

MINUTES

**MONTANA SENATE
57th LEGISLATURE - SPECIAL SESSION
COMMITTEE ON TAXATION**

Call to Order: By **CHAIR BOB DEPRATU**, on August 7, 2002 at 10:00 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chair (R)
Sen. Alvin Ellis Jr., Vice Chair (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Deb Thompson, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 16, HJR 1, HB 3, HB 4
8/8/2002
Executive Action: SB 13 Table 6-3; SB 11 Table
7-1; SB 9 Pass as amended 5-3;
HB 3 Pass 5/4

HEARING ON SENATE BILL 16

Sponsor: **Senator John Ellingson, SD 33**, presented the bill. He talked about the revenue shortfall and the need to recoup the loss. He described the enormous impact created by the cut in the business equipment tax. He said at the time of the cut, it was believed the increase in income tax revenue would be strong.

However, since the stock market failed there had been a loss of tax revenues from both income tax and capital gains tax. He described SB 16 as a way to continue to help small and medium sized businesses, which was the backbone of the economy. **{Tape : 1; Side : A; Approx. Time Counter : 0 - 13.9} EXHIBIT(tas03a01) EXHIBIT(tas03a02) EXHIBIT(tas03a03)**

Proponents' Testimony: Kate Cholewa, representing the Center for Policy Analysis and Community Change, supported the bill. She pointed out there had been no results seen from the cuts in the business equipment tax. There had been no compensating increase in other taxes to make up the difference. In fact, it appeared that most large businesses had downsized or shut down. The policy needed to be restructured. Most businesses have 1-4 employees. She pointed out the money taken out of the budget also takes it out of the economy. **{Tape : 1; Side : A; Approx. Time Counter : 13.9 - 21.8}**

Mary Caferro, WHEEL, supported the bill. She pointed out how families were devastated by the program cuts. The elderly could not afford to heat their homes, Meals on Wheels and similar programs in Health and Human Services were affected by the cuts. SB 16 would provide a solution and give families, small and medium business a break. It eliminates the tax for those businesses under \$50 thousand dollars. She described the impact to those people who only made \$6,000 dollars a year to be able to afford basic necessities. She also noted the loss of federal matching dollars. She pointed out tax breaks that were given to top business and they are now out of business - so it did not help. **EXHIBIT(tas03a04)**

Judy Smith, representing Fair Share Network, talked about the serious cuts in government programs and how it impacted people. She felt the burden would be shifted to property owners. She indicated SB 16 would help grow the economy and make a difference for families. **{Tape : 1; Side : A; Approx. Time Counter : 21.8 - 30}**

Opponents' Testimony: Webb Brown, representing the Montana Chamber of Commerce, pointed out the reduction in the business equipment tax did not hurt businesses. The problem was a decrease of income and the stock market decrease. He said this did not arise due to tax cuts. The budget problems were in the income side not the cuts. The reason the business equipment tax was lowered was to make business more competitive. Other business were invited to come to Montana and bring capital investment. He described three of every four businesses polled had added more equipment because of the tax break, more employees were added with an increase of wages. These businesses had

reinvested in their business. He urged a no vote on the bill.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 7.8} He distributed testimony from those that could not attend.

EXHIBIT(tas03a05)

Henry Ricklefs, General Manager of Plum Creek Timber Company, presented written testimony. **EXHIBIT(tas03a06)** He talked about the global economy and the need to be competitive. He pointed out the difficulty in capital intensive businesses in dealing with a high business equipment tax. **{Tape : 1; Side : B; Approx. Time Counter : 7.8 - 12.7}**

Ellen Engstedt, Executive Vice President of the Montana Wood Products Association, distributed written testimony opposing the bill. **EXHIBIT(tas03a07)**

Haley Beaudry, representing Columbia Falls Aluminum Company, said they opposed the bill. He described the closing of the plant due to the imbalance of the power system. If the equipment tax was at the old levels it would be bleak for the plant to pay the tax while shut down. However, the plant is back and operating. He can tell the effect it has in the community. He pointed out the tax cut did not take money out of the economy but rather it let the money work.

Patrick Heffernan, representing the Montana Logging Association, talked about the high cost of capital intensive businesses, such as the logging industry. He stressed the importance of keeping these businesses competitive globally. **{Tape : 1; Side : B; Approx. Time Counter : 12.7 - 21.6}**

Gail Abercrombie, Montana Petroleum Association, described the production levels of Montana oil producers in comparison to surrounding states. She pointed out Montana produced 50 thousand barrels a day in comparison to Washington at 116 thousand barrels. Alberta produced 102 thousand barrels a day and were in direct competition with Montana. The tax savings have helped Montana compete with larger refineries. The companies create good paying jobs which help the money circulate back into the economy. There is an increase of construction to meet federal requirements for a low sulphur fuel. The lower tax helps small refineries break even or show a small profit. It helps keep good paying jobs in the state and helps companies stay competitive.

Scott Brown, Director of Advanced Silicon Materials, opposed SB 16. He discussed the business equipment taxes paid which meant a decrease in returns to their shareholders. He said the bill would negatively impact their business. They would need to reevaluate their decision about staying in Montana. There would

be 230 families in Butte that would be unemployed if they decide to leave the state. He said the bill must be defeated. **{Tape : 1; Side : B; Approx. Time Counter : 21.6 - 27.8}**

Don Allen, Western Environmental Trade Association, discussed the membership poll that their association had done in July. He said the results were impressive as most of their members favored the lower business equipment tax. He urged the committee not pass the bill.

Riley Johnson, NFIB, noted the importance of stability in the tax code. It would be a bad signal and not good for economic development to change course. He pointed out small businesses could not exist without large business.

Russ Ritter, Missoula Rail Link and Montana Resources, discussed the Montana company as a major employer. He pointed out their company was highly capital intensive and any higher taxes would hurt their company and they would not be able to continue in business in Montana. The cuts in the business equipment tax had allowed the purchase of more equipment, such as new haul trucks. When there is more money in the bottom line, more profits stay and there is more money for the 365 miners. The spike in electric rates caused the shut down at the copper mine in Butte. Now, with the stable price of electricity, they are looking at reopening. The price of copper is .69 cents but .82-.83 cents for copper is expected. If a higher tax is imposed - then .84 cents would not be enough as they would need to cover the increase cost of the tax. He noted that Montana Rail Link employed 1100 people who were in a profit sharing company. If the tax were increased they could look for opportunities elsewhere.

Charles Brooke, Billings Area Chamber of Commerce, described the impacts of the business equipment tax on the sugar beet industry and how this hurt their investment. **{Tape : 2; Side : A; Approx. Time Counter : 9.3 - 10.5}**

Bill Stebbins, Montana Food Distributors Association, urged the committee to not pass the bill.

Mary Whittinghill, Montana Taxpayers' Association, spoke against the bill. She distributed a letter from Stillwater Mining Company. **EXHIBIT(tas03a08)**

Kurt Alme, spoke on behalf of the Governor, opposed the bill. He said businesses needed stability and the ability to compete in the market. The bill also raised some technical concerns in the

fiscal note. *{Tape : 2; Side : A; Approx. Time Counter : 10.5 - 12.5}*

Jim Mockler, Montana Coal Council, talked about Colstrip and was opposed to the legislation.

Evan Barrett, Butte Local Development Corporation, talked about businesses with heavy capital investment and how this policy would be harmful to economic development. He noted that **Angie Jannacaro of the Montana Mining Association** also opposed the bill.

Questions from Committee Members and Responses: **Senator Bohlinger** asked if the bill would add 10-20% to the cost of energy. He asked how they arrived at the numbers. **Mr. Karoulus** replied they produced 150 megawatts of renewable energy in the state. In considering a 3.5% Class A personal property tax they may need to triple the figure in order to get a return on their investment when considering up front, intensive capital costs. They have to consider a rate of return to investors which could include a higher cost of energy to consumers up to 10-20 percent to make the project work. **Senator Bohlinger** asked for an update on the wind project. **Mr. Karoulus** replied that they had made progress and decided it was a viable project. They were encumbered by the PSC and by Northwestern. *{Tape : 2; Side : A; Approx. Time Counter : 12.5 - 19.1}*

Senator Bohlinger asked about the comment made regarding Montana job growth being faster than the rest of the nation. Three of every four businesses experienced job growth after the passage of SB 200. He asked where this information came from. **Webb Brown** explained these statistics came from the Department of Labor. They do a monthly update. He said he would get a copy of these updates and the surveys done by the Chamber. He pointed out this came about partly due to the cuts in the business equipment tax. A high tax does prohibit job growth in Montana. **Hank Ricklefs of Plum Creek Timber** noted that their company invested \$70 million in equipment after implementation of SB 200. **Mr. Karoulus** said SB 200 had helped in their decision to invest in Montana. Their company took advantage of the tax credit and it was a major consideration. *{Tape : 2; Side : B; Approx. Time Counter : 0 - 2.6}*

Closing by Sponsor: **Senator Ellingson** closed on the bill. He said he appreciated the comments made. However, he said the issue is what was the proper mix for taxes and how to deal with the consequences. He noted that paying for the social infrastructure benefits all. Schools and students were asked to

sacrifice and the common citizens get lower levels of service. Businesses should not be exempt from paying. Government can't afford the tax cuts now. The business community needs to be invited to participate fully in the sacrifices made by the common citizens. **{Tape : 2; Side : B; Approx. Time Counter : 2.6 - 10.9}**

HEARING ON HOUSE JOINT RESOLUTION 1

Sponsor: Representative Ronald Devlin, HD 3 in Eastern Montana, presented the bill. He explained the bill. He distributed a handout which was a comparison of revenues. **EXHIBIT(tas03a09)**
{Tape : 2; Side : B; Approx. Time Counter : 10.9 - 15.4}

Proponents' Testimony: None

Opponents' Testimony: None

Informational Witness: Rich Miller, Executive Director of the Gaming Association, described the video gaming machine taxes and the recent action in Helena related to the smoking ban. He asked the committee to be aware that gaming was down by 35% in Helena due to the smoking ban and many local businesses had to leave.

Questions from Committee Members and Responses: Senator Stonington asked about the budget differences. Clayton Schenk, LFA, clarified the department was in the process of their year end tally and this could significantly impact these adjustments. Judy Paynter, DOR, talked about the county reports, vehicle taxes and vehicle fees and thought they were a conservative estimate.
{Tape : 2; Side : B; Approx. Time Counter : 15.4 - 27.3}

Senator Harrington commented the \$12 million dollar shortfall was now reported by the papers at \$57 million dollars. Terry Johnson, LFA, talked about the budget adjustments. He said the question was the effect on the 2003 budget. He was not comfortable with the corporate income tax numbers. **{Tape : 3; Side : A; Approx. Time Counter : 1.5 - 8.3}**

The committee adjourned at 12:03 and returned at 1:36 p.m. to continue the hearing.

Senator Ellingson pointed out the problem in the near future may be an overestimate of capital gains from equities when in fact, it may be capital losses.

Senator Cole talked about the gambling issue. He asked Bob Gilbert to talk about the effect the smoking ban had on his

Helena casino. **{Tape : 3; Side : A; Approx. Time Counter : 11.2 - 11.8}** **Gilbert** talked about the decline of revenues of at least half, caused by the smoking ban.

Chairman DePratu asked about the Department of Revenue numbers for vehicle tax collections and whether or not this represented growth. **Judy Paynter** replied that a 1.5% growth factor was assumed.

Closing by Sponsor: **Representative Devlin** closed. He pointed out the two budgets were very close. **Chairman DePratu** distributed a letter he had received. **EXHIBIT(tas03a10)** **{Tape : 3; Side : A; Approx. Time Counter : 21.9 - 24.1}**

EXECUTIVE ACTION ON SENATE BILL 13

Senator Harrington moved do pass. He distributed a handout regarding intangible personal property from **Gene Walborn** of the Department of Revenue. **EXHIBIT(tas03a11)** **Walborn** talked about software being classified as intangible and not being taxed. He discussed the test applied to the intangible personal property to make a determination. The intangible personal property should be severable from all other property, should be transferable and must possess characteristics that allow a value to be established independent of the business. **{Tape : 3; Side : A; Approx. Time Counter : 24.1 - 30}**

Senator Ellingson asked about the inconsistency of the test as it applied to the Butte Silver Bow problem. He asked if this would apply everywhere in the state. **Walborn** replied the Northwestern personal property reported in a lump which included software. **{Tape : 3; Side : B; Approx. Time Counter : 0 - 11.1}** He described big companies and how this would affect them.

Senator Cole moved a substitute motion to table the bill.

Senator Bohlinger talked about the centrally assessed counties that have the software. He asked if these counties were able to depreciate the asset. **Walborn** said yes they did if the item was capitalized and expensed as part of their income statement. **{Tape : 3; Side : B; Approx. Time Counter : 11.1 - 27.3}**

The question was called on the bill. The substitute motion to table the bill passed 6-3 on a roll call vote.

EXECUTIVE ACTION ON SENATE BILL 9

Senator Ellis moved do pass. **Chairman DePratu** distributed the amendment which would take \$5 million dollars from the flex fund and put it in the school flex account. **Senator Ellis** clarified this would put the money into the flex fund and it would no longer be technology. **Senator Ellis** moved the amendment. The amendment passed. The question was called on the bill as amended. The motion passed 5-3 on a roll call vote. {*Tape : 4; Side : A; Approx. Time Counter : 7 - 8.6*}

EXECUTIVE ACTION ON SENATE BILL 11

Senator Glaser commented that the child support fee would not solve anyone's problem and should be dealt with next session. **Senator Bohlinger** said that **Lonnie Olson** had indicated a study would be needed to deal with rule making authority, computer programming development to carry out the fee collection plus any federal government approval that may be needed. **Senator Bohlinger** said he could not support the bill. **Senator Ellingson** agreed.

Senator Stonington moved to table the bill. The question was called. The motion passed with one no vote by **Senator Ellis**. **Senator Cole** was not present.

HEARING ON HOUSE BILL 3

Sponsor: **Representative Dave Kasten, HD 99**, presented the bill. He said the bill would reduce the increases that were given to agencies for salaries by 20%. It would not impact salaries now.

Proponents' Testimony: None

Opponents' Testimony: **Eric Feaver, MEAMFT**, spoke against the bill. He said there were already huge cuts in the state ability to provide services. {*Tape : 4; Side : A; Approx. Time Counter : 16.6 - 18.7*}

Questions from Committee Members and Responses: **Senator Ellingson** asked how it would be possible for agencies to find \$4 million dollars in savings if not in salaries. **Kurt Alme** clarified the last legislature had included this as a big increase in the last budget. This would provide an easy cut. He said it would be easy for agencies to be able to adjust this in

their budgets. **Senator Cole** clarified this was a reduction of their increase from last session.

Senator Stonington asked how this could be implemented since the pay plan had negotiated a 20% increase. **Director Swysgood** replied this was a reduction of 20% of the increase that was meant for the pay plan. This would be a forced vacancy savings where the larger departments would have more impact on their budgets. **Senator Stonington** noted there would be bigger cuts in January. If there were just cuts in personnel but the programs were still in place, it would be an impossible position to keep everything working properly. *{Tape : 5; Side : B; Approx. Time Counter : 0.9 - 3.7}*

Closing by Sponsor: **Representative Kasten** closed. He said there were 19,991 state employees included in the system. Federal employment in the state was 13,426.

HEARING ON HOUSE BILL 4

Sponsor: **Representative Dave Kasten, HD 99**, presented the bill. *{Tape : 6; Side : A; Approx. Time Counter : 0 - 2.6}* He described the Department of Natural Resources and Conservation and how most of their revenue was not distributed until late in the year. There would be a reduction of technology purchases for one to two years. It would not impact core funds to science and technology.

Proponents' Testimony: **Director Chuck Swysgood** said the bill would address the revenue shortfall.

Opponents' Testimony: **Lance Melton, Executive Director of the Montana School Board Association**, discussed the integration of technology within their core curriculum. He felt they were one and the same as they were fully invested into the school programs. *{Tape : 6; Side : A; Approx. Time Counter : 3.2 - 6.6}* He noted when funding was lost it disrupted the schools and corresponded to a decline in enrollment.

Dave Puyer, Montana Rural Education Association, pointed out the perception of cuts in technology were devastating to schools. Measures were needed to expand, not reduce technology. This would be damaging to schools and their members did not support the measure.

Bill Cooper, Office of Public Instruction, opposed the bill and the cuts. He said the technology funding was a benefit for student education and should be left alone.

Darryl Rude, Executive Director of the School Administrators of Montana, opposed the legislation. He pointed out the increase of standards in academics needed tools to be competitive and allowed children to use these tools. He described the importance of technology. *{Tape : 6; Side : A; Approx. Time Counter : 9.1 - 11}*

Jack Copps, Montana Quality Coalition, was opposed to the bill. He distributed a letter from **Viola Johnson. EXHIBIT(tas03a12)** He said he did not believe this bill would be legal as it would be using money that had already been dedicated for another purpose.

Ron Whitmoyer, Superintendent of Schools in East Helena, described the \$27 thousand dollars of timber money that had already been dedicated for the purpose of paying for Internet hookups. One third of the money would be used for filtering software. He hoped other ways could be found for funding without having to use this money that had already been dedicated for this purpose.

{Tape : 6; Side : A; Approx. Time Counter : 14.1 - 16.6}

Eric Feaver, MEAMFT, pointed out the money from the timber harvest was intended for schools not other purposes and should not be used.

Questions from Committee Members and Responses: Senator Harrington asked Director Swysgood about the possibility of diverting payments intended for education from school lands. **Swysgood** described how the excess above \$18 million dollars from timber harvest is allocated for their technology needs. The money is still going to the intended purpose of funding schools, but just not technology.

Senator Bohlinger felt the fund was trackable and he disagreed with the opponents. **Mr. Whitmoyer** talked about East Helena's recent struggle with passing a mill levy. He asked if this money could still be spent on technology. **Senator Bohlinger** pointed out technology was a tool that was used in every curriculum. He noted the downside would be a fallback to using outdated technology which would not provide a favorable opportunity for children.

Senator Glaser asked **Lance Melton** about using these funds one time. **Melton** pointed out it would not be good to lock away the resources statutorily. They needed access to the funds.

Closing by Sponsor: **Representative Kasten** closed. He pointed out this measure was unpopular but was a way to use the funds until January.

EXECUTIVE ACTION ON HOUSE BILL 3

Senator Ekegren moved do pass. **Senator Harrington** said this was not an easy solution. **Senator Bohlinger** said he could not support this bill. **Senator Ellis** pointed out that other departments were seeing deeper cuts. He said the reality was the economy must grow if they wanted to grow government. He supported the bill.

The question was called. The motion passed 5-4 on a roll call vote. The bill would be carried by **Senator Ellis**.

ADJOURNMENT

Adjournment: 4:33 P.M.

SEN. BOB DEPRATU, Chair

DEB THOMPSON, Secretary

BD/DT

EXHIBIT(tas03aad)