

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on March 21, 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: None
Executive Action: SB 257, SB 334, SB 73, SB 97, SB 419,

EXECUTIVE ACTION ON SB 257

Motion: SEN DELWYN GAGE MOVED TO TAKE SB 257 OFF THE TABLE.

Discussion: None

Vote: MOTION CARRIED 7 - 2 WITH SEN. DOROTHY ECK AND SEN. BARRY
"SPOOK" STANG VOTING IN OPPOSITION.

Motion: SEN. GAGE MOVED DO PASS ON SB 257.

Discussion: SEN. GAGE explained the bill. SEN. MIKE FOSTER
commented on the handout presented by the department. He stated

he was impressed by the approach of this bill due to the fairness in it. **SEN. STANG** asked **SEN. GAGE** what effect this bill would have on the current suit with the railroads. **SEN. GAGE** responded ultimately the railcar companies said they would give 60% and the Department of Revenue said they wanted 2/3. He explained the railcar companies said they would give 2/3 if the department backed off of their position towards the bill, and the DOR declined.

SEN. JOHN HARP said he didn't think this bill would bring a close to negotiations. **SEN. GAGE** commented it is the hope of this bill to bring the railcar companies and the DOR together for a settlement.

SEN. ECK stated it is bad precedent for legislators to get into the middle of litigation.

SEN. GAGE explained the intent of the bill was to correct the problem created when the change was made doubling the tax.

SEN. GROSFIELD asked why the tax was doubled. **SEN. HARP** said consider the statement of intent in HB 24.

SEN. VAN VALKENBURG asked **SEN. GAGE** if the passage of this bill will reduce the projected ending fund balance by approximately \$1 million. **SEN. GAGE** said he thinks it would reduce the ending balance from the Executive Office estimation but not from the Legislative Fiscal Analyst's estimation. **SEN. VAN VALKENBURG** asked **Mr. Johnson** if the passage of this bill would have any impact on the bottom line. **Mr. Johnson** responded the status sheet is based on railcar revenues estimated at zero for the biennium, however, some direction will be needed in terms of what impact it will have on the current escrow account. He said there is close to \$10 million sitting in the account now. **SEN. VAN VALKENBURG** asked **Mr. Mockler** if this bill passes in it's current form how will it impact the litigation and the escrow account. **Mr. Mockler** said there will be no effect on the litigation. He said the effect this bill will have will be to cap the amount of money going into the escrow fund. He acknowledged this bill would be \$1.4 million a year.

SEN. GAGE commented there will be a \$2.4 million increase.

SEN. GROSFIELD said without this bill there will be \$2.4 million less. **CHAIRMAN DEVLIN** commented the money was never figured in.

SEN. ECK asked **Mr. Johnson** what would be the impact if the suit was settled and HB 24 was collected according to it's provisions. **Mr. Johnson** said if the suit was resolved in favor of the state the amount in the escrow account would be transferred to the general fund.

SEN. STANG asked what kind of guarantee is there that the railcar companies won't sue the state over this bill.

Vote: MOTION CARRIED 6 - 3 WITH SEN. ECK, SEN. GROSFIELD, AND SEN. STANG VOTING IN OPPOSITION TO THE DO PASS MOTION on a roll call vote.

EXECUTIVE ACTION ON SB 334

Motion: SEN. ECK MOVED SB 334 BE TABLED.

Discussion: None

Vote: MOTION CARRIED 7 - 2 WITH SEN. HARP AND SEN. GAGE VOTING IN OPPOSITION TO THE MOTION.

EXECUTIVE ACTION ON SB 97

Motion: SEN. FOSTER MOVED AMENDMENTS TO SB 97.

Discussion: SEN. FOSTER asked Mr. Martin to explain the amendments. Mr. Martin stated the amendments are technical corrections the DOR thought were necessary.

SEN. GAGE asked Mr. Miller about the fiscal impact of this bill. Mr. Miller commented the fiscal note reflects the best estimates if implemented as amended.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. FOSTER MOVED SB 97 DO PASS AS AMENDED.

Discussion: SEN. VAN VALKENBURG asked SEN. FOSTER in regard to the contingent voidance clause placed in this bill does he know where the money will come from to put this bill into effect. SEN. FOSTER said he isn't part of the Finance and Claims Committee so he is at a disadvantage, although, he believes the leadership had a plan in mind as far as how this would work. He commented he hopes those on the committee will see the value of this bill.

Vote: MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 73

Motion: SEN. HARP MOVED TO AMEND SB 73 INSERTING A NEW SECTION INCLUDING CONTINGENT VOIDANCE LANGUAGE.

Discussion: Mr. Martin commented he has prepared that amendment.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Discussion: SEN. GAGE commented SB 73 and SB 97 read as though both a credit and a deduction could be taken. He stated if both bills pass that could be the outcome.

SEN. GROSFIELD said it doesn't make sense to send both bills out.

Motion: SEN. HARP MOVED SB 73 BE TABLED.

Vote: MOTION CARRIED 8 - 1 WITH SEN. STANG VOTING IN OPPOSITION OF THE MOTION.

EXECUTIVE ACTION ON SB 419

Discussion: SEN. GAGE remarked perhaps the committee would want to limit and amend this bill for tribal members of a Montana recognized tribe.

SEN. FOSTER stated he has an amendment prepared addressing this issue. He presented copies of the amendment for the committee members.

SEN. GROSFIELD remarked the only reason for the bill is because of the interpretation of federal law. He stated by putting this amendment in the bill an equal protection problem may exist and would be opened up to a lawsuit.

SEN. COLE stated he agrees with SEN. GROSFIELD.

SEN. GAGE said he doesn't especially agree with the amendment. He affirmed there is a small tribe in Montana that isn't a federally recognized tribe.

SEN. FOSTER read a document presented by Mr. Martin in regard to a Washington tribe case. He stated it looks like there is a need to pass the amendments otherwise the bill is too broad based.

Motion/Vote: SEN. FOSTER MOVED TO AMEND SB 419 (sb041901.ajm). MOTION FAILED 3 - 6 on a roll call vote.

Discussion: SEN. FOSTER presented another amendment (sb041902.ajm) in regard to a married couple who has exempt income. Mr. Martin commented more than the previous amendment this amendment might have a equal protection clause.

Motion/Vote: SEN. FOSTER MOVED THE AMENDMENT (sb041902.ajm). MOTION FAILED 3 - 6 on a voice vote.

Discussion: SEN. GROSFIELD discussed striking Part 1, on Page 1, Line 26 in two places. Mr. Martin explained case law within the income tax provisions.

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

Motion/Vote: SEN. GROSFIELD MOVED THE AMENDMENT. MOTION FAILED 8 - 1 WITH SEN. GROSFIELD VOTING IN FAVOR OF THE AMENDMENT.

Motion: SEN. GAGE MOVED DO PASS ON SB 419. SEN. HARP MADE A SUBSTITUTE MOTION TO AMEND SB 419 BY INSERTING A CONTINGENCY VOIDANCE CLAUSE.

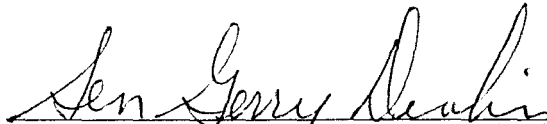
Discussion: SEN. GROSFIELD stated he has mixed feelings about inserting that language because there isn't a clue as to the cost of this bill and a contingency voidance clause could kill the bill.

Vote: MOTION ON SEN. HARP'S AMENDMENT FAILED 3 - 6 on a roll call vote.

Motion/Vote: SEN. GAGE MOVED DO PASS ON SB 419. MOTION CARRIED 7 - 2 WITH SEN. DEVLIN AND SEN. HARP VOTING IN OPPOSITION TO THE MOTION.

ADJOURNMENT

Adjournment: 9:15 A.M.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

GD/rp

**MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE**

ROLL CALL

DATE March 21, 1995

[illegible]

SEN:1995

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CS-09


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 21, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB 257 (first reading copy -- white), respectfully report that SB 257 do pass.

Signed: 
Senator Gerry Devlin, Chair


Amd. Coord.
So Sec. of Senate

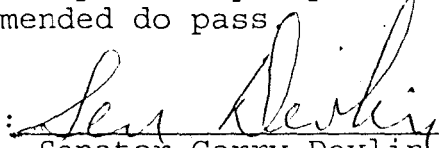
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 21, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB 97 (first reading copy -- white), respectfully report that SB 97 be amended as follows and as so amended do pass

Signed: 

Senator Gerry Devlin, Chair

That such amendments read:

1. Title, line 8.

Following: "EFFECTIVE DATE"

Strike: "AND"

Insert: ", "

2. Title, line 9.

Following: "DATE"

Insert: ", AND A CONTINGENT VOIDNESS PROVISION"

3. Page 1, line 29.

Following: line 28

Insert: "(d) In the case of a married day-care operator who has no earned income, a federal household and dependent care credit equivalent may be determined based on the earned income of the operator's spouse.

(3) The credit allowed under this section may be claimed by married taxpayers who file separately on the same return. The credit must be divided equally between the taxpayers."

Renumber: the subsequent subsection


4. Page 4, line 21.

Following: line 20

Insert: "NEW SECTION. **Section 4. Contingent voidness.** In order to maintain a balanced budget, because [this act] reduces revenue, it may not be transmitted to the governor unless a corresponding identified reduction in spending is contained in House Bill No. 2. If a corresponding identified reduction in spending is not contained in House Bill No. 2, [this act] is void."

Renumber: the subsequent section

-END-

 Amd. Coord.

31 Sec. of Senate

651032SC.SPV

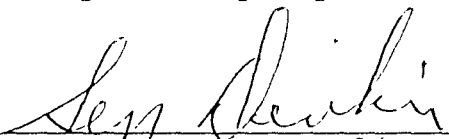
SENATE STANDING COMMITTEE REPORT

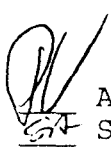
Page 1 of 1
March 21, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB 419 (first reading copy -- white), respectfully report that SB 419 do pass.

Signed:


Senator Gerry Devlin, Chair


Amd. Coord.
Sec. of Senate

651028SC.SPV

Amendments to Senate Bill No. 419
First Reading Copy

Requested by Senator Foster
For the Committee on Taxation

Prepared by Jeff Martin
March 20, 1995

1. Title, lines 7 and 9.
Following: "TRIBE"
Insert: "IN MONTANA"
2. Title, line 8.
Following: the first "RESERVATION"
Insert: "IN MONTANA"
3. Page 1, lines 16 and 22.
Following: "tribe"
Insert: "in Montana"
4. Page 1, line 19.
Following: the first "tribe"
Insert: "in Montana"
Following: the first "reservation"
Insert: "in Montana"

Amendments to Senate Bill No. 419
First Reading Copy

Requested by Senator Foster
For the Committee on Taxation

Prepared by Jeff Martin
March 20, 1995

1. Page 1, line 24.

Following: line 23

Insert: "(3) A married person who has exempt income under this section and who derives income from nonexempt sources or whose spouse derives income from nonexempt sources shall file a joint return."

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 21, 1995 BILL NO. SB 257 NUMBER 1

MOTION: Do Pass

NAME	AYE	NO
GERRY DEVLIN, CHAIRMAN	✓	
MACK COLE	✓	
DOROTHY ECK		✓
DELWYN GAGE	✓	
LORENTS GROSFIELD		✓
JOHN HARP	✓	
BARRY "SPOOK" STANG		✓
FRED VAN VALKENBURG	✓	
MIKE FOSTER, VICE CHAIRMAN	✓	
	6	3

SEN:1995
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MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 21, 1995 BILL NO. SB 419 NUMBER 1

MOTION: AMENDMENT - FAILS (SB 0419 01. AM)

NAME	AYE	NO
GERRY DEVLIN, CHAIRMAN		✓
MACK COLE		✓
DOROTHY ECK		✓
DELWYN GAGE		✓
LORENTS GROSFIELD		✓
JOHN HARP	✓	
BARRY "SPOOK" STANG		✓
FRED VAN VALKENBURG	✓	
MIKE FOSTER, VICE CHAIRMAN	✓	
	3	6

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 21, 1995 BILL NO. SB 419 NUMBER 2

MOTION: Harp Amend.

NAME	AYE	NO
GERRY DEVLIN, CHAIRMAN	✓	
MACK COLE		✓
DOROTHY ECK		✓
DELWYN GAGE		✓
LORENTS GROSFIELD		✓
JOHN HARP	✓	
BARRY "SPOOK" STANG		✓
FRED VAN VALKENBURG		✓
MIKE FOSTER, VICE CHAIRMAN	✓	
	3	6

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE march 21, 1995 BILL NO. SB 419 NUMBER 3

MOTION: D. P.

NAME	AYE	NO
GERRY DEVLIN, CHAIRMAN		✓
MACK COLE	✓	
DOROTHY ECK	✓	
DELWYN GAGE	✓	
LORENTS GROSFIELD	✓	
JOHN HARP		✓
BARRY "SPOOK" STANG	✓	
FRED VAN VALKENBURG	✓	
MIKE FOSTER, VICE CHAIRMAN	✓	
	7	2