

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on April 10, 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 471
Executive Action: HB 599, HB 555, HB 601, HB 591
HB 536, HB 434, HB 471

HEARING ON HB 471

Sponsor: REP. KIM GILLAN, HD 11, Billings

Proponents: Dennis Burr, Montana Taxpayers Assoc.
David Owen, Montana Chamber of Commerce
Riley Johnson, National Federation of Business
John Shontz, Montana Assn. of Realtors
Jerry Driscoll, Small Business Owner
Gloria Paladichuk, Richland Economic Development
of Richland County

Opponents: None

Opening Statement by Sponsor:

REP. KIM GILLAN, HD 11, Billings, introduced HB 471. This is a proposal to help businesses, particularly small businesses. It does this by exempting the first \$10,000 of market value of class A property. When they introduced the bill, they were exempting the first \$25,000 of market value Class A property, but over the course of discussions in the House, they reduced it to \$10,000. Small businesses have a need to be competitive. House Bill 471 will help businesses by freeing up some dollars which can be reinvested back into business. She presented a letter from two small business owners in Billings, **EXHIBIT 1**. House Bill 471 keeps Montana's business environment competitive with the surrounding states and also helps businesses eliminate some of the paperwork. Sixty-eight percent of all businesses have less than \$10,000 worth of market value.

She offered an amendment - **EXHIBIT 2**. When HB 471 was going through the House, they put on a contingency voidness clause. However, they have come up with a way to ensure that if the ending balance as of June 30th exceeds \$25 million, it would be possible to fund HB 471.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Assoc., stated that four years ago the State of Arizona exempted \$50,000 worth of business equipment for each business in that state. It cost about one percent of the tax base and exempted 87 percent of the businesses. This bill started at \$25,000. His counterpart in Arizona said the 87 percent would be the same if they used \$25,000 instead of \$50,000. In Arizona their procedure was a little different. They took the \$50,000 worth of equipment and classified it at one percent with the understanding that the county assessors would just ignore it. Once it was in place, they put a Constitutional amendment on the ballot and it passed overwhelmingly. He would take the contingency voidness off and let local governments do as they may to replace that revenue.

David Owen, Montana Chamber of Commerce, remarked that small businesses buy equipment, so this will offset itself.

Riley Johnson, National Federation of Business, stated that this is an unfair tax because every county has a different means of enforcement. This would be a boom for small businesses. They support this bill. It would be one less form to fill out.

John Shontz, Montana Assn. of Realtors, presented a handout for the committee, **EXHIBIT 3**. He also encouraged adoption of **REP. GILLAN's** amendment. The contingency voidness language that was put in this bill serves the function of making sure that government is funded before taxpayers receive refunds. The amendment in the bill now says the money must come from HB 2 to fund this program. **REP. GILLAN's** amendment allows that if there

is any excess ending fund balance, those dollars could be used to fund this legislation. This helps all businesses that own Class A property including agriculture, medium sized and large businesses.

Jerry Driscoll, Small Business Owner, commented that the fiscal note assumptions are that there will be \$10,000 per payer per assessment code. That is not the intent of the bill that it will be per assessment code. There are five codes. In order to get \$23.8 million in taxable values, you need to have almost \$400 million in market value of property. They must have used 40,000 taxpayers x \$10,000 each. A lot of people do not have \$10,000, thus the fiscal note is overstated. He suggested adoption of **REP. GILLAN's** amendment.

Gloria Paladichuk, Richland Economic Development of Richland County, remarked that it is their experience that business tax exemptions work. In the early 80's when Shell Oil built their plant in Richland County, they were given a reduction in property taxation for five years. This bill will help businesses and we urge your support.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. BILL GLASER, referring to the computer system redesign on the fiscal note at a \$4 million cost, asked if the bill was changed from \$25,000 to \$10,000 would there be additional costs for computer redesign?

Judy Paynter, Department of Revenue, explained the revised fiscal note - **EXHIBIT 4**. This bill is to be effective January 1, 1998. It will take some money to fix their existing system so they can identify the \$10,000 exemption per business. The Department needs about \$100,000 to make computer changes to their existing system. There are a couple of counties which will need to be converted. The administrative costs are estimated at \$183,000 the first year, \$6200 thereafter. Additional handout - **EXHIBIT 5**.

SEN. DEVLIN commented that the two counties which are not user friendly would need to be converted whether this bill passed or not.

Ms. Paynter explained the Department would have to pay for the work and make sure the work is done.

SEN. DOROTHY ECK stated the fiscal note stated \$4 million.

Ms. Paynter conveyed that they have cut down the cost of the new system. This originally started out in HB 188. That has been decreased in HB 188 and that system will not be operational by January 1, 1998. There are problems if you are not operating

correctly by that date. House Bill 417 will have a problem when they do the reimbursement from the General Fund if they are unable to properly identify the change related to this bill. The General Fund will be reimbursing all local governments for the decrease in taxes they would get out of this bill.

SEN. ECK stated she had been working on a bill, but dropped it when she saw this bill. The problems were the same. The Department didn't seem willing to get this exemption per taxpayer.

Ms. Paynter stated the money is in the fiscal note to correct the system so this can be done per taxpayer. The amount of revenue loss is not calculated per taxpayer because the system does not allow them to do that.

SEN. ECK felt that if 68% of the taxpayers would no longer pay this tax, there should be significant savings to county government as well as the state.

Ms. Paynter asserted there is not a savings determination yet. The question is, if they have less than \$10,000 of property, do they need to report?

SEN. ECK suggested that perhaps something could be written into the bill for the taxpayer to simply declare that he/she did not need to pay in.

Ms. Paynter state that would make it clearer.

SEN. BOB DE PRATU asked **REP. GILLAN** if she would like the exemption back at \$25,000.

REP. GILLAN maintained it would be great to have it at \$25,000 but would rather see the bill pass.

Closing by Sponsor:

REP. GILLAN stated that the fiscal note had some problems. A company which is expanding needs any free capital available. In reference to the companies which do not have \$10,000 worth of property, she would welcome an amendment as long as it did not make the process any more cumbersome.

EXECUTIVE ACTION ON HB 599

Motion: **SEN. MIKE SPRAGUE** MOVED HB 599 BE CONCURRED IN.

Discussion:

SEN. SPRAGUE contended that as a first time buyer, it would encourage young people to understand that they need to preplan savings. It sends a good message. He had asked for an amendment for manufactured housing.

Amendments: hb059902.ajm - EXHIBIT 6

SEN. SPRAGUE explained that there is a difference between "trailer" and "manufactured home".

Motion: SEN. SPRAGUE MOVED TO AMEND HB 599.

SEN. FRED VAN VALKENBURG expressed concern about providing an opportunity for people to buy trailers. Setting aside money for a manufactured home is not a bad idea.

SEN. SPRAGUE stated a trailer may be a launching pad to a bigger and better thing. At least they are building equity.

CHAIRMAN DEVLIN remarked he did not have trouble with the term mobile home, but he did with the term trailer.

SEN. ECK commented that while homes are appreciating in value, trailers are usually depreciating.

Vote: THE MOTION CARRIED WITH CHAIRMAN DEVLIN voting no.

Amendments: hb059903.ajm - EXHIBIT 7

Motion: SEN. ECK MOVED TO FURTHER AMEND HB 599.

Mr. Martin explained the amendment. This amendment would clarify that married taxpayers who file separately may each be an account holder for the purposes of this bill. This creates an awkward savings mechanism where each spouse needs to establish their own account but if they were to purchase a home, they could use each account collectively for paying eligible costs. Amendments 2 through 4 take into account this change. A taxpayer who files singly, head of household, or married filing separately can deduct up to \$3,000. An account holder who files jointly may deduct up to \$ 6,000. You can deposit more than \$3,000 in the account in a year, but cannot take the deduction for it until the next year.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. SPRAGUE MOVED HB 599 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. GLASER expressed concern about a person establishing themselves as an account holder and then investing the money in his/her business. If the business failed and the money is gone from the account, the taxes would need to be paid.

SEN. VAN VALKENBURG remarked the only way he could support this bill is with an amendment stating that if the ending fund balance exceeds some amount then this goes into effect.

CHAIRMAN DEVLIN stated the problem with that would be establishing a level and then being consistent.

SEN. ECK insisted this was a good bill but its likely not to make its way through. They could have a delayed effective date so it wouldn't hit until the next biennium so it could be planned into the budget.

SEN. SPRAGUE commented that he saw this as a way to encourage young people to stay in Montana.

SEN. VAN VALKENBURG was concerned the bill may not set out that the home which is purchased with this money needs to be within the State of Montana.

Motion: **SEN. VAN VALKENBURG MOVED TO FURTHER AMEND HB 599.**

SEN. VAN VALKENBURG clarified that on page 2, line 19, following residence he would insert the word "Montana" and also on page 3, line 27, following "residence" insert the words "within Montana". Page 3, line 29, following "residence" he would insert the term "Montana".

Vote: **THE MOTION CARRIED UNANIMOUSLY.**

Motion: **SEN. VAN VALKENBURG MOVED TO FURTHER AMEND HB 599.**

SEN. VAN VALKENBURG explained his amendment. On page 9 he would change the effective date to 2000. This could then be incorporated into the next budget.

SEN. SPRAGUE commented the young people do not have a dog in the fight, this is the legislature's problem, not theirs.

Vote: **THE MOTION FAILED ON ROLL CALL VOTE - 5 to 3.**

Vote: **THE MOTION THAT HB 599 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 555

Motion: **SEN. SPRAGUE MOVED HB 555 BE CONCURRED IN.**

Discussion:

SEN. COLE commented this would be a flat \$.30 per gallon.

SEN. STANG remarked that in two or three years the reconstruction trust fund will be out of money and we will need to raise gas taxes to account for this.

SEN. GLASER stated they are subsidizing an industry which should be able to make it on its own.

SEN. DE PRATU alleged that without this bill the plant will not be able to get needed funding. He does not want to ruin their chances of success.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE - 6 to 3.

EXECUTIVE ACTION ON HB 601

Motion: SEN. ECK MOVED HB 601 BE CONCURRED IN.

Discussion:

CHAIRMAN DEVLIN asserted this wouldn't have a bang in the first year, but certainly would in the second year.

SEN. GLASER remarked that this bill would give a 5% incentive on their investment right out of the General Fund.

SEN. DE PRATU commented that when an older building is rehabilitated there would be the positive effect of more tax revenue down the road.

SEN. COLE contended that it may end up saving some of our historical buildings.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE - 5 to 4.

EXECUTIVE ACTION ON HB 591

Motion: SEN. VAN VALKENBURG MOVED HB 591 BE CONCURRED IN.

Discussion:

SEN. DE PRATU stated that we keep penalizing people who are a little bit successful. The idea of the elderly homeowner tax credit is good, but he doesn't like the cut-off on the income.

SEN. FOSTER commented that the revised fiscal note showed this to be revenue neutral. It looks like they are trying to target people who are on the lower income end of this. This goes to \$35,000. He would like to have it go to \$40,000. There are some elderly people who qualify, but due to the complexity of applying, haven't been doing so.

SEN. ECK remarked that this was originally designed as a low income elderly tax relief. A friend of hers who has substantial income was surprised to find that she was eligible for the circuit breaker tax. An income level was not put in. This will level it out with people who have pensions and those who get their income from tax deferred municipals, rents, etc.

SEN. GLASER commented that this takes away from the people who are getting a tax credit and gives a little more to the people on the bottom end.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE - 7 to 2.

EXECUTIVE ACTION ON HB 536

Motion: SEN. VAN VALKENBURG MOVED HB 536 BE CONCURRED IN.

Discussion:

SEN. VAN VALKENBURG related that the fiscal note is small. This is something for the middle-aged parents who are spending a lot in tuition. It is a way to legally provide support to people who are sending their children to private institutions.

Vote: THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 434

Motion/Vote: SEN. ECK MOVED HB 434 BE CONCURRED IN. THE MOTION CARRIED ON ROLL CALL VOTE - 7 to 1.

EXECUTIVE ACTION ON HB 471

Motion: SEN. DE PRATU MOVED HB 471 BE CONCURRED IN.

Discussion:

SEN. FOSTER reluctantly opposed the bill. This is a different approach which is worth exploring. He is not ready for it at this time.

SEN. STANG remarked this is one of the best property tax relief ideas for small business since he has been in the legislation. The reduction from 12% to 9% and 9% to 6% didn't do a lot for small businesses.

Amendments: hb047102.agp - EXHIBIT 2

Motion: SEN. STANG MOVED HB 471 BE AMENDED.

SEN. STANG explained this amendment would make it contingent on a General Fund balance of over \$25 million at the end of year.

SEN. GLASER commented that the \$25 million amount is too low.

Substitute Motion: SEN. GLASER MOVED TO AMEND HB 471 WHICH WOULD CHANGE \$25 MILLION TO \$35 MILLION.

SEN. VAN VALKENBURG claimed that the amendment dealt with the ending fund balance at the end of this fiscal year, two months from now. This does not deal with the ending fund balance at the end of the next biennium. This number is a fixed amount. This is the beginning fund balance for the next biennium.

SEN. FOSTER asked what the ending fund balance would be as of June 30, 1997?

SEN. STANG remarked it was around \$29.6 million.

SEN. FOSTER supported **SEN. GLASER's** motion. Placing this at \$35 million would provide some protection.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE - 6 to 3.

SEN. STANG WITHDREW HIS MOTION.

Motion: **SEN. ECK** MOVED TO FURTHER AMEND HB 471.

SEN. ECK explained her amendment would direct the Department to allow a taxpayer to issue an affidavit saying that they had less than \$10,000.

SEN. SPRAGUE understood this amendment to provide that the taxpayer would not have to fill any forms related to personal property on an annual basis.

SEN. ECK explained that she receives five envelopes from the local assessor. She only pays a little on this, so it can't be worth it to them.

SEN. SPRAGUE clarified that this would require the recipient to prepare a declaration statement.

SEN. DE PRATU questioned whether that would be by business or by taxpayer?

SEN. ECK answered it would be by taxpayer.

SEN. DEVLIN felt they would need to identify the pieces of equipment.

SEN. ECK commented that this bill is written so it is not by piece of equipment, but instead by taxpayer.

SEN. DE PRATU questioned whether there would be a penalty involved for false reporting and also whether this would be an annual declaration?

SEN. ECK maintained that we used to have statements of intent, but we don't do those anymore.

Mr. Martin explained that the basic purpose of a statement of intent is to direct a particular agency to adopt rules by a certain method. There could be a preamble which is the same as a common understanding as to how a statement of intent has been used in the past.

SEN. ECK voiced concern in the fiscal statement. You wonder about what the Department is thinking of doing. If you are going to simplify the process by dropping off those who have amounts smaller than \$10,000, you want the Department to simplify its processes.

SEN. DEVLIN did not want to micro-manage how the Department would handle a piece of legislation which ends up in their laps.

Mr. Martin stated that if this amendment were to pass, he would borrow language from 15-6-151. This would state that the affidavit remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer would have to inform the Department of any change. The Department would be able to inquire of the taxpayer whether there was any change. It would also include a provision that the statement is treated as a statement under oath violation of which would make the taxpayer liable for criminal penalties under 45-7-202.

Vote: THE MOTION FAILED ON ROLL CALL VOTE - 4 to 5.

SEN. GLASER stated the bill was now a good bill. He felt that **REP. GILLAN** should reject their amendments and put it into a Conference Committee so it would be in the mix and something could then be decided on how it should be handled.

CHAIRMAN DEVLIN commented that if it wasn't for personal property tax going down to six, he could support this bill. The terrific fiscal note from the Department of Revenue concerns him in that this could be making a big mess out of a little mess.

Vote: THE MOTION CARRIED ON ROLL CALL VOTE - 6 to 3.

ADJOURNMENT

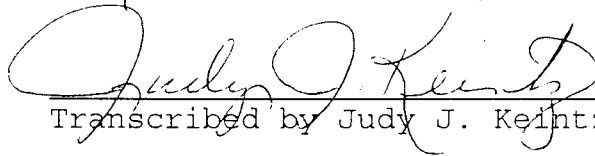
Adjournment: The meeting adjourned at 10:55.



SEN. GERRY DEVLIN, Chairman



RENEE PODELL, Secretary



Transcribed by Judy J. Keintz

GD/RP