

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on March 6, 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
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 441; HB 384
Executive Action: HB 441 (BCI)
HB 311 (BCI)
SB 358 (TABLE)

HEARING ON HB 441

{Tape: 1; Side: A; Approx. Time Count: .3; Comments: None.}

Sponsor: REP. PAUL BANKHEAD, HD 72, HERON

Proponents:

Pat McKelvey, State Tax Appeal Board
Mary Whittinghill, Department of Revenue

Opponents: None

Opening Statement by Sponsor:

REP. PAUL BANKHEAD, HD 72, HERON opens stating this bill is brought on behalf of the State Tax Appeal Board. In November, 1995 there was a court case wherein the Department of Revenue was ordered to provide a copy of a transcript of a meeting; it is felt this is not the responsibility of the State of Montana. The tape recording is felt to be the official record of the meetings. The purpose of HB 441 is to state that the tape recording is the official record.

Proponents' Testimony:

Pat McKelvey, State Tax Appeal Board states the hearings at the county level are always recorded; hearings are not always transcribed. When an appeal is taken to District Court and a transcript is ordered that becomes very costly to produce.

Mary Whittinghill, Department of Revenue indicates the current practice works well and is an acceptable method.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. MIKE SPRAGUE inquires if the printed transcripts are available at the local library. Mr. McKelvey responds no; the only time they are produced is when they are requested or if the State Tax Appeal Board needs a hard copy to prepare for a hearing.

CHAIRMAN GERRY DEVLIN asks if there would be a problem keeping the reports for one year. Mr. McKelvey states it has never been a problem. Records are kept in Archives for disposition and are usually kept for five years.

Closing by Sponsor:

REP. BANKHEAD closes stressing they want to safeguard the information but believe the current methodology is appropriate.

SEN. BARRY STANG will carry the bill.

EXECUTIVE ACTION ON HB 441

{Tape: 1; Side: A; Approx. Time Count: 15.0; Comments: None.}

SEN. DOROTHY ECK expressed surprise that we are not transcribing minutes. CHAIRMAN GERRY DEVLIN explained that pertains to the Senate Floor sessions, not to Committee hearings.

MOTION/VOTE: SEN. BARRY STANG MOVED HB 441 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY.

SEN. BARRY STANG will carry the bill.

EXECUTIVE ACTION ON HB 311

{Tape: 1; Side: A; Approx. Time Count: 17.9; Comments: None.}

MOTION/VOTE: SEN. MIKE FOSTER MOVED HB 311 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY.

SEN. MIKE FOSTER will carry the bill.

DISCUSSION OF HB 308 RELATIVE TO TAXING CIDER IN THE SAME WAY AS BEER DUE TO ITS SIMILAR ALCOHOLIC CONTENT; IT IS NOT A SMALL OR LARGE PRODUCER ISSUE. THE MARKET IS SMALL. THE DISCUSSION WILL BE TAKEN UP LATER WHEN ALL THE INFORMATION IS AVAILABLE.

EXECUTIVE ACTION ON SB 358

{Tape: 1; Side: A; Approx. Time Count: 28.4; Comments: None.}

MOTION/VOTE: SEN. DOROTHY ECK MOVED SB 358 BE TABLED. MOTION CARRIED UNANIMOUSLY.

HEARING ON HB 384

Sponsor: REP. ALVIN ELLIS, JR., HD 23, RED LODGE

Proponents:

John Youngberg, Montana Farm Bureau
Candace Torgerson, Women Involved in Farm Economics (WIFE)
Bob Stephens, Montana Graingrowers' Association
Quinn Holzer, Montana Stockgrowers' Association, Montana
Cattlemen and Woolgrowers' Associations
Riley Johnson, National Federation of Independent Business

Opponents: None

Opening Statement by Sponsor:

REP. ALVIN ELLIS, JR., HD 23, RED LODGE opens by stating this bill doesn't go far enough. It affects closely held family business property and deals with inheritance taxes. Federal estate taxes don't tax the first \$600,000. Montana taxes that property when it doesn't go the next direct lineal descendant.

Proponents' Testimony:

John Youngberg, Montana Farm Bureau states the Farm Bureau has long been a proponent of doing away with both State and Federal inheritance taxes. He notes Montana has the highest rate of estate taxes in the country.

Candace Torgerson, Women Involved in Farm Economics (WIFE) indicates WIFE supports the right of every farm family to improve their financial situation, standard of living or status in life through their own management decisions, determination and dedication. This bill supports that concept.

Bob Stephens, Montana Graingrowers' Association supports HB 384.

Quinn Holzer, Montana Stockgrowers' Association, Montana Cattlewomen and Woolgrowers' Associations all support this legislation.

Riley Johnson, National Federation of Independent Business feels this is a totally unfair tax; this is not necessarily just an agricultural bill; it affects many kinds of businesses.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. FRED VAN VALKENBURG inquires if the proponents' statements are accurate with respect to the level of taxation and its application in the instances that have been described. **Mr. Bruce McGinnis, Department of Revenue** responds that is a difficult question to answer. He provides some clarification regarding lineal descendants and taxation. Non-lineal descendants are taxed in Montana. **SEN. VAN VALKENBURG** comments that his understanding of the inheritance tax is that its historical basis has been to promote a redistribution of wealth and to try to prevent the accumulation of wealth based on a lack of effort on the part of someone who is inheriting something, and to balance that out with some portion of that wealth being collected by the State in the form of taxation. **Mr. McGinnis** agrees with **SEN. VAN VALKENBURG'S** assessment of the history of the tax.

CHAIRMAN GERRY DEVLIN asks if **Mr. McGinnis** would agree that there is a certain amount of unfairness between the person who does not plan his estate properly and those who do. **Mr. McGinnis** agrees. He notes estate planning has become a mind game with estate planners actively seeking loopholes.

SEN. FRED VAN VALKENBURG queries if there is anything about this bill that gives **Mr. McGinnis** any concern regarding it being utilized wrongly to escape taxation entirely. **Mr. McGinnis** refers to page 1, line 14, section 1 which defines closely held businesses.

SEN. MIKE SPRAGUE refers to page 1, line 15 as defining what this bill does. **Mr. McGinnis** responds this brings in a wider scope of people; we are looking at the people who own the property. **SEN. SPRAGUE** indicates Americans believe in personal property ownership. He references the difference between ownership and stewardship. **Mr. McGinnis** responds there has been a change in economics and this bill is a reaction to those changes. It's a policy decision for this Legislature to make.

SEN. MACK COLE inquires when the tax was first enacted. **Mr. McGinnis** says the inheritance tax has been in place in Montana since the early 1900's. **SEN. COLE** asks if we are simplifying the methodology. **Mr. McGinnis** agrees it will make for more flexibility for people who want to plan for the distribution of their wealth.

SEN. DOROTHY ECK asks if the inheritance tax is graduated. **Mr. McGinnis** says yes, the Montana inheritance tax is graduated. **SEN. ECK** if each recipient is taxed. **Mr. McGinnis** responds each would pay the appropriate percentage on the amount they receive. **SEN. ECK** asks what happens with charitable gifts. **Mr. McGinnis** indicates they are not taxed. **SEN. ECK** inquires about conservation easements on land. **Mr. McGinnis** responds that has an impact on the valuation of the property. The tax is computed on the whole market value of the property at the time of the death of the owner. Restrictions on the land have an adverse effect on the value of the property. **SEN. ECK** asks if there are restrictions on who can inherit or who can purchase the property. **Mr. McGinnis** indicates the agreements are looked at closely in terms of valuation and terms of inheritance; some agreements are not binding on the State of Montana.

SEN. WILLIAM GLASER asks regarding a discount for minority interest. **Mr. McGinnis** indicates that is taken into account when figuring the tax.

SEN. MIKE SPRAGUE asks why the fiscal note shows a retroactive date. **REP. ELLIS** responds it's set up that way because these estates are not processed quickly.

CHAIRMAN GERRY DEVLIN inquires regarding exemptions; does it go away from blood relatives. **REP. ELLIS** responds the only people exempted in the bill are direct descendants of the deceased.

Closing by Sponsor:

REP. ELLIS states prior to this millennium all property was in the hands of the State and it couldn't be left to anyone. First England and then Thomas Jefferson and others came a long way from that belief; that's the philosophical question before the Committee today - if you don't leave property to who the State says should get it, should it be taxed. Most properties can't generate the kind of revenue that inheritance taxes demand. He also points out that when this tax was implemented 0-2% of the

people were paying an income tax and payroll taxes were minuscule. Since the tax was implemented wealth is taxed by everyone who earns it, again as a payroll item and again when it's passed on after death. He feels the tax is unjustified.

SEN. MACK COLE will carry the bill.

ADJOURNMENT

Adjournment: 9:27 a.m.


SEN. GERRY DEVLIN, Chairman


RENEE PODELL, Secretary


MEG ANGELL, Transcriber

GD/ma