

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By VICE CHAIRMAN MIKE FOSTER, on March 12, 1997,
at 8:05 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: Sen. Devlin and Sen. Van Valkenburg were
excused from a portion of the meeting due to presentation of
bills.

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 386; SB 388
Executive Action:	SB 386 (DP);
	SB 362 (No final action);
	SB 258 (TABLED);
	SB 209 (TABLED);
	SB 345 (TABLED);
	SB 306 (TABLED);
	SB 388 (TABLED);
	HB 381 (BCI);
	HB 384 (BCI)

HEARING ON SB 386

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

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

Proponents:

Don Hoffman, Department of Revenue
Tom Daubert, Montana Assn. of Oil, Gas and Coal Counties
Jim Manning, Department of Revenue
Gloria Paladichuk, Richland Development

Opponents: None

Opening Statement by Sponsor:

SEN. DELWYN GAGE, SD 43, CUT BANK opens referring to a bill last session that simplified oil and gas taxation. This bill clarifies percentages relative to the distribution of oil and natural gas products. It also give the Department of Revenue authority to change those percentages by rule.

Proponents' Testimony:

Don Hoffman, Department of Revenue EXHIBIT 1
Mr. Hoffman provided a table of adjusted distribution percentages (Exhibit 1).

Tom Daubert, Montana Assn. of Oil, Gas and Coal Counties
indicates the 31 counties are in support of this legislation.

Jim Manning, Department of Revenue indicates the percentages adopted previously were not correct. This bill implements the recommendations of the Department of Revenue.

Gloria Paladichuk, Richland Development offers support of the bill on behalf of Richland Development.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. MACK COLE questions Mr. Hoffman regarding "strippers" in the last session. Mr. Hoffman responds it was HB 90 that was the "stripper." SB 338 provided and re-enacted the law. HB 418 increased the ceiling on the license tax. SB 412 was the simplification bill to which these three bills were connected.

SEN. MIKE FOSTER asks why it doesn't say "by request of the Department?" SEN. GAGE responds he is uncertain; it's possible this is one of the things that was brought in later. SEN. FOSTER comments he doesn't remember it coming before the Oversight Committee. Mr. Hoffman indicates it didn't. He recollects being

told what they were doing was correct and it was an issue that came up late. **SEN. GAGE** adds it's not a change in the tax, just a change in the distribution.

Close by Sponsor:

SEN. GAGE closes by stating this is a straight forward bill. The auditors picked up the error and this bill fixes the problem.

EXECUTIVE ACTION ON SB 386

{Tape: 1; Side: A; Approx. Time Count: 12.4; Comments: None.}

MOTION: **SEN. DOROTHY ECK** MOVED SB 386 DO PASS

DISCUSSION:

SEN. BARRY STANG notes that the bill has to be brought before the Revenue Oversight Committee, but that is on the last page of the bill.

VOTE: MOTION THAT SB 386 DO PASS CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 362

{Tape: 1; Side: A; Approx. Time Count: 13.6; Comments: None.}

AMENDMENTS 36201.ajm

EXHIBIT 2

Jeff Martin explains the purpose of the amendments is to revise the percentage distributions to the various taxing entities that are entitled to revenue from the oil and gas tax. This will allow 8% for the purposes of county retirement and county transportation. Also, not all counties that receive oil and gas revenue have a fire district. The amount that would have gone to the rural fire district would go to the county General Fund.

MOTION: **SEN. MIKE FOSTER** MOVED AMENDMENTS 36201.ajm

DISCUSSION:

SEN. WILLIAM GLASER comments the amendments don't improve the bill.

CHAIRMAN GERRY DEVLIN suggests putting off action on this bill until further information can be provided to the Committee.

MOTION WITHDRAWN: **SEN. FOSTER** WITHDREW HIS MOTION ON THE AMENDMENTS.

NO ACTION TAKEN BY THE COMMITTEE ON SB 362

HEARING ON SB 388

{Tape: 1; Side: A; Approx. Time Count: 19.4; Comments: None.}

Sponsor: SEN. VIVIAN BROOKE, SD 33, MISSOULA

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SEN. VIVIAN BROOKE, SD 33, MISSOULA indicates this is a simple bill that assures that if a non-profit corporation would ever invest in a winning lottery ticket the winnings would be exempt from the corporation license tax.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. WILLIAM GLASER asks Steve Austin, Department of Revenue if you could form a non-profit betting pool. Mr. Austin responds the intent of the bill is the winnings have to go back to the use of the non-profit organization as approved by the Internal Revenue Service.

SEN. DOROTHY ECK inquires if any non-profit group has won the lottery. Mr. Austin responds he does not know of any. Under current law if a non-profit corporation had won the lottery the tax would be determined on whether the IRS considered those winnings non-related to their business operations.

CHAIRMAN DEVLIN asks Mr. Austin if he had anything to do with the fiscal note. Mr. Austin says he participated in working on the fiscal note. CHAIRMAN DEVLIN asks if this affects the current law tax treatment of lottery winnings by non-profit corporations. Mr. Austin responds it's unknown whether the IRS would deem the winnings as unrelated to business operations. Therefore, by eliminating the IRS determination, there would be no fiscal impact.

Jeff Martin clarifies: SEN. BROOKE called him about this issue. He then read from the 1996 Master Tax Guide regarding exempt organizations.

SEN. MIKE SPRAGUE questions SEN. BROOKE regarding people who buy lottery tickets with the full intent to donate/contribute to education, local government and so forth. SEN. BROOKE responds she really doesn't know why people buy lottery tickets; she buys

them to win.

SEN. BOB DEPRATU indicates that it bothers him that non-profit organizations would spend their money in a lottery.

SEN. MIKE FOSTER says he has never heard of any business, profit or non-profit, that would write a check out to the Montana Lottery as an operational expense. He asks **SEN. BROOKE** if she has heard of any. **SEN. BROOKE** says she has not.

SEN. MACK COLE requests clarification on the "gray area." **Jeff Martin** explains this bill would clarify the "gray area" because it states specifically if you have lottery winnings and use them for the purposes of the organization that they would be exempt from taxation.

SEN. COLE asks **SEN. BROOKE** if any particular organization requested she carry this bill. **SEN. BROOKE** responds no.

SEN. DOROTHY ECK asks how much might be invested. **SEN. BROOKE** says it might be as small as \$1.00 per week. She doesn't know if this option is ever used but believes the bill clarifies the "gray area" and says times are getting desperate for non-profit organizations.

Closing by Sponsor:

SEN. BROOKE closes stating this is another option for creative fund-raisers.

EXECUTIVE ACTION ON SB 258

{Tape: 1; Side: A; Approx. Time Count: 36.8; Comments: None.}

DISCUSSION:

SEN. WILLIAM GLASER asks if we put amendments on this bill and then table the bill, what happens to the amendments. **Jeff Martin** says as he understands it, the amendments would not go with the bill if it were tabled. He states he would have to get clarification to make sure.

AMENDMENTS 25805.ajm

EXHIBIT 3

EXPLANATION OF AMENDMENTS: **SEN. DOROTHY ECK** comments the way we're likely to come up with comprehensive tax reform is through a sales tax. She thinks we should look at a sales tax that has a chance of being accepted by the people. That's why she would like to see some amendments on this bill. She explains the bill is lacking a renter's credit. There is a larger reduction for Class IV residential outlined in the amendments. Currently it's 50% of the first \$65,000; she would like to increase that to 90%. The amendments eliminate Class VIII properties entirely - that is

the part of the bill that is most costly and benefits large corporations.

DISCUSSION:

SEN. FOSTER: The sales tax issue was discussed in the 1993 session; we set up a Conference Committee to try to hammer out the details. We worked for two days on amendments. Let's not get involved in amendments right now.

{Tape: 1; Side: B; Approx. Time Count: 0; Comments: Tape turned.}

SEN. MIKE SPRAGUE: He agrees with **SEN. FOSTER**. Ideas shouldn't be stopped. He appreciates the youthful ideas of **SEN. ECK**. Now is not the time or the place.

SEN. MACK COLE: He has been working with the counties for over a year. He supports most everything in the bill; he will continue to try to work to find something that's acceptable to the people.

MOTION/VOTE: **SEN. MIKE FOSTER** MOVED SB 258 BE TABLED. MOTION CARRIED 6-2 with **SEN. ECK** and **SEN. COLE** voting no. **SEN. VAN VALKENBURG** did not vote, but **CHAIRMAN DEVLIN** will allow him to do so when he returns if he wishes to vote.

EXECUTIVE ACTION ON SB 209

{Tape: 1; Side: B; Approx. Time Count: 3.1; Comments: None.}

DISCUSSION:

SEN. WILLIAM GLASER comments this bill expands the use of taxable properties for statewide levies.

SEN. MIKE FOSTER supports the concept. However, we will have to treat it like SB 258 as they are companion bills.

SEN. BARRY STANG says it covers just personal property.

MOTION/VOTE: **SEN. STANG** MOVED SB 209 BE TABLED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 345

{Tape: 1; Side: B; Approx. Time Count: 6.4; Comments: None.}

DISCUSSION:

SEN. MIKE FOSTER: He strongly supports the concept. However, it's premature; he believes the next legislative session will have a better idea of what's happening with the drop-down in the rate.

SEN. WILLIAM GLASER: The biggest problem is Class VIII property. We don't have a source of revenue to make it whole.

SEN. FOSTER: It's not fair to say the General Fund is going to take a big hit for the reduction of these taxes.

SEN. GLASER: Need to take into account what happens in the cities and the counties.

SEN. BARRY STANG: The fruits of lowering the personal property tax rate hasn't been felt in his district.

SEN. MIKE SPRAGUE: In business you go by a preponderance; the preponderance is that the state is saying one thing and doing another.

SEN. DOROTHY ECK: In reducing Class VIII property, she believes her concept of giving a large credit makes sense. An across the board cut isn't a good idea; it's better to go with a tax credit.

MOTION: SEN. COLE MOVED SB 345 BE TABLED. MOTION CARRIED 5-3 with SEN. DEPRATU, SEN SPRAGUE and SEN. STANG voting no, and SEN. VAN VALKENBURG not voting.

EXECUTIVE ACTION ON SB 306

{Tape: 2; Side: A; Approx. Time Count: 19.7; Comments: None.}

CHAIRMAN GERRY DEVLIN notes the cap will not be reached until about the year 2000. This is a little premature; it could be dealt with in the next session.

SEN. WILLIAM GLASER comments it was an initiative that **REP. FRANCIS BARDANOUVE** put forward earlier.

SEN. BOB DEPRATU asks what has been the intent in the past when looking at caps to protect the cap amount against inflation. **CHAIRMAN DEVLIN** responds that has never been addressed; it's been discussed that the buying power is diminishing.

SEN. BARRY STANG agrees the legislation is premature unless we are going to look at ways to fund the programs.

SEN. MACK COLE mentions the Soil Conservation Districts probably don't fully realize that the capping wouldn't have that much effect on them.

SEN. GLASER suggests oil, gas and coal has been taking a disproportionate amount of money; the bill takes hard rock mining out - he would like to see an amendment to make it just hard rock mining and get the rest out.

MOTION/VOTE: SEN. STANG MOVED SB 306 BE TABLED. MOTION CARRIED 5-4 with SEN. COLE, SEN. DEPRATU, SEN. GLASER and SEN FOSTER voting no.

EXECUTIVE ACTION ON SB 388

{Tape: 2; Side: A; Approx. Time Count: 30.4; Comments: None.}

DISCUSSION:

SEN. WILLIAM GLASER believes the lottery is a painless way of taxing poor people.

SEN. DOROTHY ECK wonders what would happen if someone donated lottery tickets to an organization as far as a tax deduction. (No response.)

SEN. BOB DEPRATU says we need to make sure the State of Montana gets its fair share. CHAIRMAN GERRY DEVLIN is sure there will be federal taxes and we're saying the State can't tax it.

SEN. BARRY STANG is concerned fraternal organizations will be put into the "lottery-buying" business.

MOTION: SEN. MIKE SPRAGUE MOVED SB 388 BE TABLED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 381

{Tape: 2; Side: A; Approx. Time Count: 36.2; Comments: None.}

MOTION: SEN. MIKE FOSTER MOVED HB 381 BE CONCURRED IN.

DISCUSSION:

CHAIRMAN DEVLIN notes there are 45 other states that exempt these buildings from tax.

SEN. FRED VAN VALKENBURG asks if there are any states that don't have property tax. Jeff Martin responds he is not aware of any that don't have real property tax.

SEN. STANG votes against this type of bill because of the impact on the counties, but the counties didn't seem to have a problem with it this time.

VOTE: MOTION THAT HB 381 BE CONCURRED IN CARRIED UNANIMOUSLY.

SEN. MIKE FOSTER will carry the bill.

EXECUTIVE ACTION ON HB 384

{Tape: 1; Side: B; Approx. Time Count: 41.3; Comments: None.}

MOTION: SEN. MACK COLE MOVED HB 384 BE CONCURRED IN.

DISCUSSION:

SEN. FRED VAN VALKENBURG doesn't object to this bill in theory, but is concerned about the fiscal responsibility.

SEN. BARRY STANG will vote against this today. He would like to have tax payment on the gains made when and if the heirs sell the property, not when it's given to them as an inheritance. He really would like to see the tax eliminated all together, at both the State and Federal levels.

SEN. DOROTHY ECK thinks the inheritance tax should be a part of the tax study; she agrees with SEN. STANG it should be eliminated.

{Tape: 2; Side: A; Approx. Time Count: 0; Comments: New tape.}

CHAIRMAN GERRY DEVLIN thinks this a step in the right direction; he will support it.

SEN. BOB DEPRATU agrees with SEN. STANG regarding elimination of the tax, but thinks we should go ahead with this step.

MOTION: SEN. ECK MOVED A CONTINGENCY VOIDNESS CLAUSE BE PUT ON HB 384.

DISCUSSION:

SEN. MIKE FOSTER will resist the motion.

SEN. BARRY STANG doesn't like the Contingency Voidness.

VOTE: MOTION TO PUT CONTINGENCY VOIDNESS CLAUSE ON HB 384 FAILS 1-8 with SEN. ECK voting yes.

VOTE: MOTION THAT HB 384 BE CONCURRED IN CARRIED 6-3 with SEN. ECK, SEN. STANG and SEN. VAN VALKENBURG voting no.

SEN. COLE will carry the bill.

SENATE TAXATION COMMITTEE

March 12, 1997

Page 10 of 10

ADJOURNMENT

Adjournment: 9:56 a.m.



SEN. GERRY DEVLIN, Chairman



RENEE PODELL, Secretary



MEG ANGELL, Transcriber

GD/rp