

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on March 23, 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 274, SB 420, SB 421

EXECUTIVE ACTION ON SB 420

Motion: SEN. DELWYN GAGE MOVED TO TABLE SB 420.

Discussion: None

Vote: MOTION CARRIED 5 - 4 on roll call vote.

EXECUTIVE ACTION ON SB 274

Motion/Vote: SEN. GAGE MOVED AMENDMENTS FOR SB 274
(sb027401.ajm). MOTION CARRIED UNANIMOUSLY.

Discussion: SEN. FRED VAN VALKENBURG said he signed as the co-
sponsor of this bill at the time it was introduced, however, he
didn't fully understand or appreciate the substitutive nature of

this bill and how it works. He stated he thought at the time it was a limitation on the increase of taxable valuation rather than an increase in taxes. **SEN. VAN VALKENBURG** commented he has tried a number of ways to figure out how to cap an increase in property taxes and it's virtually impossible because of the way in which there are so many different property tax jurisdictions. He affirmed this is not a workable Constitutional amendment.

SEN. JOHN HARP said there is no question there will be some concerns exactly where those dollars would flow if the increase was allowed to go to 2%. He acknowledged the provision states, "as provided by law" and he visualizes this Constitutional amendment would go on the ballot in 1996, which allows the legislature with that discretion to draft in statute the allocations and workings of how those dollars will flow to make sure the 2% cap is achieved.

SEN. VAN VALKENBURG commented the provisions with respect to the language "as provided by law" relate to the sentence dealing with the value of property, not to the sentence relating to the limitation on the tax increase. He said it gives the legislature some ability to deal with the issue of valuation but not distribution among the taxing entities.

SEN. DOROTHY ECK acknowledged she also signed the bill thinking it was the bill she expected to limit increase in value and not tax. She stated if it was changed to value she would be more comfortable about the bill.

SEN. MIKE FOSTER insisted tax is the problem and this bill tries to address that.

Motion: **SEN. FOSTER MOVED SB 274 DO PASS AS AMENDED.**

Discussion: **SEN. LORENTS GROSFIELD** commented he can't vote for the motion. He explained this bill is tax on individual property. He presented a scenario of individual property owners in the Flathead Lake area, depicting the long time landowner (whose land cost very little many years ago) and a newcomer neighbor whose property cost thousands of dollars. He voiced concern in regard to the language in the bill dealing with value, giving as an example the following sentence: "taxes can't increase over 2% on the individual property per year, without regard for value". **SEN. GROSFIELD** said 2% a year is the maximum.

SEN. FOSTER declared he doesn't interpret the bill the same as **SEN. GROSFIELD**. He remarked there would be concern with this bill if **SEN. GROSFIELD'S** explanation was the intent of the bill. He stated there is the provision in the bill "as provided by law" allowing the legislature to account for situations such as **SEN. GROSFIELD** related. **SEN. GROSFIELD** commented the language "as provided by law" does apply only to the second sentence, however, it also applies to "limited" or "reduced", it doesn't apply to increase. He said the 2% figure in the previous sentence is

controlling on any increase. He stressed over a period of time there will be a shifting of the tax burden from people who have just moved in, to people who have lived on their property forever.

CHAIRMAN DEVLIN remarked he is worried about language getting on the ballot in a different form than intended, which would be treacherous to the whole system.

SEN. MACK COLE commented he is hearing two different meanings of this bill and it needs to be clarified.

SEN. VAN VALKENBURG suggested asking for an explanation from someone in the DOR who would have to administer this law.

CHAIRMAN DEVLIN asked **Mr. Martin** for his interpretation. **Mr. Martin** said the words are fairly plain in the first sentence applying to an individual piece of property and the changing of ownership wouldn't make any difference.

Mick Robinson stated the DOR's interpretation of the changes in the Constitution basically are in the first sentence dealing with the 2% limit on taxes and the second sentence dealing with value.

CHAIRMAN DEVLIN said the governing bodies don't reduce the millage.

Mr. Robinson explained if there is a move to this particular cap there must be a move completely away from thinking in terms of how property tax is calculated. He said in order for this to work administratively, values may have to be froze and the mill allowed to increase up to 2%. **Mr. Robinson** commented, "in his personal opinion, putting a percentage in the Constitution is not very wise".

SEN. ECK commented she would like to consider amendments.

Motion: **SEN. ECK MOVED THE FOLLOWING AMENDMENT:**

Subject to the provisions of Subsection 2, the state shall appraise, assess and equalize the valuation of all property which is to be taxed in the manner provided by law. Subsection 2, the taxable value on individual property shall not increase by more than 2% in a year unless due to construction, improvements or indebtedness approved by the voter. She said the last sentence would read; for taxes based on or calculated on the value of property, the value of property in any class or the tax on property in any class may be limited, adjusted or reduced as provided by law.

Discussion: **SEN. ECK** said the advantage of this amendment is the 2% figure which is important for the ballot. She stated without the 2% figure it wouldn't mean anything to people who want to see some control.

SEN. VAN VALKENBURG commented he assumes **SEN. ECK'S** amendment includes necessary changes in the title and changes in the ballot language.

SEN. GROSFIELD said he doesn't care for the ballot language at all. He stated by changing the language from tax to the taxable value in the amendment there still exists the problem he previously discussed. **SEN. GROSFIELD** discussed impact fees, however, he admitted this doesn't address the amendment.

CHAIRMAN DEVLIN asked **Mr. Robinson** to address **SEN. ECK'S** amendment. **Mr. Robinson** responded the 2% limit on the value times the tax rate is the overriding limit and could not be overridden by law.

SEN. GAGE said **SEN. ECK'S** proposal defects the whole purpose of the bill because if taxable value is limited the mills can go through the ceiling. **SEN. ECK** responded it is likely to happen unless sufficient general fund money for schools are provided.

SEN. VAN VALKENBURG said the legislature can always cap mill increases.

Vote: MOTION ON THE AMENDMENT FAILED 4 - 5 on roll call vote.

Motion: **SEN. VAN VALKENBURG MOVED AMENDMENTS.** He suggested striking the first sentence of Subsection 2 and amending the title of the ballot language accordingly, upon the recommendation of **Mr. Robinson.**

Discussion: **CHAIRMAN DEVLIN** asked **SEN. VAN VALKENBURG** what we have to hang our hat on if this is approved. **SEN. VAN VALKENBURG** said he isn't optimistic to the point where huge numbers of people are going to be mollified by value of this change in the Constitutional language. He stated it is possible to reach a persuadable band of voters by virtue of changing the Constitution in this manner and the problem of rapidly rising valuation increases, due to movement into the state from people who have a lot more money than Montanans have, can be dealt with. **SEN. VAN VALKENBURG** commented there won't be the headaches in trying to make a 2% limit work in the current structure.

SEN. HARP said it's too bad the amendment on the Constitution didn't pass last November because it was a good amendment. He said percentages are needed for public understanding. He announced he appreciates **SEN. VAN VALKENBURG** working with the committee, however, this amendment defects the purpose. He committed perhaps the purpose is not achievable.

SEN. FOSTER questioned **Mr. Woodgerd** in regard to the wording "change in ownership". He asked **Mr. Woodgerd** in his legal opinion if there is anything wrong with using the language "unless due to construction, improvements, change in ownership or indebtedness approved by the electorate". **Mr. Woodgerd** stated he

doesn't see anything wrong with the language assuming the intent is to propose a Constitutional amendment. SEN. FOSTER said it is a clarification in regard to SEN. GROSFIELD'S concern.

Motion: SEN. STANG MADE THE SUBSTITUTE MOTION TO AMEND SEN. VAN VALKENBURG'S MOTION TO INCLUDE "in excess of 2%" after the word class and striking the first sentence. SEN. VAN VALKENBURG suggested the language "the increase in the value of property in any class in excess of 2% or the tax on property in any class may be limited or reduced".

Discussion: SEN. FOSTER said the intentions are good but it is very open ended. He stressed this amendment won't address property tax problems in Montana whatsoever.

SEN. VAN VALKENBURG remarked we are trying to find some combination of what will practically work in the context of the property tax and the overall tax system of Montana with what we all know is the political climate with respect to property taxes. He said SEN. FOSTER'S remarks have more to do with the political climate than what will practically work. He attested the present language in the bill won't work.

SEN. FOSTER asked Mr. Robinson if the first sentence was kept and the following language was inserted "as provided by law, the tax on individual property shall not increase by more than 2% in a year unless due to construction, improvements, change in ownership or indebtedness approved by the electorate" leaving the second sentence alone, would it be more workable. Mr. Robinson said it addresses SEN. GROSFIELD'S issue in terms of having the ability to put in law allowances for the increase in the tax.

SEN. GROSFIELD commented the approach SEN. FOSTER presented might allow something to be done along the lines of acquisition value.

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

SEN. STANG said, "making sausage is a lot easier than making tax law".

SEN. VAN VALKENBURG acknowledged what isn't solved by what SEN. FOSTER is proposing is how the increase in taxes paid on an individual piece of property will be distributed among the various taxing jurisdictions.

CHAIRMAN DEVLIN stated the committee has until tomorrow to get this bill out. He remarked there has been merit in the proposals brought forward in today's discussions. He asked committee members to review the information presented and without objection executive action will be continued until March 24th. SEN. STANG WITHDREW HIS MOTION.

EXECUTIVE ACTION ON SB 421

Motion: SEN. HARP explained the amendments and the exclusions of the property tax freeze. He addressed the concerns of school district retirement accounts and the transportation issue. SEN. HARP MOVED THE AMENDMENTS (sb042101.ajm).

Discussion: SEN. ECK stated there are a number of questions raised which aren't addressed by these amendments. She questioned SEN. HARP in regard to the issue of a school district having a low number of mills in one year and asked him if the issue had been addressed in this bill. SEN. HARP said if there is a decrease in values, millage can be increased in order to keep 1994 dollars. He stated frugal and low wealth school districts have been addressed. SEN. ECK commented this bill goes back to a system where there are voted levies every year. SEN. HARP asked SEN. ECK if she was referring to beyond the 1994 dollar amount. SEN. ECK responded, "Yes". SEN. HARP responded, the voters will have to vote on it.

SEN. GAGE asked SEN. HARP about high school districts which are above 100% voting in a mill levy. SEN. HARP responded this bill doesn't address that issue, however, there was a bill passed last session which dealt with it. He mentioned SEN. STANG would be able to address the issue. SEN. STANG said the school district could vote to stay at 4%, however, it can't vote to increase it. CHAIRMAN DEVLIN asked Madalyn Quinlan, Office of Public Instruction to address the issue. Ms. Quinlan commented the school district can vote any amount above the 100% which is not greater than last year's budget. She said when they are voting, they are voting on the spending side of the picture, not the tax side.

Vote: MOTION CARRIED ON THE AMENDMENTS PRESENTED BY SEN. HARP UNANIMOUSLY.

Motion: SEN. HARP MOVED SB 421 DO PASS AS AMENDED. SEN. STANG MADE A SUBSTITUTE MOTION FOR FURTHER AMENDMENTS (SB042102.ajm). Mr. Martin explained the amendments presented by SEN. STANG. SEN. STANG MOVED LINES 1-5 AND THE EFFECTIVE DATE (JANUARY 1, 1996).

Discussion: SEN. HARP said if the general fund of all school districts are excluded, there would be a major hole opened up and spending would be controlled. SEN. HARP stated focus and purpose will be lost if this area is exempted. He asked that SEN. STANG'S motion be segregated and voting take place only on Lines 7 and 8 of SEN. STANG'S amendments.

Motion/Vote: SEN. HARP MADE A SUBSTITUTE MOTION TO SEGREGATE LINE 7 AND 8 FROM THE REST OF THE AMENDMENT. MOTION CARRIED UNANIMOUSLY. SEN. STANG MOVED LINE 7 AND 8. MOTION FAILED 4 - 5 on roll call vote. SEN. STANG MOVED TO SEGREGATE THE DATE

CHANGES FROM THE MILL LEVY RESERVES. MOTION CARRIED UNANIMOUSLY.

Discussion: SEN. STANG said this is an important amendment to the school districts giving them a chance for a one year window of opportunity. He said this amendment also takes care of counties who have been frugal and have mill levies less than 1986 levels.

SEN. HARP each time taxing jurisdictions are given the opportunity to prepare for a change in tax policy they jump to increase tax dollars. He stated this amendment is another way for them to increase spending. He said the bill is introduced to control spending for a few years.

SEN. GAGE commented there is a different system used for schools than what other taxing jurisdictions have.

SEN. VAN VALKENBURG remarked county governments are carrying out the mandates state government imposed. He said this is the only source of funding. He stressed the importance of giving elected officials at least a one year advance notice to prepare.

SEN. HARP said he would agree with SEN. VAN VALKENBURG'S comments in most cases, however, abuses have taken place.

SEN. VAN VALKENBURG said let the voters vote those officials out of office, don't punish everyone in the state.

SEN. GAGE affirmed the big problem is the mandatory mills.

Vote: MOTION CARRIED FAILED 4 - 5 on roll call vote.

Motion: SEN. STANG MOVED THE LAST AMENDMENT (K).

Discussion: SEN. HARP asked SEN. STANG if this amendment goes on this bill will he support SB 421 on the Senate floor. SEN. STANG said if he work on some of the other amendments. SEN. HARP commented he supports the amendment.

Vote: MOTION CARRIED 8 - 1 WITH SEN. GROSFIELD VOTING IN OPPOSITION TO THE MOTION on voice vote.

Motion/Vote: SEN. VAN VALKENBURG MOVED TO STRIKE SUBSECTIONS 2 AND 3 FROM AMENDMENT NUMBER 2 (SEN. HARP'S AMENDMENT). MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. HARP MOVED SB 421 DO PASS AS AMENDED.

Discussion: SEN. ECK reported none of the amendments from the Montana Association of Counties have been addressed.

Motion: SEN. ECK MOVED AMENDMENT NUMBER 4 ON PAGE 5, LINE 8 OF THE MACO AMENDMENTS, STRIKING THE LANGUAGE LIMITING VOTING ON LEVIES TO TWO YEARS.

{Tape: 2; Side: A; Comments: Tape Turned.}

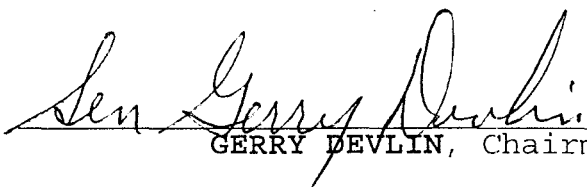
Discussion: SEN. HARP explained the resolution process which would have to be offered.

Mr. Morris referred the committee to Section 4 in regard to the resolution. He suggested striking the language "the duration may not exceed two years".

Vote: THE MOTION CARRIED UNANIMOUSLY. QUESTION WAS CALLED ON SEN. HARP'S MOTION THAT SB 421 DO PASS AS AMENDED. MOTION CARRIED 6 - 3 WITH SEN. ECK, SEN. GAGE AND SEN. VAN VALKENBURG VOTING IN OPPOSITION TO THE MOTION on a roll call vote.

ADJOURNMENT

Adjournment: 10:28 a.m.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

GD/rp

**MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE**

ROLL CALL

DATE March 22, 1995

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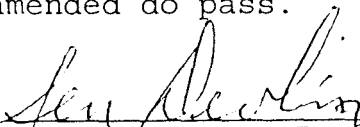
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SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 23, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB 421 (first reading copy -- white), respectfully report that SB 421 be amended as follows and as so amended do pass.

Signed: 
Senator Gerry Devlin, Chair

That such amendments read:

1. Title, line 8.

Following: "7-6-2514,"

Insert: "15-10-401,"

Following: the second "MCA;"

Insert: "REPEALING SECTION 15-10-411, MCA;"

2. Page 1, line 13.

Following: line 12

Insert: "Section 1. Section 15-10-401, MCA, is amended to read:

"15-10-401. Declaration of policy. (1) The state of Montana's reliance on the taxation of property to support education and local government has placed an unreasonable burden on the owners of ~~classes three, four, six, nine, twelve, and fourteen~~ property, ~~as those classes are defined in Title 15, chapter 6, part 1.~~

~~(2) The legislature's failure to give local governments and local school districts the flexibility to develop alternative sources of revenue will only lead to increases in the tax burden on the already overburdened property taxpayer.~~

~~(3) The legislature is the appropriate forum to make the difficult and complex decisions to develop:~~

~~(a) a tax system that is fair to property taxpayers; and~~

~~(b) a method of providing adequate funding for local government and education.~~

~~(4) The legislature has failed in its responsibility to taxpayers, education, and local government to relieve the tax burden on property classes three, four, six, nine, twelve, and fourteen.~~


~~(5)~~(2) The people of the state of Montana declare it is the policy of the state of Montana that no further property tax increases be imposed on property ~~classes three, four, six, nine, twelve, and fourteen~~ as provided in 15-10-412."


Renumber: subsequent sections

3. Page 1, lines 14 and 15.

Strike: "(1)" on line 14

Strike: "subsections" on line 14 through "(3)" on line 15

 Amd. Coord.

 Sec. of Senate

671443SC.SRF

Insert: "15-10-412"

Following: "property" on line 15

Strike: "described" through "15-6-136"

4. Page 1, lines 17 through 26

Strike: subsections (2) through (4) in their entirety

5. Page 1, lines 29 and 30.

Strike: "clarification" on line 29 through "classes" on line 30

Insert: "exceptions"

Following: "is" on line 30

Strike: "interpreted and clarified"

Insert: "implemented"

6. Page 2, lines 1 and 2

Strike: subsection (1) in its entirety

Renumber: subsequent subsections

7. Page 2, line 4.

Strike: "actual" through "property"

Insert: "total amount of taxes levied by each taxing unit"

8. Page 2, line 5.

Strike: "due"

Insert: "levied"

9. Page 2, lines 5 through 7.

Strike: "In" on line 5 through "unit" on line 7

10. Page 2, line 9.

Following: "year"

Insert: "The governing body of a taxing unit shall adjust mill
levies to compensate for any increase in taxable valuation
to ensure that taxes levied do not exceed the amount levied
in 1994"

11. Page 2, line 10.

Strike: "a further"

Insert: "an"

12. Page 2, line 11.

Strike: "taxable valuation of"

Insert: "taxes levied by"

13. Page 2, line 24.

Following: "valuation"

Insert: "of the taxing unit"

14. Page 2, line 24 through page 3, line 4.

Following: "property" on page 2, line 24

Strike: the remainder of line 24 through "status" on page 3,
line 4

15. Page 3, lines 18 through 22.

Following: "15-10-402" on line 18

Strike: the remainder of line 18 through "year" on line 22

16. Page 4, line 24.

Strike: "and"

17. Page 4, line 29.

Strike: ", through tax year 1997,"

18. Page 4, line 30.

Strike: "."

Insert: ";

19. Page 5, line 2.

Following: line 1

Insert: "(j) the county retirement fund authorized under 20-9-
501;

(k) the building reserve fund authorized under 20-9-502 and
20-9-503; and

(l) the county transportation reimbursement computed under
20-10-146."

20. Page 5, line 3.

Strike: "tax liability"

Insert: "mill levies"

21. Page 5, line 6.

Following: "impose"

Strike: "the tax"

Insert: "mill levies"

Following: "change"

Strike: "the rate of the tax"

Insert: "mill levies"

Following: "then"

Strike: "the tax"

Insert: "mill levies"

22. Page 5, lines 7 and 8.

Strike: "the rate" on line 7

Strike: "Unless" on line 7 through "years." on line 8

23. Page 5, line 10

Strike: "tax"
Insert: "mill levy"

24. Page 5, line 11.
Strike: the first "the tax"
Following: "or"
Strike: "to"
Following: "change the"
Strike: "tax"
Insert: "mill levy"

25. Page 5, line 12.
Strike: "tax"
Insert: "mill levy"

26. Page 5, lines 12 and 13.
Strike: "The duration" on line 12 through "years." on line 13

27. Page 6, line 9.
Following: line 8
Insert: "(7) The limitation on the amount of taxes levied by a
taxing jurisdiction subject to a statutory maximum mill levy
does not prevent a taxing jurisdiction from increasing its
number of mills beyond the statutory maximum mill levy to
produce revenue equal to its 1994 revenue."
Renumber: subsequent subsection

28. Page 6, line 15.
Following: line 14
Insert: "(9) In order to comply with the limitations of this
part, mill levies must be reduced in order to compensate for
increased taxable valuation in a taxing unit. If a mill
levy is fixed by law or is otherwise not adjustable in the
discretion of the governing body of the taxing unit, the
department of revenue shall adjust the mill levy to
compensate for an increase in taxable valuation, other
statutory provisions notwithstanding. The department shall
notify the local government of the new mill levy by the
statutory date for setting mill levies."

29. Page 7.
Following: line 10
Insert: "NEW SECTION. Section 6. Repealer. Section 15-10-411,
MCA, is repealed."
Renumber: subsequent section

-END-

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 23, 1995 BILL NO. SB 274 NUMBER 1

MOTION: AMENDMENT/FAILED
(Eck)

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		✓
	4	5

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MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 23, 1995 BILL NO. SB 420 NUMBER 1

MOTION: TABLE

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	✓	
	5	4

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MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 23, 1995 BILL NO. SB 421 NUMBER 1

MOTION: VOICE Sen. Harp's Amendments - PASSED
VOICE Sen. Stang's Segregated Motion - PASSED
Sen. Stang Amendment 7 & 8 - FAILED

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		✓
	4	5

MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 23, 1995 BILL NO. SB 421 NUMBER 2

MOTION: (K) Anna 1-5 effective date

January 1, 1996

MOTION - FAILED

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		✓
	4	5

SEN:1995

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MONTANA SENATE
1995 LEGISLATURE
TAXATION COMMITTEE
ROLL CALL VOTE

DATE March 23, 1995 BILL NO. 3B 421 NUMBER 3

MOTION: D.P.A.A.

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