

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on January 30, 1997, at
8:00 a.m., in Room 413.

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
Renee Podell, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 213; SB 209
Executive Action: SB 134 (DP);
SB 195 (DP);
SB 184 (DP)
SB 177 (No final action taken)

HEARING ON SB 213

{Tape: 1; Side: A; Approx. Time Count: .4; Comments: None.}

Sponsor: SEN. DALE MAHLUM, SD 35, MISSOULA

Proponents:

Todd Brandoff, 100% Disabled Veterans
Hal Manson, American Legion
Jim Jacobson, Montana Veterans' Affairs Division
SEN. MIKE HALLIGAN, SD 34, MISSOULA

Opponents: None

Opening Statement by Sponsor:

SEN. DALE MAHLUM, SD 35, MISSOULA opens by stating this is an act revising the property tax exemptions for disabled veterans. It eliminates an income limitation. This is a bill about caring; a bill about giving back something to people who have put their lives on the line for our country, our state and for their respective communities.

Proponents' Testimony:

Todd Brandoff, 100% Disabled Veterans emphasizes the importance of this bill. Has spent years in the recovery process. His property taxes are supposed to be excused but since his wife makes more than the \$18,000 limit they don't qualify. His income is less than \$1,200 annually.

Hal Manson, American Legion asks that the limit be lifted. The American Legion support the bill.

Jim Jacobson, Montana Veterans' Affairs Division indicates we have 95,400 veterans in the State of Montana. Has spoken with Governor Racicot about this bill and says the Governor cannot support the bill due to budget and revenue projections, but puts the bill high on his priority list should budget and revenue issues allow his support. Governor Racicot does support veterans' issues.

SEN. MIKE HALLIGAN, SD 34, MISSOULA has been working with Mr. Brandoff since the last session trying to address this issue. He says there is no way to minimize the impact to local governments but there has to be at least some discussion as to whether we want to eliminate the threshold or address the threshold in a manner that would allow people to make realistic use of this program. There is a fiscal impact.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

SEN. MIKE FOSTER asks Randy Wilke, Department of Revenue regarding page 1, line 25, when the figures were adopted. **Mr. Wilke** states he can't say. **SEN. FOSTER** asks if it's fair to say it's been twenty years. **Mr. Wilke** indicates it was 1979.

SEN. BOB DEPRATU references page 2, line 5 - does this preclude a spouse from collecting the benefits if the veteran died of natural causes. **Mr. Wilke** says no, the criteria for spouse has to be met, however. **SEN. DEPRATU** stresses the wording again,

referencing the possibility of death occurring unrelated to the service-connected disabilities. **Mr. Wilke** responds that the criteria have to do with the spouse.

SEN. MIKE SPRAGUE asks **SEN. MIKE HALLIGAN** to clarify the definition of "service-connected disability." **SEN. HALLIGAN** states the definition is consistent with federal law; has been litigated many times.

SEN. BARRY STANG asks **Mr. Wilke** if the \$25,000 applies whether a veteran is single or married. **Mr. Wilke** responds there are two levels of activity going on. The first one deals with the actual veteran - the income limitation for that one would be eliminated whether they're married or not. The second one pertains to the spouse - the income level must then be met if the veteran has died.

SEN. FRED VAN VALKENBURG queries **Mr. Jacobson** as to the number of Montana veterans who are 100% disabled. **Mr. Jacobson** indicates the current figure is 722.

SEN. DOROTHY ECK asks how many of the 722 have incomes above the current limit. **Mr. Jacobson** does not know. **SEN. ECK** inquires how many veterans have been taking advantage of this at the current limitation level. **Mr. Jacobson** indicates the figure is around 400 based on the number of letters which have been received by the Department of Revenue.

SEN. MIKE SPRAGUE asks if it would be a fair assumption that the number of veterans who would qualify for 100% disability should diminish. **Mr. Jacobson** indicates accidents continue but hopefully we won't have too many more major conflicts in the near future.

CHAIRMAN GERRY DEVLIN comments we could add to the number if certain things happen in the Desert Storm syndrome. **Mr. Jacobson** agrees.

Closing by Sponsor: **SEN. MAHLUM** closes stating many of the veterans do not have homes and would not qualify. Many veterans' organizations who did not testify today have indicated they are in full support of this legislation. He believes these veterans deserve special consideration.

HEARING ON SB 209

{Tape: 1; Side: B; Approx. Time Count: 27.9; Comments: None.}

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

Proponents:

Gordon Morris, Montana Association of Counties
Dennis Burr, Montana Taxpayers' Association
John Shontz, Montana Association of Realtors

Opponents:

Eric Feaver, Montana Education Association
Darrell Holzer, Montana AFL-CIO

Opening Statement by Sponsor:

SEN. DELWYN GAGE, SD 43, CUT BANK introduces the bill as part of two-part story. The provisions of this bill are in the tax reform package, so these provisions will be constitutionally instituted if that package passes a vote of the people. This is a significant change for the State of Montana.

Proponents' Testimony:

Gordon Morris, Montana Association of Counties: This package includes significant changes in property taxation for the State of Montana, including the elimination of all statewide levies for education purposes, elimination of the tax on personal property in its entirety. People throughout the State of Montana have indicated to him they need the assurance that if tax reform is implemented that taxes would not just simply creep back to the previous levels. This legislation will help gain the confidence of the voters. He believes the bill should be amended on lines 15 and 16 to show it to be applicable as of the effective date of this act. Asks the Committee to keep this bill before them until the other related bills are heard.

Dennis Burr, Montana Taxpayers' Association supports the bill, but would go further on the amended language as proposed by the Montana Association of Counties and specify in the language that if a statewide property tax levy is removed either by the Legislature or by the electorate that it can't be reimposed. (Proposed language given to **Jeff Martin, Legislative Services Division.**)

John Shontz, Montana Association of Realtors indicates the association supports part two of the bill. The language on line 12 represents a fundamental tax shift from consumers to the business community. If we are going to ask homeowners to pay a tax then we must also provide them the benefit of the tax. Suggest amending that section to indicate if the Legislature provides for a general exemption the tax shall not be imposed without approval of the electorate.

Opponents' Testimony:

Eric Feaver, Montana Education Association proponents' testimony have given substantial reasons for opposition to the bill as written. Association can support a sales tax without supporting

this bill; the two are not necessarily linked. He can't think of anything more fundamental to good government than having deliberate consideration of tax policy; that isn't done well in the public at large. There are two issues in the proposition: personal property tax issue, statewide property tax levy. The voters will likely not understand the issues. Should provide two separate proposals to the voters.

Darrell Holzer, Montana AFL-CIO says this is another shift in the tax burden. This is not the way to do it. Can't support this bill.

Informational Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN GERRY DEVLIN asks **Mr. Feaver** what his position was when the question was on the ballot for the limitation on the sales tax. **Mr. Feaver** responds the Montana Education Association was opposed to the 4% limit.

SEN. BARRY STANG states he has a problem with the language; he thought we did away with the term "personal property" and now called it "business equipment." He does agree we need to fix this problem to make it truthful. **CHAIRMAN DEVLIN** asks **SEN. GAGE** to work with the Legislative Services Division researcher to come up with solutions to some of the issues that have been brought forth. **SEN. GAGE** says he will do so.

SEN. DOROTHY ECK asks regarding line 12 as it relates to a sales tax. It looks like blackmail. If we're talking about a sales tax it should say "if the electorate" provides for the exemption. **CHAIRMAN DEVLIN** believes that is what would happen. **SEN. ECK** comments that if the electorate turns down the sales tax there would have to be a vote of the people prior to any property tax increase. **CHAIRMAN DEVLIN** indicates that would be true only if this passes and the Legislature provides a general exemption. **SEN. ECK** asks what if the voters turn down the sales tax and then the Legislature eliminates most of the property tax. **CHAIRMAN DEVLIN** indicates that's the argument that would have to be made if a personal property tax repeal was proposed. **SEN. ECK** asks **Mr. Feaver** when he says he doesn't want people making policy if he's saying he doesn't want the people engaged in the process. **Mr. Feaver** responds the people are engaged through their elected representatives.

SEN. MIKE SPRAGUE queries **Mr. Morris** why the Montana Association of Counties' bill (which he refers to as the big brother of this bill) doesn't include this kind of a proposal. **Mr. Morris** responds he believes that was done. The problem is that it's only statute and statute is only good until the next session. They wanted to make it iron-clad to the extent that they could, therefore in the Constitution, not just in the statute. **SEN. SPRAGUE** comments we should call it what it is.

SEN. WILLIAM GLASER asks **Mr. Feaver** if he's familiar with what went on in Michigan; since 1978 Michigan has had a Headly Amendment to their Constitution which puts a cap on spending. It puts a limit of 9.49% on the amount of personal income the state can take in any or all forms of taxation from the people of Michigan. **Mr. Feaver** says he has no idea of the fiscal impact that would have in Montana. **SEN. GLASER** asks **Mr. Morris** if he is familiar with the Headly Amendment. **Mr. Morris** says he is not; he would like to see the actual workings of the proposal.

SEN. MACK COLE queries **Mr. Morris** if I-105 will have any affect on this legislation. **Mr. Morris** states there is no bearing.

CHAIRMAN DEVLIN inquires of **Mr. Morris** regarding a timetable. You're running sales tax on an early ballot; if that should fail, this will still come in the next general election, is that correct? **Mr. Morris** indicates there would be a September 9, 1997 election on the question of tax reform proposals. This issue would then be voted on in the general election of November, 1998.

SEN. BARRY STANG asks what happens if this passes and the sales tax fails and the Legislature deals with restructuring of the power industries. Is there anything in here for local governments and schools. **Mr. Morris** says we are dealing with a certain amount of uncertainty. That uncertainty would have a positive side to it - that whatever you did for a utility, the telecommunication industry could not come at the expense of personal property taxpayers or any other taxpayers by virtue of imposing some new tax statewide or adding back a tax. **SEN. STANG** is concerned about what will happen if we eliminate all that revenue for local governments. **Mr. Morris** says he is committed to working with the Legislature on all issues to protect both taxpayers and local governments.

SEN. FRED VAN VALKENBURG says the Constitutional Amendment would prohibit the imposition of a tax on personal property unless approved by the electorate; this means business is guaranteed no property tax on business equipment. The corresponding part about imposition of a statewide levy doesn't mean that residential homeowners are going to be guaranteed any relief from increased taxes because a tax rate could be increased in order to generate more revenue without having any additional mills levied statewide. **SEN. GAGE** agrees that could happen. **SEN. VAN VALKENBURG** continues by asking about imposition of a fee similar to that imposed on motor vehicles. **SEN. GAGE** agrees. His sense of that is it would be litigated.

Closing by Sponsor: **SEN. GAGE** believes this bill gives stability to the tax base. He has confidence in the Legislative process and the options for public objection that are in place. **SEN. GAGE** indicates he will work with **Jeff Martin** to put together the necessary amendments, and asks the Committee's support of the bill.

EXECUTIVE ACTION ON SB 195

{Tape: 1; Side: B; Approx. Time Count: 31.4; Comments: None.}

MOTION: SEN. MIKE FOSTER MOVES SB 195 DO PASS.

MOTION: SEN. FRED VAN VALKENBURG MOVES THE AMENDMENTS

EXPLANATION OF AMENDMENTS

EXHIBIT 1

The amendments put into place a back-up plan in the event the freeze is declared invalid by a court. Property taxes are not going to stay neutral - this helps equalize reappraised values. This protects those who are paying the taxes, which should be our foremost objective.

CHAIRMAN GERRY DEVLIN asks how the tax rate number was identified. **Jeff Martin** explains the tax rate was calculated by the Department of Revenue to make the property tax rate on Class IV revenue-neutral with respect to reappraisal statewide.

SEN. DOROTHY ECK agrees with **SEN. VAN VALKENBURG** that we need to address the probability that the first proposal was unconstitutional. However, she feels it is bad policy to ask an interim committee to spend as much time as they spent and not even consider their recommendations. Believes that recommendation is a better solution than any of the others we're looking at; would prefer that the Committee spend some time looking at what the alternatives are to addressing the problem of reappraisal. **CHAIRMAN DEVLIN** responds that had they known the tremendous increases were going to show up for reappraisal they would have spent most of the time doing that. **SEN. ECK** counters that proposal, while it did not address the changes in reappraisal, did pretty well freeze the amount of the tax so that from county to county, from city to county to school district, no jurisdiction could increase their tax; they would have to reduce their mills. Should review that proposal as well as the amendment we have before us.

SEN. MACK COLE asks if this amendment would only go into effect if we had a court case. **SEN. VAN VALKENBURG** affirms, stating the operative language is on page 3 of the amendment, #8.

SEN. WILLIAM GLASER indicates his opposition of the amendment.

SEN. MIKE FOSTER is also opposing the amendment; he believes **SEN. JOHN HARP** has brought forth the best approach. However, he commends **SEN. VAN VALKENBURG** for addressing the issue.

CHAIRMAN DEVLIN will resist the motion as it has the potential to break about half the counties in the east. We can't take the chance of tax rate reduction in those places.

SEN. BARRY STANG supports the amendment; he believes it's important we have a contingency plan. This plan would force people to vote for a sales tax. He also talks about his amendment which would put a task force in place. **Jeff Martin** has suggested this is not the appropriate place for requesting a task force. **SEN. STANG** says he will continue to pursue the task force options.

CHAIRMAN DEVLIN points out this is a short-term solution and that there will be a long-term plan coming. He also reminds the Committee that any plan, short or long, will come up before the voters.

{Tape: 2; Side: A; Approx. Time Count: 0; Comments: Beginning of Tape 2, 9:30 a.m..}

SEN. DOROTHY ECK comments the people in her district and the people in Helena with whom she has spoken expect us to come up with ways of reducing the tax mills. At the state level we could in some way or another reduce the statewide mills. That's the responsible way of dealing with this. She agrees with **SEN. STANG**; she is hearing from people that once again, the Legislature is trying to put the people in a position where they have to accept a sales tax. We need to provide trust in our county officials to reduce their mills to make up for the increase in valuation. We can do the same thing at the state level.

CHAIRMAN DEVLIN assures **SEN. ECK** this is not an attempt to blackmail people into a sales tax.

SEN. MIKE FOSTER states the approach of reducing mills is another approach, but that approach is volatile between the counties. Sen. Harp's bill minimizes that impact. The inflammatory language, such as using the term "blackmail," is just trying to get our eye off the ball. Our focus should be on property taxes. Remember, there were no opponents who came forth to testify in opposition to this bill.

SEN. MACK COLE looks at SB 195 as an extension of the old appraisal; as long as it's temporary he'll go along with the bill. However, he does not support the amendment because there are such wide fluctuations.

SEN. VAN VALKENBURG does not oppose the method in SB 195 and believes the courts will not uphold a freeze. We have a Constitutional Mandate to equalize property in the State of Montana. We need to put a backup plan in place in case reappraisal values go into effect. He suggests we figure out the total losses to smaller counties and see how we can fill that in, at least on a temporary basis. He is concerned about the "blackmail" issue. This amendment is a valuable contribution to the process; it's offered in good faith, not as a substitute to

what SEN. HARP is proposing; it's offered as an additional backup to ensure these property taxes increases do not go into effect.

VOTE: MOTION FAILED 3-6 with SEN. ECK, SEN. STANG and SEN. VAN VALKENBURG voting yes.

SEN. ECK comments the people didn't get up in opposition to this bill because it was a "done deal."

SEN. WILLIAM GLASER speaks from the point of view of Yellowstone County, saying they are the area that would benefit as taxpayers if we did a snip, tuck and nip type proposal and kicked it out here. But the bottom line is we don't live in a state by ourselves; we have SEN. DEVLIN here who has mixed emotions and we have Missoula that is a loser; we have Big Fork that's a loser and we have neighbors who are losers. This is probably not going to meet Constitutional Muster in the end, but we have a compelling state interest to back this off, to give us time as a Legislature to look at the issues.

SEN. VAN VALKENBURG says we need to spend time on this and try to figure out a long-term solution, don't need to act today. He will vote for the bill right now, but will offer his amendment again on the Senate Floor and will try to make a more compelling case for it at the time.

CHAIRMAN DEVLIN comments the tax increases will go in if we don't do anything and any long-term solution will end up on the ballot to the people.

VOTE: MOTION THAT SB 195 DO PASS CARRIED 8-1 with SEN. ECK voting no.

EXECUTIVE ACTION ON SB 184

{Tape: 2; Side: A; Approx. Time Count: 20.7; Comments: None.}

MOTION: SEN. MIKE FOSTER MOVED SB 184 DO PASS.

SEN. FOSTER indicates young parents need help with child care and dependent care expenses. This bill makes Montana's income tax system consistent with the federal tax system by making it an income tax credit rather than an income tax deduction. The fiscal note impact is about \$2 million per year of the biennium. The bill is written at 100% of the federal credit.

CHAIRMAN GERRY DEVLIN asks SEN. FOSTER if there is a means test in this bill. SEN. FOSTER says there is a formula and the amount of the credit depends on what your income is. The amount of the credit declines as the income increases. There is no phase-out. CHAIRMAN DEVLIN inquires if parents who don't have much money and stay home and take care of their children (not using day care) get the credit. SEN. FOSTER says there is no credit for those

people. **CHAIRMAN DEVLIN** thinks it's unfair that there is no credit for them.

SEN. BOB DEPRATU agrees there is a need.

SEN. BARRY STANG supports the bill, but would also support an amendment to reduce the amount of the credit.

SEN. DOROTHY ECK shares concerns. She believes it's important to look at the needs of the working poor.

SEN. FRED VAN VALKENBURG doesn't support the bill, stating it's "feel-good" legislation; not responsible at this time. It creates false expectations. It's money we don't have to spend.

SEN. STANG suggests it might be good to limit the credit to single working mothers. **SEN. FOSTER** responds there are income limitations and only low income people get this help.

SEN. WILLIAM GLASER comments this is a priority over the arts. Suggests the money could come from there.

SEN. MIKE FOSTER provided a brief explanation of licensed day care centers and the relationship of those to the credit for people taking care of their own children within those centers.

SEN. ECK suggests we ask for clarification from someone from the Department of Health and Human Services regarding subsidized day care.

SEN. FOSTER indicates this provides an incentive for people to get off welfare, which provides for less welfare to be spent.

VOTE: MOTION THAT SB 184 DO PASS CARRIED 7-2 with **CHAIRMAN DEVLIN** and **SEN. VAN VALKENBURG** voting no.

EXECUTIVE ACTION ON SB 177

{Tape: 2; Side: A; Approx. Time Count: 44.5; Comments: None.}

MOTION: **SEN. MIKE FOSTER** MOVED SB 177 DO PASS.

SEN. FOSTER explains this bill expands the exclusion for elderly people for the first \$800 of what has been interest income and now includes dividend income.

SEN. FRED VAN VALKENBURG suggests the amount be reduced to \$500 or \$600 and then allow people to exclude both interest and dividends so that the bill doesn't have a negative revenue consequence for the state. **SEN. FOSTER** indicates that's what the bill does, but leaves the \$800 intact. **SEN. VAN VALKENBURG'S** suggested amendment would essentially raise taxes.

{Tape: 2; Side: B; Approx. Time Count: 0; Comments: Tape turned;
10:32 a.m..}

SEN. FOSTER says SEN. SUE BARTLETT is the one who brought this to his attention.

CHAIRMAN DEVLIN asks if SEN. FOSTER would object to having this be revenue-neutral. SEN. FOSTER says he doesn't know what would be the point of the bill in that case.

SEN. BOB DEPRATU thinks it could work and still be revenue-neutral.

SEN. MACK COLE agrees.

SEN. WILLIAM GLASER says this gives the elderly a choice as to where they invest their money - in something that provides interest, or something that provides dividends.

MOTION: SEN. STANG MOVED THE BILL BE AMENDED FROM AN \$800 EXCLUSION TO A \$600 EXCLUSION.

DISCUSSION ON THE AMENDMENT:

SEN. FOSTER objects to the amendment as not what his constituent nor SEN. BARTLETT had in mind for this bill.

SEN. ECK suggests leaving the \$800 exclusion for interest and to put on an alternative \$600 for those who want to mix interest and dividends.

MOTION WITHDRAWN: SEN. STANG WITHDREW HIS MOTION

MOTION WITHDRAWN: SEN. FOSTER WITHDREW HIS MOTION

NO ACTION TAKEN ON SB 177.

EXECUTIVE ACTION ON SB 134

{Tape: 2; Side: B; Approx. Time Count: 10.4; Comments: None.}

Jeff Martin provided clarification as to the intent of the Sheridan County Attorney regarding Hospital Districts. Prior to I-105 the district was being funded out of the Poor Fund. An audit of that situation told them they couldn't do it that way any longer. The district went dormant for a period of time up through 1989 or 1990. When they reopened the district, because they hadn't levied any mills in 1986 they couldn't levy the permissive levy under the provisions of creating a district. They had considered recreating the district so they wouldn't be subject to the limitations of I-105; they have also considered going through the emergency levy process and having the duration

an unspecified period of time. Neither approach seems acceptable.

MOTION: SEN. DOROTHY ECK MOVED SB 134 DO PASS.

Jeff Martin explains the provision in the bill requires imposition of that permissive levy under 7-34-2133 if the electorate authorizes them to do that.

CHAIRMAN GERRY DEVLIN asks if that would be permanent. Mr. Martin responds it would be permanent.

SEN. MIKE FOSTER'S understanding of the bill is that it would require that vote. But he understood that the County Attorney did not want to have a vote; but just wanted it in place permanently. He does not support not having a vote.

AMENDMENT 13401.ajm

EXHIBIT 2

Jeff Martin explains the amendment was prepared at the request of SEN. FOSTER for the benefit of SEN. GLASER. The amendment provides an exception to the limitation allowed for hospital districts or county-operated health care facilities created under 7-8-2102, 7-34-2201 or 7-34-2502 in a first-class county as provided in 7-1-2111.

SEN. WILLIAM GLASER likes the amendment but prefers giving time for SEN. COLE to look at this.

SEN. FRED VAN VALKENBURG suggests we might be creating a problem in order to have a solution to a problem that doesn't exist. There aren't any hospital districts in the area that SEN. GLASER is concerned about. He doesn't think the amendment is necessary.

THERE IS NO MOTION ON THE AMENDMENT. None is forthcoming, following this observation.

VOTE: MOTION THAT SB 134 DO PASS CARRIED 8-1 with SEN. GLASER voting no.

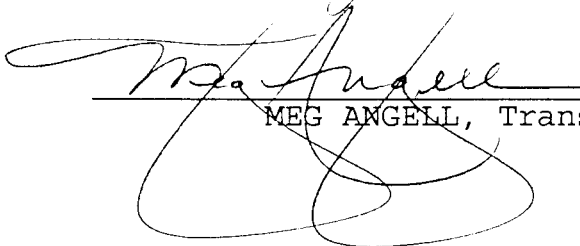
{Tape: 2; Side: B; Approx. Time Count: 20.4; Comments: None.}

ADJOURNMENT

Adjournment: 10:55 a.m.


SEN. GERRY DEVLIN, Chairman


RENEE PODELL, Secretary


MEG ANGELL, Transcriber

GD/ma