

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on February 11, 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: SB 272, HB 274  
Executive Action: HB 274

#### HEARING ON HB 274

Sponsor: REP. STEVE VICK, HD 31, BELGRADE

Proponents: Lynn Chenoweth, Bureau Chief, Tax Bureau,  
Department of Revenue  
Riley Johnson, National Federation of Independent  
Business (NFIB)

Opponents: None

##### Opening Statement by Sponsor:

REP. STEVE VICK, HD 31, BELGRADE, reports HB 274 eliminates  
certain nuisance taxes. He lists as follows the three different  
fees in this bill:

- 1) Small business corporation (Sub-chapter S) tax
- 2) Cement license tax
- 3) Telephone/Rural Electric tax

He portrays a nuisance tax as one that generates less money than it costs to collect. **REP. VICK** says this bill cleans up the books.

Proponents' Testimony:

**Lynn Chenoweth**, Department of Revenue, explains the purpose for these fees are gone by now. He recommends the committee support this legislation.

**Riley Johnson**, National Federation of Independent Business (NFIB), favors this bill because small business corporation taxes are probably one of the largest segments of their membership and even though it isn't a lot of money, every little bit saved helps.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by the Sponsor:

**SEN. VICK** says he hopes the committee will concur.

EXECUTIVE ACTION ON HB 274

Amendments: None

Motion: **SEN. MIKE SPRAGUE** MOVED HB 274 BE CONCURRED IN.

Discussion: **SEN. FRED VAN VALKENBURG** says this might be a nuisance to collect but someone will have to pay it. **SEN. VAN VALKENBURG** asks **Mr. Chenoweth** if the support of this bill indicates that this reduction in revenue is part of the Governor's budget and is factored into the budget balancing issue. **Mr. Chenoweth** assumes it is, however, he isn't sure since he wasn't involved in preparing this.

Vote: MOTION CARRIED UNANIMOUSLY. **CHAIRMAN DEVLIN** asks **SEN. SPRAGUE** to carry the bill on the Senate floor.

EXECUTIVE ACTION ON SB 194

Discussion: Gray (committee working copy of the bill) distributed (EXHIBIT 1).

Amendments: **Jeff Martin** explains he made changes in terms of organization only to the amendments presented by the Department of Justice. He notes the primary changes are in Section 3, 61-03-701.

{Tape: 1; Side: A; Approx. Time Count: 16.9; Comments: None.}

SEN. VAN VALKENBURG says the difficult time he is having with the language in the bill is on Page 4, "personal property attached to a foreign vehicle is not subject to taxation". Mr. Martin says to strike out the reference to "personal property".

Action: No Action was taken on this bill at this time.

#### HEARING ON SB 272

Sponsor: SEN. GARY AKELSTAD, DISTRICT 44, GALATA

Proponents: Katherine R. Sylvester  
John Youngberg, Montana Farm Bureau  
Rosemary Snodgrass

Opponents: Dave Woodgerd, Department of Revenue  
Jeff Madden

#### Opening Statement by Sponsor:

SEN. AKLESTAD defines his bill as a fairness issue not only for the people who are going to testify but for anyone who is put into this situation. He explains that a stepchild over the age of 18 years of age at the time of the marriage does not qualify to be exempted as a lineal descendant. SEN. AKLESTAD comments he hopes this can be resolved during this session.

#### Proponents' Testimony:

John Youngberg, Montana Farm Bureau, remarks that the Bureau has long been an advocate of doing away with inheritance tax. He says the United States is the only country in the world that taxes its people's wealth three times explaining we are taxed when we make it, taxed when we invest it and taxed when we die. Mr. Youngberg states Montana is one of 15 states that taxes inheritance. He urged support for SB 272.

Katherine R. Sylvester, Stevensville, highlights the family situation in regard to this legislation and announces her sister will be testifying.

Rosemary Snodgrass presents written testimony (EXHIBIT 2).

#### Opponents' Testimony:

Dave Woodgerd, Department of Revenue (DOR) comments the DOR is opposed to this legislation. {Tape: 1; Side: A; Approx. Time Count: 33.2; Comments: None.} He explains how the tax system works for estates and inheritance.

#### Questions From Committee Members and Responses:

**SEN. SPRAGUE** questions **Mr. Woodgerd** in regard to treating lineal descendants the same as lateral descendants. **Mr. Woodgerd** explains lineal descendants (direct line descendants) are exempt. Lateral (nieces, nephews) are not exempt, however, they are at a lower tax rate than others are. **SEN. SPRAGUE** asks **Mr. Woodgerd** if there is an adoption process which would define the descendants as being lateral. **Mr. Woodgerd** says if the children are adopted they become essentially the same as lineal descendants and they are exempt. **Mr. Woodgerd** comments that the taxes in this case could have been avoided by an adoption.

{Tape: 1; Side: B; Approx. Time Count: 8:51 a.m.; Comments: Tape Turned.}

**SEN. MACK COLE** inquires from **Jeff Miller, (DOR)**, if the uncle put his land into trust what effect would this have on the stepchild over 18. **Mr. Miller** states the property can be transferred, however, from an inheritance point of view the DOR would look at the lack of direct lineal descendant, so the value would be subject to taxation upon transfer.

**SEN. SPRAGUE** asks if the DOR had presented the bill in 1991 that the state currently lives by. **Mr. Woodgerd** comments the bill from 1991 was an update in the uniform probate code done by a professor in Missoula.

**SEN. GLASER** asks **Mrs. Snodgrass** if her stepmother's estate is considered large or small. He explains a large estate is over \$600,000.00. **Mrs. Snodgrass** responds it is a small estate. **SEN. GLASER** requests **Mrs. Snodgrass** to further explain her situation. She notes if her father had married her stepmother seven weeks prior she would have been exempt from paying taxes but her sister would have had to pay taxes. She asks that stepchildren be treated the same. **Mrs. Snodgrass** reports her appeal hearing is February 20th.

**SEN. VAN VALKENBURG** questions **Mr. Woodgerd** in regards to the stepparent providing some support for the child prior to the 18th birthday. **Mr. Woodgerd** responds that **SEN. VAN VALKENBURG** is correct. **SEN. VAN VALKENBURG** says there should be a way in which we can for policy reasons treat stepchildren in the same fashion as lineal descendants. Further he comments we should come up with a better way of dealing with that relationship than a subjective terminology such as "mutually acknowledged". He questions if there is something in the uniform probate code or law treatise on this issue. **Mr. Woodgerd** responds he can do some research on it. **SEN. VAN VALKENBURG** asks **Mrs. Snodgrass** if she and her sister are the only survivors. **Mrs. Snodgrass** affirms they are the only survivors. He questions **Mrs. Snodgrass** as to her share of the estate. **Mrs. Snodgrass** proclaims her approximate share is \$35,000.00.

**SEN. GLASER** suggests **Mr. Woodgerd** should work with **SEN. AKLESTAD** to come up with language to improve the bill.

**SEN. SPRAGUE** diagrams on the chalkboard his version of lineal and lateral descendants. He comments there is a full circle of events here that the government has to recognize.

Closing by Sponsor:

**SEN. AKLESTAD** closes by summarizing this is a fairness issue. He remarks that he spoke to the DOR yesterday to see if something could be worked out with the age language in the bill and the DOR told him they would like to go back to the 1993 issue. **SEN.**

**AKLESTAD** remarks it would not solve the problem in this case or any other cases in this situation. He further comments he hopes the committee can work to correct an injustice within our society dealing with stepchildren.

ADJOURNMENT

Adjournment: 9:32 a.m.

  
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SEN. GERRY DEVLIN, Chairman

  
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RENEE PODELL, Secretary

GD/rp