

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN BILL GLASER**, on February 15, 1999 at 9:00 A.M., in Room 413/415 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 375, 2/12/1999; HB 405,  
2/11/1999  
Executive Action: SB 380, SB 297

**HEARING ON SB 375**

**Sponsor:** SENATOR JOHN BOHLINGER, SD 7, BILLINGS

**Proponents:** Dr. Matthew Quinn, Carroll College

**Opponents:** None

**Informational Testimony: Brian Smith, Department of Revenue****Opening Statement by Sponsor:**

**SEN. JOHN BOHLINGER, SD 7, Billings,** said that during the last legislature, he sponsored the bill that established the Family Education Savings Act, a bill that provided up to a \$3,000 tax deduction per contributor as an incentive to set aside money for family members' continuing education at the post-secondary level. He said that the costs of higher education have increased significantly, and he feels that the legislature of Montana should bring forward legislation to make the post-secondary learning experience affordable to all Montanans. The College Education Savings Act has been successful in that as of December 31, 1998, Montana families had deposited \$2,948,000 in accounts for the benefit of their family members.

**SEN. BOHLINGER** said these accounts benefit those children whose families can afford to make these contributions, but there is still a need for families who cannot afford to make those kind of investments. **SB 375** provides an exemption from individual taxation in the amount of \$500 for qualifying school expenses for each person or dependent enrolled in an accredited, in-state, public or nonpublic post-secondary institution. School expenses are defined in Section 1, sub (17). Section 2, sub (p), identifies the dollar amount of this credit to be \$500. **SEN. BOHLINGER** said this is a simple request that will provide long-term benefits for the people of the state of Montana.

**Proponents' Testimony:**

**Dr. Matthew Quinn, Carroll College,** said he was speaking on behalf of the three nonpublic colleges in Montana: University of Great Falls, Rocky Mountain College and Carroll College. He said none of these colleges receives state support. He said this bill supports Montana families, students, and citizens who are sacrificing to provide a college education either for themselves or for their children. This will encourage Montana residents to attend Montana colleges, thereby improving the standard of living in Montana. He said he believes that this will make college more affordable for Montana residents, it will provide Montana residents an increase in choice among colleges and programs, and it provides for future growth and improvement for the state. He said there is a direct relationship between the standard of education and the standard of living. He urged support of **SB 375.**

**Opponents' Testimony:** None

**Informational Testimony:**

**Brian Smith, Department of Revenue,** said that the Department has a few technical problems with the bill as it is currently drafted. First, enrollment appears to be the only condition for being able to exclude the \$500 per year. It is not tied to any specified payment of tuition or fees, and that should be clarified. Also, it appears to allow multiple deductions with both parents of a dependent enrolled in an institution potentially able to claim the exclusion; and finally, it does not address its relationship with the Family Education Savings Program, which is the \$3,000-a-year exclusion for contributions. It is possible that a taxpayer could take exclusions under both programs. He said the Department would be willing to work with the sponsor and the committee to clarify these issues.

**Questions from Committee Members and Responses:**

**SEN. ELLINGSON** asked whether **SEN. BOHLINGER** intended for taxpayers to be able to take both deductions as pointed out by the Department, and **SEN. BOHLINGER** said that it was not his intent for that to happen, and he appreciated the Department's offer to help clarify that issue. He said he was really hoping to benefit the private schools in Montana, because presently private schools do not qualify for the existing program, and this will allow in a small way those children who attend the private schools of our state an opportunity for their parents to take a tax deduction for that education. **SEN. ELLINGSON** then asked about both parents claiming the \$500 deduction, and **SEN. BOHLINGER** said again that that was not the intention.

**SEN. DEVLIN** then asked if **SEN. BOHLINGER** would work up some amendments to take care of the problems that have been pointed out by the Department, and he said he would.

**SEN. ECK** asked if Finance and Claims looks at deductions and credits, and **CHAIRMAN GLASER** said that Finance and Claims guards well any impact on the General Fund.

**SEN. ELLINGSON** asked **Dr. Quinn** whether a tax benefit such as this makes it easier for colleges to charge higher tuition and board and room, and **Dr. Quinn** said that Carroll College wrestles with these questions all the time. Carroll's tuition is the second lowest in the Northwest. The lowest is the University of Great Falls, and then Carroll and then Rocky Mountain College. Secondly, Carroll's board has made the commitment to keep the tuition at or below the annual increase in the cost of living. Thirdly, as a board, they must make a distinction between the price of education and the cost of education. It costs the

private colleges of Montana the same as the state universities to offer an education, but they receive no state support, where the state institutions do, which makes it possible for them to keep their tuition lower. Fourth, if you look at the annual increase in the cost of living, the goods and services needed by an institution of higher learning, such as books, publications and technology, have increased at an astronomical rate.

**Dr. Quinn** said that whenever Carroll has any additional income, it is turned back to the students to reduce their financial burden. He said that 85% of Carroll students have some form of financial aid, and graduate with \$12,000 to \$15,000 in debt.

**SEN. EKEGREN** asked whether this would cause Carroll to have some state influence because of this \$500 education benefit, and **Dr. Quinn** said that the aid does not come to the college, directly or indirectly, so it does not create any problem with the Constitutional requirements.

**Closing by Sponsor:**

**SEN. BOHLINGER** thanked the committee and the Department for a good hearing, and said that this sort of scrutiny provides a better understanding of what is trying to be accomplished. Through this bill, we will have an opportunity to provide a small tax benefit, not to the school, but to the taxpayer. He said it will not bring conflict with the State Constitution which prohibits public monies being used for a private school education. He said he was pleased to hear that Carroll has made a commitment to keep their increases in the cost of education tied to the Consumer Price Index. He said this bill will also help reduce in a small way some of the debt involved in obtaining a higher education.

**HEARING ON HB 405**

**Sponsor: REPRESENTATIVE DANIEL C. FUCHS, HD 15, BILLINGS**

**Proponents: None**

**Opponents: None**

**Opening Statement by Sponsor:**

**REP. DANIEL FUCHS, HD 15, Billings,** said **HB 405** is a fairness bill that eliminates lineal yardage requirements for golf courses to be taxed at one-half the rate of other class four property, distinguishing between golf courses and miniature golf courses for property tax purposes. He said there are about ten nine-hole

par 3 golf courses that this will affect. They have been previously taxed at double the rate, and this brings them into the same category as the rest of the golf courses in the state. He pointed out line 28, page 1, "for the purposes of this subsection, enterprises generally recognized as miniature golf courses are not golf courses."

**Proponents' Testimony: None**

**Opponents' Testimony: None**

**Questions from Committee Members and Responses:**

**SEN. DEVLIN** asked if the Circle Inn Golf Course would be included in this, and **REP. FUCHS** said the Circle Inn is one of them. **SEN. DEVLIN** asked if it was all par 3 golf courses that were being considered in this bill, and **REP. FUCHS** said there are ten nine-hole courses that are affected by this that are under the 3,000 linear yards. **SEN. DEVLIN** said when he thinks of a miniature golf course, he thinks of those that have the windmills and whatnot, and he wondered about the title "miniature." **REP. FUCHS** said that this bill distinguishes miniature golf from regular golf courses so that they cannot come in to the Department of Revenue and request the same taxes as golf courses. **SEN. DEVLIN** asked if the Department of Revenue had asked him to carry this bill, and **REP. FUCHS** said they had not, but that the Department in-house tax people wanted the distinction between golf courses and miniature golf courses.

**SEN. ELLINGSON** asked if currently golf courses that are less than 3,000 yards are taxed in a different category, and **REP. FUCHS** said that was correct, that they were taxed as class four property. **SEN. ELLINGSON** then asked where they would be taxed under this bill, and **REP. FUCHS** said that golf courses pay one-half of class four property taxes.

**SEN. STANG** asked if the technical notes on the Fiscal Note had been addressed by the amendment that was put on in House Tax, and **REP. FUCHS** said there were no technical concerns, and that it is his understanding from the Department of Commerce and House Tax that some of these properties, even though they were under the 3,000 linear yards, were being treated as golf courses anyway, so there is no fiscal impact.

**SEN. STANG** then asked if somewhere in the Codes miniature golf courses are defined. **Randy Wilke, Department of Revenue**, said that there currently is not any definition of "miniature golf

courses" in the statute. He said this gives direction to assure that they are not given preferable rates.

**SEN. ECK** asked if the "not less than 3,000 lineal yards" were removed, is there anything to prevent a miniature golf course from being nine holes, and **REP. FUCHS** said that a miniature golf course could be nine holes, but it is still defined as a miniature golf course. **SEN. ECK** asked, though, if "miniature golf course" is defined, and **REP. FUCHS** said it is defined in here as a miniature golf course. A golf course is a golf course, and a miniature golf course is not a golf course.

**SEN. DEVLIN** asked the Department of Revenue how miniature golf courses are taxed now, and **Mr. Wilke** said that the land is valued as commercial property and is taxed as class four property. He said if the committee would be more comfortable, the Department could develop a definition of "miniature golf course." **SEN. DEVLIN** asked what the impact would be if these were in the same category, and **Mr. Wilke** said the Department could gather that information and let the committee know what that impact would be.

**SEN. DEPRATU** said **REP. FUCHS** had distinguished golf courses as having grass as opposed to astroturf, and he said the bill does not specify that definition. He recommended that a definition be set out. **Mr. Wilke** said the Department would develop a definition.

**SEN. EKEGREN** said he agreed with **REP. FUCHS** that a golf course is a golf course, and a miniature golf course is not even golf. It is a different form of entertainment.

**SEN. ELLINGSON** asked if this bill deals with executive golf courses, and he wondered how those courses are taxed presently, and **Mr. Wilke** said that this bill puts all golf courses in the same category in terms of valuation and assessment. The par 3 courses presently are being taxed two ways. Some were getting the preferable tax rate, while others were being taxed at the class four property tax rate. This bill eliminates that discrepancy.

**SEN. ELLIS** suggested that perhaps the problem pertaining to "miniature" golf courses could be alleviated by shortening the yardage.

**SEN. ECK** asked if there are golf courses that are par 3 and are somewhere between a golf course and a miniature golf course, and **REP. FUCHS** said that a par 3 course is one that takes three shots to complete holes at par, and every hole is a par 3. An 18-hole golf course can have par 3, par 4, par 5. **SEN. ECK** said, though,

that you are really playing golf with regular clubs and not playing with toys, and **REP. FUCHS** said that in actuality a par 3 course is usually a place for people to learn to play golf.

**Closing by Sponsor:**

**REP. FUCHS** said again that this is just a fairness issue to equalize the tax levels of all golf courses.

**NOTE: CHAIRMAN DEVLIN** resumed the chair.

**EXECUTIVE ACTION ON SB 380**

**Motion/Vote:** **SEN. STANG** moved SB 380 DO PASS. Motion carried 9-0.

**EXECUTIVE ACTION ON SB 297**

**Motion:** **SEN. ELLIS** moved SB297 DO PASS.

**Discussion:**

**SEN. ELLIS** said that he believed this bill should be tabled. He said that he suspects that any damage that can be done to the financial prospects of the alcohol plant in Great Falls has already been done by virtue of the introduction of this bill. He said clearly it is not going to involve any taxes paid in the next biennium and therefore it is not necessary to make any changes where the money comes from until after the legislature meets again.

**SEN. BOHLINGER** said he also cannot support **SB 297** for the same reasons that **SEN. ELLIS** articulated, but also, this plant is in a critical time in development, and anything that the legislature might do that would upset their financing would be unfortunate. He said that part of this legislative effort is to expand our economy and create good-paying jobs, and this bill is counter to that philosophy.

**Substitute Motion/Vote:** **SEN. BOHLINGER** made a substitute motion that **SB 297 BE TABLED**. Substitute motion carried 8-1 with Depratu voting no.

**DISCUSSION ON SB 310 AND SB 311**

**CHAIRMAN DEVLIN** told the committee that the only way new fiscal notes could be obtained for **SB 310** and **SB 311** is to amend the bills. **Mr. Heiman** reminded the committee that these were the

bills dealing with the rebate on special fuels brought at the request of the contractors. He said the amendments make sure that farming, ranching, railroads and heating fuel users continue to get the reimbursement, and that the ballot language on the back is written so it reflects what is in the bill rather than the backward way the bill is written.

**Mr. Heiman** said that **SB 310**, as originally written, kept farming and ranching in as entities available to get a refund and deleted contractors. Before the bill was introduced, they discovered that mining and railroads and people who used the special fuel for heating should also be eligible to get refunds, so the amendments provide that those entities can still get a refund. The amendments also rewrite the statement of implication for the ballot language to provide that it is the contractors who will no longer be getting the refund as opposed to limiting it to the other groups.

**Motion:** SEN. ECK moved SB031001.ALH, **EXHIBIT**(tas37a01).

**Discussion:**

**SEN. DEPRATU** asked **Mr. Heiman** about loggers, and **Mr. Heiman** explained that they were included as farmers and ranchers in the original bill, so in the definition of farming and ranching it provides for harvesting and transporting of timber.

**CHAIRMAN DEVLIN** asked about the "insert farming" and "insert mining and railroads" notations on the amendments, and asked why it couldn't just say "agricultural." **Mr. Heiman** said that the way the bill was originally drafted limited the way the amendments could be written, and it was necessary to use the specific category phrases. **CHAIRMAN DEVLIN** then asked if agricultural concerns are now included in the refund aspect, as well as logging and railroads, and **Mr. Heiman** said that was correct.

**SEN. STANG** said he had the impression that railroads were always exempt from the tax on diesel fuel, and **Mr. Heiman** said this is the refund on the undyed fuel, which if it is used off the highways, a refund can be received. Railroads can use the dyed fuels and they get refunds.

**SEN. STANG** then questioned where the \$4 million fiscal impact was coming from, and **CHAIRMAN DEVLIN** said that was the reason a new Fiscal Note is needed, because after the amendments, that would be cut to about \$2 million, and would be from contractors only.

**SEN. STANG** asked if the Contractors Association was in favor of this bill, and he was told that it was the Contractors who had requested the bill and brought the amendments.

**SEN. GLASER** said that currently the money goes into special revenue, and if it stays in the bid process, it goes to roads, so there is not really a fiscal impact, except there is a positive fiscal impact if it stays in the highway system because then there is an 80-some percent match. **SEN. STANG** suggested that the contractors will probably raise their bids to cover this money, and **SEN. GLASER** said that was true, but they also wanted to reduce the paperwork involved.

**SEN. ECK** said the purposes of the amendments are to make sure that these other entities will continue to receive the refunds as they always have, and the ballot language is clarified to be less confusing.

**Vote:** Motion carried 8-0.

**Motion/Vote:** **SEN. DEPRATU** moved SB031101.ALH, **EXHIBIT**(tas37a02).  
Motion carried 7-1 with Stang voting no.

#### DISCUSSION ON SB 135, SB 143 AND SB 157

**CHAIRMAN DEVLIN** appointed **SEN. DEPRATU** as chair of a Subcommittee on Sales Tax, with **SEN. GLASER** and **SEN. STANG** as committee members. This committee will study the sales tax bills already before this committee, and anyone who would like to sit in on those meetings may.

**ADJOURNMENT**

Adjournment: 10:04 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT (tas37aad)**