

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON TAXATION

**Call to Order:** By CHAIRMAN GERRY DEVLIN, on February 4, 1997, at 8:00 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  
Renée Podell, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 24, 1/23/97; HB 86,  
1/23/97; HB 88, 1/23/97

Executive Action: HB 88, BCC

#### HEARING ON HB 88

**Sponsor:** REP. MARIAN HANSON, HD 1, ASHLAND

**Proponents:** Randy Wilke, Department of Revenue

**Opponents:** None

**Opening Statement by Sponsor:**

REP. MARIAN HANSON, HD 1, ASHLAND explains that HB 88 corrects MCA Sections 15-1-303 & 15-8-601. SB 57 was passed last session to establish 30 days for tax appeal and the change was not made in these sections of the code.

Proponents' Testimony:

Randy Wilke, Department of Revenue (DOR) states this bill is clean-up legislation. During the 1995 Legislative Session SB 57 was passed increasing the time for filing tax appeals from 15 to 30 days. A few sections of law weren't changed to reflect that 30 day standard. This corrects that problem.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: REP. HANSON closes the hearing.

{Tape: 1; Side: A; Approx. Time Count: 8:03; Comments: None.}

HEARING ON HB 86

Sponsor: REP. CHASE HIBBARD, HD 54, HELENA

Proponents: Bill Salisbury, Department of Transportation (DOT)  
Bob Stephens, Montana Grain Growers  
Les Graham, Montana Woolgrower, Montana Cattle  
Women, Montana Stockgrower, and Montana Dairy  
Associations  
George Hall, Montana Farm Bureau

Opponents: None

Opening Statement by Sponsor:

REP. CHASE HIBBARD, HD 54, HELENA contends HB 86 is presented at the request of the Department of Transportation (DOT). This deals with the agricultural fuel tax refund. Currently, there is a form that exists for those who apply for a fuel tax refund on off road miles. This form has three options on it: 1) Applies to agriculture; 2) For vehicles with two tanks; and 3) Complete dispersal record for keeping track of on and off road miles. If the primary source of income (66 2/3%) is agriculture you qualify to use option one which is an automatic qualification for a 60% refund of all the gallons purchased for that year. This bill transfers the function of processing from the Department of Transportation (DOT) to the Department of Revenue (DOR). A box to indicate gallons used will be added to the income tax form. The requirement for submitting original invoices will be dropped. DOT is still responsible for the program and audit functions. Right now there are approximately 10,000 applications under option one. An audit revealed that about 30% of those applying under option one actually didn't qualify. DOT has not had personnel to adequately audit this. That function will be facilitated by having this reported on the income tax form. The fiscal note reflects a savings of \$8,550 for FY 98 and a cost of approximately \$23,193 for FY 99. DOR will encounter some costs in redesigning their form and tooling up. The audit function

will be greatly facilitated by having this information on the income tax form. Those getting refunds now, which don't qualify, amount to approximately \$1,345,000. It will be much easier to enforce and may bring in about \$1.3 million. It is important to realize this does not change the law, 66 2/3% has always been in law but hasn't been enforced. It also expands the way a person can receive these refunds, it can be issued as a state warrant, as a tax credit applied toward their quarterly income tax or be used in a carry forward, carry back fashion. It eliminates an unnecessary business license called the refundable dealers license. Formerly, to qualify for this refund a person had to buy gas from a company that had a refundable dealer license which will no longer be necessary because gas can be purchased anywhere and qualify.

{Tape: 1; Side: A; Approx. Time Count: 8:10; Comments: None.}

Proponents' Testimony:

Bill Salisbury, DOT submits testimony (EXHIBIT #1).

Bob Stephens, Montana Grain Growers says this is a good bill.

Les Graham, Montana Woolgrower, Montana Cattle Women, Montana Stockgrower, and Montana Dairy Associations, confirms their tax committee reviewed this and supports it wholeheartedly.

George Paul, Montana Farmers Union professes full support of this bill.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 8:18; Comments: None.}

Questions From Committee Members and Responses:

CHAIRMAN DEVLIN questions how this will effect the DOT's full time employees (FTE). Mr. Salisbury states they are reducing .3 FTE from contracted services.

CHAIRMAN DEVLIN asks if the DOR has to add FTE's? Bob Turner, DOR affirms a grade 10 FTE for audit and review purposes will be created.

SEN. SPOOK STANG asks if highway money is being taken and put into the General Fund and is that reflected in the fiscal note? Mr. Salisbury explains the refund will come out of the income tax or General Fund and the DOT will reimburse that noting interest earnings are the same either way.

SEN. STANG asks if there is a loss to the state highway account. Mr. Salisbury answers no and says we may gain over a million dollars.

**SEN. BILL GLASER** questions what happens if a person's agriculture earnings are less than a spouse's earned income? **Mr. Salisbury** answers it would depend on the situation, if you qualify to start with, and your agriculture income came down. 70% of the people already qualify in the 80-90 percentiles. You'd have to have a pretty drastic change to move from one type of endeavor to another, and if the two incomes are close, option three should be used.

**SEN. MIKE SPRAGUE** asks what the outstanding debt is for the 30% claiming a refund who weren't entitled to it. **Mr. Salisbury** says the department did a complete audit of 1994 and that is where the \$1.3 million figure came from.

**SEN. SPRAGUE** comments that it sounds like the problem is in the audit and asks why the DOR wouldn't take on the audit process. **Mr. Salisbury** asserts this bill does not talk about that issue claiming it addresses the eligibility criteria.

**SEN. SPRAGUE** maintains that this bill addresses who will be doing the audit functions. **Mr. Salisbury** says it does not address that noting it talks about where the applicant will apply for the refund and who will administer the program. He remarks it does not transfer Title 15-70 to DOR and further explains the application process is the only thing changing. **Mr. Salisbury** affirms the function was taken over in 1991 from the DOR and they haven't educated the taxpayer properly noting the taxpayers aren't totally responsible for this.

**CHAIRMAN DEVLIN** asks how the transfer came about in 1991. **Mr. Salisbury** explains it was legislatively initiated and he believes the thought was to put more resources on administering the fuel taxes then there would be money in the highway trust fund.

**SEN. DOROTHY ECK** questions the definition of agricultural use which goes from earned income to gross income asking if there isn't quite a bit of difference there. **Mr. Salisbury** presents a work sheet showing how these figures were arrived at (**EXHIBIT #2**).

**SEN. ECK** announces the handout doesn't answer her question of whether earned income is the same as net income? **Mr. Salisbury** says it is gross earned income.

**SEN. ECK** asks what the difference between gross income and gross earned income is. **Mr. Taylor** maintains that gross income is the income before any deductions are taken and earned income is from wages or net business income. He explains the difference between gross income and earned income on a farm is after all deductions are taken it becomes net income.

**SEN. SPRAGUE** asks someone from the DOR to answer his earlier question regarding why there is an overlap in auditing and a duplication of effort. He comments the DOR has all this information in front of them and wouldn't it be best for the

audit process to be done by them? **Mr. Turner** says when people file their income tax return the net of all the schedules are picked up. The gross income information has to be looked at manually explaining desk auditing is better done up front. He asserts that field auditing is a different situation, field auditors actually go out and inspect the records of the taxpayers claims and the refunds.

**SEN. SPRAGUE** explains that discussion was held on the 30% that did not qualify and how it can be done more efficiently. **Mr. Turner** notes this is exactly what the bill does explaining the taxpayer will supply the information in the income tax return and review will take place before the refund is issued because the DOR will have all the information in one spot.

*{Tape: 1; Side: A; Approx. Time Count: 8:38; Comments: None.}*

Closing by Sponsor:

**REP. HIBBARD** says this is a good government bill for all of those involved. It streamlines government by using the existing income tax form and puts compliance in a place where it is much easier to check. Desk top audits will be done at the DOR. This bill streamlines the process for the applicant by including information on their income tax form and eliminating the need to send in receipts. **REP. HIBBARD** explains it also eliminates an unnecessary business license and has the possibility of producing significant revenue. There has been a lot of misconception on this bill explaining people think we are changing the law regarding who qualifies. We are not changing that at all, the law stays the same. **REP. HIBBARD** asks **SEN. COLE** to carry this bill if it passes out of committee.

*{Tape: 1; Side: A; Approx. Time Count: 8:40; Comments: None.}*

HEARING ON HB 24

Sponsor: **REP. TONI HAGENER, HD 90, HAVRE**

Proponents: **John Shontz, Montana Realtors Association**

Opponents: **None**

Opening Statement by Sponsor:

**REP. TONI HAGENER, HD 90, HAVRE** reports HB 24 makes some language changes and changes the exemption amount from \$40,000 to \$60,000. This bill is a result of increased property value assessment over the past few years and was requested by a group of senior citizens on fixed incomes who fear impending bankruptcy. He requests committee concurrence on this bill.

*{Tape: 1; Side: A; Approx. Time Count: 8:45; Comments: None.}*

Proponents' Testimony:

John Shontz, Montana Realtors Association says the association strongly supports this legislation. He explains that the homestead exemption in Montana is not automatic and doesn't cover the full value of a home. In the event of bankruptcy it gives people a few dollars in equity that they can use to replace their housing. Mr. Shontz announces the \$40,000 figure has not been adjusted in many years. He strongly encourages passage of this bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. SPRAGUE asks why a request for only \$60,000. REP. HAGENER comments this subject has been brought up several times explaining that in the 1991 Session the suggestion came up to raise it to \$80,000, however, because property values weren't as high as they are now that was defeated. Banks and other groups were opposed. He remarks that it will be fine with him if the committee decides to raise this amount.

SEN. SPRAGUE asks if an \$80,000 figure will upset the banking industry. REP. HAGENER comments he isn't sure since he didn't ask them.

SEN. GLASER says the constitution was quoted on the liberal interpretation and questions where that language is found. REP. HAGENER affirms it is found in Article 13, Section 5.

SEN. ECK relates that comments she has received on this issue come primarily from people who are facing bankruptcy because of medical costs. She asks if any data on these types of bankruptcies can be produced. SEN. HAGENER says he doesn't have copies of that information. He says this was a concern and that there are those facing bankruptcy who felt this was a necessary thing, however, this doesn't only apply to senior citizens, some were families with young children.

*{Tape: 1; Side: B; Approx. Time Count: 8:52; Comments: None.}*

Closing by Sponsor:

REP. HAGENER proclaims if we truly want people to stay in their homes we need to give them this small increase. He asks SEN. ECK to carry this bill.

EXECUTIVE ACTION ON HB 88

MOTION/VOTE: SEN. FRED VAN VALKENBURG MOVES HB 88 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY. SEN. DE PRATU will carry this bill.

ADJOURNMENT

Adjournment: 8:55 a.m.

  
SEN. GERRY DEVLIN, Chairman

  
RENEE PODELL, Secretary

GD/rp