

## **MINUTES**

### **MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **VICE CHAIRMAN MIKE FOSTER**, on April 7, 1997,  
at 8:04 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:** Sen. Gerry Devlin was excused from the  
beginning portion of the meeting.

**Members Absent:** None

**Staff Present:** Jeff Martin, Legislative Services Division  
Meg Angell, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 516; HB 591; HB 596  
Executive Action: HB 516 (TABLED);  
HB 596 (BCI)  
HB 561 (BCIAA)

#### **HEARING ON HB 516**

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

**Sponsor:** REP. BOB KEENAN, HD 75, BIGFORK

**Proponents:**

Cort Harrington, Montana County Treasurers' Association

**Opponents:** None

Opening Statement by Sponsor:

REP. BOB KEENAN, HD 75, BIGFORK indicates the controversy has been removed from the bill. As amended it makes property taxes due in total if the 2nd half is less than \$25.00. Additionally, the postmarked date becomes the date on which the taxes are received.

Proponents' Testimony:

Cort Harrington, Montana County Treasurers' Association reiterates REP. KEENAN'S explanation of the bill and indicates the Montana County Treasurers' Association's support of the bill.

Opponents' Testimony:       None

Questions From Committee Members and Responses:

SEN. WILLIAM GLASER asks REP. KEENAN if all individual tax bills are due in total in November if the 2nd half is less than \$25.00. REP. KEENAN answers yes, they would be under this bill.

SEN. DOROTHY ECK comments she remembers some discussion last session regarding taxpayers receiving a discount if they paid their taxes in full when the 1st half are due. She inquires if that is being considered again, and inquires what the opposition was to the installment plan as the bill was originally written. Mr. Harrington responds the County Treasurers objected to the installment system as being a bookkeeping nightmare. He indicates the County Treasurers are not opposed to the discount idea, but it has not been enacted.

SEN. MIKE SPRAGUE asks what the changes were in the bill; what were the problems. Jeff Martin responds it was the installment part; Section 1, dealing with general payment of property taxes, Section 2, regarding the payment of special assessment taxes, and Section 7, that deals with the payment for taxes on mobile homes are the substantive changes.

SEN. SPRAGUE asks how this bill will affect mobile homes. Mr. Harrington indicates smaller tax bills would not apply to mobile homes; these small taxes would most likely apply to grass lands, interest in a mining claim and so forth.

Closing by Sponsor:

REP. KEENAN closes by saying he has closed.

HEARING ON HB 591

{Tape: 1; Side: A; Approx. Time Count: 12.6; Comments: None.}

Sponsor: REP. PEGGY ARNOTT, HD 20, BILLINGS

Proponents:

Jeff Miller, Montana Department of Revenue

Opponents: None

Opening Statement by Sponsor:

REP. PEGGY ARNOTT, HD 20, BILLINGS says this bill will streamline the application process for the Elderly Homeowner Property Tax Credit. It also sets the standard at \$35,000.

Proponents' Testimony:

Jeff Miller, Montana Department of Revenue

EXHIBIT 1

Mr. Miller supports the bill indicating they have worked with REP. ARNOTT to come up with a plan that will be as close to revenue-neutral as possible. He says the distribution of those qualifying changes with this bill as well as the average pension exclusion being equalized.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. MACK COLE asks for clarification of the Average Pension Exclusion. Mr. Miller explains this now becomes a standard deduction.

SEN. DOROTHY ECK comments this has always been confusing. Mr. Miller agrees and points out this will simplify and clarify the process, noting people will now only have to send in a copy of what they were billed.

SEN. MIKE FOSTER asks what would the effect be on the fiscal note if the threshold were raised from \$35,000 to \$40,000. Mr. Miller will provide those figures to the Committee.

SEN. MIKE SPRAGUE asks for clarification regarding what income is considered in the \$35,000. Mr. Miller indicates this is all income from all sources, whether taxable or not; this is gross household income.

SEN. SPRAGUE inquires if it has always been that way. Mr. Miller says it has. SEN. SPRAGUE then comments the redistribution is achieved by eliminating those who really don't need the credit and giving it more to those who do. Mr. Miller agrees, stating they worked very hard with REP. ARNOTT to come up with the best plan; this was her plan and they assisted her with the administrative details.

SEN. ECK comments the major thing the bill does is not taking such advantage of people with pensions. Mr. Miller agrees. He believes the \$35,000 levels the playing field.

SEN. FRED VAN VALKENBURG inquires what the significance is of the change on page 1, line 17. Mr. Miller indicates this is a technical change. (This is supported by Jeff Miller.) SEN. VAN VALKENBURG asks when the applications for the credit have to be made. Mr. Miller responds typically they are received with people's taxes on April 15th, but they can be sent in anytime. SEN. VAN VALKENBURG inquires as to the immediate effective date. Mr. Miller says they want it in place for a full calendar year; the bill is applicable retroactive to December 31, 1996 and the applications for credit will not be filed until 1998.

Closing by Sponsor:

REP. ARNOTT closes stating they worked on several ideas; this approach makes the bill as revenue-neutral as possible and makes it fair.

HEARING ON HB 596

*{Tape: 1; Side: A; Approx. Time Count: 33.1; Comments: None.}*

Sponsor: REP. WILLIAM WISEMAN, HD 41, GREAT FALLS

Proponents:

David Dennis, D. A. Davidson, Co. (DADCO)

Opponents: None

Opening Statement by Sponsor:

REP. WILLIAM WISEMAN, HD 41, GREAT FALLS draws attention to the fiscal note for this bill as having no fiscal impact. He says the bill adds common trust funds to those which are exempted from corporate tax.

Proponents' Testimony:

David Dennis, DADCO, explains this bill exempts common trust funds from the definition of a corporation in respect to the corporation tax license law. A common trust fund is a combination of the assets of a number of different trusts. This is done primarily for efficiency purposes. This allows investing combined assets, or selling combined assets. It ensures that the income earned on investments for individual trusts doesn't get double taxed. This bill conforms Montana law to Federal law.

Opponents' Testimony: None

Questions From Committee Members and Responses:

**CHAIRMAN GERRY DEVLIN** questions **REP. WISEMAN** regarding the unsigned fiscal note. **REP. WISEMAN** responds the fiscal note wasn't brought to him for signing.

**SEN. MIKE FOSTER** comments the fiscal note says the Department of Revenue doesn't tax common trust funds currently and wonders what is the point of the bill. **Lynn Chenoweth, Department of Revenue** indicates he is not aware of any common trusts in Montana; the reason is there is a question as to whether a common trust would be taxable. **SEN. FOSTER** follows up by asking **Mr. Dennis, DADCO**, if he is aware of any common trusts in Montana. **Mr. Dennis** says he is not aware of any. His understanding is that common trusts would be taxed as a corporation under Montana law; because of that interpretation, it would be a breach of the trustee's fiduciary duty to establish a common trust fund because they would be subjecting the trust to a double taxation situation. **REP. WISEMAN** is asked to respond to the same question in his closing.

**CHAIRMAN DEVLIN** inquires what other states do and what we are doing now. **Mr. Dennis** responds he doesn't know what other states are doing; we currently invest individually. This will provide simplification and efficiency in the investment process allowing for execution of larger blocks of trades. He points out the Federal Government has exempted common trusts.

**SEN. MIKE SPRAGUE** asks what is the life expectancy of the common trust vs a corporation. **Mr. Dennis** explains technically it is forever; the purpose is to eliminate the possibility of double taxation. **SEN. SPRAGUE** then inquires if this would enable Montana corporations to use a new vehicle to lower prices. **REP. WISEMAN** indicates that is correct.

Closing by Sponsor:

*{Tape: 1; Side: B; Approx. Time Count: 0; Comments: None.}*

**REP. WISEMAN** closes stating this is a relatively simple bill which allows Montana to be competitive. **SEN. SPRAGUE** will carry the bill.

EXECUTIVE ACTION ON HB 516

*{Tape: 1; Side: B; Approx. Time Count: 2.6; Comments: None.}*

DISCUSSION:

**SEN. WILLIAM GLASER** comments if you have a "shoebox" full of little tax bills you'll be paying them once per year instead of twice per year.

**SEN. MIKE FOSTER** updates **CHAIRMAN DEVLIN** on the substance of the bill; it requires a one time payment for property taxes that are less than \$25.00 for the second half. The sponsor had intended to provide for installment payments - that became the controversial part of the bill and has been taken out.

**SEN. DOROTHY ECK** comments people would be interested in paying their taxes in full if they were to receive a discount equal to the interest they would have gained on the money. She suggests this might be a way to "fix" this bill.

**MOTION/VOTE:** **SEN. BOB DEPRATU** MOVED HB 516 BE TABLED. MOTION CARRIED 6-3 with **SEN. SPRAGUE**, **SEN. STANG** and **SEN. ECK** voting no.

**EXECUTIVE ACTION ON HB 596**

*{Tape: 1; Side: B; Approx. Time Count: 8.1; Comments: None.}*

**MOTION:** **SEN. WILLIAM GLASER** MOVED HB 596 BE CONCURRED IN.

DISCUSSION:

**SEN. BARRY STANG** asks if this bill will allow anyone to "escape" from paying who is paying currently. **Mr. Chenoweth** indicates no; this will only avoid double taxing.

**SEN. WILLIAM GLASER** comments this might even increase revenue.

**VOTE:** MOTION THAT HB 596 BE CONCURRED IN CARRIED UNANIMOUSLY.

**EXECUTIVE ACTION ON HB 561**

*{Tape: 1; Side: B; Approx. Time Count: 10.6; Comments: None.}*

**Jeff Martin** explains there are three sets of amendments to this bill: one deals with the individual liability issue; the second deals with the direct seller issue as well as repealing an Administrative Rule; the third set is a coordinating instruction with SB 67.

AMENDMENTS 56102.ajm

**EXHIBIT 2**

This is a combination of the **SPRAGUE** amendment and the "whereas" clauses which state the reason for the repeal.

AMENDMENTS 56105.ajm

**EXHIBIT 3**

This amendment refers again to the Administrative Rule.

**MOTION:** **SEN. MIKE FOSTER** MOVED ADOPTION OF AMENDMENTS 56105.ajm WITH THE WORD "INADVERTENTLY" SEGREGATED OUT.

## DISCUSSION:

**SEN. FRED VAN VALKENBURG** asks several questions of **Mr. Dennis Zeiler, Department of Labor and Industry** relative notification of Direct Sellers prior to the meetings that were held regarding this issue. He also inquires specifically if **Mr. Dave Brown** received a copy of the notice regarding the proposed rule. **Mr. Zeiler** responds the packet that was provided to the Committee contains a listing of all who were notified. He indicates the list is long and he can't immediately find **Mr. Brown's** name on the list, but it may be there. He also points out there were two kinds of meetings; one for Legislators only and one for the general public.

**CHAIRMAN DEVLIN** asks if the bill sponsor was notified. **Mr. Zeiler** indicates both **REP. ROBERT PAVLOVICH** and **SEN. TOM BECK** were notified.

**SEN. MIKE SPRAGUE** notes it's a good thing the problem was discovered and we can move on; we rely heavily on people to explain bills as clearly as possible as we can't read and/or understand everything.

**VOTE:** MOTION TO ADOPT AMENDMENT 56105.ajm WITH THE WORD "INADVERTENTLY" SEGREGATED OUT CARRIED UNANIMOUSLY.

AMENDMENTS 56101.ajm EXHIBIT 4  
This set of amendments clarifies the person within a corporation who has the liability to withhold and pay the taxes.

**MOTION/VOTE:** SEN. BOB DEPRATU MOVED ADOPTION OF AMENDMENTS 56101.ajm. MOTION CARRIED UNANIMOUSLY.

AMENDMENTS 56104.ajm EXHIBIT 5  
This is the coordination language with SB 67.

**MOTION:** SEN. MIKE FOSTER MOVED ADOPTION OF AMENDMENTS 56104.ajm.

## DISCUSSION:

**SEN. WILLIAM GLASER** notes SB 67 is on the floor today; we need to ensure changes in that bill won't affect this bill. **Mr. Martin** indicates this amendment will work regardless of changes in SB 67; we may need to look at the effective date.

**VOTE:** MOTION TO ADOPT AMENDMENTS 56104.ajm CARRIED UNANIMOUSLY.

**MOTION:** SEN. MIKE FOSTER MOVED HB 561 BE CONCURRED IN AS AMENDED.

DISCUSSION:

SEN. FRED VAN VALKENBURG questions whether the bill is included in HB 2. Mr. Miller indicates the bill is funded in HB 2.

VOTE: MOTION THAT HB 561 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY.

AMENDMENTS 56110.ajm



EXHIBIT 6

This exhibit is the composite for amendments adopted 4/7/97 for HB 561 (hb056101.ajm, hb056104.ajm, hb056105.ajm). The composite was given to the Committee Secretary following adjournment of the Committee.



ADJOURNMENT

Adjournment: 9:29 a.m.

  
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SEN. GERRY DEVLIN, Chairman  
\_\_\_\_\_  
MEG ANGELL, Secretary

GD/MA

Minutes taped on Sony BM 89-T.