Bill 286. He told the Committee he sought to lower the present \$200,000 up-front risk capital minimum to \$50,000 for smaller communities. He explained the needed risk capital are less in smaller communities. This legislation would make it possible for smaller communities to implement programs in their area. He told the Committee there are over 30 economic development corporations active in smaller towns and counties in Montana which have been formed in recent years because of the "dismal economies". He told the Committee none of these, except Whitefish, have been able to meet the raise the necessary capital to meet the \$200,000 minimum. He presented the Committee with a list of capital companies which have been given more than six million credits. (Exhibit #1) He pointed out only five cities has used the program since 1983. If this can be implemented with 30 or more smaller communities, a two-tier level can be achieved. One would be where increases which are proposed for larger cities could be implemented. In smaller communities they depend on volunteerism. He told the Committee \$50,000 is as difficult to raise as a greater amount in larger cities. He told the Committee the capital for small programs, using volunteerism, would not jeopardize the program. He stated the Department of Commerce recommended changes in the program to make it viable for the future, as well as correcting past abuses. Mr. Williamson emphasized that lowering the minimum should not weaken the control. He said the accounting for a smaller program could comply with the requirements.

Tim Hintze, owner of Montana Meats in Sidney told the Committee about meat plant closures in Montana and North Dakota. He stated his need for venture capital to expand his business. He explained he is not what is considered a secure banking risk. Large capital corporations will not fill this need. He said the nearest city with a capital corporation is Billings which is a 4 1/2 hour drive. Mr. Hintze showed the Committee a plaque. He stated it says he "makes the best bacon in the state of Montana". He told the Committee without help from a venture capital company he would close. (Exhibit #2)

Gloria Paladicheck, Richland County Commissioner and board member of the Greater Richland County Economic Development Corporation told the Committee Senate Bill 286, if passed, would

Mr. Poole explained there are other issues. He explained when speaking about venture capital there are some things which make the risk "less risky". If a greater amount of money is invested in more and more projects the diversification reduces the risk for the investors in the capital company. Any investment company or investment manager will look to reduce the risk through diversification of portfolio. If a very small fund (\$50,000 or even \$200,000) there is often not the diversification which would be available from a larger portfolio. Possibly the risk is increased for the investors. However, if the investors wish to invest in the fund, whether \$50,000 or \$200,000, it is a risk they are will to take; and obviously it is more risky because the diversification is not there. The diversification is not there in terms of the number of investments made, but also not there in terms of the geographic spread which would be sought to attempt to minimize down-trends in various geographic areas of the economy.

Senator Towe asked Keith Colbo why the legislation was limited to towns with 10,000 or counties with 15,000. He asked why the same argument does not apply to larger communities.

Mr. Colbo told the Committee he was not involved in the drafting of Senate Bill 286 or setting the limits. He explained these clearly meet the needs of small communities. When dealing with large communities with wider bases to draw investments (from a capital company) from, the larger communities would want to operate in the terms of adventure capital firms with a larger capitalization. He stated there are those true venture capitals that would advise not to get into venture capital business without \$2 million. He explained he has heard the argument, and agrees there is merit to the argument behind it. He told the Committee states such as Oregon, Washington and others use those kind of criteria. It supports the venture capital efforts in those area. He commented it is not realistic in Montana; not in Billings or Great Falls, while some do meet the \$200,000 minimum, but for communities such as Deer Lodge and others in eastern Montana it is not possible. He explained what is being dealt with is a "very known base". The volunteers that may operate it, the individuals that may invest in it, and a known business interest. He told the Committee he felt it was appropriate for the state of Montana; both the risk being taken and results that may be obtained.

Senator Towe asked Senator Tveit the same question. Senator Tveit while drafting the legislation, speaking with those involved, and analyzing the small communities (many are under 10,000 for population or 15,000 for county), the feeling was this was an area not being addressed in current law because many of the communities. That criteria was used for smaller communities to enable them to participate. Larger communities were not addressed in the bill.

Senator Thayer asked Senator Tveit if this bill would also

authorize extension. Senator Tveit explained it would not. He told the Committee another bill is being considered; but if not the extension has to be included.

Senator Thayer commented he has heard of abuses in the capital act. He asked why would the extension be only on this; and would it only pertain to this portion without affecting the entire capital act.

Senator Halligan commented if this were extended it would apply to all. He explained a house bill as a "clean up" on the credit corporation element.

Senator Eck asked Senator Tveit if the board members, and investors would have to be from the community. She used Belgrade, which would meet the criteria, as an example. Senator Tveit told the Committee for an investor from a big city to a smaller community is not addressed in the bill. He explained the bill was intended to address the investors in that community. He presumed someone from Bozeman could go to Belgrade, but the purpose of the bill is to create economic development in Belgrade not Bozeman.

Senator Eck commented the bill did not say that; therefore it could be incorporated in any small and serve wherever they wish. She explained Belgrade would be a good possibility as it has its own industrial area. She stated her understanding was there would be no restrictions to declare to investors being from where the loans were made.

Closing by Sponsor:

Senator Tveit closed on Senate Bill 286.

HEARING ON SENATE BILL 390

Presentation and Opening Statement by Sponsor:

Senator Van Valkenburg told the Committee Senate Bill 390 would extend relief from property taxation as a result of natural disaster destruction of the property to personal property other than mobile homes. He explained a fire occurred in Missoula in February of 1990 at Mountain States Beverages which is owned and operated by Carson Vehrs. He stated personal property taxes are assessed and are payable on the January 1, of each year. Mr. Vehrs' fire occurred on February 9, 1990. Approximately two weeks after the fire Mr. Vehrs discovered he was responsible for property taxes due on the property. The property was destroyed. He approached the County Tax Appeal Board, and subsequently the County Commissioners, and learned the statute did not provide for any proration of taxes based on such a natural disaster. Senator Van Valkenburg told the Committee if a reduction is provided for real property or mobile homes, based on natural disasters, the

same should be applied to personal property. Senator Van Valkenburg proposed a technical amendments on the advisement of the Department of Revenue. (Exhibit #4)

Proponents' Testimony:

Carson Vehrs, owner of Vehrs Mountain State Beverage in Missoula. He told the Committee after the fire at his business February 8, 1990, the experienced total destruction and a large loss. He explained in January of 1990 the necessary report for personal property was filed with the County Treasurer by the deadline (January 31). The business was destroyed by fire on February 8; two weeks later a tax bill was received. He commented although he had insurance, it was a traumatic time. When he received the tax bill he assumed there would be some type of relief. He stated most law is based around logic, compassion, and concern. He contacted the county treasurer. He told the Committee of his surprise when he learned there was no provision for proration of this expense. Mr. Vehrs stated he had the money to pay the taxes, and to get back into business. He explained he did not appear in support of Senate Bill 390 on his own behalf. He cited an example of a couple purchasing a mobile home in the fall of the year. The home burns on February 8, along with all of their possessions. All personal belongs and furniture need to be replaced. They would be responsible for a tax on property which no longer exists..

Dennis Burr of the Montana Taxpayers Association spoke in support of Senate Bill 390. He told the Committee there is currently legislation which proposes prorating personal property taxes on property brought into Montana. He explained an out-of-state person bringing equipment into Montana would receive a credit or proration when the property is taken out before the end of the year. An out-of-state person who brings property into the state would receive credit or a refund for the time they were not in Montana.. The Montanan with exactly the same equipment who lost it all in a catastrophe would be required to pay a full years tax.

Opponents' Testimony:

NONE.

Questions From Committee Members:

Senator Towe asked Mr. Vehrs since he had insurance, if he acquired new property to replace the destroyed property. Mr. Vehrs replied he did not immediately. He explained under the provisions of his business continuation insurance he rented equipment, such as hand trucks, forklifts, computers, desks, etc. for a period of approximately six months. He stated he is still replacing equipment. He commented unfortunately he had adequate insurance for just inventory and business continuation; much of the equipment has not yet been replaced.

Senator Towe asked Mr. Vehrs if the person who owned the equipment Mr. Vehrs rented had paid tax on that property. Mr. Vehrs said that was correct.

Senator Towe asked Mr. Vehrs how he would respond to the concern that someone experiencing a fire in February was able to get back into business in April, by buying new property; the new property would not be subject to tax. It would not be subject to tax for that year because the tax is on property in possession on January 1. Mr. Vehrs explained within the provision of the law the taxpayer requesting the relief would have to appeal to the tax assessor. If the business was reestablished and the equipment repurchased it is possible a tax credit would not be granted.

Senator Towe asked Mr. Vehrs if the tax due had been covered by his business continuation insurance. Mr. Vehrs said it was not.

Senator Gage commented to Senator Van Valkenburg the fact the taxpayer had received insurance should be considered, and perhaps indicate the valuation would not be reduced by the amount of the insurance coverage.

Senator Van Valkenburg told the Committee he had no objection if an amendment which would take into account the receipt of insurance that would enable the business owner to replace the property. He explained there are some problems, for example, if the owner simply takes the insurance and does not replace the property.

Senator Towe commented if the owner receives the insurance and discontinues the business, it is similar to selling the business. If the owner sold the business, the tax would be owed. Senator Towe asked Senator Van Valkenburg if he would concur a mandate is contained where the Department of Revenue must make the reduction or is a discretion on it. He pointed to the word "shall" on Page 1, Line 14.

Senator Van Valkenburg agreed the Department of Revenue can make its decision based on natural disaster. The department will have to determine if the property is rendered unsuitable for its previous use by virtue of the natural disaster. He pointed out there may be a need to define "natural disaster" which within this statute is open-ended. He told the Committee he had asked the department if there were administrative regulations which further defined it. He explained as in Mr. Vehrs' situation a natural disaster may not have been established. Mr. Vehrs' fire was caused by an electrical malfunction.

Senator Van Valkenburg asked if the legislative intent something such as an electrical malfunction would amount to a natural disaster as opposed to a fire caused by lightning. He suggested the issue be examined before acting on Senate Bill 390.

Closing by Sponsor:

Senator Van Valkenburg closed on Senate Bill 390.

EXECUTIVE ACTION ON SENATE BILL 280

Motion:

Senator Gage moved Senate Bill DO PASS.

Discussion:

After discussion regarding brackets within the text it was determined these were included because of the status of LC 90.

Recommendation and Vote:


Motion to DO PASS CARRIED.

ADJOURNMENT

Adjournment At: 9:55 a.m.



SENATOR MIKE HALLIGAN, Chairman



LINDA CASEY, Secretary

MH/11c

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/18/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	P		
SEN. ECK	P		
SEN. BROWN	P		
SEN. DOHERTY	P		
SEN. GAGE	P		
SEN. HARP		A	
SEN. KOEHNKE	P		
SEN. THAYER	P		
SEN. TOWE	P		
SEN. VAN VALKENBURG	P		
SEN. YELLOWTAIL	P		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 18, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 280 (first reading copy -- white), respectfully report that Senate Bill No. 280 do pass.

Signed: _____

M. Halligan
Mike Halligan, Chairman

LB 2/18/91
Amd. Coord.

SB 2/18 11:45
Sec. of Senate

Montana Capital Company
Quarterly Report
As of 06/30/1990



	Date Application Complete	Date Certified	Date Qualified	Total Tax Credit Reserved	Capital Eligible for 25% Tax Cr	Capital Eligible for 50% Tax Cr	Total \$ Raised with Tax Credits	Tax Credits Authorized	Balance of Tax Credits Available	Reserved Tax Credit Expires	Dollars Invested	% TC \$ Invested
Underwriters, 1018	03/13/1989	03/31/1989		\$ 500,000.00	.00	.00	.00	.00	\$ 500,000.00	09/28/1990	\$.00	.00 %
efish)												
st Ventures Ltd 019	05/02/1989	05/19/1989		\$ 1,000,000.00	.00	.00	.00	.00	\$ 1,000,000.00	11/19/1990	\$.00	.00 %
(Helena)												
Corporation of 001	01/12/1984	02/02/1984	03/30/1984	\$ 184,075.00	\$ 736,300.00	.00	\$ 736,300.00	\$ 184,075.00	.00	.00	\$ 516,194.00	70.10 %
(Helena)												
Capital Corpor 08a	12/18/1985	01/31/1986	10/31/1986	\$ 127,500.00	\$ 510,000.00	.00	\$ 510,000.00	\$ 127,500.00	.00	.00	\$ 255,000.00	50.00 %
na Capital Corp 006	06/23/1987	11/30/1984	08/28/1987	\$ 100,000.00	.00	\$ 200,000.00	\$ 200,000.00	\$ 100,000.00	.00	.00	\$ 127,000.00	63.50 %
Missoula)												
Capital Corpor 08b	10/03/1986	01/31/1986	12/18/1987	\$ 690,500.00	.00	\$ 1,381,000.00	\$ 1,381,000.00	\$ 690,500.00	.00	.00	\$ 115,000.00	10.49 %
ite Capital Ltd 012	05/25/1988	05/26/1988	08/25/1988	\$ 500,000.00	.00	\$ 1,000,000.00	\$ 1,000,000.00	\$ 500,000.00	.00	.00	\$ 604,300.00	60.43 %
Development Cor 010	11/25/1987	12/18/1987	12/16/1988	\$ 241,812.50	.00	\$ 483,625.00	\$ 483,625.00	\$ 241,812.50	.00	.00	\$.00	.00 %
Spring Creek 014	06/17/1988	07/26/1988	01/27/1989	\$ 650,000.00	.00	\$ 1,300,000.00	\$ 1,300,000.00	\$ 650,000.00	.00	.00	\$.00	.00 %
Capital 015	07/05/1988	07/26/1988	01/27/1989	\$ 105,000.00	.00	\$ 210,000.00	\$ 210,000.00	\$ 105,000.00	.00	.00	\$.00	.00 %
Capital Invest 016	12/04/1988	12/16/1988	01/27/1989	\$ 1,500,000.00	.00	\$ 3,000,000.00	\$ 3,000,000.00	\$ 1,500,000.00	.00	.00	\$ 750,000.00	25.00 %
Part. (Butte)												
Capital Ltd. 013	06/06/1988	06/24/1988	06/27/1989	\$ 101,000.00	.00	\$ 202,000.00	\$ 202,000.00	\$ 101,000.00	.00	.00	\$.00	.00 %
illings)												
ite Capital Ltd 12b	07/18/1989	08/31/1989	08/31/1989	\$ 712,503.50	.00	\$ 305,000.00	\$ 305,000.00	\$ 152,500.00	\$ 540,093.50	08/31/1990	\$.00	.00 %
illings)												
artunities Ltd. 017	02/13/1989	02/24/1989	02/26/1990	\$ 1,500,000.00	.00	\$ 3,000,000.00	\$ 3,000,000.00	\$ 1,500,000.00	.00	.00	\$.00	.00 %
ite)												
				\$ 7,912,500.00	\$ 1,246,300.00	\$ 11,081,665.00	\$ 12,327,965.00	\$ 5,852,407.50	\$ 2,060,093.00		\$ 2,397,554.00	

Credits Authorized \$ 7,912,500.00
 Credits Reserved (1,912,500.00)
 Available for Allocation to MCC's \$.00
 Tax Credit Waiting List: * Treasury State Capital \$287,406.50
 Pending Certification: Bighorn Financial Corp. 2/14/90
 Terran Financial Group 3/26/90

SENATE TAXATION

EXHIBIT NO. 2/19/91

DATE

NO.

SB 286

SB 286

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 18th day of FEBRUARY, 1991.

Name: TIM HUNTZE

Address: SKAAR RTE Box 4113-2

SIDNEY MT

Telephone Number: 482-2778

Representing whom?

MONTANA MEATS

Appearing on which proposal?

SB 286

Do you: Support? X Amend? Oppose?

Comments:

SENATE TAXATION

EXHIBIT NO. 2

DATE 2/18/91

BILL NO. SB286

S. B. 286

2/18/91

Summary of Testimony by John Franklin
Regulations governing the Small Montana
Capital Company (\$50,000 capitalization)

1. A borrower can not receive
funds from a capital company
in which he/she is a
stockholder

2. A borrower (applicant for capital company
funds) must have two turn down
letters from local financial institutions
for the "venture" without capital
company funds and a commitment
from at least one financial
institution illustrating the terms
of how "the venture" will be funded
with capital company and other
funds.

SENATE TAXATION

EXHIBIT NO. 3

DATE 2/18/91

BILL NO. SB286

3. Prior approval of all capital company
investments must be received from the
Director of the Department of Commerce

4. The Small (\$50,000 Capitalized) Capital Company
must supply annual compiled financial
data to the Dept. of Commerce within
10 days of the termination of the fiscal year.

5. The Small Montana Capital Company will not be assessed a fee by the Dept. of Commerce.

6. The Small Montana Capital Company remains exempt from having to file its transactions with the State Auditor and Commissioner of Securities

Amendments to Senate Bill 390
1st. Reading Copy

Prepared by the Montana Department of Revenue ^C
February 15, 1991

This amendment is necessary so that all personal property which is not taxed as an improvement to real estate or a lien upon real estate is eligible for property tax relief when destroyed by natural disaster. The introduced bill would extend the eligibility for tax relief to all personal property upon which the tax is collected by one payment pursuant to § 15-16-113. However, the tax on mobile homes, the tax upon which is not a lien upon real estate, is imposed pursuant to § 15-24-202, MCA, and collected in two payments. Therefore as the bill is originally drafted such personal property would not be eligible for tax relief because the tax on it is not imposed by § 15-16-113, MCA.

1. Page 1, line 25.
Following: "under 15-16-113"
Insert: "or 15-24-202"

SENATE TAXATION
EXHIBIT NO. 4
DATE 2/18/91
BILL NO. SB 390

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 18th day of February, 1991.

Name: CARSON UEHLS

Address: 2724 Row St Missoula, MT

Telephone Number: 543-6634

Representing whom?

Uehls Mountain State Revenue

Appearing on which proposal?

S.B. 390

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

Requesting FAUCRAGE CONSIDERATION AND PASSAGE
of S.B. 390

SENATE TAXATION

EXHIBIT NO. 5

DATE 2/18/91

BILL NO. SB 390

VISITORS' REGISTER

[illegible]