

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on January 8, 1997, at 10:00 a.m., in Room 415.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Services Division
Sharon Cummings, Acting Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 20, 12/30/96
Executive Action: None

HEARING ON SB 20

Sponsor: SEN. DELWYN GAGE, SD 43, CUT BANK

Proponents: Dave Woodgerd, Chief Counsel, Department of Revenue

Opponents: None

Opening Statement by Sponsor:

SENATOR DELWYN GAGE, SD 43, Cut Bank, presented SB 20. This bill is at the request of the Revenue Oversight Committee.

SENATOR GAGE explained the rail car tax situation for those unfamiliar with it. A few years ago a change was made in the way rail car company property is taxed. There is a difference of opinion between the Department of Revenue and many legislators on this - testimony and fiscal note indicates the change would be

revenue neutral. Actually the new tax rate is considerably more than the old tax. Department of Revenue states the reason for this is that the rail car companies were not reporting everything. This problem ended up in court resulting in a revenue loss to the State of Montana of approximately \$5-8 Million. The Department of Revenue is in the process of negotiating a settlement on this now. The terms of this settlement resulted in this bill as these settlement terms need to be put into statute. The Revenue Oversight Committee reviewed the authority of the Department of Revenue to enter into tax settlement agreements as there was the possibility of binding the legislature in future years. Is this an authority that the legislature wants to give the Department of Revenue? Page 2 of SB 20 notes a termination date of 12/31/02 because this is the length of term for the proposed settlement.

SENATOR GAGE explained that this bill changes the definition of the average levy. It used to mean the average statewide rate of taxation on commercial and industrial property. This bill and the terms of the agreement will change that to mean 95% of the average statewide mill levy for commercial and industrial property. Negotiations on the settlement have not been completed as of today per **Mr. Woodgerd, Department of Revenue (DOR)**.

{Tape: 1; Side: A; Approx. Time Count: 4.5 minutes; Comments: None.}

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, DOR, spoke in favor of the bill. It implements the settlement signed with the major railroad car companies. The DOR believes this class action lawsuit will be settled shortly. There are approximately 100 companies involved and a few are not prepared to settle. This should be taken care of in the next few weeks.

{Tape: 1; Side: A; Approx. Time Count: 5 minutes; Comments: None.}

Questions From Committee Members and Responses:

SENATOR DEVLIN asked **Mr. Woodgerd** if this would help or harm the rest of the companies who haven't signed up yet. **Mr. Woodgerd** responded that this will have no effect on the negotiations.

SENATOR SPRAGUE asked **SENATOR GAGE** to explain the retroactive portion of the bill. **SENATOR GAGE** referred this question to **Mr. Martin** who explained the reason for setting the date retroactively was to make it correspond to the time period that the settlement was in effect.

SENATOR GLASER asked **Mr. Woodgerd** to identify the two companies not willing to sign the settlement. **Mr. Woodgerd** explained that this is a class action lawsuit involving 100 companies. The attorney for these companies has talked with the Department of Revenue regarding concerns of a couple of companies, Cryotrans

and Transcisco. The Department of Revenue is negotiating with the attorney for these companies.

SENATOR DEVLIN asked **Mr. Woodgerd** for a more specific amount in costs to the state as a result of the failure to reach an agreement before the class action. **Mr. Woodgerd** responded that he has no more specific figure than the \$5-8 million stated earlier in this hearing.

SENATOR GAGE explained more on the cost figures. The figure arrived at includes not only the tax but also the revenue due the State from income tax and royalties. The loss is approximately \$3.00 per ton.

Closing by Sponsor:

SENATOR GAGE closed stating his concern regarding the authority given the DOR and that it may tie the hands of the legislature over an extended period of time. A better solution was not found. He recommends the bill be passed.

EXECUTIVE ACTION ON HB 20

Motion: **SENATOR COLE MOVED HB 20 DO PASS.**

SENATOR ECK asked if there will be a fiscal note with this bill. **Mr. Woodgerd** stated he has the fiscal note. **SENATOR DEVLIN** asked where the fiscal note is. **Mr. Woodgerd** responded the fiscal note indicates that because of the lack of a settlement in the Chrysler case the difference would be a \$84,000 loss in revenue for FY 98-99.

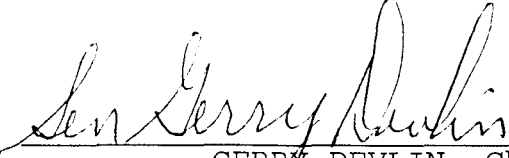
SENATOR COLE WITHDREW HIS MOTION TO PASS.

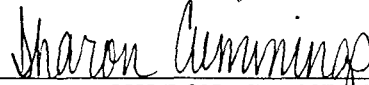
SENATOR DEVLIN requested a fiscal note on this and stated the committee would meet again on HB 20 on Friday, January 10, 1997. He also asked **Mr. Martin** if a notation regarding fiscal notes will be put on introduced bills.

Mr. Martin stated there are a number of bills requested by the Revenue Oversight Committee, the final report on these will be made available to everyone on this committee.

ADJOURNMENT

Adjournment: 10:16 a.m.


GERRY DEVLIN, Chairman


SHARON CUMMINGS, Secretary

GD/sc