

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on January 9, 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: SB 35, SB 54, SB 56
Executive Action: SB 14, SB 54

HEARING ON SB 35

Opening Statement by Sponsor:

SEN. BARRY "SPOOK" STANG, Senate District 36, presented SB 35, stating that this bill is presented at the request of the Department of Revenue. He explained that it eliminates the requirement for a corporation to file an extension with the Department of Revenue. He said that this bill automatically gives them an extension if their tax return isn't filed. He explained that it reduces the taxpayer's paperwork and the

administrative work for the department. He noted that this bill does not eliminate that taxes must be paid on time, and that if the taxes aren't paid by the due date, penalties and interest will accrue. **SEN. STANG** reported that he questioned the department on why this bill doesn't include individual taxpayers. He explained that the department is using this as an experiment noting that if it works for corporations, the department would try it for individual taxpayers.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Counter: 1.9.}

Lynn Chenoweth, Bureau Chief of the Corporate Tax Bureau, Montana Department of Revenue, said that this bill basically eliminates the requirement for a taxpayer to file a piece of paper with the Department of Revenue to get an extension to file their tax return. He requested support for the bill.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

{Tape: 1; Side: A; Approx. Counter: 3.0.}

SEN. DELWYN GAGE questioned **Mr. Chenoweth** regarding language on Page 2, (3)(b), asking how a person goes about getting an additional extension of time. **Mr. Chenoweth** stated that a six month extension is automatic, and if an additional extension of time is requested a letter must be sent to the Department of Revenue explaining the circumstances. **SEN. GAGE** asked **Mr. Chenoweth** if a penalty would be levied on a taxpayer who requests a six month extension, files a letter asking for an additional extension, but hasn't filed his return yet, and then the department disapproves an additional extension. **Mr. Chenoweth** commented that a taxpayer who knows that they aren't going to file within that six month period should require an extension prior to the end of the six month period. **Mr. Chenoweth** said that if the department denied the extension the taxpayer would have to file a return prior to that six month period. **SEN. GAGE** asked **Mr. Chenoweth** if the taxpayer would be charged late filing fees. **Mr. Chenoweth** stated, "yes", but he doesn't ever recall it happening. **SEN. GAGE** further questioned **Mr. Chenoweth** regarding timely filing, asking him if a timely postmark was timely filing under this extension request. **Mr. Chenoweth** said, "yes". **SEN. GAGE** asked **Mr. Robinson** (representing the Montana Department of Revenue), why interest is only charged on the tax due and not charged on the tax and penalty. **Mr. Robinson** said that he doesn't know the reason for the difference. He explained that the penalty is assessed and that the interest calculation is

generally based on the tax.

SEN. FRED VAN VALKENBURG commented that confusion in the language appears to exist as to when the tax is due. He explained that the language found on Page 1, Line 30, reads like the tax is not due until the return is filed, and the language in Section 2, Page 4, Lines 3 and 4, reads as though interest will be assessed from the 15th of May and on, because of the extension. He asked **Mr. Chenoweth** to respond. **Mr. Chenoweth** stated that located on Page 1, Line 30, language reads that taxes are due when filed. He explained that if a taxpayer receives a six month extension, but files a return in four months, the tax is then due. He further explained that on Page 4, Lines 3 and 4, the language intends to state that when the tax is paid, beyond the original due date, interest accrues on that amount until it is paid.

SEN. MACK COLE asked **Mr. Chenoweth** if it is beneficial for the taxpayer to wait as long as he can to file his taxes. **Mr. Chenoweth** stated that there isn't any advantage to delay payment of taxes. He noted that the longer the taxpayer waits the more interest he pays.

SEN. DOROTHY ECK noted there is confusion in the language as to when interest is due. **Mr. Chenoweth** affirmed that the intent of the statute is that the tax due date is four and one-half months after the year end, or May 15th of the following year, and that is when interest starts accruing. **SEN. ECK** said the language reads, "the tax is due when the return is filed". **Mr. Chenoweth** said that the department will review the language as discussed.

Closing by Sponsor:

SEN. STANG noted that the original intent of the bill was to eliminate the paperwork requirement but stated that language on Line 30, needs to be reviewed.

HEARING ON SB 54

{Tape: 1; Side: A; Approx. Counter: 15.2.}

Opening Statement by Sponsor:

SEN. DOROTHY ECK, Senate District 15, presented Senate Bill 54, explaining that this is essentially a clean up bill. She reported that sometime ago a requirement was made that the biennial report of the Department of Revenue should include in it suggestions for improvements in the state's system of taxation. She reported that the department has not done this, and that a few years ago the Legislative Auditor noticed that this was required by law and that either the law should be amended or that the department should comply with the law. **SEN. ECK** noted that the report is very well done and recommendations for changing the law could more appropriately come from the committee rather than having the department make recommendations. She stated that she recommends this legislation.

Proponents' Testimony:

Mick Robinson, Director, Department of Revenue, stated that there are enough other avenues to bring forth issues regarding tax policy or tax reform and asked the committee to look favorably on this legislation.

Tom Harrison, Montana Society of Certified Public Accountant's, stated that the society is in favor of this bill.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

SEN. ECK offered no further remarks in closing.

HEARING ON SB 56

{Tape: 1; Side: A; Approx. Counter: 21.8.}

Opening Statement by Sponsor:

SEN. BRUCE CRIPPEN, Senate District 10, presented SB 56, stating that the bill is at the request of the Department of Revenue. He explained that it reduces the extension of time for filing an income tax return from six months to four months which brings it in conformance with the law. He noted that the department has an amendment to the bill.

Proponents' Testimony:

Bob Turner, Income Tax Bureau Chief, Department of Revenue, said that this bill breaks the 6 month extension down into two extensions, a 4 month extension and a 2 month extension. He stated that this mirrors the federal extension, which is a 4 month automatic extension and an additional 2 month extension. **Mr. Turner** commented that this is a benefit to the taxpayer and doesn't create any additional paperwork. He presented a proposed amendment. EXHIBIT 1

Tom Harrison, Society of Certified Public Accountants, noted that this bill is a move forward and the society favors it.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. GAGE stated that the current language indicates that taxpayers can get an extension of time by writing to the department. He asked **Mr. Turner** if taxpayers could send a copy of the federal extension to the department as notification in writing. **Mr. Turner** stated that the department has their own form for a six month extension which has been developed for the department fulfilling the data processing requirements. **SEN. GAGE** asked **Mr. Turner** if the language in the bill "write to department" should be stricken.

{Tape: 1; Side: B; Approx. Counter: 18.3}

Mr. Turner replied that he doesn't have a problem with striking the language. **SEN. GAGE** stated that the automatic 2 month extension and current language indicate that Subsection (2)(b) has to be complied with in order for the extension to be valid. He asked **Mr. Turner** what happens if a taxpayer thinks he paid his 95% and the department issues the extension, and his final return indicates that he has only paid 90%, will the extension be void? **Mr. Turner** responded that the taxpayer would be charged the difference between the 95% and the 90% as a late paid penalty. He noted that in 1991, the legislature decided that the taxpayer should only be assessed one late penalty.

SEN. STANG asked **Mr. Turner** if the taxpayer receiving the additional 2 month extension can use the form provided by the department or will the department accept the same form sent to the federal government. **Mr. Turner** announced that the department will accept a copy of the federal form, process the return and then find out if that was accepted or not. **SEN. STANG** questioned **Mr. Turner** on the process used of disallowing an extension. **Mr. Turner** stated that the department would review the administrative rules to see if an extension should be disallowed.

CHAIRMAN DEVLIN asked **Mr. Robinson** to respond to the process of disallowing an extension. **Mr. Robinson** commented that he hasn't seen a case where the federal government has not allowed the second extension. He said that generally the 2 month extension is almost automatic noting that the difference between the 4 month and the 2 month extension is that the taxpayer needs to give a reason for the 4 month extension request.

SEN. LORENTS GROSFIELD asked **Mr. Turner** if the reason for this bill is to make it easier for the taxpayer why not change the 95%

to 90% and conform to the federal form. **Mr. Turner** responded that he wasn't sure why. **SEN. GROSFIELD** questioned **Mr. Robinson** in regards to changing the 95% to 90%. **Mr. Robinson** stated that he supports trying to conform to federal forms and making a consistent percentage. He noted that Montana needs to have a separate extension form because it will be less confusing for taxpayers who need to attach a payment to the form at the extension time. He commented that the administrative process would run smoother with a separate form.

SEN. VAN VALKENBURG asked **Mr. Turner** what percentage of Montana taxpayers file for extension on their taxes. **Mr. Turner** stated that within the last 3 years between 6.3% and 7.5% of Montana taxpayers filed for an extension. He said that in the year 1993, approximately 370,533 current year returns were filed, and 7.5% extensions were filed.

SEN. GAGE commented that part of the hope is that people will get their payments in within 4 months rather than taking the full 6 months. He suggested that a fiscal note be prepared.

SEN. ECK said that since the committee might consider **SEN. GROSFIELD'S** suggestion of going to a standard 90% she wondered what the cost would be. **CHAIRMAN DEVLIN** asked that the department work up costs on the standard 90%.

Closing by Sponsor:

SEN. CRIPPEN spoke to the amendment presented. He stated that he questioned if the amendment would put any taxpayers in jeopardy but commented that he didn't feel it would because this amendment would make changes applicable in 1995.

CHAIRMAN DEVLIN requested a fiscal note on SB 56.

EXECUTIVE ACTION ON SB 14

{Tape: 1; Side: B; Approx. Counter: 24.1.}

Motion: **SEN. GAGE MOVED AMENDMENTS (RECORDED AS 071613SC.SRF) FOR SB 14.**

Discussion: **SEN. FOSTER** stated that he visited with the department regarding the amendments and feels that the amendments are a good idea, and that they will relieve administrative pressure.

Vote: The motion **CARRIED** on oral vote **UNANIMOUSLY**.

Motion/Vote: **SEN. GAGE MOVED SB 14 DO PASS AS AMENDED.** The motion **CARRIED** on oral vote **UNANIMOUSLY**. (Please refer to Minutes of January 4, 1995, for further action on SB 14).

EXECUTIVE ACTION ON SB 54

{Tape: 1; Side: 2; Approx. Counter: 26.2.}

Motion: SEN. ECK MOVED DO PASS ON SB 54.

Discussion: None

Vote: The motion CARRIED on oral vote UNANIMOUSLY.

ADJOURNMENT

Adjournment: 9:00 a.m.



GERRY DEVLIN, Chair



RENEE J. PODELL, Secretary

GD/rp

MONTANA SENATE
 1995 LEGISLATURE
 TAXATION COMMITTEE

ROLL CALL

DATE *January 9, 1995*

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	✓		
DELWYN GAGE	✓		
LORENTS GROSFIELD	✓		
JOHN HARP	✓		
DOROTHY ECK	✓		
BARRY "SPOOK" STANG	✓		
FRED VAN VALKENBURG	✓		
MIKE FOSTER, VICE CHAIRMAN	✓		
GERRY DEVLIN, CHAIRMAN	✓		


SENATE STANDING COMMITTEE REPORT


Page 1 of 1
January 9, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB54 (first reading copy -- white), respectfully report that SB54 do pass.

Signed: 
Senator Gerry Devlin, Chair

 Amd. Coord.

 Sec. of Senate

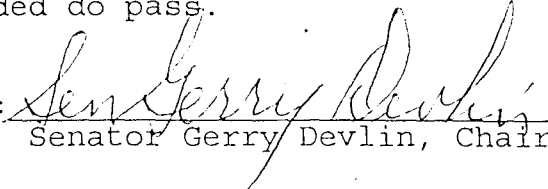
071605SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 9, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB14 (first reading copy -- white), respectfully report that SB14 be amended as follows and as so amended do pass.

Signed: 
Senator Gerry Devlin, Chair

That such amendments read:

1. Title, line 7.

Following: "PRINCIPLES;"

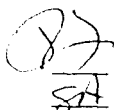
Insert: "INCREASING TO \$100,000 THE MAXIMUM AMOUNT ALLOWED TO BE
RETAINED FOR PAYMENT OF CLAIMS;"

2. Page 2, line 16.

Strike: "\$25,000"

Insert: "\$100,000"

-END-

 Amd. Coord.
Sec. of Senate

071613SC.SRF

EXHIBIT 1

EXHIBIT 1

DATE 1-9-95

SB 56

PROPOSED AMENDMENT TO SENATE BILL 56

1. Page 2, Line 5
Following: "tax"
Strike: "years beginning"
Insert: "returns due"

DATE January 9, 1995
 SENATE COMMITTEE ON Taxation
 BILLS BEING HEARD TODAY: S.B. 54
Senator Eck

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
MICK RUBINSON	DOR	SB54	✓	
TOM HARRISON	Mt. Soc of CPAs		✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE January 9, 1995
 SENATE COMMITTEE ON Taxation
 BILLS BEING HEARD TODAY: S. B. 56
Senator Crippen

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Check One

Name	Representing	Bill No.	Support	Oppose
Tom Harrison	MT. Soc of CPA's		✓	
Bob TURNER	MT Dept. of Rev		✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE January 9, 1995
SENATE COMMITTEE ON Taxation
BILLS BEING HEARD TODAY: S.B. 35
Senator Stang

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Check One

Name	Representing	Bill No.	Support	Oppose
Tom Harrison	Mt. Soc. of CPA's		<input checked="" type="checkbox"/> w/Amend.	
Lynn Chenoweth	MT Dept. of Revenue		<input checked="" type="checkbox"/>	
Bob Fitt				

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY