

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 24, 1977

The twenty-ninth meeting of the Taxation Committee was called to order on the above date by Chairman Mathers in Room 415 of the State Capitol Building at 8:10 a.m.

ROLL CALL: Roll call found all of the members present:

The following witnesses were present:

Rick Morgan	Self
Ed Nelson	Mont. Taxpayers Assoc.
Don Garrity	Dain, Kalman & Quail
Gene Hufford	D.A. Davidson & Co.
Glen Drake	League of Cities & Towns
Lester H. Loble, II	Mont. Dak. Util., Gen. Tel. of the Northwest
S. Turkiewicz	Mont. Assoc of Counties
W. B. Andrews	Northwestern Bank
Stephen M. Williams	Anaconda Co.
Paul A. Johnson	First Fed. S. & L.
Steve Grose	Home Fed. S & L.
Stanton Aby	Dain, Kalman & Quail
Gene Phillips	Pac. Power & Light, Asarco, Conrad Bank
Tom Winsor	Mont. Chamber
Ross Cannon	Mont. Savings & L. League
Jim Mockler	Coal Council
Jim Hughes	Mountain Bell
W.H. Coldiron	Mont. Power Co.

CONSIDERATION OF SENATE BILL 434: Sen Towe introduced his bill which he said was intended to compensate for the \$6 million loss which will be sustained by Montana's cities and counties as a result of the district judge's ruling against the Department of Revenue on their assessed values of banks for their property tax. He illustrated on the blackboard that by taxing the interest on federal, state and municipal bonds and the increase of corporation license tax, a total of about \$12 million would be realized in a two-year period. He said that banks are the only institutions that are assessed at 100% of value and taxed at that figure and felt that they are being taxed higher in most cases than other corporations. He said there is a problem on how to get the moneys back to the local governments. Distribution in the bill is based at 1/2 on the local government bonded indebtedness and 1/2 on population.

Mr. Andrews also gave testimony as a proponent to the bill and read from his prepared statement, see Exh. #1, attached.

Chairman Mathers called for other proponents and there being none, asked for the opponents to make their statements. First to

speak was Mr. Nelson who said he had some concerns about the bill, one of them being that smaller towns would have more difficulty in selling their bonds. Mr. Garrity also was an opponent and distributed Exh. #2, attached, which contained his testimony. Mr. Drake stated his opposition of the bill also, saying he too believed the bill would make it very difficult for small bond issues and would raise the cost to the general taxpayer. He also believed the loss of revenue from exempting bank stock would put a further burden on the taxpayer. Mr. Hufford opposed the bill because he felt the legislation would increase the rate of interest that Montana communities would have to pay on their bonds. Mr. Loble said the increase in cost for utilities would then go on to their customers and so the net effect would be to hit the customers that much more. Mr. Turkiewicz objected on several points, one of them being the distribution of the moneys to the counties, as he felt that the larger counties would benefit more than the smaller ones. Mr. Williams also stated his opposition of the bill for many of the reasons stated.

Mr. Johnson said his company now pays about \$36,000 in license tax and this bill would nearly double the tax. He said he was opposed to taxing their deposits and believed taxes should be based on income and ability to earn. He urged the committee to make an interim study of this and other such taxing legislation. He said the savings and loans firms in the state had had no input regarding the proposed legislation and he felt a more thorough study of the problem should be made. Mr. Grose stated his agreement with previous testimony as did Mr. Aby who said the legislation would make a great deal of difference as far as his firm was concerned in future bidding for municipal bonds.

Other opponents included Mr. Phillips and Mr. Coldiron as well as Mr. Winsor, who stated he felt such taxing would discourage new industry from coming into the state. Mr. Mockler also opposed the bill and pointed out discrepancies in the effective date of the bill. Mr. Cannon and Mr. Hughes also stated their opposition to the bill.

The Chairman called for any other opponents and there being none, permitted Sen. Towe to close. He answered some of the arguments of his opponents and pointed in particular to the testimony given by Mr. Turkiewicz and Mr. Drake, stating that the banks have in the past picked a tremendous amount of the costs in communities as have the utilities, but the loss from the ruling by the district courts must be made up for in some way. He said if they had other suggestions how this approximately \$6 million annually could be raised, he would be glad to listen. He said perhaps this particular mechanism for collecting the lost revenues is not to everyone's liking, but something has to be done and he chose this legislation. As far as the distribution to the cities and counties is concerned, he stated he would be open to other methods, or other formulae that would be acceptable. He stated the main thing is the Legislatore had to get some income back to the cities and counties.

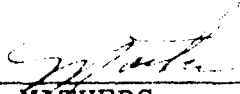
Following his closing remarks the Chairman permitted questions from the committee and after a brief discussion and some questioning, the hearing on SB434 was closed.

CONSIDERATION OF SENATE BILL 431: Sen. Jergeson, Dist. 3, presented his bill and said it sets up a system for income splitting so a husband and wife, owning a business together, could perhaps save on their income tax. He said he questioned the Fiscal Note that accompanied the bill as he thought perhaps the cost was quite high. There was one other proponent of the bill, Mr. Morgan, who said he was generally in support of the bill.

Chairman Mathers asked for other proponents or opponents of the bill and following, permitted questions and discussion by the committee. The committee determined that there are ways now whereby a husband and wife can take advantage of the laws to compute their net proceeds, allowing the wife wages in the family business and thus there is a tax break of the type Sen. Jergeson aimed for in his bill.

The Chairman announced to the committee that all Senate bills have now been heard and the committee must make a decision on the income and inheritance tax bills left in the committee. For that reason he will have Mr. Groff and perhaps several other representatives of the Department of Revenue at the morning's meeting in the hopes of arriving at a decision and taking action on the bills.

Following this announcement, the meeting was adjourned.



WILLIAM MATHERS

CHAIRMAN

SENATE

TAXATION

COMMITTEE

BILL 431, 434

VISITORS' REGISTER

DATE 2/24

Please note bill no.

(check one)

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
Rick Morgan	SELF	431		
Ed Nelson	MONT. TAXPAYERS ASSOC.	434		X
DON GARRITY	DAIN, KALMAN & QUAIL	434		X
Gene Hufford	D. A. Davidson & Co	434		X
Ellen Drake	League of Cities & Towns	434		X
Lester H. Loble, II	Montana Dakota Utilities Co General Tel of the Northwest	434		X
STEPHEN TURKIEWICZ	MT. ASSOC. OF COUNTIES	434		X
W B Andrews	Northwestern Bank	434	X	
STEPHEN M. Williams	ANACONDA Co.	434		X
Paula Johnson	1ST Fed S & L	434		X
Wm. Jones	Mont. Bd. of Agric. & Mech.	434		X
Monten City	San Juan - Ind	434		
Gene Phillips	Pacific Power & Light ASARCO, CONRAD BANK	434		X
Tom Winsor	Mont. Chamber	434		X
ROSS CANNON	Mont Savings & Loan	434		X
JIM MOCKLER	Mont. Coal Council			
JIM HUGHES	MW BELL			
W. H. COLDIRON	THE MONTANA POWER CO.			X

Exh. #1

Mr. Chairman, I am W. B. Andrews, President of the Northwestern Bank of Helena and I would like to speak in support of Senate Bill 434.

At the outset I would state that banks in general expect to carry a fair share of the tax burden assessed by the various levels of government in Montana. We do, however, favor a taxation system that is equitable between banks and other financial institutions and between banks and other corporations doing business in Montana.

I believe the philosophy underlying this bill is correct in that it imposes a tax upon our franchise to do business and relates the amount of tax to our earnings and therefore our ability to pay.

The bill abolishes the bank share tax which is a strange and unique kind of tax applied to banks only and not to other corporations. This approach has caused constant misunderstanding and questions as to how to value bank shares and has been a thorn in the side of the Department of Revenue for years.

There is some thought that making income from municipal bonds taxable would make it difficult for municipalities to sell such bonds. It should be remembered the corporation license tax rate is only proposed to be 7 1/4% so a 5% municipal bond would only have to be increased by less than 3/8 of 1% to cover this difference -- a very small difference indeed when compared to normal market fluctuation of municipal bonds generally.

There is very little uniformity at present in the amount of taxes paid by banks in the various counties because of the difference in types of assets held by the individual banks. It would seem to me the provision of Senate Bill 434 that allocates a portion of the corporation license tax to local governments would be welcomed by most cities and counties.

Senate Bill 434 is a proper approach to equitable taxation of banks and I would recommend its passage to the committee.

Eph. #2

STATEMENT IN OPPOSITION TO

SENATE BILL NO. 434

31 U.S.C. §742 provides:

"Except as otherwise provided by law, all stocks, bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal or local authority. This exemption extends to every form of taxation that would require that either the obligations or the interest thereon, or both, be considered, directly or indirectly, in the computation of the tax, except nondiscriminatory franchise or other nonproperty taxes in lieu thereof imposed on corporations and except estate taxes or inheritance taxes."

Section 6 of the bill attempts to eliminate the exemption of interest income from obligations of the United States government. Such a tax is not authorized by federal law and cannot constitutionally be levied.

Section 2 of the bill deletes interest income from obligations of the State of Montana or its political subdivisions

as allowable deductions in computing income for the corporation license tax. The purpose of this deletion is presumably to allow the State to include interest from obligations of the United States government in computing a corporation's license tax. However, Section 35-522, which was passed last session, provides that bonds, notes or other obligations issued by the Housing Board under the Housing Act of 1975 "shall be free from taxation by the state or any political subdivision or other instrumentality of the state, excepting inheritance, estate and gift taxes." This provision is not affected by Senate Bill No. 434 and certainly any bonds already issued under the provisions of that Act are now contractually tax exempt. Therefore, any corporation license tax, if it is considered to be a "franchise tax" within the meaning of 31 U.S.C. §742, would be discriminatory if it attempted to tax the income from U.S. governments but exclude the income from housing bonds. The law is clear that a state may not tax federal securities and exclude state securities from taxation. Pennsylvania v. Curtis Publishing Co., 363 Pa. 299, 69 A.2d 410, cert. den. 339 U.S. 928.

In addition, Senate Bill 434 will destroy the one incentive left for Montana corporations to buy the small, unrated bond issues of our smaller school districts, cities and counties, as well as the special improvement district bonds of our larger cities.

Because these bond issues are less than a million dollars, they are not rated by either of the national bond rating companies.

Therefore, if they are to be sold at all, they must be sold in Montana. Because there is no national market for these bond issues, they cannot be sold prior to maturity. Thus, the purchaser of an unrated twenty year bond must hold it for the entire term of the bond. In contrast, the holder of a rated twenty year bond is able to sell it at any time in the national secondary market for rated municipal bonds.

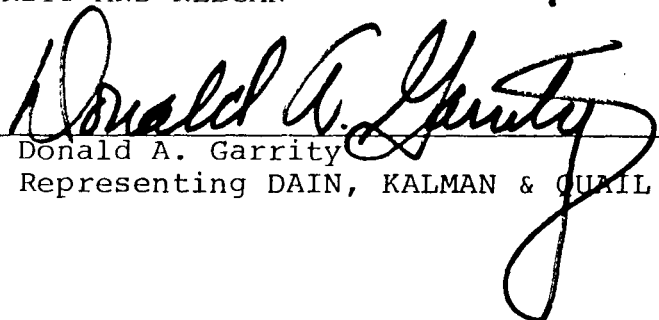
With all of the disadvantages of small Montana municipal bonds, they must be made attractive to the Montana investor in some way or they simply will not be sold. Their one attractive feature now is that interest earned on these bonds is exempt from Montana's corporation license tax. Interest earned on out-of-state municipal bonds is not.

Passage of Senate Bill No. 434 will not enable Montana to tax interest income from United States obligations and will seriously impair the ability of our small school districts, cities, and counties to borrow money. We respectfully request this Committee to recommend that Senate Bill No. 434 do not pass.

Respectfully submitted,

GARRITY AND KEEGAN

By


Donald A. Garrity
Representing DAIN, KALMAN & QUAIL INC.