

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - SPECIAL SESSION
COMMITTEE ON TAXATION**

Call to Order: By **Vice Chair-Somerville**, on August 10, 2002 at 12:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chair (R)
Rep. Ron Erickson, Vice Chair (D)
Rep. Roger Somerville, Vice Chair (R)
Rep. Joan Andersen (R)
Rep. Keith Bales (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. David E. Wanzenried (D)

Members Excused: Rep. Trudi Schmidt (D)
Rep. Eileen J. Carney (D)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch
Pam Schindler, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB15, SB30, 8/3/2002
Executive Action: SB15-Tabled, SB30-Do Concur In
SB15-Remove from Table-Failed
SB15-Remove from Table-Passed

SB15-Be Amended-Passed
SB15-Do Concur In As Amended-
Passed.

HEARING ON SB30

Sponsor:

Sen. Glaser-SD 8-Huntley, Montana

"An act reducing the shortfall in General Fund revenue by requiring the semiannual payment of metalliferous mines license taxes based upon current year production". Every tax we collect in Montana is a quarterly or semi-annual basis with the exception corporate tax under \$5K. For some reason, this tax has been collected on an annual basis. This bill require semi-annual payments for metal mines license tax. \$1.63M accrued dollars; we won't have in pocket in this FY; but we will accrue this money into this schedule, consequently, if this bill passes, we will be able to spend \$1.63M more for whatever the conference committee wants to do with it. House has expressed a priority that the money be spent on "Flex Fund". Local governments get a "windfall" from this: \$374K one time; amended in committee at the request of MAACO that money be distributed in 60 days after we receive it. Brings about \$80K in additional interest. We get 58% of it which is \$1.763M.

Proponents:

None

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

Rep. Erickson to **Sen. Glaser**-Technical notes: timing issues. Has the whole concern in the technical note be met with these amendments? **Sen. Glaser**-The time in the technical note of when the tax was to be paid was never correct. Bill says 45 days after report. The first payment will be like an "estimate". At end of period, we open our books for 60 days to money that we expect to get. **Rep. Erickson** to **Sen. Glaser**-What happened in terms of changes made in Senate Tax? **Sen. Glaser**-Made sure that

the money was distributed to MAACO/schools, so we don't hang onto their "windfall". What happened on the floor were amendments by the Dept. of Rev. so that they would know what will work. Been assured by various departments that this bill will work.

Rep. Bales to **Sen. Glaser**-Effects on the Counties and the taxes; permissive mill levies? Mines in very few counties, what effect will that have? **Sen. Glaser**-Probably in Rep. Story's county.

This interfaces with school funding. It's a matter of timing.

Rep. Forrester to **Sen. Glaser**-Does bill specify the "Flex Fund" receives the money? **Sen. Glaser**-Leadership of the Senate has assured me that it will. 2 bills-SB15, SB30 will specify if they pass. **Rep. Forrester** to **Sen. Glaser**-How much down is the "Flex

Fund" down? How much is in there? **Sen. Glaser**-I recall there is zero in there. Maybe if bills passed, there will be \$4M. **Rep.**

Forrester to **Sen. Glaser**-If \$4M in; then only down about \$1M?

Sen. Glaser-Schools agreed to give OPI the \$1M.

Rep. Somerville to **Sen. Glaser**-You say counties were to receive around \$3??K; Fiscal Note says \$674K, has there been a change?

Sen. Glaser-Local governments receive 24% \$1.6M. which is \$674K. Rest into local schools. **Rep. Somerville** to **Sen. Glaser**-Earlier comment about \$300K was a mistake? **Sen. Glaser**-Yes.

Closing by Sponsor:

Sen. Glaser-Here is \$1.6M; do we want it?

EXECUTIVE ACTION ON SB30

Motion: **REP. DEVLIN** moved that **SB30 BE CONCURRED IN.**

Discussion:

Rep. Balyeat-The less cuts we make now, the worse it is going to be in January. One time accelerations of money to just spend more now, are worse than permanent tax increases. With permanent tax increases we'll have some money to work with in January. This will make it worse. Example: with HB21 there was \$1.5M saved; they turned around and spent it in the Senate. When accelerating taxes; pulls more money out of the public sector in a recession time. Public perceives if pay taxes early; tax increases.

Rep. Erickson-Structural in balance. Note: on the last page, there is something that helps. Not in the next biennium but thereafter. One time fix.

Rep. Bales-Fluctuation in taxes; if do not enact this now, and put it all into one fiscal year then it won't effect those taxes on the counties, like it might this time.

Rep. Story-Defers to **Rep. Esp**-In each county most of them go into a reserve trust fund to mitigate impact of when mining money comes.

Rep. Story-On page 5-it shows how the county money is distributed. They put in 37.5% into reserve account when mining company leaves. The statute then lays out how the rest of it goes.

Rep. Forrester-Senator's desire to keep this money in the Flex Fund; would it be your intention if we pass this out to honor the Senator's wish?

Rep. Story-The committee has not met yet, the number looks like the Ending Fund balance is in pretty good shape, assuming this bill is passed. Revenue side of picture has fallen into place. Except for the Harris bill; and that will be on floor this afternoon. So it is my impression, that the Flex Fund will be restored to some extent, up to, it started out at \$4.6M when we hit town, hopefully that amount will be back in there.

Follow-up- Where are we on the Status Sheet? Where is the Ending fund balance?

Rep. Wanzenreid-Depends on whose numbers you look at. Budget office supplementals are lower than the fiscal division. The Ending Fund balance is the difference between the two of them. On the updated Fiscal Note; could be as low as \$18M or as high as \$29M. \$29M is the Executive number, the LFD's number is the lower.

Follow-up-Which number will the committee use? **Rep. Story**-The \$29M is a pretty good number, may be more like \$30M depending. A lot of adjustments are being made to the General Fund.

Follow-up-This bill; still looking at a \$27M Ending Fund balance?

Rep. Story-In that neighborhood, before \$28M, when you pull the school funding, make adjustments to the agencies, governor's cuts etc. all of those tend to reduce the needed Ending Fund Balance.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 496}

{Tape : 1; Side : B; Approx. Time Counter : 0}

Rep. Forrester-\$1.63M is the figure that the Senator gave use; maybe we don't even need this bill.

Rep. Story-Ending Fund balance does not include the Flex Fund money.

Rep. Wanzenreid-Must accept the closer numbers to the Executive's numbers. Do not know if the Ending Fund balance is ok. Must have 1% balance of the total appropriations to the General Fund; which is about \$26.8M. That number may drop. We have no way of knowing. Disparity in numbers. Base always drops by \$2-3M. Razor thin. This money may end up in the Ending Fund balance.

Rep. Story-Speak to the merits of the bill. Accelerate the metal funds tax by \$2.7-8M come up with 6 or 9 months earlier. May be a hardship. Businesses accrue their taxes. And pay their taxes

monthly or quarterly. Once past this adjustment; they'll be back on a schedule of 6 months payment.

Rep. Bales-State receives \$80K interest. Businesses will lose \$80K. In essence it is a tax increase.

Rep. Forrester-"Smoke and Mirrors".

Rep. Devlin-This is like a property tax not an income tax. Put the metal mines tax on the same footing as the rest of the taxes.

Vote: Motion that SB30 BE CONCURRED IN carried 16-4 with Bales, Balyeat, Fuchs, and Jackson voting no.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 108}

This committee will reconvene at a later time.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Chairman-Vice Chair-Somerville called to order 2:15p.m.

HEARING ON SB15

Sponsor:

Sen. Cobb-SD25-Augusta, Montana

"An act reducing the impact on the General Fund of the tax credit for contributions to a qualified endowment; reducing the individual income tax credit for contributions to a qualified endowment to 30%; reducing the corporate tax credit for charitable contributions to a qualified endowment to 13.3%' reducing the amount of the maximum credit that can be claimed to \$6,600".

Reduces the income tax credit for a qualified endowment. Last session we reduced the rate. Original sunsets in 2007. Right now you get a rate of 40% of the value of the gift, tax credit goes up to \$10K. Reduced that to 30% with a gift up to \$6.6K. Will sunset 12/31/04. Brings in about \$1.8M.

Proponents:

None

Opponents:

Aiden Myhre-Governor's Task force on the Endowments and
Philanthropy, St, Peters Hospital Foundation

Do not like this bill; but respect what the committee is doing. To generate private dollars for the need that is still there. Shift in government spending. Tax credit-this is one of the altruistic credits there is. In order to get a tax credit, the donor has to give twice as much. Example: in order to receive \$2K tax credit, I need to give \$5K. Federal money matched-opportunity to infuse private money. Fiscal Note-re: buying behavior and economy has changed dramatically since 2 years ago. Economy was stronger 2 years ago. Tax credit may generate additional tax revenue. Endowments help long term future of Montana.

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 0 - 137}

Rep. Devlin to **Sen. Cobb**-This bill terminates in 2004. From 2004-2007; revert back to the same rate during last session. **Sen. Cobb**-It terminates, 12/31/04-so starts in 2005. **Rep. Devlin** to **Sen. Cobb**-2007 if continued, we would have to re-authorize it? **Sen. Cobb**-Yes.

Rep. Erickson to **Sen. Cobb**-New numbers start in 2002-What happened last time? Money wasn't generated 2001-did it make a difference? **Sen. Cobb**-I don't know. Dept. of Rev. supplied numbers. **Rep. Erickson** to **Sen. Cobb**-2001-how compared with predictions? Uncomfortable with numbers. **Sen. Cobb**-Will get the numbers for you.

Rep. Jackson to **Rep. Wanzonreid**-Need numbers from Dept. of Rev. Response-it's on the "grey" sheet.

Rep. Lazlovich to **Sen. Cobb**-It looks like you just received the numbers; what are they? **Sen. Cobb**-1999-charitable endowment credit-\$5.547M, 2000-\$6.690M, 2001-no tape yet from income tax tape, so can't tell you until November.

{Tape : 2; Side : A; Approx. Time Counter : 137 - 238}

Closing by Sponsor:

Sen. Cobb-Just reducing the amount of credit; more wealthy, pay more tax. Pull it back and let the elected officials decide how to spend it.

EXECUTIVE ACTION ON SB15

Motion: REP. LASLOVICH moved that SB15 BE CONCURRED IN.

Discussion:

Rep. Erickson-2 concerns-we do not have the data, fewer people are presently taking advantage. Also group in education-money that may help with the Flex Fund. The group that has been hurt the most in this session has been the universities. 10% total cut. \$14.??M. Less money than 10 years ago. Universities need money to help with scholarships, research grants. This is just one more "hit".

Rep. Esp-Conceptual amendment-Section 1 changing from 40% to 30% go to 35% instead. Section 1 changing from \$10K to \$6.6K go to \$8.3K instead.

Motion: REP. ESP moved that SB15 BE AMENDED.

Discussion:

Rep. Balyeat-You may think that is cutting the Fiscal in 1/2. They can still recoup \$900K; but that is not true. The rate of the credit effects people's behavior. By increasing that back up, you'll loose more than 1/2 of the Fiscal Note.

Rep. Wanzenreid to **Rep. Balyeat**-Does a reduction in tax credit result in a tax increase? **Rep. Balyeat**-Yes.

Rep. Fuchs-This is one of the pieces of the pie; this amendment could kill this bill because of the timing.

Jeff Martin-Staffer-Sect. 4; small business corporation where the credit is allocated into your proportion to your interest in that entity, referring to 15.31662 where your amendment would go.

Rep. Esp to Martin-Do to make that consistent? Mr. Martin-Change \$6.6K to \$8.3K. **Rep. Esp**-Would like to withdraw my motion and offer a substitute motion to what Mr. Martin said.

Substitute Motion: REP. ESP made a substitute motion SB15. Include the changes you already included in Sect. 1.

Rep. Wanzenreid-I do not like the bill or amendment. This is a last minute deal; also there is no assurances that this money is going into the Flex Fund.

Rep. Balyeat-In the last session when we dealt with this, it was "sunseted". Should have always been 30%.

Motion/Vote: REP. ESP moved that SB15 BE AMENDED. Motion failed 7-13 with Andersen, Bales, Balyeat, Branae, Carney, Devlin, Forrester, Fuchs, Jackson, Laslovich, Story, Waddill, and Wanzenried voting nay.

Rep. Balyeat-We've done pretty well at not increasing taxes at a state level, if this bill passes, that's out the window.

Rep. Somerville-This is my baby. Clarification on how numbers got set. Finally came up with the %'s in this by what was in the Governor's Budget Office, and the Governor would allow us to have in the last session. Determined by about \$9M.

{Tape : 2; Side : A; Approx. Time Counter : 238 - 510}

{Tape : 2; Side : B; Approx. Time Counter : 0}

Very good tool, when we need to cut state funding. Will vote against this bill

Vote: Motion that SB15 BE CONCURRED IN failed 6-14 with Balyeat, Branae, Carney, Cyr, Dale, Erickson, Forrester, Fuchs, Jackson, Schmidt, Somerville, Waddill, Waitschies, and Wanzenried voting nay.

Vote: Motion that SB15 BE TABLED carried unanimously. Reverse the Vote.

Adjourned at 2:45p.m.

Reconvened at 3:30 p.m.-Chairman Story called to order

{Tape : 2; Side : B; Approx. Time Counter : 0 - 25}

Rep. Devlin Moved to Remove SB15 From The Table

Rep. Erickson questions how the absentee committee members will be able to vote. **Rep. Story**-Has talked to some members as to how they will vote. Proceeded to vote.

Vote: Motion SB15-REMOVE FROM TABLE failed 9-11 with Balyeat, Branae, Carney, Cyr, Erickson, Forrester, Laslovich, Schmidt, Somerville, Waddill, and Wanzenried voting nay.

{Tape : 2; Side : B; Approx. Time Counter : 25 - 57}

Adjourned at 3:45p.m.

Reconvened at 5:20p.m.-Chairman Story called to order

Motion/Vote: REP. SOMERVILLE moved SB15-REMOVE FROM TABLE.

Motion carried 12-8 with Branae, Carney, Cyr, Erickson, Forrester, Laslovich, Schmidt, and Wanzenried voting no.

Motion: REP. SOMERVILLE moved that SB15 BE CONCURRED IN.

Motion: REP. BALYEAT moved that SB15 BE AMENDED.

{Tape : 2; Side : B; Approx. Time Counter : 57 - 81}

Rep. Balyeat-2 reasons to add amendment-what the bill does is reduce the endowment tax credit; reduces for 14 months. This amendment offsets by "bumping" up the tax credits that it had reduced for the beginning 14 months. 1st 14 months-reduce to 30%-\$6.6K, the next 14 months with amendment it would increase credit to 50%-\$13.4K. The same thing on the corporate side.

Rep. Erickson-This bill was "funny money". This amendment gives us "absolutely hilarious money". Predictions: people will wait for the first 14 months, then after with the 50% the money will flow in. With session in January, the endowment fund will disappear. The Fiscal Note does not have the figures.

Rep. Forrester-Senate will not like this amendment; they'll strip it out.

Rep. Balyeat-I've already talked to the Senate; including the chairman of taxation. Without this amendment this is a violation of the Taxpayer Protection Pledge. Made the case pretty effectively. Rep. Erickson is right; people need incentives. People will delay, that will make the Fiscal Note look even better, you'll have even more money to spend. More contributions in future years; because at 50% you'll have a lot more people giving than at 30%. Does not hurt the universities. More options in January.

{Tape : 2; Side : B; Approx. Time Counter : 81 - 153}

Jeff Martin-Staffer-This 14 month period; this is different than what is in amendment. Temporary reduction would terminate 6/30/03. Increase would terminate 4/30/04.

Rep. Balyeat-As long as you went 10 months each (equal), that is ok with me.

Rep. Erickson-Rep. Balyeat, you say our tax code is already complex; forms are complex; we're now to put on tax forms in mid-year what your donation is?

Rep. Balyeat-Sen. Cobbs bill in it's current form already makes a change mid-year. His bill is already adding the complexity.

Vote: Motion that SB15 BE AMENDED carried 12-8 with Branae, Carney, Cyr, Erickson, Forrester, Laslovich, Schmidt, and Wanzenried voting no.

Motion: REP. DEVLIN moved that SB15 BE CONCURRED IN AS AMENDED.

Discussion:

Rep. Wanzenreid-Explain what the Fiscal impact is now?

Rep. Balyeat-More money than \$1.8M.

Rep. Erickson-More than that or more than that before?

Rep. Balyeat-\$1.8M was what it was before; now with amendment the Fiscal Note will show more. More people will delay contributions to endowments until the 10 month period is up. So you will have less endowment tax credit in this Fiscal year.

Rep. Wanzenreid-What is the % increase? Also, how much giving will drop off?

Rep. Balyeat-Cannot give estimate.

Rep. Wanzenreid-Reason we have these programs is to provide incentive for people to invest in the communities. We've down 2 things-we've cut the government programs; more will suffer. People will not have services they had previously, and we given people not incentive to give.

Rep. Balyeat-Endowment tax credit is only for long-term endowments. Does not apply to current operating expenses for charitable organizations. Will not have impact as you think. In fact, after the 10 months it gives a 50%; it will more generate more money for the endowments funds.

Rep. Wanzenreid-Could we have Fiscal Notes for some accurate numbers.

Rep. Forrester-Where does this take us for the numbers?

Rep. Story-\$1.83M until the Fiscal Note is produced.

Rep. Erickson-\$1.83M is funny money. We have no idea what happened in 2001; where we had already made a change in the law.

Rep. Balyeat cannot say whether it is more or less, that number is highly in question.

Rep. Waitches-If reduce the credit in one year and raise it the next; you have the Fiscal Note showing all the money used as a credit available to use in the Fiscal Note. The next year you will see a reduction.

Vote: Motion that SB15 BE CONCURRED IN AS AMENDED carried 14-6 with Carney, Cyr, Erickson, Forrester, Schmidt, and Wanzenried voting no.

{Tape : 2; Side : B; Approx. Time Counter : 153 - 299}

ADJOURNMENT

Adjournment: 5:45 P.M.

REP. BOB STORY, Chair

PAM SCHINDLER, Secretary

BS/PS

EXHIBIT (tah06bad)