

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on February 6, 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
Rene'e Podell, Committee Secretary

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

Committee Business Summary:

Hearing: HB 164, SB 274
Executive Action: None

HEARING ON HB 164

Opening Statement by Sponsor:

REP. HAL HARPER, HD 52, Helena, reported HB 164, is a bill which will fix a mistake made in the House last session. He explained last session the Senate passed SB 431, which addressed the taxation of both Liquid Petroleum Gas (LPG), and Compressed Natural Gas (CNG). REP. HARPER remarked the House had passed a bill (HB 539), which eliminated the tax on CNG in anticipation that the senate bill would fix both the problems, but the House killed the senate bill. He claimed those using CNG had a free ride, and HB 164 reimposes the tax at 0.7¢ a unit.

Proponents' Testimony:

William Salisbury, Administrator, Administration Division, Montana Department of Transportation, presented written testimony in support of HB 164. EXHIBIT 1.

Con Malee, Montana Power Company, spoke in support of HB 164, stating this legislation restores a tax on compressed and natural gas.

Jim Paladichuk, Montana Dakota Utilities, stated he supports everything Mr. Salisbury, and Mr. Malee have said.

Opponents' Testimony:

None

Informational Testimony:

None

{Tape: 1; Side: A; Approx. Counter: 4.3.}

Questions From Committee Members and Responses:

SEN. MIKE FOSTER asked REP. HARPER if this was exactly the same bill as last session. REP. HARPER stated the bill killed last session was SB 431, which the Senate passed, and the House rejected. REP. HARPER explained people in the industry testified they wanted to maintain a dual system, and that is why it was rejected.

SEN. DELWYN GAGE questioned REP. HARPER in regard to bonding. REP. HARPER referred the question to Mr. Salisbury. Mr. Salisbury stated the bonds were eliminated two years ago.
{Tape: 1; Side: A; Approx. Counter: 6.9. Comments: Speaker hard to understand.}

SEN. DOROTHY ECK asked Mr. Salisbury how much it will cost to establish rules. She asked if it will cost more than will be collected from the tax. Mr. Salisbury said, "no, because there will be several other rules they will work on at the same time."

Closing by Sponsor:

REP. HARPER closed by stating the fiscal note looks like a small amount, but the amount is growing at a rapid rate. He said HB 164, plugs a hole left in the tax department. He urged support, and said he would work with anyone that wants to carry it on the floor.

HEARING ON SB 274

CHAIRMAN DEVLIN requested that SEN. FOSTER, VICE CHAIRMAN, conduct the hearing.

Opening Statement by Sponsor:

SEN. GERRY DEVLIN, SD 2, Terry, commented he brings before the committee SB 274, which is a bill to put the question to the voters of this state whether they indeed wish to limit the increases in property taxes. He explained through the years there has been tremendous increases throughout the state in property tax. **SEN. DEVLIN** affirmed people aren't happy when they see their property taxes going up in leap and bounds. He expressed his hope that the question of limiting taxes to a 2% per year increase in property tax can be put to the people. He presented an amendment to SB 274. **EXHIBIT 2.**

Proponents' Testimony:

Mick Robinson, Director, Department of Revenue, remarked property owners are certainly looking for protection from ever increasing property tax bills. He explained the property tax bill is calculated with the value times mills computation which is included in statute. He reported as a result of the narrow interpretation of property tax laws on the part of courts in the State of Montana, the legal position of the DOR indicates a change in the Constitution would be required in order to limit valuation increases. **Mr. Robinson** stated the Constitution talked about equalizing value. He said there needs to be added flexibility in the Constitution to allow the legislature to address the property tax dilemma within the State of Montana. He further stated the DOR believes a Constitutional amendment is required in order to implement many of the property tax ideas surfacing during this session. **Mr. Robinson** pointed out the second sentence in the proposed amendments addresses the language that provides the flexibility in terms of the valuation question. He described the 2% issue as an element that needs to be discussed, debated, and resolved in terms of the inclusion or not inclusion within this particular bill.

Bob Gilbert, Montana Woolgrowers Association, stated the Association wants to go on record in supporting this proposal for a vote of the people.

Charles R. Abell, citizen from Whitefish, Montana, reported his family came to Whitefish in 1913. He explained his home was built in 1939, and he purchased it for \$35,000. He stated at the time he purchased the home the taxes were \$800. **Mr. Abell** disclosed the only improvement of any significance made on his home was a small deck, but the taxes on this home last year were \$6,300. He said it takes three months of his take home pay just to pay the property taxes on his home. **Mr. Abell** further explained his mother lives in Whitefish in a very small cabin which was built in 1933. He reported his mother's taxes this last year on the cabin were \$7,700. He stressed the burden of the taxes needs to be shared, and controlled.

K. L. Bliss, Garfield County Taxpayers and Stockgrowers Association, spoke in support of SB 274.

Cheryle Bliss, Rancher, Sand Springs, Montana, commented she is looking for property tax relief, and supports SB 274.

David Owen, Montana Chamber of Commerce, proclaimed the people are looking for an answer. He said the intent, and the debate is healthy, and the need for an answer is strong. He stated the Chamber supports the direction SB 274 is going in.

John Bloomquist, Montana Stockgrower's Association, spoke in support of SB 274.

Candace Torgerson, Cattle Women's Association, supported SB 274.

John Shontz, Montana Association of Realtors, strongly supports property tax relief, and looks forward to this bill's discussion. He questioned if the Constitutional Amendment would limit the voters ability to vote for a levy. He further questioned what this Constitutional Amendment would do to reduce property taxes today for people who have \$7,700 property tax bills. **Mr. Shontz** wondered if Line 15, (regarding the 2% cap) would cause local governments to shift the revenue base away from property taxes to fees. He presented another question in regard to the wording, "individual property", asking what the language means. He stressed that a discussion is in order on the second sentence of the Constitutional Amendment. **Mr. Shontz** announced if this bill does pass, and it becomes a part of our Constitution, how is the mill levy value determined.

Jerry Pederson, Vice President and Chief Financial Officer, Montana Power Company, reported MPC, and their subsidiaries, are substantial taxpayers within the State of Montana. He stated in 1994, the total taxes paid by MPC in support of state and local governments amounted to \$87 million. He urged passage of SB 274, commenting they believe limiting property tax increases is a step in the right direction.

Gail Abercrombie, Executive Director, Montana Petroleum Association, commented three of their refineries in the Billings area pay around \$8 million a year in property taxes. She stated with property taxes going up limitation is desirable. She urged support for this measure.

Jerome Anderson, Shell Western Exploration Production Company, stated he supports SB 274, for all the reasons listed by the other proponents.

{Tape: 1; Side: A; Approx. Counter: 36.7.}

Dennis Burr, Montana Taxpayers Association, acknowledged support for the legislation, but not the exact method contained in the legislation. He stated in order to put a 2% limit on property tax growth the Constitution doesn't need to be changed. **Mr. Burr**

voiced concern in regard to the 2% limitation because it will lock in the existing classification system, eliminating any reappraisals in Montana on real property, and eliminating opportunity for consolidation of local governments. He suggested the legislature has the authority to pass this 2% limit, and make it effective in 1995, leaving the legislature in the future the flexibility to work with it to make other changes to the property tax system.

John and Mary Lou Musser, submitted written testimony. **EXHIBIT 3.**

Opponents' Testimony:

Don Waldron, **Montana Rural Education Association**, commented he appreciates the amendment, and speaks against the bill reluctantly. **Mr. Waldron** said when it comes to operating local government, this could be a serious blow. He stressed if the committee passes this bill, a review, and a change will be needed so that schools are not forced to continue increasing local levies. He acknowledged the school administrators have asked him to express they are against the bill.

Eric Feaver, **Montana Education Association**, stated the DOR raised some serious questions as to what this legislature can do about property taxes. He voiced concern with the thought that the legislature can't do anything about property taxes unless this amendment to the Constitution passes. **Mr. Feaver** said, "ever since the under funded school crisis, and the Supreme Court decision has determined to equalize per pupil expenditure with property taxes, it has been a magic, mysterious venture into the great unknown to try and equalize with what is inherently unequal property taxes." He said, "if you adopt SB 274, and the people vote yes, I frankly don't know what this legislature is going to do about public school equalization." **Mr. Feaver** explained if we can't equalize public school funding with property taxes, then where is the source of revenue to pay for our public schools, which we must do by our Constitution. He urged strong attention be given to SB 274, and if it is passed he asked that **SEN. DEVLIN'S** amendment be accepted.

Gordon Morris, **Director, Montana Association of Counties**, reported MACo has been a long standing proponent for property tax and general tax reform. He stated it is difficult to come forward in opposition to SB 274. He asked to go on record indicating his agreement with the comments made in opposition by **Mr. Shontz** and **Mr. Burr**. **Mr. Morris** voiced concern there are too many questions in the bill, and more importantly it doesn't reduce taxes.

Alex Hansen, **League of Montana Cities and Towns**, reported he opposes SB 274 as it is written. He said, "we must be very careful before something like this is passed so it is done right without eliminating options we have, and creating some problems

we can't live with."

Terry Minow, Montana Federation of Teachers, stated they strongly oppose SB 274.

Ken Morrison, explained what is being proposed in this bill is essentially in Montana statutes already (§15-10-402, MCA). He stated after I-105 passed, some of the things the legislature discussed were addressed in today's hearing regarding annexation and county consolidation. **Mr. Morrison** said these things are already contained in statute, and rather than having to deal with the issue of a Constitutional Initiative, adjustments can be made in the law which includes schools.

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. LORENTS GROSFIELD commented he is concerned with property taxes getting out of hand, but he is troubled by SB 274's approach. He explained Line 15, speaks to "individual property", not an individual. He further explained the long term Montana resident's taxes are going to increase at a rate that is really much higher than the people currently coming into Montana. **SEN. GROSFIELD** asked **Mick Robinson** if he agreed this might be the effect of this bill. **Mick Robinson** said with the 2% cap all property would be limited to the 2% increase whether or not someone is a resident or they are new to the state. **Mr. Robinson** stated he was a supporter of acquisition value. He acknowledged that a creative look into property tax, the mill base, and market values is encouraged. He commented the courts have interpreted the Constitution very narrowly when referring to equalized value. **Mr. Robinson** said from a valuation aspect the Constitution needs more flexibility.

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

SEN. GROSFIELD remarked if this language were to pass, an acquisition tax system could be adopted. **Mr. Robinson** said it's not the bills intent to move the acquisition value. He stated it provides for a lot of flexibility in terms of addressing a phase in or an acquisition value approach.

SEN. GROSFIELD commented this bill doesn't talk about limiting budgets to a 2% increase. He stated someone testified that the burden would be shifted to fees, and questioned **Mr. Robinson** in regard to the net effect being fees would rise, and other fees created to respond to inflation. **Mr. Robinson** stated there are increases due to construction or improvements probably in the 2% to 3% range.

SEN. DOROTHY ECK affirmed she signed the bill with some hesitation, but with an expectation that this committee could

address the serious tax issues contained within it. She stated the real issue is property taxes increasing at levels that are unacceptable. **SEN. ECK** said **Mr. Robinson** indicated there were Constitutional questions about exemptions. She questioned giving credits for property tax paid at the time of income tax filing. **SEN. ECK** asked **Mr. Robinson** if there would be any legal challenges in a major shift as she discussed. **Mr. Robinson** explained that the DOR doesn't have any Constitutional concerns with an income tax credit for property taxes paid, but voiced concern with a U.S. Constitutional problem if the DOR restricted a credit to residents only.

SEN. ECK acknowledged the appeal in this approach is it limits tax increases without getting rid of the property tax entirely. She asked **Mr. Robinson** if the committee could tie requirements into the bill adjusting the income tax rate, but making it impossible to raise the school taxes. **Mr. Robinson** stated in dealing with a meaningful income tax level (which has a significant price tag connected to it of \$20, \$30, or \$40 million a year) any intent to shift dollars into the income tax system effects income taxpayers. He declared that Montana has one of the most progressive income tax structures of any state in the nation. **SEN. ECK** related what is really needed is a comprehensive look at how we are going to support not just state and local services, but schools.

SEN. MACK COLE asked **Mr. Robinson** if he had an idea of the percentage increase in individual property taxes over the last 10 years. **Mr. Robinson** said the DOR could provide information regarding studies conducted in the residential and commercial property tax area. He stated a property advisory group met over a year ago to review increases, and the average increase came to a little less than 2%. **Mr. Robinson** commented in 1993, the average increase statewide was 13%.

SEN. GROSFIELD asked **Mr. Robinson** what the phrase "individual property" means. **Mr. Robinson** stated the language will have to be interpreted by statute in terms of how it will be implemented. He said it deals with tax on all classes of individual property. **Mr. Robinson** commented there will have to be statutes passed in order to implement this particular legislation, and the statutes will define "individual property" for the various classes of property.

SEN. GROSFIELD questioned **SEN. DEVLIN** regarding the amendment referring to the language "construction and improvements". **SEN. DEVLIN** said if a bond is introduced it will have to be approved by the electorate in order to exceed 2%, and any new construction could possibly be an increase over 2%.

SEN. FRED VAN VALKENBURG asked **Mr. Abell** what the mill levy is in the taxing jurisdiction in which he lives. **Mr. Abell** answered he did not know. **SEN. VAN VALKENBURG** asked **Mr. Abell** what the market value is on the property he purchased in 1967 for \$35,000

as determined by the DOR. **Mr. Abell** commented that the DOR has a value on it of \$300,000. **SEN. VAN VALKENBURG** asked **Mr. Abell** if the bank he is the manager of would lend him any money on this property that he owns. **Mr. Abell** said the bank did lend him money the last time he couldn't pay his taxes, and the property assessed value four years ago was \$150,000.

SEN. VAN VALKENBURG asked **Mr. Anderson** if property taxes are limited, and there is an increasing demand for services, isn't it very likely that the source the legislature or the people will turn to for taxation in the State of Montana is natural resource taxation, and if so, what do you think of that. **Mr. Anderson** responded the legislature would make a significant and substantial error if it did so.

SEN. VAN VALKENBURG asked **Mr. Owen** from the perspective of the Montana business community if he foresees any significant potential for reduction in the quality of the educational system by virtue of the limit on property taxes proposed in this Constitutional Amendment, and if so, what effect did he see it having on the business community in the state. **Mr. Owen** commented that he thinks there are a number of pressures which will effect the quality of education. He stated a radical overhaul needs to be reviewed. **Mr. Owen** acknowledged the business community has a huge stake in the way children are educated.

SEN. VAN VALKENBURG asked **SEN. DEVLIN** if he had any different opinion of the first sentence in Subsection 2, (tax on "individual property" should not increase by more than 2% per year) after listening to the testimony with respect to this bill. **SEN. DEVLIN** stated "we have to start somewhere, and 2% seems like a reasonable place to start." He affirmed another number could be used, but he stressed it has to be Constitutionally done. **SEN. VAN VALKENBURG** stated he thought the backers of I-105, made it very clear at the time they didn't want a property tax freeze, but wanted to force the legislature to adopt a general sales tax. He asked **SEN. DEVLIN** if this particular proposal would have the same consequences as forcing Montanans to adopt a sales tax. **SEN. DEVLIN** said, "I don't believe so, and I don't think that the real reason behind I-105, was what you said. I think the real reason behind I-105 was to give the people an alternate to that freeze, and they took it. If they had another alternate the abolishment under I-27 would happen."

SEN. JOHN HARP commented if we don't do something with property tax measures we may in fact go to a one legged stool strictly on income tax. He further commented, "if we are going to protect having a property tax in Montana, and an income tax, we better respond to the people's wishes." **SEN. HARP** referred to today's hearing, and said the committee has not heard from the homeowners or from the taxpayers, of their frustrations, only from special interest groups. He said we need to protect what we have in this state, the income tax, and the property tax, and that is why he

signed the bill. He asked **SEN. DEVLIN** for his comments. **SEN. DEVLIN** said that was the reason he sponsored the bill. He explained that people still ask him what happened, because they thought they voted to freeze taxes. He commented, he explains to people they did vote for a freeze of taxes, and local governments have lived under I-105 very well, but school districts (66% of taxes) have not lived under it.

SEN. ECK asked **REP. EMILY SWANSON, HD 30, Bozeman**, how she sees other bills addressing this issue. **REP. SWANSON** commented this is a desperation measure, and she isn't willing to respond to this kind of pressure. She stated she is looking at ways to address property tax in a way that goes toward the people who are really at risk of losing their home because they are on a fixed or low income. **REP. SWANSON** said she isn't convinced we are at risk of having an initiative drive come and destroy property tax, commenting that CI-27, wouldn't have done that. She stated CI-27 went to acquisition value, and would have opened up many of the same doors this proposal opens up.

SEN. DELWYN GAGE commented he sees mandatory mills as a problem. He asked **Mr. Robinson** to get an estimate (percentage wise) for the committee on how much increases have been due to mandatory mills, and how much have been due to local mills. **Mr. Robinson** said this was reviewed in 1993, in terms of changes that took place, and there were no changes in the mandatory mills. He stated the 13% increase in terms of residential property was divided between value increases, and mill levy increases. He explained mill levy increases were basically local, and they counted for 6% of that 13% change, with the valuation increases on the average amounting to 7% statewide. **SEN. GAGE** requested information on what the 106 mills raised, as compared to what the local mills raised in a taxing jurisdiction, as compared to what was raised prior to 1993. **Mr. Robinson** said the DOR will provide a computation regarding the tax increase.

{Tape: 1; Side: B; Approx. Counter: 31.3.}

SEN. GROSFIELD asked **Mr. Robinson** about the language "equalize all property". **Mr. Robinson** said if there is going to be a change in the method of value in property there needs to be a change in the Constitution. He acknowledged because Montana is so dependent on property taxes perhaps we need to try to move away from the concept of market value. He questioned if this was a fair method of determining property taxes.

SEN. MIKE FOSTER made the clarification in reference to I-27 in the exchange between **SEN. ECK** and **REP. SWANSON** and comments by **SEN. DEVLIN**. He explained I-27 relates to the initiative in 1986, that appeared on the ballot the same time as I-105. He further explained the acquisition value referendum was CR-28 on the ballot in November of 1994.

Closing by Sponsor:

SEN. DEVLIN said he is convinced this must be a Constitutional Amendment. He requested the committee work to find common ground.

ADJOURNMENT

Adjournment: 9:50 a.m.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

GD/rp

1
SENATE TAXATION

DATE February 6, 1995

EXHIBIT NO. 1

BILL NO. HB 164

February 6, 1995

House Bill 164

SUBMITTED BY: WILLIAM SALISBURY, ADMINISTRATOR
ADMINISTRATION DIVISION
MONTANA DEPARTMENT OF TRANSPORTATION

"AN ACT TO PROVIDE FOR THE COLLECTION OF A TAX ON COMPRESSED NATURAL GAS (CNG).

HB 164 provides a tax procedure for compressed natural gas (CNG) used in highway vehicles in this state.

The Montana Department of Transportation appears before this committee to offer our support for HB 164

Prior to the 1993 Regular Legislative Session compressed natural gas (CNG) was taxed with special fuel. HB539 eliminated that tax since SB431 addressed both LPG (Liquified Petroleum Gas) and CNG. SB431 never passed out of committee which eliminated the taxation on CNG used in highway vehicles and continued the permit system on LPG. The failure of SB431 was due to a disagreement among the LPG dealers over changing the existing permit system to a tax per gallon.

HB 164 if passed, would reinstate the tax on CNG at 7 cents per 120 cubic feet used in highway vehicles. This CNG tax was inadvertently deleted through the legislative process in 1993.

The Montana Department of Transportation urges this committee to give this proposal a do-pass recommendation.

SENATE TAXATION
DATE February 6, 1995
EXHIBIT NO. 2
BILL NO. SB 274

Amendments to Senate Bill No. 274
First Reading Copy

Requested by Senator Devlin
For the Committee on Taxation

Prepared by Greg Petesch
February 3, 1995

1. Page 1, line 16.
Following: "construction"
Strike: "or"
Insert: ", "
Following: "improvements"
Insert: ", or indebtedness approved by the electorate"

4600 Star Meadow Rd.
P.O. Box 486
Whitefish, Mt. 59937
January 16, 1995
EXHIBIT NO. 3
BILL NO. SB 274

Sen. Bob Brown
333 Cougar Trail
Whitefish, Mt. 59937

Dear Mr. Brown,

Seldom do we get to the point that we need to write our own legislators to express our feelings directly rather than through the election process. The problem we wish to address is the increase we've experienced in our property taxes — totally disproportionate to the advantages we receive for our tax dollars. So many pay no taxes and receive unrealistic benefits. We see many, even neighbors receiving food stamps, having welfare babies, receiving total medical care etc., and yet not contributing to the budgetary needs of our government.

We property owners are continually bombarded with disproportionate taxes. Example: public education. When is it going to stop? I'm a retired teacher from California (paying income taxes in Calif.), living on our own Star Meadow property. We've paid taxes on this property since 1977 and also by building on it and spending our summers here have contributed considerably to the local economy.

Up to this year we have accepted the need for increases and have tried to adjust accordingly. A visit to the appraiser's office early last summer assured us we could expect little increase, if not a decrease in our taxes. Then "Bam!" we received our tax notice. What the heck is going on? Our property (bank's) in Kalispell went up \$347.30 or 35%. Our Star Meadow property went up \$553.45 or 261%. This \$900 increase represents 7% of our yearly income before Federal taxes, auto taxes, state taxes, insurance etc. etc. At this rate in five years we'll be one of those who "doesn't" contribute rather than one that does! This also means potential loss of property through taxation — or is this our government's intent? Please take a look. Please get realistic. Please help.

Sincerely,

DATE February 6, 1995

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 164 Rep. Harper
SB 274 Senator Devlin

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Charles R. Abell	Self + Family	274	✓	
Bob Helbert	MT Woolgrowers Assn	274	✓	
Don Waldron	MREA	274		✓
Jim PAIADICHUK	m.d.u.	164	✓	
Con Make	MPC	164	✓	
K.L. Bliss	Gayld City Taxpayers	274	✓	
Cheryl Bliss	Self-Rancher + Stockgrowers	274	✓	
Terry MINDW	MET	274		✓
Cardace Torgerson	Montana Cattlemen's Assn	274	✓	
GAIL ABERCROMBIE	MT Petroleum Assn	274 164	✓	
David [unclear]	mt chamber	274	✓	
Terry Pederson	Montana Power	274	✓	
Eric [unclear]	MEA			X
Chris Imhoff	League of women voters of mt			X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY