

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

March 15, 1979

The forty-ninth meeting of the committee was called to order on the above date in Room 415 of the State Capitol Building for an executive session, Chairman Turnage presiding.

ROLL CALL: Roll call found all the members present.

The committee discussed SB173 by Senator Rasmussen and after several questions agreed that people who are concerned over their household expense should be able to take care of their fuel bill, and to insulate their homes, by themselves, without the incentive of a tax credit, as SB173 would provide.

Senator Manley Moved SB173 Do Not Pass. A roll call vote was taken which resulted in a tie vote.

Next up for their reconsideration was SB231. Following brief discussion, the bill was moved:

Senator Goodover Moved SB231 Do Not Pass. Motion carried.

SB249 was then discussed. Senator Towe explained the impact of this legislation which is a 'piggy back' bill for state income tax, and calls for a percentage of the tax paid to the Federal government. In original presentation of the bill one of the co-sponsors, Senator Hims1, pointed out this would simplify the tax returns for Montana citizens in preparing their state income tax forms.

Senator Towe Moved to Amend SB249 by changing the percentage from 27.5% to 26.5%. His motion carried.

Senator Towe then Moved SB249 As Amended Do Pass. A roll call vote failed by a 3-9 margin. Without objection it was ruled the vote be reversed on motion by Senator McCallum for a Do Not Pass, thus the vote will go out with adverse Committee Report on 9-3 roll call vote.

A number of amendments were then introduced for SB463. These were discussed by the committee and motions by Senators McCallum and Towe were voted on and adopted by the committee, which then moved the bill.

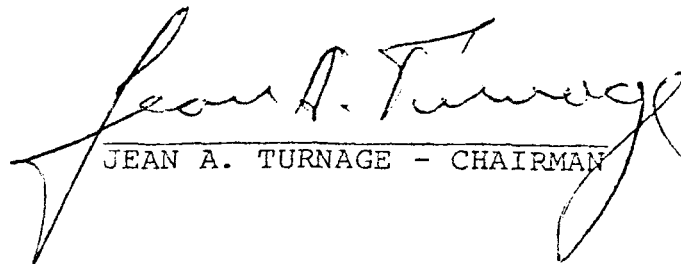
Senator Towe then Moved SB463 As Amended, Do Pass. The motion carried unanimously.

Senator Watt's SB285 was next up for discussion. One of the problems was the definition of manufacturing as interpreted by the Department of Revenue. The production of electricity, from coal-produced energy into electricity, was debated as to whether or not such a process was manufacturing. The committee discussed the impact of new industries and felt some of them should qualify under SB285. Many new industries create new jobs and increased tax base for the area in which they are located; however, it was pointed out any company

could reorganize and move to another part of the state and then qualify again for the 3-year tax credit. Following discussion the committee voted on the bill:

Senator Watt Moved SB285 Do Pass. A roll call vote was taken and this resulted in a 5-6 failed vote.

Senator Roskie then introduced some testimony concerning the Special Improvement and Rural Improvement District Bond bills the committee has recently considered. The testimony was presented by the Corporate Counsel for D.A. Davidson & Co., bonding firm, see Exh. #1, attached. The committee accepted the testimony, and following discussion, meeting was adjourned.

  
JEAN A. TURNAGE - CHAIRMAN

①

SENATE COMMITTEE TAXATION

Date 3-15-79 Sen. Bill No. 173 Time 8:20a.m.

NAME	YES	NO
SEN. GOODOVER (Vice Chairman)	X	
SEN. BROWN		X
SEN. HAGER		X
SEN. MANLEY	X	
SEN. MANNING	X	
SEN. McCOLLUM	X	
SEN. NORMAN		X
SEN. ROSKIE	X	
SEN. SEVERSON		X
SEN. TOWE		X
SEN. WATT		X
CHAIRMAN TURNAGE	X	

6 6

Nita Fjeseth  
Secretary

Jean A. Turnage  
Chairman

Motion: Do Not Pass

TIE VOTE

(include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE TAXATION

(2)

Date 3/14 Bill No. <sup>SB</sup> 231 Time 8:25

NAME	YES	NO
SEN. GOODOVER (Vice Chairman)	X	
SEN. BROWN	X	
SEN. HAGER	X	
SEN. MANLEY	X	
SEN. MANNING	X	
SEN. McCOLLUM	X	
SEN. NORMAN	X	
SEN. ROSKIE	X	
SEN. SEVERSON	X	
SEN. TOWE		X
SEN. WATT		X
CHAIRMAN TURNAGE	X	

10 2

Nita Fjeseth  
Secretary

Jean A. Turnage  
Chairman

Motion: Do Not Pass

(include enough information on motion--put with yellow copy of committee report.)

3

SENATE COMMITTEE TAXATION

Date 3-15 Sen. Bill No. 249 Time 8:30

NAME	YES	NO
SEN. GOODOVER (Vice Chairman)		X
SEN. BROWN		X
SEN. HAGER		X
SEN. MANLEY		X
SEN. MANNING	X	
SEN. McCOLLUM		X
SEN. NORMAN		X
SEN. ROSKIE		X
SEN. SEVERSON		X
SEN. TOWE	X	
SEN. WATT	X	
CHAIRMAN TURNAGE		X
	3	9

Nita Fjeseth  
Secretary

Jean A. Turnage  
Chairman

Motion: As Amended  
Do Pass

(include enough information on motion--put with yellow copy of committee report.)

(4)

SENATE COMMITTEE TAXATION

Date 3-15 Sen Bill No. 249 Time 8:55

NAME	YES	NO
SEN. GOODOVER (Vice Chairman)		
SEN. BROWN		
SEN. HAGER		
SEN. MANLEY		
SEN. MANNING		
SEN. McCOLLUM		
SEN. NORMAN		
SEN. ROSKIE		
SEN. SEVERSON		
SEN. TOWE		
SEN. WATT		
CHAIRMAN TURNAGE		

9 3

Nita Fjeseth  
Secretary

Jean A. Turnage  
Chairman

Motion: D-Not Pass

(include enough information on motion--put with yellow copy of committee report.)

5

SENATE COMMITTEE TAXATION

Date 3-15 Sen. Bill No. 285 Time 9:30

NAME	YES	NO
SEN. GOODOVER (Vice Chairman)		X
SEN. BROWN <i>GOKE AT TIME OF VOTE</i>		
SEN. HAGER	X	<i>Miss</i>
SEN. MANLEY		X
SEN. MANNING	X	
SEN. McCOLLUM		X
SEN. NORMAN	X	
SEN. ROSKIE		X
SEN. SEVERSON		X
SEN. TOWE	X	
SEN. WATT	X	
CHAIRMAN TURNAGE		X

5

6

Nita Fjeseth  
Secretary

Jean A. Turnage  
Chairman

Motion: Do Pass

(include enough information on motion--put with yellow copy of committee report.)



*Exp. # 81*

*3-15-79*

**D.A. Davidson & Co.**  
Incorporated

Montana's Oldest Investment Firm

P.O. Box 5015  
Davidson Building  
Great Falls, Montana 59403

(406) 727-4200

Offices: Billings, Bozeman, Butte, Helena, Kalispell, Missoula

Members: Midwest Stock Exchange Inc. Pacific Stock Exchange Inc.

March 9, 1979

Summary of Testimony

TO: SENATE TAXATION COMMITTEE  
FROM: BRUCE A. MACKENZIE - CORPORATE COUNSEL  
RE: SPECIAL IMPROVEMENT AND RURAL IMPROVEMENT DISTRICT BONDS

It has been brought to our attention that the committee has serious concerns regarding special improvement and rural improvement district bonds, particularly the use and funding of the revolving fund. The revolving fund is a special fund set aside by a city or county from which loans may be made to special improvement districts. Whenever insufficiencies arise in the district funds as a result of delinquent assessment payments by property owners within the district, loans are made from the revolving fund to cover necessary payments on outstanding bonds. The loans are repaid, with interest, once the district collects the delinquent assessments.

Purchasers of bonds rely on the existence of the revolving fund and this reliance is reflected in the lower interest rates that are paid for such bonds. Without the revolving fund, improvement district bonds would be an extremely risky investment since default on the bonds would occur whenever one property owner within the district was delinquent in making his assessment payments. Therefore, the revolving fund provides an important source of funds and its existence adds a measure of security that would not otherwise be available.

Unfortunately, there have been instances where land developers have taken advantage of this arrangement. An example of this situation would occur as follows: a developer buys a piece of developed land and constructs improvements on the property such as streets, curbs, gutters, water and sewer services. These improvements are financed by special improvement district bonds with the improved property of the developer constituting the district. The developer is now responsible for paying the special assessments levied on the property for the purpose of paying the bonds. The developer, however, rather than pay the assessments relies on loans from the revolving fund to make the assessment payments for him. The delinquent assessment costs the developer, under present law, 10% per annum (2/3 of 1% per month and a penalty of 2% equals 10% per annum). In effect, the developer has obtained a loan from the revolving fund at a rate lower than that presently available on a conventional basis and lower than a number of quality investments presently bear. Therefore, there is no incentive for the developer to make the assessment payments and the revolving fund pays the cost of the improvements.



Although the loan from the revolving fund bears interest at a rate equal to that borne by the bonds of the district using the loan and has a lien on all unpaid assessments, the loan will be repaid only when the delinquent assessments are paid. Since state tax laws presently provide for the confiscation of property for failure to pay assessments only after the assessment has been delinquent three years, a developer will only pay his delinquent assessments in the third year and then only the first year's assessment. This places a drain on the revolving fund which must be replenished under present law by a general ad valorem tax on all property owners within the city or county. Therefore, the developer has obtained a low interest loan which is in effect subsidized by the general taxpayer.

One solution to the problem would be to completely remove the revolving fund. This, however, would make special improvement district bonds unmarketable. Without the benefit of the low interest bonds the cost of new housing would be increased since the developer would simply turn to conventional financing sources to finance improvements within the district. Higher interest costs of conventional financing would be passed on to the purchasing public and therefore increase the cost of housing. This solution would, in effect, punish the individuals who normally pay for the revolving fund rather than the developer who takes advantage of the funds existence.

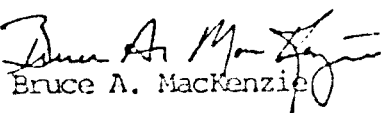
It is our opinion that the solution should be two-fold. First, the law should create an incentive to make timely assessment payments. Secondly, there should be a method which would provide an alternative source of monies with which to initially fund and maintain the revolving fund in addition to the ad valorem tax.

The first part of this solution is accomplished by increasing the interest which must be paid on delinquent assessments. The amendments proposed would change the interest charge from a fixed 10% to the greater of 10% or four points above the discount rate on 90-day commercial paper (presently at 9½%). By this change, a developer would be unlikely to allow his assessments to become delinquent since it would cost him more to allow the assessments to become delinquent than to borrow money from conventional sources to pay the assessments when due.

In order to accomplish the second part of the solution we are proposing that the cities and counties require that funding of the revolving fund, in the case of undeveloped districts, be accomplished by depositing an amount equal to 5% of the principal amount of the bonds to be issued by the district. The monies for this deposit would be obtained only from bond proceeds or from the owners of the property within the district. Funds for maintaining the revolving fund would be obtainable in the case of an undeveloped district from levying an excess assessment and depositing the excess to the revolving fund.

With these amendments the misuse of the revolving fund would cease and those directly benefiting from the fund would be responsible for providing the money necessary for the fund. In addition, the revolving fund would remain intact to provide the essential security to make special improvement district bonds a marketable investment.

Respectfully submitted,

  
Bruce A. Mackenzie

1. Page 1 - Line 24  
Delete: "the same"
  
2. Page 1 - Line 25  
Delete: "and penalties for non-payment as are or may hereafter be"  
Insert: "at a rate of not more than the greater of 10% or four (4) percentage points in excess of the discount rate on 90 day commercial paper in effect at the Federal Reserve Bank in Helena, Montana and calculated as the date such assessment is due."
  
3. Page 2 - Line 1  
Delete
  
4. Page 2 - Lines 5 and 6  
Reinsert deleted language
  
5. Page 2 - Following line 16  
Insert new material:  
"Section 3. Section 15-16-103, MCA, is hereby repealed."
  
6. Page 2 - Line 22  
Change "Section 3" to "Section 4"
  
7. Page 4 - Line 25  
Change "Section 4" to "Section 5"
  
8. Page 5 - Line 19  
Change "Section 5" to "Section 6"

1. Page 1 - Lines 21 and 22  
Following "may"  
Delete: "at the option of the city governing body"
  
2. Page 1 - Line 24  
Following "issued,"  
Insert: "to be paid, at the option of the city governing body, by the owners of the district or from bond proceeds and which amount is"
  
3. Page 3 - Line 3  
Following "may"  
Delete: "in its discretion and from time to time,"  
Insert: "except as provided in subsection (c),"
  
4. Page 3 - Following line 21  
Insert new material:  
(c) must, whenever the proceeds of special improvement district bonds are to be used to provide improvements for a district which contains, in the judgment of the city or town council, less than 20% improved property, provide a deposit to the revolving fund in the manner specified by Section 7-12-4169.
  
5. Page 5 - Line 20  
Delete: Period  
Insert: "or, in the case of a district containing, in the judgment of the city or town council, less than 20% improved property, by levying assessments to the maximum extent permitted by 17-5-103 and depositing the excess received from such assessments to the revolving fund."

1. Page 1 - Lines 23 and 24  
Following "may"  
Delete: "at the option of the governing body"
  
2. Page 2 - Line 1  
Following "to be,"  
Insert: "paid, at the option of the governing body, by the owners of the district  
or from bond proceeds and which amount is to be"
  
3. Page 3 - Line 2  
Following "may"  
Delete: "in its discretion and from time to time,"  
Insert: "except as provided in subsection (c),"
  
4. Page 3 - Following line 18  
Insert new material:  
(c) must, whenever the proceeds of rural special improvement district bonds are  
to be used to provide improvements for a district which contains, in the  
judgment of the county governing body, less than 20% improved property,  
provide a deposit to the revolving fund in the manner specified by Section  
7-12-2153.
  
5. Page 5 - Line 20  
Delete: Period  
Insert: "or, in the case of a district containing, in the judgment of the county  
governing body, less than 20% improved property, by levying assessments  
to the maximum extent permitted by 17-5-103 and depositing the excess  
received from such assessments to the revolving fund."

# STANDING COMMITTEE REPORT

.....March 10..... 19 79.....

MR. ....President.....

We, your committee on ..... **Taxation** .....

having had under consideration ..... **Senate** Bill No. **122** .....

Respectfully report as follows: That..... **Senate** Bill No. **122** .....

DO NOT PASS

~~DO PASS~~

# STANDING COMMITTEE REPORT

..... March 15 19 79 .....

MR. President .....

We, your committee on Taxation .....

having had under consideration Senate Bill No. 249 .....

Respectfully report as follows: That..... Senate Bill No. 249 .....

DO NOT PASS

~~DO NOT PASS~~  
DO PASS

15. Page 3.'

Following: line 2

Strike: "supreme court"

Insert: "department of administration"

16. Page 3, line 5.

Strike: "and the supreme court"

17. Page 3, line 6.

Following: "After"

Strike: "approving"

Insert: "receiving notice of the county governing body's approval of"

Following: "budget, the"

Strike: "supreme court"

Insert: "department of administration"

18. Page 3, line 16.

Following: "the"

Strike: "supreme court"

Insert: "department of administration"

19. Page 3.

Following: line 17

Insert: "Section 3. Sunset provision. This act and the authority granted therein shall terminate June 30, 1983."

And, as amended

DO PASS

5. Page 2, lines 3 and 4.

Following: "building"

Strike: "so long as the fund is needed for district court activities"

6. Page 2, line 6.

Following: "The"

Strike: "supreme court"

Insert: "department of administration"

7. Page 2, line 7.

Following: "to"

Insert: "the governing body of a county for the"

8. Page 2, line 9.

Following: "The"

Strike: "district court"

Insert: "governing body of a county"

Following: "the"

Strike: "supreme court"

Insert: "department of administration"

9. Page 2, line 11.

Following: "report"

Strike: "in the supreme court"

10. Page 2, line 16.

Following: "made;"

Strike: "and"

11. Page 2.

Following: line 18

Insert: "(d) that no transfers from the district court fund have been or will be made to any other fund;

(e) that no expenditures have been made from the district court fund that are not specifically authorized by [section 1]; and

Reletter: subsequent subsection

12. Page 2, lines 19 and 20.

Following: "the"

Strike: "supreme court"

Insert: "department of administration"

13. Page 2.

Following: line 21

Strike: "lines 22 and 23 through "court" on line 24

Insert: "department of administration"

14. Page 2, line 25.

Following: "county"

Strike: "commissioners"

Insert: "governing body"

(continued)



# STANDING COMMITTEE REPORT

.....March 15..... 1979.....

MR. President.....

We, your committee on Taxation.....

having had under consideration Senate..... Bill No. 463.....

Respectfully report as follows: That Senate..... Bill No. 463,  
introduced bill, be amended as follows:

1. Title, lines 5 and 6.

Following: "THE"

Strike: "SUPREME COURT"

Insert: "DEPARTMENT OF ADMINISTRATION"

2. Title, line 8.

Following: "GRANTS"

Insert: "; PROVIDING FOR A PERIOD OF APPLICABILITY"

3. Page 1, line 13.

Following: "exceed"

Strike: "2"

Insert: "3 1/2"

4. Page 2.

Following: line 1

Strike: "directly or indirectly"

Insert: "for any other purpose or"

DO-PASS-X

(continued)

Date MAR. 15, 1979

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER	✓		
SEN. MANLEY	✓		
SEN. MANNING	✓		
SEN. McCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.