MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on April 7, 1999 at 8:00 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: HB 386, 3/29/1999; HB 569, 3/29/1999; HB 630, 3/29/1999; HB 654, 3/29/1999; HB 661, 4/1/1999
Executive Action: HB 630; HB 128

HEARING ON HB 630

Sponsor: **REPRESENTATIVE JOHN "SAM" ROSE, HD 87, CHOTEAU**

Proponents: **Bob Turner, Department of Transportation**

Opponents: **None**

Opening Statement by Sponsor:

REP. JOHN "SAM" ROSE, HD 87, Lambert, said that **HB 630** clarifies statutes relating to gasoline and special fuel taxes, increases the penalty from $25 to $100 for failure to file a statement relating to interstate shipment of gasoline, provides a presumption for miles per gallon used in determining certain public road use for fuel tax purposes, and increases the time for applying for certain tax refunds. It is a housekeeping bill which cleans up the language of current statutes.

Proponents' Testimony:

Bob Turner, Bureau Chief, Fuel Tax and Analysis Bureau, Department of Transportation, said the Department supports this legislation. It is purely a housekeeping bill. It extends the statute of limitations to file a fuel tax refund from 14 months to 36 months. It also increases the penalty from $25 to $100. He said there are actually two sections, one for gasoline and one for diesel fuel, which are very, very similar, and two requirements which are exactly the same under two different sections, but one says $25 and the other, under diesel, is $100. This makes those consistent at $100.

Mr. Turner said that for audit procedures, if a taxpayer cannot prove that his vehicle makes 10 miles to a gallon, or he does not have any records, that person is not allowed anything. This legislation allows them at least 4 miles to the gallon without any records. If they have records, they are allowed what those records indicate. Also, if a retailer does not pay a distributor for the tax, the distributor can get a credit against the other taxes he has already paid to the state, with the requirement that they have taken that as a bad debt on their federal return. This allows them to take it on either their federal or their state.

Lastly, **Mr. Turner** said that presently refineries in Montana inject the dyed fuel at the terminal, which is set by federal regulation. However, tankers can come across the border which have been splash-dyed, that is, putting dye in the tanker so they can cross over as dyed fuel. This bill says that it has to be injected at the terminal.

Opponents' Testimony: **None**

Questions from Committee Members and Responses:

SEN. ELLIS asked if dyed fuel was intended for off-road use and is not taxed, and **Mr. Turner** said that was correct. **SEN. ELLIS** asked what the purpose was for splash dying the fuel, and **Mr. Turner** said that splashed dyed can look dyed but is actually sold for clear fuel. It is not dyed enough. The motivation is that it results in a tax difference.

Closing by Sponsor:

REP. ROSE said this is consumer friendly and adds protection for the dyed fuel in Montana. He thanked the committee for the hearing.

HEARING ON HB 386

Sponsor: **REPRESENTATIVE RICK JORE, HD 73, RONAN**

Proponents: **None**

Opponents: **None**

Opening Statement by Sponsor:

REP. RICK JORE, HD 73, Ronan, said that **HB 386** does not look the same as when it was first introduced. Originally this allowed a 20% reduction in income tax, phased in over four years. The intent was to initiate some economic development in the state. It was amended in the House to a 4% tax credit from income taxes as applied to the amount paid in residential property taxes. He said after a person has figured the income tax payable, he can take a 4% tax credit on whatever has been paid on residential property taxes, and residential property is defined on page 5 of the bill.

Proponents' Testimony: **None**

Opponents' Testimony: **None**

Questions from Committee Members and Responses:

CHAIRMAN DEVLIN asked what the fiscal impact was on this bill in its original form. **REP. JORE** said the Fiscal Note on the bill in its current form reflects a $12.5 million impact. The original form would have had an $88 million impact. He said the reason he did not sign the Fiscal Note was because it did not take into account the implications of economic growth by leaving that capital in the private sector where it could be utilized for expansion and seed capital.

SEN. ELLIS asked how the $88 million figure was derived. **Don Hoffman, Department of Revenue,** said based on the first Fiscal Note, the current year liability that was used prior to this bill was $403 million in calendar year 1999, $411 million for calender year 2000, and $422 million in calendar year 2001. Under the proposed law, those liabilities would go to $383 million in 1999, $370 million in 2000, and $358 million in 2001.

SEN. EKEGREN asked if this would be in addition to any residential property tax relief that is in the offing right now, and **REP. JORE** said that it was.

Closing by Sponsor:

REP. JORE said that this bill was amended on the House floor, and **Mr. Petesch** has reviewed it. He said he voted against the amendment on the House floor because he did not think it was totally forthright and up-front, but tax relief is vital and important for the citizens of Montana, whether it is income tax or property tax or both.

HEARING ON HB 569

Sponsor: **REPRESENTATIVE RON ERICKSON, HD 64, MISSOULA**

Proponents: **Noel Larrivee, MR TMA**
Anne Guest, Missoula Parking Commission
Steve Earle, Mountain Line

Opponents: **None**

Opening Statement by Sponsor:

REP. RON ERICKSON, HD 64, Missoula, said that **HB 569** gives tax deductions for businesses that provide transportation alternatives to employees. Page 2 of the bill describes what some of those transportation alternatives are, and the next page delineates the deductions, which could be as much as $3,600. He reiterated that these are deductions and not tax credits. **REP. ERICKSON** said that this was an idea of the Transportation Management Association, and they will be testifying before this committee.

REP. ERICKSON distributed a letter from Mayor Mike Kadas of Missoula, **EXHIBIT(tas75a01)**, which explained that this is good public policy because it helps with air pollution problems, lowers overall usage of roads, and decreases fuel costs, not to mention the benefits to parking in downtown areas. He then handed out a new Fiscal Note, **EXHIBIT(tas75a02)**.

Proponents' Testimony:

Noel Larrivee, Director, Missoula Ravalli Transportation Management Association, provided a folder of information including a brochure about the Missoula Ravalli Transportation Management Association, **EXHIBIT(tas75a03)**, a copy of **HB 569**, **EXHIBIT(tas75a04)**, information about Oregon's business energy tax credit, **EXHIBIT(tas75a05)**, a program benefits summary, **EXHIBIT(tas75a06)**, and a memo about the St. Patrick Hospital Commuter Club, **EXHIBIT(tas75a07)**.

Mr. Larrivee said that the MR TMA was created to develop comprehensive transportation alternatives which would mitigate traffic and parking congestion, protect our environment and support our quality of life. It is a big-city concept that has been transported to rural Montana. Their goal is to lower the number of single-occupancy vehicles.

Mr. Larrivee went on to say that the idea for this was borrowed from Oregon. Referring to the program benefits summary, he said since the carpool and vanpool programs have been started, 26,000 vehicle trips and 855,780 vehicle miles have not been traveled. He said that is what energy conservation is all about.

Finally, **Mr. Larrivee** described the St. Patrick Cummuter Club, which gives points for every mile that an employee does not use their car. Those points are good for cash discounts at area merchants. This club was started on November 10, 1998, and by February 28, 1999, they had paid out $4,000 in cash incentives, and out of 950 employees, 180 are signed up to participate, saving 70,000 miles in that three-and-a-half month period.

Anne Guest, Director, Missoula Parking Commission, urged support of **HB 569**. She said parking is becoming a growing issue in many urban areas in western Montana, especially in Missoula County. She said she participates in six different agencies which deal with transportation options and parking management. Speaking to the preferential parking section of the bill, she said this provides incentives to employers to provide alternative transportation options for their employees which helps overcome the parking problems encountered in so many downtown areas.

Steve Earle, General Manager, Mountain Line, which is the city bus system in Missoula, started by reading a letter from Ron

Klaphake, Chair, Missoula Urban Transportation District, **EXHIBIT(tas75a08).** He said most people who rely on a transit system are generally forced to for economic reasons, they don't have a car, it is their only mode of transportation, but the only way to get people out of single-occupancy vehicles is to make transit more attractive. It is the goal of transit systems to attract choice passengers, and having employers provide bus passes encourages this. He said this bill will increase revenues for transit systems. He said Mountain Line uses their fare-box revenues to provide match for federal operating funds. However, the main issue is getting people out of their cars. It is time to find alternative transportation.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. ELLIS referred to Section 2, subsection (1), where the deduction is 100% for the first $2,000 expended and quickly phases down to $8,000. He asked why the limit of $8,000 was selected, noting that bigger businesses could benefit at a higher number. **REP. ERICKSON** said that the main focus of **HB 569** is smaller businesses. He said he would be agreeable to amending it to include larger businesses.

SEN. BOHLINGER referred to **Mr. Earle's** comments that the fare-box revenues were used for federal matching grants, and he asked if **Mr. Earle** could expand on that. **Mr. Earle** said that operating assistance is provided by the Federal Transit Administration, which provides about $208,000 yearly, but requires a 50% match, which is provided through fare-box revenues. He said it costs $.85 to ride the bus, $1.50 for a day pass, youth passes are $.25. That revenue is also used for a match for capital purchases, such as the transfer point being built downtown. He said that requires a 13% match, and capital purchases such as vehicle replacement require a 20% match.

SEN. GLASER said that it appears that this bill is improving parking, roads and air quality, and it is using a state revenue stream, income taxes, to provide this incentive. He asked how the city and county contribute to this incentive system. **Mr. Larrivee** said the city and county have contributed to MR TMA because they are also a grant-funded project. He said this program could save building parking structures for the city and county employees. **SEN. GLASER** said, though, that a traditional state revenue stream that goes into the General Fund is being used for this incentive, which improves a local problem and local tax conditions. **Mr. Larrivee** said this is not just a Missoula bill. It could work anywhere in Montana. In terms of the partnership between state and local government, he said providing this incentive would have a nominal impact to the state compared to the benefit. In Oregon, which has had this program since 1991, for every dollar in tax credit, there is a $7 savings in energy costs.

CHAIRMAN DEVLIN asked where the Transportation Management Association gets its support and how much that support is. **Mr. Larrivee** said it is an 80/20 match from the Department of Transportation, with the Department providing 80% and local match providing 20%. The City contributes $10,000, the County contributes $6,000, the University contributes, St. Patrick's Hospital contributes. **CHAIRMAN DEVLIN** asked about the $90,000 in student passes provided by the University. **Mr. Larrivee** said the University contributes that $90,000 to Mountain Line. In exchange, all the faculty, staff and students can use their Griz Card to ride the Mountain Line for free. **CHAIRMAN DEVLIN** asked what the $.25 fee for students was, and **Mr. Larrivee** said that is for students 18 and under and is a separate program.

CHAIRMAN DEVLIN said the Fiscal Note indicated the Department of Revenue was unable to find a similar statute in another state, but they had $6,000 for public education, and he wondered if that was just for Missoula or statewide. **Don Hoffman, Department of Revenue**, said that would be for taxpayer education to advise them of the credit, and it is for statewide education. **CHAIRMAN DEVLIN** asked if this educated communities that this is available, and **Mr. Hoffman** said it does not.

SEN. ELLINGSON asked what Missoula and the other affected areas were bringing forward to justify getting a statewide benefit, and he wondered if the City of Missoula contributed a substantial amount to the Mountain Line system and to other forms of alternate transportation. **Mr. Larrivee** provided a few pages of the 1998 Montana Transit Directory, **EXHIBIT(tas75a09)**, which lists more than 90 different transit providers that would benefit from this tax credit.

SEN. ELLINGSON said on page 3 it talks about deductions from gross corporate income, and he wondered if this deduction was available only to corporations or to sole proprietorships and partnerships also. **REP. ERICKSON** said that this issue had come up on the floor of the House. He said it would be a good idea to have it broader than just corporations.

SEN. ELLINGSON wondered if companies could take a deduction for this type of thing under existing law, and **REP. ERICKSON** said most of these things might be deductible, but a lot of people don't think about it. If this bill passes, there will at least be a number of groups that will be pushing to let people know that there are tax deductions out there.

SEN. ELLIS said he felt that most businesses would know that this is deductible and that there are no limitations. **Mary Bryson, Director, Department of Revenue,** said that if a business determines that these are business expenses, they are deductible.

SEN. ELLIS said that corporations pay an income tax rate of 6.75%, and he wondered if this would be as attractive to the City of Missoula if this was a 6.75% credit against the property taxes that a business pays. **Mr. Larrivee** said that the Mayor supports this program, the City Council supports it, the Department of Transportation supports it. In terms of whether these are deductions already available to businesses, the purpose of this legislation is to try to get employers to provide more benefit, more incentives to their employees. He said this is just a start in Montana.

SEN. BOHLINGER said that he sees the provisions of this bill providing a greater benefit in that if people buy bus tickets, that money could be used for federal matches, and **Mr. Larrivee** said that was correct. This will move the process up a notch and get businesses doing things that they have not done before.

SEN. BOHLINGER said he sees statewide application of this proposal, including the University of Montana Billings and St. Vincent's Hospital, which are tax-exempt employers. He wondered how those entities could be encouraged to use the bus system so that revenue could be provided for the matches. **Mr. Larrivee** said that is a big need. He said that this is more directed at the private sector, but there are plans to come back with programs for those entities. **Mr. Earle** expanded on that by saying that by supporting this legislation, the legislature is providing a way to get revenue to match operating assistance, which maintains the system which provides service to that hospital. So just by supporting this bill, the legislature is maintaining a system that is in existence and these systems are then able to provide service to those entities.

SEN. ECK asked how this proposal, along with federal monies, might assist in the development of new systems, and **Mr. Earle** said the amount of federal assistance for operating assistance has not increased. This will draw attention to the needs of the community and businesses in regard to this type of transit system.

CHAIRMAN DEVLIN asked **REP. ERICKSON** who would carry this bill on the floor of the Senate, and he suggested **SEN. ELLINGSON.**

Closing by Sponsor:

REP. ERICKSON said that friendly amendments are always helpful. He said he had heard the committee ask why state income tax monies should be used to help cities, and he said his sense is that the state depends on all of its people and livable cities help support the state.

EXECUTIVE ACTION ON HB 630

Motion/Vote: **SEN. BOHLINGER MOVED THAT HB 630 DO PASS. Motion carried 6-1, with Stang voting no. SEN. BOHLINGER will carry.**

HEARING ON HB 661

Sponsor: **REPRESENTATIVE WILLIAM "BILL" REHBEIN JR., HD 100, LAMBERT**

Proponents: **Gail Abercrombie, Montana Petroleum Association**
Walter Webb, Shell Oil Company
Robert Fisher, Ballard Petroleum
Patrick Montalban, Northern Montana Oil and Gas Association

Opponents: **Bob Gilbert, Rosebud County**
Tom Daubert, Montana Association of Oil, Gas & Coal Counties
William Duffield, Fallon County Commissioner

Informational Testimony: **Don Hoffman, Department of Revenue**

Opening Statement by Sponsor:

REP. BILL REHBEIN JR., HD 100, Lambert, said **HB 661** is an effort on behalf of eastern Montana and the deep oil wells there, the wells that run in excess of 10,000 feet deep. He said the legislature has helped the shallow wells in northern Montana, but has failed to provide tax benefits for the people that are managing, producing and working those deep wells. **REP. REHBEIN** said that 15% of the oil produced in the lower 48 states is produced by stripper wells. **HB 661** revises the taxation of oil production produced from a stripper well, revises the definition of "stripper oil," reduces the tax rate on certain stripper oil production, provides that the price per barrel of oil is less than $20 in a calendar quarter, and clarifies the requirements for reporting oil and natural gas production from pre-1985 wells and post-1985 wells. He said this bill is simply an attempt to retain what Montana has already.

Proponents' Testimony:

Gail Abercrombie, Executive Director, Montana Petroleum Association, said that when a stripper well ceases production, the nation does not reduce its oil consumption, we simply import greater quantities, thereby boosting other nations' economies rather than our own. Stripper wells, however, are still producing much needed oil and making significant economic contributions, and those wells should be encouraged to remain in production as long as possible. She said Montana's current definition of a stripper well is one that produces less than 10 barrels per day. **HB 661** works to keep what we have going, to keep the oil production and infrastructure and producing reservoirs intact and keep good operators in the state of Montana.

Ms. Abercrombie distributed a map which demonstrated the population decline from 1990 to 1998, **EXHIBIT(tas75a10)**, most of which has occurred in eastern Montana. She also provided an article from the Billings Gazette, dated February 27, 1999, "Low oil prices taking their toll on Eastern Montana," **EXHIBIT(tas75a11)**, as well as an article from the Sidney Herald dated January 27, 1999, "Oilfield businesses continue to struggle," **EXHIBIT(tas75a12)**, and an article from the Great Falls Tribune dated February 4, 1999, "Oil in decline," **EXHIBIT(tas75a13)**.

Ms. Abercrombie said they were aware that there is a fiscal impact from this bill. It is about 2.3% of Fiscal '97 or 2.9% of Fiscal '98 oil and gas production tax receipts in total. The principle of **HB 661** is to keep what we have in terms of keeping it simple. It involves changes in the stripper definition which is close to the federal definition. The federal definition is 15 barrels per day, this proposed legislation is anything less than 15 barrels per day. The 5.5% low stripper rate that is currently in statute is retained.

Walter Webb, Tax Advisor, Western E&P, Houston, and Chairman of the Tax Committee of the Montana Petroleum Association, said the oil and gas industry all across the nation has been suffering from depressed prices for quite some time. The industry has been doing all it can to compete in a world of $9 and $10 oil prices, $1.50 and less gas prices, operating costs in some cases as high as $15 a barrel, and as a result, marginal wells are being shut in at a rapid pace across the nation. He provided a handout that illustrated comparison of oil and gas tax rates for stripper productions, **EXHIBIT(tas75a14).** He said **HB 661** provides some tax relief to Montana producers for marginal oil wells. It is not a cure, but it is a step in the right direction.

Robert Fisher, Senior Vice President of Geology, and owner of Ballard Petroleum, Billings, distributed a handout which on the first page showed actual numbers for an 8,000-to-10,000 foot well, and on the second page demonstrated the numbers under **HB 661, EXHIBIT(tas75a15).** He then handed out information which showed the difference between $10 oil and $20, and the effect it has on the state through taxes and on the producer, **EXHIBIT(tas75a16).**

Patrick Montalban, Northern Montana Oil and Gas Association, said that for a well to qualify for stripper well definition, it has to make 10 barrels a day or less, but what has not been mentioned is that the first three barrels a day are taxed at 5.8%, and the four to ten barrels are taxed at 10.8%, two tax categories. He said the purpose of **HB 661** is very clear. It takes the rate from 10 barrels a day to 15 barrels a day, and decreases the rate from 10.8% to 5.8%. He distributed a five-year summary which compared various oil well areas, **EXHIBIT(tas75a17).** He encouraged passage of **HB 661.**

<u>**Opponents' Testimony**</u>:

Bob Gilbert, Rosebud County, said Rosebud County reluctantly rises in opposition to **HB 661.** He said Rosebud County wants to give incentives and wants business to stay in Montana. He said there are three bills before the legislature which provide tax reductions for the oil industry. Two of those bills are going to have quite an impact at the county level. **Mr. Gilbert** said as these revenues decline from tax reductions, someone has to pick up the slack. It is not a tax reduction, it is tax shifting. He said **SB 200** will provide the oil industry tax reductions on class eight property. He wondered how local governments would be backfilled for the decreased revenues.

Tom Daubert, Montana Association of Oil, Gas & Coal Counties, said he agrees with what **Mr. Gilbert** had said. He said the principal concerns this bill creates for those counties is the need to compensate local governments for the lost revenues. He said that he was part of a study group over the last year-and-a-half with the oil industry people, and he thought it had been agreed that no legislation would be supported which would result in a loss of revenue to local governments and schools, and so his organization is disappointed with **HB 661.**

William Duffield, Fallon County Commissioner, said he is also reluctant to oppose this legislation. However, as expressed by **Mr. Daubert** and **Mr. Gilbert**, Fallon County is concerned about the impacts to local governments **HB 661** will create.

The committee also received a letter from the Blaine County Commissioners in opposition to **HB 661**, **EXHIBIT(tas75a18)**, and a letter from the Roosevelt County Commissioners also in opposition, **EXHIBIT(tas75a19)**.

Informational Testimony:

Don Hoffman, Department of Revenue, said there is another bill coming to this committee on Friday, **HB 658**, and the Department feels there needs to be some coordination with that bill, in particular page 4 of **HB 661** some of the definitions will not coordinate very well. There is a different threshold in **HB 658** as to when the exemption kicks on or kicks off, and that needs to be coordinated. And finally, page 4, the threshold is still $30 a barrel, but the title talks about $20 a barrel.

Questions from Committee Members and Responses:

CHAIRMAN DEVLIN asked how this bill coordinates with the other two bills that had already been passed from this committee. **Mr. Hoffman** said **SB 530** is focused on a very narrow issue and should not create any problems. **Brian Smith, Department of Revenue,** said that **HB 658** and **HB 530** all need to be coordinated. Should any two of these bills pass, they could potentially cause problems for the Department in the area of categories of production.

SEN. ELLIS said that **SB 530** has a significant impact to local governments, and **HB 661** has a significant impact to the General Fund. He asked why there was such a difference. **Mr. Smith** said it is because of the very complex distribution to local governments.

SEN. ELLIS asked **Mr. Duffield** how many school districts are located in Fallon County. **Mr. Duffield** said there were two school districts. **SEN. ELLIS** asked if he or **Mr. Daubert** could provide the committee with the total mill levies for the school districts in the counties of that organization. They said they would.

SEN. ELLINGSON asked **REP. REHBEIN** what his response was to those concerns expressed by the counties that are going to be most affected by this bill. **REP. REHBEIN** said that **HB 678** is a reimbursement mechanism for local governments, and it has been suggested that some of these oil bills also be included in that bill. He agreed that there is a loss of revenue to local governments, but the other side of the issue is the loss of jobs and kids in schools, losses to main street business, loss of royalties, which in his opinion more than compensate for the loss of revenue to local governments. **SEN. ELLINGSON** said the industry had made a persuasive case that total taxes may be increased by providing some of this tax relief, but in making their case, they rely primarily on income tax. He said income taxes are paid to the state and property tax is paid to the local governments. He asked if **REP. REHBEIN** desired to see counties held harmless. **REP. REHBEIN** said he thought there is room to use some income tax money, or other sources, to reimburse for lost revenues for local governments.

SEN. ELLINGSON said that under current taxation, up to three barrels a day is 5.8%, and **HB 661** drops that to 5.5%; and going further, production over and above that on a stripper well, the tax rates goes from 10.8% to 10.5%. He wondered if he was interpreting that correctly. **Mr. Hoffman** said this bill raises the threshold of those that would qualify for that to 15 barrels. At that production, the rate on the first three barrels is 5.8%. This includes a .3% rate on all levels for the oil and gas conservation tax, which causes the confusion.

SEN. ELLINGSON said that the stripper exemption is up to three barrels a day, and **Mr. Hoffman** said that was correct. **SEN. ELLINGSON** asked what the current rate of taxation is, and **Mr. Hoffman** said it is 5.8% and remains at 5.8% with this bill. **SEN. ELLINGSON** asked, then, if four barrels to fifteen barrels is at 10.5%. **Mr. Hoffman** said that is correct, but currently four to ten is taxed at that rate. **SEN. ELLINGSON** asked what the rate of taxation is now for 11 to 15, and **Mr. Hoffman** said that on new production it is 12.8% and old production is 14.8%. **SEN. ELLINGSON** said, then, that the biggest impact is on raising the definition of stripper well from 10 barrels to 15 so that it can qualify for that, and **Mr. Hoffman** said that was correct.

SEN. DEPRATU said there had been testimony that some of these wells will have to shut down in the next three to five years, but that with this new tax rate, they could go several years beyond that. He asked if these wells shut down in these counties, would the local governments feel the state would be obligated to backfill for loss of revenue because of that. **Mr. Gilbert** said there is no guarantee that there will be benefits, and the counties believe that there will not be enough additional income by reducing this tax to keep those wells going as long as they say they will.

SEN. DEPRATU said he felt that if the legislature did something that would cause these wells to shut down quicker, that will have a bigger impact on the counties than if they are able to continue for a while. **Mr. Gilbert** said he agrees with that, but as these tax breaks are given, should the counties reduce services or increase the taxes to county residents to offset those tax reductions. At that point it becomes a wash. You've kept the wells operating, but the people who live in the county are paying the additional taxes. **SEN. DEPRATU** asked if it was better for the industry to go away, and **Mr. Gilbert** said that is not what he is saying. However, when production declines, someone picks up that difference, and that is what is happening in the counties now.

CHAIRMAN DEVLIN asked what kind of oil production is in Rosebud County and what kind of an impact this would have on that county. **Mr. Gilbert** said he did not have that information. **CHAIRMAN DEVLIN** asked how many mills are levied countywide in Rosebud County, and **Mr. Gilbert** said he thought it is 159, and **CHAIRMAN DEVLIN** said that includes the 101 mills that are statewide.

SEN. GLASER said there are five bills in the legislature that affect the oil and gas industry, and he wondered which is the bill of choice. **REP. REHBEIN** said that those bills all do different things, but the two Senate bills and the one House bill are more relative to wells that are less than 3,000 feet deep, which are the wells in northern Montana. **SB 530** and **HB 661** are more relative to deep oil wells. He said the passage of the first three bills would have no effect on eastern Montana as far as keeping jobs or keeping kids in the schools. He said as a trade-off to the counties, if the life of these wells is extended by three years by a simple reduction in taxes, that will allow for $508,000 additional wages paid in that area. $218,000 more materials will be purchased in the area, $113,000 more royalties to mineral owners, $78,000 increased operators income, and the trade-off is a mere $13,000. This bill is a less-than-3% reduction in revenues to local governments.

SEN. GLASER pointed out, however, that these are different revenue streams and he wondered how all of this will be managed and properly distributed. **REP. REHBEIN** said he has asked the Department of Revenue and representatives of the oil and gas industry to coordinate the language so a true Fiscal Note can be created.

SEN. ELLIS asked what tax exposure in the way of property taxes to local governments these companies have over and above their production. **Mr. Webb** said that all companies pay a property tax on all their surface equipment, and that is approximately $2 million to $3 million statewide. In Fallon County, it is probably $400,000 to $500,000. **SEN. ELLIS** asked if there was any physical presence in most of these counties, and **Mr. Webb** said his company has some gas production facilities in Fallon, Wibaux, Dawson and Prairie Counties.

SEN. ELLIS asked if there was much taxable value in that physical presence, and **Mr. Webb** said it is all the pumping units, all the gathering lines, tanks, compressors, any oil and gas processing equipment on the surface.

SEN. ECK asked about the discrepancy between $30 and $20 a barrel in the bill, and **REP. REHBEIN** said the intent was to bring everything down to $20, and that should be corrected. **SEN. ECK** asked if there had been an attempt to coordinate all the various bills, and **REP. REHBEIN** said an attempt had been made, but it has not been accomplished. There definitely needs to be some coordinating.

SEN. ECK asked if it would be possible to do a coordinated Fiscal Note on these bills, as well as **SB 200**. **Mr. Smith** said it is probably possible to come up with a combined Fiscal Note, assuming the Department knows which pieces of which bill take priority. In order to do that, there needs to be some consensus among the proponents of these bills about which pieces are most important. As it currently is, he did not think all three bills could be put together and have a meaningful combined impact. If there were a set of coordinating instructions, a Fiscal Note could be created for all three.

CHAIRMAN DEVLIN said there was not a correct Fiscal Note for the amendments on this bill, and **Mr. Smith** said the Department had not been asked for an amended Fiscal Note. **CHAIRMAN DEVLIN** said he would request a Fiscal Note, and he asked if **REP. REHBEIN** would try to coordinate all the bills that have been dealt with on this issue.

SEN. DEPRATU asked **Mr. Montalban** if he had any ideas how these could all relate, and **Mr. Montalban** said that the counties had supported **HB 658** and he did not feel that he could start talking to the industry about combining these bills until they had made sure of the support of their counties.

Closing by Sponsor:

REP. REHBEIN said an amendment is being created for some coordinating language, and as **Mr. Montalban** has said, they probably had a lot more legwork into their effort on their bill because they started it at the grassroots level. He said he has not really had a lot of time to work at the local level with this particular bill. He said he believes that it more than offsets the losses by keeping these oil wells producing.

DISCUSSION ON HB 569

SEN. ELLINGSON said he would like to amend this bill so that it would be not only available to corporations but to any businesses, and he would also like to amend it to provide that .2% of the expenditures be provided as a tax credit, so if this bill passes it would mean something. He said a business right now can deduct these expenses.

CHAIRMAN DEVLIN said he would also like to amend it to say that the county has to be an equal participant.

HEARING ON HB 654

Sponsor: **REPRESENTATIVE TRUDI SCHMIDT, HD 42, GREAT FALLS**

Proponents: **David Johnson, CPA, Helena**

Opponents: **None**

Opening Statement by Sponsor:

REP. TRUDI SCHMIDT, HD 42, Great Falls, said that the purpose of **HB 654** is to clarify the individual income tax deduction allowed for federal income tax liability and clarify that self-employment taxes may not be included in the deduction allowed for federal income tax liability. She said current Montana law allows a taxpayer to deduct as an itemized deduction all the federal taxes paid during the last year. However, the part that is attributable to self-employment taxes cannot be deducted. Several methods on how to calculate this amount are being used, and there is no consistency among taxpayers. The proposed bill is set up to clarify that.

Proponents' Testimony:

David Johnson, CPA, Helena, Legislative Committee of the Montana Society of CPAs, said the Society supports this bill because it simplifies this issue. He said presently self-employed individuals who are making estimates are making the estimates during the course of the year, paying the estimates, but very seldom does the amount paid in exactly equal their income tax and self-employment tax. Hence, there is a little side calculation all the taxpayers are making to keep track of how much of the tax they are deducting on their return is in fact federal income tax.

Mr. Johnson said this bill provides consistency in that everybody gets the same deduction in the same year, it provides ease of use in that each person is doing it by the same method, and it makes for less work for the Department of Revenue in tracking the deductions taken by individual taxpayers. The proposed effective date is for years beginning after December 31, 1999 so that individuals can plan for this change.

Opponents' Testimony: **None**

Questions from Committee Members and Responses:

SEN. STANG said this bill is saying that if a person has a big capital gains one year, and they compute their federal income tax liabilities, that is then deducted on the state tax return in the year of the liability, not in the year that it is paid. **Mr. Johnson** said that it is deducted in the year that the liability was incurred.

CHAIRMAN DEVLIN said this bill is coordinated to **HB 582**, and he asked what that is. **Mr. Heiman** said that bill has been tabled. It was a simplification bill, and the section referring to that could be removed from this bill. **Bob Turner, Department of Transportation**, added that **HB 582** was an income tax bill that was presented by the CPAs and the Department of Revenue, and it was tied to federal taxable income. If that passed, it would have been moot, but that bill was tabled in the House Taxation Committee.

SEN. STANG asked if this issue had been a problem over the years for the Department, and **Larry Finch, Department of Revenue**, said he was not aware of any problems concerning this. **SEN. STANG** asked, assuming this had been in effect this last year, and a person had a big capital gains last year, if they did not deduct it last year because it was not available, but this year they have a big federal income tax liability that was paid last year and then have another federal income tax liability this year because part of that was carried forward, in that one year they can double that deduction. **Mr. Finch** said if he understood the bill correctly, taxing year 2000, a person will be able to take as a deduction the liability of tax year 2000 only, without being able to carry forward any prior year payment. **SEN. STANG** said if a taxpayer had a big capital gains tax to pay in tax year 1999, and that was the case, that would mean that person would lose that deduction for the year 1999. **Mr. Finch** said that was correct.

CHAIRMAN DEVLIN asked if that explained the fiscal impact on the Fiscal Note, and he wondered if that continued through the years. **Mr. Finch** said any fiscal impact that arises because of this bill will be a one-time situation.

SEN. GLASER asked whose $4 million is reflected on the Fiscal Note, and **Mr. Finch** said it is taxpayer money. He said the way there is a one-time hit from this bill is that there is a group of taxpayers who are systematically over-withholding for federal income tax purposes, and under current law, these taxpayers file their federal income tax return in the spring following the year for which they have that federal liability and get a refund. Current law for state purposes only allowed a person to deduct the amount withheld, not the amount paid, so a person can deduct an amount that is larger than the federal liability is. The next year that federal refund must be claimed as income on your state return. Under this proposal, you would still be required to take that amount from 1999 that was received as a refund and claim it as income; however, in 2000, because you can now only deduct your liability, there will be less money claimed as an itemized deduction, and that causes their liability to go up one time for that year.

SEN. STANG asked if the Department had considered the people who may have a large gain in the year before that are paying a substantial amount of federal income taxes that are not going to be able to deduct them in the next year because they are going to lose that deduction since they can only deduct the amount of tax that is current in that year. **Mr. Finch** said they had taken that into consideration.

SEN. GLASER asked about corporations, and **Mr. Finch** said that C corporations would not be affected by this, but S corporations would be because the tax flows through to the individual.

<u>Closing by Sponsor</u>:

REP. SCHMIDT said the benefits of this bill would be simplifying everything as to when you can take the deduction. This would create an ease of use by being able to deduct the federal tax liability and simplifies tax preparing. **SEN. ELLINGSON** said he would carry this bill.

EXECUTIVE ACTION ON HB 128

CHAIRMAN DEVLIN provided the committee a new Fiscal Note for **HB 128**, **EXHIBIT(tas75a20)**.

Motion: **SEN. STANG MOVED THAT HB 128 BE CONCURRED IN.**

Discussion:

Mr. Heiman passed out amendment HB012802.alh, which is the contingent voidness provision.

Motion: **SEN. ECK MOVED HB012802.ALH, EXHIBIT(tas75a21).**

Discussion:

SEN. STANG asked if in reality these contingent voidness amendments become a moot issue and go away. **CHAIRMAN DEVLIN** reminded the committee that if these amendments are accepted, this bill would have to go back to the House. **SEN. STANG** said he would hate to see that happen. He asked if these amendments are really needed. **Mr. Heiman** said that when this was written, it was not expected that **CI-75** would come out before the session ended, so this involves an effective date hassle.

SEN. ECK WITHDREW HER MOTION.

Mr. Heiman said that at the time of the hearing, the Department of Revenue had proposed some amendments, HB012801.alh, **EXHIBIT(tas75a22)**, the Ronan amendments were recommended on the House floor, **EXHIBIT(tas75a23)**, and finally an amendment allowing absorption of the tax was recommended, **EXHIBIT(tas75a24)**.

CHAIRMAN DEVLIN asked the Department of Revenue to explain their amendments. **Brian Smith, Department of Revenue**, said he could not explain them, but the Department analyst was on his way over and he would provide an explanation.

SEN. EKEGREN said he would like to hear from someone from the telecommunications industry about these amendments. **Barbara Ranf, US West**, said the industry believes that the amendments from the Department of Revenue are not necessary. She said the first amendment includes 800 and 900 calls, and these are clearly two-way transmissions and their inclusion is not necessary. The second amendment uses the word "ancillary," and the industry feels that that could be construed to include equipment not intended to be taxed in this bill. Finally, the last amendment is coordinating instruction, and there is a bill by **REP. STORY** that is a reimbursement bill which makes this instruction unnecessary.

Mr. Heiman said the Ronan amendment is the one that was made on the House floor which covers a small, private company in Ronan. This amendment cleans up that language on page 5, lines 8 through 11.

SEN. ECK said that she felt if this bill could be passed without amending it, it would be more advantageous than just clearing up language. It would not, then, be necessary to return the bill to the House.

SEN. STANG asked if someone could explain the amendment. **Mike Strand, Montana Telecommunications Systems**, said his understanding was that this clarifies the situation where, if Ronan wanted to compete in a cooperative service area, they would not have to collect the excise tax from the customers that they gained in that area. He said it clarifies the language, but he did not feel there was any problem with the language as it stands.

Mr. Heiman said the last amendment is the one which allows the tax to be absorbed by the company.

CHAIRMAN DEVLIN said **SEN. STANG** had moved the bill and there have been no motions on the amendments.

Gene Walborn, Department of Revenue, said that the amendments make sure that the bill did not limit the Department to technology that is in place today, and that if some new technology came about, they would be able to fit that into the definition. **CHAIRMAN DEVLIN** asked if this would allow them to pick up some existing things, too, and **Mr. Walborn** said that that could potentially occur.

SEN. ECK said that the question was related to striking "related" and putting in "ancillary," which might include a lot of equipment that should not be covered.

CHAIRMAN DEVLIN asked if the way the bill is written, it backfills local governments entirely. **REP. GILLAN** said that there is a bill coming which will be a reimbursement bill, and in the new Fiscal Note for this bill, there is a positive impact on the General Fund over Fiscal Year 2000 and 2001. She said local governments are comfortable with this bill.

CHAIRMAN DEVLIN asked if the new excise tax is not figured into any kind of a rate base, and he wondered if the reduction from 12% to 6% is figured in a rate base through the PSC. **REP. GILLAN** said that she had talked to the telecommunications people and they have said they would file a change in their rate calculation before the PSC.

SEN. STANG said that was a question he had had, and the representative from the Public Service Commission had said that they would do that. It is the legislative intent of this bill that the PSC reduce the rate along with the tax reduction in this bill to consumers.

Mr. Walborn said that amendment concerning "ancillary" could probably be done without. The amendment "including but not limited to," is one that would help clarify for the Department on administrative rule and on the provisions of the law to be able to define what services are. The third amendment is coordination instruction for the reimbursement bill. He said without that he is not sure how local governments would be reimbursed.

SEN. STANG asked if the Department would feel comfortable making rules to include the things covered by the second amendment without having to put them in the bill, and **Mr. Walborn** said this helps clarify it and adds a little more meat to it. However, the Department can do it through administrative rules.

CHAIRMAN DEVLIN said there was no interest in amending this bill, so the committee needed to act on the bill in its present form.

<u>Vote</u>: Motion carried 8-0. SEN. HARP will carry this on the floor.

ADJOURNMENT

Adjournment: 11:25 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

EXHIBIT(tas75aad)