

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on February 1, 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: SB 184, SB 257
Executive Action: SB 126

HEARING ON SB 184

Opening Statement by Sponsor:

SEN. FRED VAN VALKENBURG, SD 32, Missoula, stated this bill is designed to provide an income tax credit against property taxes owed for tax year 1995, by the owner of a principal residence in Montana. He said the resident must have lived in the residence for at least seven months during calendar year 1994. He remarked the bill is part of a two bill package he put together prior to the beginning of the session, and offered as an alternative to HB 174. **SEN. VAN VALKENBURG** said it is very important for the legislature to continue discussing the issue of property taxes, in particular, the effect of property taxes on home owners in Montana. He commented the two bills in his package provide \$30 million of property tax relief for a one year period. He

acknowledged this particular bill is designed to provide approximately \$11 million of property tax relief. **SEN. VAN VALKENBURG** explained the \$11 million was part of the surplus not spent in the special session for the fiscal year. He stated people in his community, and anywhere up and down the western slope of Montana's divide are far more concerned about property taxes than they are about income taxes in this state. **SEN. VAN VALKENBURG** said SB 184, is a way to say to Montanan's who have made an investment of a home in the State of Montana that the legislature cares about the high level of property taxes that they pay in this state.

Proponents' Testimony:

Brad Martin, Director, Montana Democratic Party, supports the two bill package as discussed by **SEN. VAN VALKENBURG** because they address, create, and provide property tax relief to Montana taxpayers.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. MIKE FOSTER questioned **SEN. VAN VALKENBURG** in regard to the language on Page 1, Line 27 using the figure "\$54.00", and the fiscal note using the language "average". **SEN. VAN VALKENBURG** stated the fiscal note was wrong. He said the intent is a flat \$54.00.

SEN. JOHN HARP questioned **SEN. VAN VALKENBURG** in regard to **REP. REAM'S** bill. He asked him if it is an \$11.5 mill reduction for the state. **SEN. VAN VALKENBURG** said, "Yes, it is a one time reduction." He explained there is one time money available, the same as was in HB 174. **SEN. HARP** asked **SEN. VAN VALKENBURG** if additional revenue could be found this session that would reduce the mandatory mills on an ongoing basis would he support it. **SEN. VAN VALKENBURG** said he will keep an open mind, but he won't make a blanket agreement at this point.

SEN. DOROTHY ECK commented that it would be useful if the committee had a resume of all of the property tax relief bills in order to look at all the options first rather than to have them hit one at a time.

Closing by Sponsor:

SEN. VAN VALKENBURG stated this bill is something that should be seriously considered.

HEARING ON SB 257Opening Statement by Sponsor:

SEN. DELWYN GAGE, SD 43, Cut Bank, explained during the special session in July of 1992, HB 24, was introduced by request of the Department of Revenue to change the method of taxing private rail cars in Montana. He stated SB 257, sets a presumed number of miles traveled by the various classes of cars and eliminates the loading penalty. SEN. GAGE said the bill will raise approximately \$1.5 million per year. He explained that reducing the tax by about one-half, it is still 25% higher than was stated in the bill originating the tax.

Proponents' Testimony:

Jim Mockler, Montana Coal Council, presented written testimony in support of SB 257. EXHIBIT 1.

John Alke, Attorney, Detroit Edison, provided the history behind HB 24 and explained SB 257. He presented a handout titled Impact Analysis of Proposed Montana Railcar Tax Legislation. EXHIBIT 2. Mr. Alke explained as a result of HB 24, Detroit Edison experienced a tax liability increase from \$54,000 to \$420,000. He acknowledged Detroit Edison is part of the current law suit filed against the state.

David Owen, Montana Chamber of Commerce, encouraged balance be brought to the industry.

Opponents' Testimony:

Mick Robinson, Director, Department of Revenue, commented the railcar miles in Montana are calculated mile to mile in the Administrative Rules of Montana. He explained the fiscal note indicated the DOR didn't have the data to exactly estimate what the tax would be, and the main reason was because the DOR didn't have the mileage figures that were available to the railroads. Mr. Robinson commented the handout presented by Mr. Mockler is a schedule of 31 companies, and that is only a portion of the total companies. He said under the old tax there were 139 companies that were subject to the gross receipt tax. He stated he is uneasy about discussing the situation because it is under major litigation.

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. JOHN HARP asked Mr. Robinson when the bill was debated in the 1992, special session was he the DOR director. Mr. Robinson stated he was not the director. SEN. HARP asked Mr. Robinson if

in 1992, the tax being collected was \$1.2 million. **Mr. Robinson** said, "That is correct". **SEN. HARP** asked **Mr. Robinson** if currently this tax is generating \$2.1. **Mr. Robinson** responded the \$2.1 million is only connected with the nine companies previously discussed. He said the tax is currently \$2.7 million total tax. **Mr. Robinson** stated there is a \$1.5 million increase. He said there is a portion that is connected with companies that were not subject to the previous gross receipt tax. He explained the \$1.5 million would have to be divided in terms of what is the additional tax levied on the companies that were subject to the gross receipts. He acknowledged the majority of the increase is connected with the companies that were subject to the gross receipt tax. **SEN. HARP** asked **Mr. Robinson** if it would be fair to estimate the figure at \$1.2 million. **Mr. Robinson** stated it would be a correct figure. **Mr. Robinson** commented one issue of this situation is whether or not the amount of tax that is being collected under the new tax compared to the old tax, is the right level. He stated the DOR uses the statute passed and tries to be consistent in terms of the property tax methodology and how it is applied nationally.

SEN. MACK COLE questioned **Mr. Alke** in regard to miles traveled in Montana by coal cars. **Mr. Alke** explained 90% of the coal travels to Wisconsin.

SEN. LORENTS GROSFIELD asked **Mr. Robinson** about **Mr. Alke's** reference to the DOR reducing the tax through Administrative Rules. **Mr. Robinson** responded Page 2, Line 26, contains the wording included in the present law. He commented when HB 24 passed, the DOR went forward with an Administrative Rule based on mile to mile. He said the railcar companies opposed the mile to mile process, and proposed the 100% speed tax process. **Mr. Robinson** explained as a result of the Administrative Rule hearing the DOR put in place the 50/50 approach. He said this approach lowered the tax.

SEN. BARRY "SPOOK" STANG asked **Mr. Alke** if some states have a tax different from what Montana uses. **Mr. Alke** stated they don't have a rail tax. He said the only rail property Detroit Edison has is rail cars. He explained their obligation is to lease cars in order to get coal to the customer.

SEN. FRED VAN VALKENBURG asked **SEN. GAGE** if the legislature was expecting some revenue increase. **SEN. GAGE** responded the estimate on the fiscal note attached to HB 24, indicated otherwise.

SEN. VAN VALKENBURG asked **Mr. Robinson** if this bill has any connection with the lawsuit, and to what extent. **Mr. Robinson** said the Governor's budget does have an estimated settlement coming in this fiscal year and the projection of the railcar tax in 1996, and 1997. He said the revenue estimates of the Revenue Oversight Committee have a settlement amount, and the tax for FY'96 and FY'97 have been removed. {Tape: 1; Side: B; Comments: Turn

Tape.} Mr. Robinson said this particular bill doesn't have any direct connection with the budget.

SEN. MIKE FOSTER questioned Mr. Alke in regard to the handout he presented. He asked Mr. Alke if SB 257, was in effect during the years 1992, 1993, and 1994 the percentages of Montana taxes would be less, but could he guess what the percentages would have been. Mr. Alke said if the bill proposed would have been in effect during the three years, instead of the tax rate per mile being .58¢ it would be .37¢ which would still be the second highest rate in the United States.

SEN. GROSFIELD asked Mr. Alke what would Detroit Edison do with litigation if this bill passed. Mr. Alke said all of the companies listed on the handout he presented have agreed if the legislature agrees with them (that the tax rate they are proposing is fair) all of the litigants, except one, agrees they would settle their pending claims.

Closing by Sponsor:

SEN. GAGE commented in the current bill there is language on Page 2, Lines 26, 27, and 28 that strikes language in regard to the Administrative Rules. He acknowledged this section wasn't in HB 24. SEN. GAGE stated he wasn't sure why the fiscal note wasn't available for this hearing. He reported he did sign the fiscal note.

SEN. DEVLIN said the committee would be interested in viewing copies of minutes for HB 24. SEN. DEVLIN offered to get copies for the committee.

EXECUTIVE ACTION ON SB 126

Discussion: Mary Whittinghill, Department of Revenue, reported the DOR staff met with the Association of Realtors, and came to a consensus on charges. CHAIRMAN DEVLIN asked Bob Leach, Billings Association of Realtors to comment. Mr. Leach commented he researched what other states are paying for computer data and shared his research with the DOR staff. He stated an agreement has been reached for costs associated with copying data for initial tapes, and for the update of tapes.

SEN. GROSFIELD asked Mary Whittinghill with respect to the bill what is the implication of this agreement. Mary Whittinghill commented the DOR still needs this bill because it clarifies charges for all data.

Motion: SEN. STANG MOVED SB 126 DO PASS.

Motion/Discussion: SEN. VAN VALKENBURG MOVED TO AMEND SB 126, ON PAGE 2, LINE 7, FOLLOWING STATE AGENCIES, INSERT: EXCEPT THE OFFICE OF BUDGET AND PROGRAM PLANNING AND THE LEGISLATIVE FISCAL ANALYST (271253SC.SPV).

Jeff Martin asked the committee to give him the latitude to insure that the amendment is as **SEN. VAN VALKENBURG** has suggested.

SEN. FOSTER commented the Chairman of the State Tax Appeal Board raised a concern in regard to the DOR not charging the Board for data, and asked **Mr. Martin** to include the Board in the amendment language.

SEN. VAN VALKENBURG asked his motion include the State Tax Appeal Board.

Vote: MOTION CARRIED UNANIMOUSLY TO AMEND SB 126.


Motion/Vote: SEN. STANG MOVED SB 126 DO PASS AS AMENDED.


Discussion: **SEN. GAGE** commented during the hearing he asked the question in regard to the difference between computer assisted mass appraisal system (CAMAS) and property evaluation and assessment system data base. He questioned how much information is on the system. He voiced his concern about information filed by citizens, and have much protection there is for privacy. **Mary Whittinghill** responded information will only be available through the Helena office, and no information that the DOR determines to be confidential is given out. **SEN. GAGE** asked **Mary Whittinghill** what other kinds of information is given out. **Mary Whittinghill** responded there is a Utility Assessment System, Business Equipment Evaluation System, and the Montana Ownership Data Base System.

Vote: QUESTION WAS CALLED ON THE MOTION BY SEN. STANG. MOTION CARRIED ON SB 126 WITH SEN. GAGE VOTING IN OPPOSITION.

ADJOURNMENT

Adjournment: 9:31 A.M.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

GD/rp

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL

DATE February 1, 1995

[illegible]

SEN:1995
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CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 1, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB 126 (first reading copy -- white), respectfully report that SB 126 be amended as follows and as so amended do pass.

Signed: 
Senator Gerry Devlin, Chair

That such amendments read:

1. Title, line 10.

Following: "JURISDICTIONS"

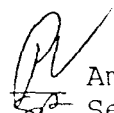
Insert: "AND CERTAIN STATE AGENCIES"

2. Page 2, line 9.

Following: "system"

Insert: ". The fee may not be charged to the governor's office of budget and program planning, the office of legislative fiscal analyst, or the state tax appeal board"

-END-


Amd. Coord.
Sec. of Senate

271253SC.SPV

SB 257

SENATE TAXATION

DATE February 1, 1995

COMMITTEE NO. 1

BILL NO. SB 257

During the Special Session in July of 1992, House Bill 24 was introduced by request of the Department of Revenue to change the method of taxing private rail cars in Montana.

Both at the hearing and privately, DOR representatives stated that the bill would not significantly alter the amount of tax being collected (\$1.2 million per year) and was only needed to respond to a lawsuit. The only witness at the hearings was DOR.

As rules were adopted and the tax implemented, it was for approximately \$3 million per year, nearly three times the amount stated to the Legislature and the rail car companies as the fiscal impact of HB 24.

As currently implemented, rail cars are taxed on a basis of miles traveled in Montana and on the amount of time the cars spend in the state. In reality if they simply pass through the state, the tax is much less than if they stop to load coal, lumber, grain or other products produced here as well as those utilizing the transloading stations at Shelby or Butte.

SB 257 sets a presumed number of miles traveled by the various classes of cars and eliminates the loading penalty. It will raise approximately \$1.5 million per year. While this reduces the tax by about one-half, it is still 25% higher than was stated in the bill originating the tax.

As shippers, we took the word of DOR in 1992 that the tax would have a minimal impact. Obviously they at the very least made a serious error. We ask your support of SB 257 to correct that error and to remove the producer penalty presently imposed.

For your information following are the taxes per mile of some of the states we ship through:

Montana	.58 cents	North Dakota	0 cents
Wyoming	.16 cents	Minnesota	0 cents
Nebraska	.07 cents	Wisconsin	0 cents
Colorado	.07 cents	Illinois	0 cents

James D. Mockler
Montana Coal Council
2-1-95

Revenues:

Since this proposal repeals 15-55-105, MCA, railroad car companies could also be subject to corporation license tax in addition to property taxes. Information is not available to make a estimate of this possible income.

This proposal is unclear as to when property taxes for tax year 1991 would be due so assumption number 5 is made assuming that wording would be changed to incorporate the 30 days after notification.

EXHIBIT 1
DATE 2-1-95
SB 257

ESTIMATED RETROACTIVE AD VALOREM TAX - RAILROAD CAR COMPANIES
TAX YEAR 1991 (BASED ON CALENDAR YEAR 1990 ACTIVITY)
ASSUMED AVERAGE SPEED - MILES PER DAY 350
TAX RATE 7.54% AVERAGE MILL LEVY 326.560

	GROSS RECEIPTS TAX	ESTIMATED AD VALOREM TAX <small>MILES FACTOR 100% SPEED FACTOR 0%</small>	ESTIMATED AD VALOREM TAX ** <small>MILES FACTOR 50% SPEED FACTOR 50%</small>	ESTIMATED AD VALOREM TAX * <small>MILES FACTOR 0% SPEED FACTOR 100%</small>
TOTAL OF 31 COMPANIES	1,027,680	2,985,495	2,006,680	1,027,87
Trailer Train Company	702,775	765,794	568,507	371,22
Detroit Edison	54,463	560,812	480,513	400,21
ITEL c/o GE Capital Railcar Services	18,786	554,009	313,726	73,44
Union Tank Car Company	73,407	297,822	165,343	32,86
GATX Corporation	68,264	273,224	151,849	30,47
ACF Industries, Inc.	45,000	223,005	124,627	26,24
GE Capital Railcar Services	28,661	166,275	94,664	23,05
Portland General Electric	18,983	64,754	63,654	62,55
Conoco Inc.	10,266	29,637	16,102	2,56
ASARCO Inc.	893	17,345	10,091	2,83
Exxon Company U S A	1,854	11,625	6,296	96
Exxon Chemical Americas	0	7,559	4,073	58
Home Oil Company Ltd.	990	5,818	2,957	9
Mallard Transporation Co.	2,248	2,711	1,484	25
Gas Supply Inc.	351	2,058	1,094	13
Garvey International Inc.	0	1,050	598	14
TEMCO Corporation	16	697	375	5
Enron Products Marketing Co.	96	494	277	6
Ruddy Tank Car Co.	343	178	99	2
GWI Leasing Corp.	0	127	70	
Chartrands Tank Car Serv. Inc.	156	114	64	
Midwest Grain Products, Inc.	0	104	59	
California Railcar Corp.	36	90	50	
Mid South Milling Co., Inc.	16	61	34	
SGA Leasing Co.	42	46	27	
Tamak Transportation Corp.	31	34	19	
Weyerhaeuser Company	0	18	9	
Western Coop. Fertilizers	0	17	10	
Petro-Chem Marketing Company	2	8	4	
Gen. Chemical (Soda Ash) Ptnrs	0	5	3	
Energynorth Natural Gas Inc.	1	4	2	

* Allocation method to be used for retroactive taxes (Tax years 1991 and 1992)

** Allocation method to be used for future years (Tax years 1993 and beyond)

SENATE TAXATION

IMPACT ANALYSIS OF PROPOSED MONTANA RAILCAR TAX LEGISLATION

DATE February 1, 1994EXHIBIT NO. 2BILL NO. SB 257

RAILCAR COMPANY	CURRENT 1994 MONTANA RAILCAR TAX	PROJECTED 1994 MONTANA RAILCAR TAX BASED ON PROPOSED LEGISLATION
ACF	\$114,843	\$42,167
DETROIT EDISON	\$320,302	\$209,480
GATX	\$190,429	\$70,438
GE RAILCAR	\$126,018	\$53,652
RAILCAR ASSOC.	\$165,773	\$71,619
RAILGON	\$3,072	\$1,291
RAILBOX	\$63,822	\$36,215
TTX	\$917,807	\$463,286
UNION TANK	\$202,064	\$83,968
TOTAL	\$2,104,130	\$1,032,117

ESTIMATED 1994 MONTANA RAILCAR TAX FOR MAJOR COMPANIES BASED ON PROPOSED LEGISLATION

COMPANY	ACF @ 40% OTHER	ACF @ 30% L-L-O	DETROIT EDISON @ 100% G-CONDOLA	GATX @ 91% OTHER	GATX @ 90% L-L-O	GE RAILCAR @ 33% OTHER	GE RAILCAR @ 30% L-L-O	RAILCAR ASSOC. @ 15% OTHER	RAILCAR ASSOC. @ 55% L-L-O	RAILGON @ 100% OTHER	RAILDOX @ 100% OTHER	TTX @ 100% F-FLAT	UNION TANK @ 91% OTHER	UNION TANK @ 90% L-L-O	ALL COMPANIES
CAR CLASS															
MARKET VALUE OF CARRYOVER YEAR ENDING DEC. 31, 1993	311,205,172	466,807,682	91,731,815	909,565,014	89,595,541	193,137,931	392,375,715	54,780,015	310,420,192	24,894,171	204,523,194	2,205,075,768	922,281,796	91,214,881	
TOTAL NO. OF CARS IN FLEET	16,389	21,383	3,375	50,004	4,945	10,373	21,366	1,957	22,423	1,188	11,094	87,174	42,241	4,178	
AVERAGE MARKET VALUE PER CAR (1993)	18,989	18,989	28,365	18,198	18,198	18,375	18,171	13,514	13,514	20,955	15,670	25,295	21,814	21,814	
CAR MILES IN MONTANA	2,770,669	4,156,003	56,668,923	925,816	915,764	1,601,651	6,262,787	2,064,400	13,078,267	137,576	5,930,384	133,849,002	9,159,731	909,863	
MILES PER CAR PER DAY IN MONTANA	175	250	525	175	230	175	230	175	250	175	175	500	175	250	
MONTANA EQUIVALENT CARS (1/15/95)	43.38	45.55	295.71	144.96	10.01	88.29	68.69	41.71	165.46	2.47	92.84	733.42	141.63	9.97	
MONTANA ALLOCATION PERCENT OF FLEET VALUE (1993)	0.0026	0.0019	0.0876	0.0029	0.0020	0.0016	0.0012	0.0105	0.0071						
MONTANA ALLOCATED MARKET VALUE (1993)	821,660	864,854	8,188,126	7,637,721	182,610	887,356	1,261,077	577,464	2,280,311	51,696	1,450,181	18,551,645	3,141,647	217,706	
TAX RATE	7.15	7.15	7.15	7.15	7.15	7.15	7.15	7.15	7.15	7.15	7.15	7.15	7.15	7.15	
MILEAGE RATE	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	0.34927	
1994 TAX DUE (1993 FTD/100)	\$20,569.10	\$21,597.82	\$309,430.40	\$45,877.59	\$1,560.19	\$22,159.77	\$31,492.63	\$34,420.34	\$5,198.33	\$1,280.99	\$36,215.13	\$463,285.86	\$78,511.14	\$5,416.73	\$1,032,117.03

**DETROIT EDISON RAILCAR TAX
WESTERN STATES PAYMENTS**

	Montana	Wyoming	Nebraska	Colorado	Indiana	North Dakota	Minnesota	Wisconsin	Iowa	Illinois	Total
1992	\$415,676	\$27,593	\$19,672	\$0	\$40,415	\$0	\$0	\$0	\$0	\$0	\$503,356
1993	\$357,028	\$29,764	\$22,946	\$86	\$41,435	\$0	\$0	\$0	\$0	\$0	\$451,259
1994	\$320,302	\$32,329	\$33,954	\$0	Not Available	\$0	\$0	\$0	\$0	\$0	\$386,585
Total Tax	\$1,093,006	\$89,686	\$76,572	\$86	\$81,850	\$0	\$0	\$0	\$0	\$0	\$1,341,200
Total Miles	188,779,154	55,711,009	102,909,686	120,870	14,736,322						
Average Tax Per Mile	.58 Cents	.16 Cents	.07 Cents	.07 Cents	.56 Cents	0 Cents	0 Cents	0 Cents	0 Cents	0 Cents	

Prepared By J. Szidlik 1.5/95

EXHIBIT 2
DATE 2-1-95
SB 257

DATE February 1, 1995

SENATE COMMITTEE ON Legislation

BILLS BEING HEARD TODAY: SB 184 Senator Van Valkenburg
SB 257 Senator Sage

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Anne Alberto	MT Assoc. of Realtors	184	Monitor	
Jim Mockler	MT. Coa Council	257	✓	
Tom Eitzervy	Portland General Electric	257	✓	
Brad Martin	MT Democratic Party	184	✓	
David Owen	MT Chamber	SB 257	✓	
Mick Robinson	DOR	SB 257		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY