

HOUSE TAXATION COMMITTEE MEETING MINUTES
February 18, 1981

A meeting of the House Taxation Committee was held on Wednesday, February 18, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Brand, who was excused. HOUSE BILLS 635 and 659 were heard and EXECUTIVE ACTION was taken on HB 787.

The first bill to be heard was HOUSE BILL 659, sponsored by Rep. Kathleen McBride. This is an incentive bill which sets up a new property tax class for new small business property located in economically depressed areas. It provides a definition of and establishes a flat rate for new small business property and inventory used by the business in its first 5 years of operation. Regarding the economically depressed area definition; the Department of Commerce has criteria. An amendment was passed out; see Exhibit "A." Twelve counties would qualify under this bill. She stated that there would be no problem with rounding the 2.8% off to 3%. Regarding the Fiscal Note; the author now also agrees that there are twelve counties qualifying under the bill.

In Silverbow County, about 30 new businesses came in in the last year; local officials feel that if the tax is lowered, the local government will lose out, but she feels that long-term benefits will outweigh this concern.

There were no other PROPONENTS to HB 659; there were no OPPONENTS.

John Clark, Department of Revenue, then made some comments. He feels the definition of "small" is not clear in the bill; it appears to be almost all-inclusive. The Department would have problems administering the bill because they would have to put everything in the new category. He questioned whether the landlord or the tenant would get the tax break if a building was leased by small business. The bill also talks about "goods and services," which brings to mind that the bill might include doctors, dentists, etc. There is a bill in the Senate that would do away with the tax on inventory, and this bill might create a disadvantage in this respect.

Questions were then asked. Rep. Williams questioned whether this bill wouldn't create an atmosphere of unfair competition with existing businesses. Rep. McBride pointed out that new businesses had more overhead, and this bill helps achieve more equity.

In response to a question from Rep. Roth, Rep. McBride stated that perhaps her definition of "small" might not be as limiting as she wants it to be. She pointed out that her definition came from the Codes; in addition, the business would have to apply to the Department of Revenue for the designation. She stressed that the purpose behind the bill was (1) to help the small business get going and (2) also to consider new manufacturing.

Rep. Burnett wanted to know if a small coal mine would qualify under the bill. Rep. McBride wasn't sure, and stated that the bill

had been aimed more at retail businesses. Rep. Burnett wanted to know how much money the corporation could make and still come under the bill. Rep. McBride replied that there was a problem with the definition of "small" business, because it is based on the number of employees - mainly because other criteria would usually be confidential information.

Rep. Williams submitted that a low density county's unemployment rate would not be a good indicator of whether or not the County was economically depressed. Rep. McBride admitted that the definition was subjective; however, unemployment information is the most available and current of any of the criteria which could be used.

Rep. McBride then closed. This bill is trying to help the small business. If the business is leasing, they won't get a break on the building, but they would get a tax break on everything else.

HOUSE BILL 635, sponsored by Rep. Francis Bardanouve, was then heard. This bill is an attempt to clean up the cigarette license tax area of the Codes. Originally, the levy was 9¢ on a pack of cigarettes. Then a Veterans' Honorarium of 2¢ was added. Also, a 1¢ levy was added. The funding for the 2¢ and the 1¢ levies has been completed, and this bill deletes the language providing for the funding and increases the original 9¢ levy to 12¢. The Governor's Budget Office prepared a chart showing how the cigarette tax is channeled; see Exhibit "B."

Gene Huntington, Governor's Budget Office, explained the chart. When the State sells bonds, security is offered analogous to a payroll deduction. The money from the income tax and the corporate tax mainly passes through for security. The State is able to sell bonds for a very low interest rate because of this security. The cigarette tax really pays the cost of the buildings the State has built in the past; the rest of the funds are strictly security. Current law puts a 4.5¢ tax per pack of cigarettes directly into the General Fund. \$10,980,000 in 1982 is the total cigarette tax. In addition, more revenue is generated from other tobacco products. Under the bill, the total tax will be allocated on a percentage basis instead of bond percentage and pennies per pack. An 8% discount will be given to wholesalers of tobacco for applying a stamp which says the tax has been paid. The 8% is based on the 4.5¢, so really it amounts to a 3% discount. This bill states that it is a 3% discount, just like it is, in reality.

The bill places all revenue into the Long Range Building Sinking Fund, and all extra will go to the General Fund. Whatever is required to pay off the Long Range Building Program bonds will be available to the Bond Indebtedness Fund. No special legislation will have to be passed; as long as there is enough revenue, bonds wouldn't get issued beyond that. The amendment in the bill will not increase the tax, since the other additions have been removed. If this legislation authorizes any long range building bonds, then less of the money will go into the General Fund.

A chart was then distributed showing how the system would operate under the bill; see Exhibit "C." Some amendments to the bill were also distributed; see Exhibit "D." The amendments will take the split between the various funds and put it back to the way it originally was. At present, there is \$2.7 million of the tax pledged to pay off the bonds. This amount is being changed to \$6 million, and therefore, the money available to increase bonds will be there. Rep. Bardanouve stated that the fiscal impact would be eliminated with the amendments. Mr. Huntington reiterated that this bill does not change the amount of money going to the Long Range Building Fund; it simply cleans up the Codes.

There were no PROPONENTS to HB 635; there were no OPPONENTS.

Questions were then asked. Regarding line 18 on p.1, Rep. Bardanouve stated that this wasn't increasing the tax, it was incorporating the 9¢, 1¢, and 2¢ into one sum.

In response to a question from Rep. Harp, Mr. Huntington stated that \$10 million is available from the Long Range Building Sinking Fund. Rep. Bardanouve stated that under this bill, more money would be available for this fund; it creates a pool that can be drawn upon. Rep. Nordtvedt stated that the only place the cash sits is in the proceeds account. No money sits in the Sinking Fund; it is first pledged to pay the interest on the bonds and if it doesn't go to that, it is transferred to the General Fund on a quarterly basis.

Rep. Nordtvedt stated that one of the results of the bill is an increased ability to service bonds. He questioned if this was needed, considering that the income tax and the corporate tax is also pledged. Rep. Bardanouve said that the bonding agents wouldn't like to see something that has been pledged for the bonds in the past used again. A lower bond interest rate can be offered because they prefer to issue a bond against the General Fund rather than an earmarked revenue for cigarettes. This bill would basically clarify the Codes, and would also allow the Legislature to issue more bonds.

Rep. Roth wanted to know if the bill didn't also enhance the possibility of making more money available for the Long Range Fund. Rep. Bardanouve replied that bonding capacity would be increased without having to have Legislative approval, although the Legislature will still have to approve any spending.

Rep. Bardanouve then closed. The hearing on HB 635 was closed.

The Committee then went into EXECUTIVE SESSION. Chairman Nordtvedt moved that the Committee reconsider its action on HB 787. Since the hearing didn't cover the merits of the Fish and Game program, the total picture wasn't clear. This Committee should look at the check-off principle. He didn't feel the Committee was in a position or wanted to make a full judgment on the Nongame Program. Rep. Vinger expressed agreement and submitted that the bill should have gone to

the Fish and Game Committee first. Rep. Nordtvedt said he didn't know why it hadn't gone there first. Rep. Sivertsen asked why the Committee had any hearing at all, because the testimony was heard, but the bill apparently wasn't really going to reflect the Committee's intent. He stated that the vote the Committee should take should be on whether or not the bill should be passed on to the Fish and Game Committee without any recommendation.

Chairman Nordtvedt said that the Sponsor of the bill, the Speaker of the House, and himself had decided to have the Taxation Committee deal with the bill, because it dealt with the tax system. He stated that in 1979 the bill had been referred to Taxation. He had suggested early in the Session that the bill be heard by both Committees. Although this is a rather unorthodox way of handling things, it had been decided to do it this way in other instances also.

Rep. Sivertsen said that he wanted the Fish and Game Committee to be made aware of this Committee's reaction on the bill.

Rep. Williams submitted that the bill should have been put in the Fish and Game Committee. He agreed that it should be sent to them without any recommendation. If the Fish and Game Committee decides to pass the bill out, he said he would prefer to have the bill go to the floor of the House with that Committee's recommendation rather than Taxation's.

Rep. Switzer questioned whether the Committee hadn't voted on Feb. 17th on just the checkoff portion of the bill.

Rep. Nordtvedt stated that all the present motion would do would be to enable the bill to be heard in the Fish and Game Committee. He listed the alternatives open to the Committee on what to do with the bill. He stressed that the motion to reconsider the bill didn't limit the Committee's options.

Rep. Switzer wanted to know if the Committee would have any control over whether or not a checkoff system was passed.

Rep. Sivertsen said that in order for the bill to be heard in Fish and Game, it needed to pass out of this committee with either a "DO PASS" recommendation or no recommendation. He suggested that it be sent out without a recommendation.

Rep. Williams suggested that first a vote be taken on whether or not to reconsider the Committees previous action on the bill. Then a motion could be made to pass the bill out of Committee without a recommendation. If the Fish and Game Committee decided to pass the bill out, then the decision would go to the floor on whether or not to have a checkoff system on income tax forms. Rep. Nordtvedt stated that on the basis of the checkoff system alone, the Committee could kill the bill. But, perhaps some of the DO NOT PASS votes of the 17th were based on the Nongame Program itself.

Rep. Sivertsen stated that he did not know why the bill had been heard in this Committee. He suggested that a motion could be made to transfer the bill to the Fish and Game Committee, which would take the bill completely out of Taxation's hands. If this bill should be passed on to Fish and Game, the hearing and action this Committee took would then be of no value. He suggested that the bill be put into Fish and Game on the floor.

Rep. Nordtvedt stated that a precedent had been set when in 1979 the Taxation Committee had gotten bogged down on a bill, so they sent it to the Judiciary Committee. Judiciary composed a letter giving their view on the judicial issue in the bill. The Taxation Committee was then able to make its own proposal. He stated that the other option the Committee had on HB 787 was to give the bill to the Fish and Game Committee along with a letter on the merits of the checkoff system.

Rep. Devlin asked why this bill couldn't be taken, and under an adverse Committee report brought before the full House and sent on to the Fish and Game Committee. Rep. Nordtvedt pointed out that this route would take longer, and wouldn't be advisable in light of the forthcoming transmittal deadline.

Rep. Devlin questioned, had the bill been heard in Fish and Game, if Taxation would have had the opportunity to consider the merits of the other half of the bill. He wanted to know if the Fish and Game Committee had any power to consider the checkoff system and the Board provisions in the bill. He wanted to know if this Committee couldn't vote on these parts of the bill. Rep. Nordtvedt said that if the Committee did decide to send the bill to Fish and Game, a letter should be attached which explained the Committee's views.

Rep. Devlin questioned whether Fish and Game wouldn't be inclined to send the bill back to Taxation once they had completed their action. Rep. Nordtvedt said he didn't believe this would happen.

Rep. Dozier stated that he had a problem with the way the hearings were handled. He said that the witnesses were directed to address the merits of the checkoff question, and to not list the merits of the Program itself. In essence, this Committee stifled their testimony, in his opinion. He said he didn't think this was fair to the witnesses, and that they deserved to get a fair hearing.

Rep. Nordtvedt then moved that action on HB 787 be reconsidered. Motion carried with Reps. Devlin, Roth, Vinger, and Switzer opposed.

Rep. Williams then moved to send the bill out of Committee, without a recommendation, to the Fish and Game Committee. He added that he felt the bill did get a fair hearing, and the Committee's vote was based on the checkoff portion of the bill. Discussion followed.

Rep. Sivertsen moved to amend Rep. Williams' motion to also provide

that a letter be sent to the Fish and Game Committee presenting Taxation's stand on the Checkoff system. He submitted that this would be the only way that the hearing held in Taxation would have any value. He expressed the hope that the people could get a fair hearing in Fish and Game.

Rep. Williams suggested that the Committee should take a re-vote on the DO NOT PASS recommendation.

Rep. Harrington made a substitute motion that HB 787 DO PASS.

Rep. Sivertsen moved that Rep. Harrington's motion be amended to provide that a letter be drafted stating this committee's position.

Rep. Roth said she didn't understand why the bill needed to be passed on to the Fish and Game Committee. Rep. Harrington said that if his motion carried, this Committee's feelings that the problem should be addressed would be being passed on.

Rep. Sivertsen submitted that the Committee's feelings would not be being expressed, and said he didn't feel the DO PASS motion would carry.

Rep. Harrington then withdrew his motion.

The original motion of Rep. Williams' was then considered. It was pointed out that the contents of the letter to accompany the bill would also be voted on.

The question was then called for on the amended portion of Rep. Williams' motion which provided that a letter go with the bill to Fish and Game; motion carried unanimously.

The question was called for on the portion of Rep. Williams' motion which provided that the bill go out of Committee without a recommendation. It was pointed out that the letter would make reference to the general feelings of the Committee on the checkoff issue. Rep. Harrington pointed out that the DO NOT PASS vote now meant nothing, because the Committee had voted to reconsider its action. The vote was then taken, and the motion carried with Reps. Devlin, Switzer, Vinger and Roth opposed.

The content of the letter was then considered. Rep. Sivertsen suggested that the letter state that it was the feeling of the Committee, by majority vote, that the checkoff provision in HB 787 DO NOT PASS. Rep. Devlin wanted to add a recommendation on the appointment to the Board and paying, which he said was more or less a taxation issue also. Rep. Sivertsen disagreed, saying that the checkoff system only should be addressed.

Rep. Nordtvedt submitted that the majority view of the Committee on

its original vote of Feb. 17 didn't accept the checkoff system.

Rep. Sivertsen moved that the letter be sent to Fish and Game per his recommendation for its content. (See Exhibit "E") Motion carried with Reps. Dozier, Oberg, Hart, and Harrington opposed.

The meeting was adjourned at 9:30 a.m.

Rep. Ken Nordtvedt - Chairman

da

PROPOSED AMENDMENT TO

H.B. 659

Introduced Copy

1. Page 2, line 6.
Following: "rate"
Strike: "exceeding"
Insert: "averaging"

Taxation

COMMITTEE

NB # 635

2/18/81

Bardanov

		PORT	POSE
James Anderson	100 Transatlantic Refg Tobacco Tax Committ Pulling, Thors.	✓	

✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Cigarette Tax

\$5,901,145

L.R.B.P. SINKING FUND

GENERAL FUND

INCOME TAX (11%)

\$ 17,997,003

CORPORATION TAX (11%)

\$ 4,463,825

CIGARETTE & TOBACCO TAX \$ 4,601,229

\$ 2,726,031

UNIVERSITY & AGENCY TRANSFERS \$

1,875,189

CIGARETTE TAX \$

DEBT PAYMENTS

REVENUE REQUIREMENTS

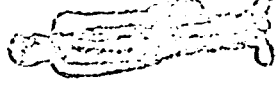
\$ 1,903,962

L.R.B.P. BONDS
PROCEEDS ACCOUNT

\$ 1,875,189

Total Revenue 29,096,002

TAXATION 2/13/81
EXHIBIT "B"

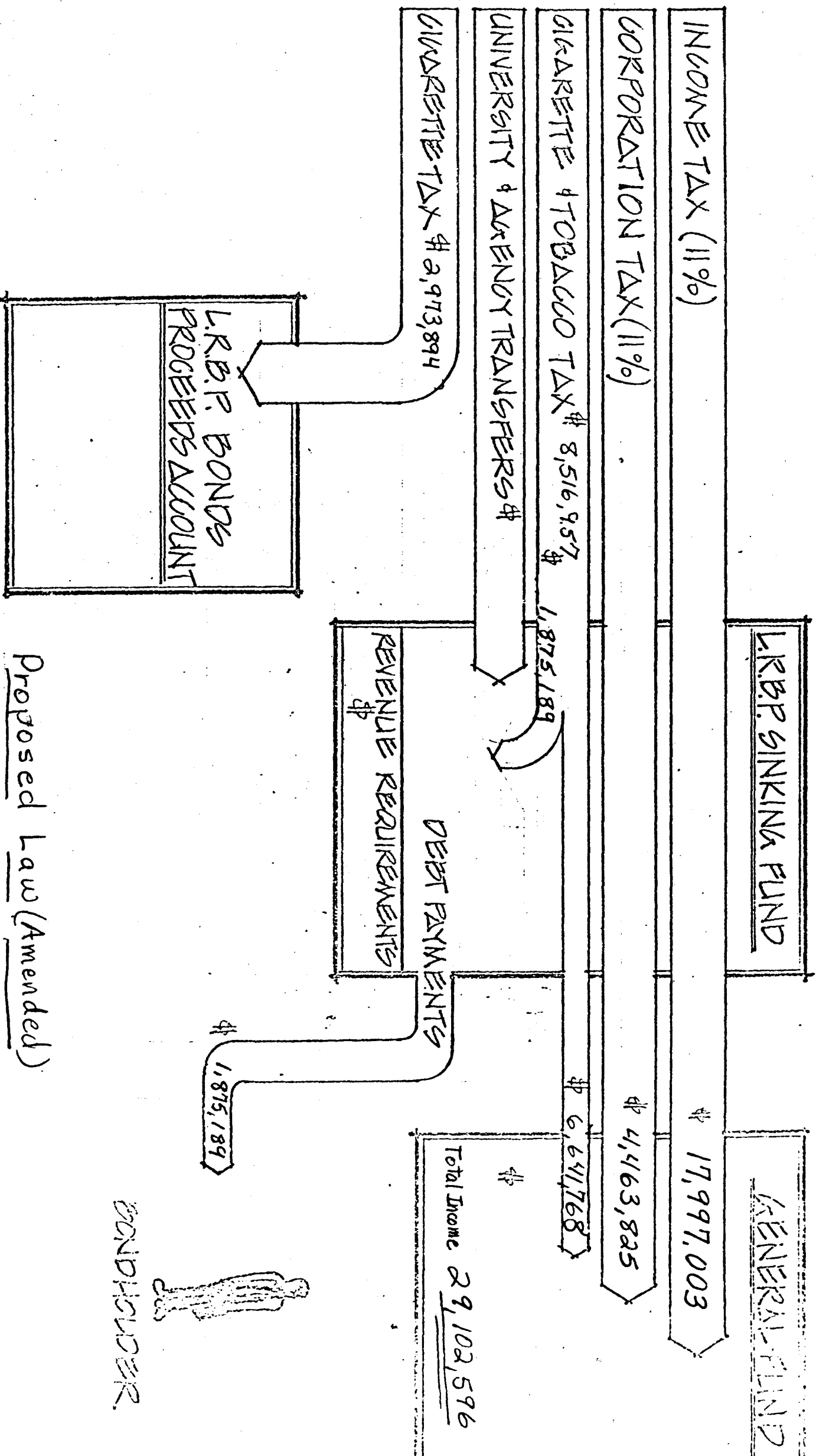


BONDHOLDER

Current Law

FISCAL YEAR 1982 LONG RANGE BUILDING PROGRAM

REVENUES



Proposed Law (Amended)

Official Use

AMENDMENTS TO HOUSE BILL 635

1. Page 4, Line 2

Following: 15%
Strike: 77%
Insert: 73%

2. Page 4, Line 3

Following: 35%
Strike: 23%
Insert: 27%

3. Page 6, Line 3

Following: 15%
Strike: 77%
Insert: 73%

IMPACT OF AMENDMENT
House Bill 635

	<u>FY 1982</u>	<u>FY 1983</u>
<u>Current Law</u>		
Bond Proceeds and Insurance	\$2,973,894	\$2,961,988
General Fund*	<u>6,140,917</u>	<u>6,104,366</u>
Total	\$9,114,811	\$9,066,354
<u>Proposed Law</u>		
Bond Proceeds and Insurance (23%)	\$2,527,700	\$2,517,580
General Fund (77%)	<u>6,587,111</u>	<u>6,548,774</u>
Total	\$9,114,811	\$9,066,354
<u>Proposed Law Amended</u>		
Bond Proceeds and Insurance (27%)	\$2,967,300	\$2,955,420
General Fund (73%)	<u>6,147,511</u>	<u>6,110,934</u>
Total	\$9,114,811	\$9,066,354
<u>Reconciliation to the Fiscal Note</u>		
Total	\$ 9,114,811	\$ 9,066,354
Plus Annual Debt Service	<u>1,875,189</u>	<u>1,879,646</u>
Total Per Fiscal Note	\$10,990,000	\$10,946,000



The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

Ken Nordtvedt
118 Sourdough Ridge
Bozeman, MT 59715

Committees:
Taxation, Chairman
Natural Resources

February 18, 1981

Representative Orval S. Ellison, Chairman
House Fish, Wildlife and Parks Committee
Room 436, State Capitol
Helena, Montana 59601

Dear Representative Ellison:

The House Taxation Committee, having had under consideration House Bill No. 787, hereby transmits the bill to the Fish, Wildlife and Parks Committee without recommendation.

By a majority vote, the House Taxation Committee expressed its feeling that the income tax check off provisions of the bill should be deleted.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ken Nordtvedt", written over the word "Sincerely,".

Ken Nordtvedt, Chairman
House Taxation Committee

WITNESS STATEMENT

NAME THOMAS W. MADDOX HOUSE BILL NO. 635

ADDRESS P.O. BOX 123, HELENA MT 59624 DATE 18 FEBRUARY 1981
442-9555 - 442-1512

WHOM DO YOU REPRESENT MONTANA ASSOCIATION OF TOBACCO and CANDY
DISTRIBUTORS INC.

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STANDING COMMITTEE REPORT

February 20, 1961

MR. SPEAKER

TAXATION

We, your committee on

having had under consideration HOUSE Bill No. 635

A BILL FOR AN ACT ENTITLED: "AN ACT TO REALLOCATE THE CIGARETTE TAX AND TO DELETE REFERENCES IN THE CIGARETTE TAX LAW TO BONDS THAT HAVE BEEN RETIRED; AMENDING SECTIONS 16-11-111, 16-11-114, 16-11-119, AND 17-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 635,

introduced (white), be amended as follows:

1. Page 3, line 23.
Following: "16-11-111"
Strike: "(1)"

2. Page 4, line 2.
Following: "15¢"
Strike: "77¢"
Insert: "73¢"

3. Page 4, line 3.
Following: "35¢"
Strike: "23¢"
Insert: "27¢"

4. Page 6, line 3.
Following: "15¢"
Strike: "77¢"
Insert: "73¢"

AND AS SO AMENDED
DO PASS