

HOUSE TAXATION COMMITTEE MEETING MINUTES
April 3, 1981

A meeting of the House Taxation Committee was held on Friday, April 3, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Harrington, who was absent. EXECUTIVE ACTION was taken on HOUSE BILLS 609, 862, 834 and 835.

Chairman Nordtvedt moved that HOUSE BILL 862 DO NOT PASS. Rep. Brand submitted that this money wasn't needed. He said he had gotten conflicting information on whether or not appraisals were current. The question was called for and the motion carried, with Reps. Williams, Dozier, and Oberg opposed.

Rep. Williams gave a Subcommittee report on HOUSE BILL 835. (He and Rep. Asay were the Subcommittee members). He suggested that collections from the retailer might be provided for on the County level; however, he did not submit any amendments.

Rep. Brand said he had talked to a dealer who said there was no way he could keep a handle on paying the money back, as the bill presently was written. The only way to collect adequately is when the gas comes out of the local pump.

Rep. Williams recommended that the bill DO PASS as it stood, because he felt the bill was workable.

Rep. Zabrocki made a substitute motion of DO NOT PASS, and submitted that the bill was not workable.

Rep. Williams pointed out that the law was already on the books. This bill provides the machinery to provide for how the tax is collected. He added that the tax would have to be established by initiative.

Rep. Asay moved an amendment to Line 21, p. 1. Rep. Williams submitted that this language would have to be inserted throughout the bill. Rep. Asay incorporated this in his motion. The amendment would provide that this would give the local initiative the option of deciding where the tax would be collected.

Rep. Williams solicited Ms. Ellen Feaver's (Department of Revenue) opinion. She said that at present the tax was collected from the distributors. Much bureaucracy would be created if the tax was collected at the retail level. Rep. Asay said that local government would be collecting the tax, not the Department of Revenue. Rep. Williams rose in opposition to the amendment. The question was called for; motion failed 6 - 8.

The substitute motion of DO NOT PASS was then voted on; motion failed 5 - 9. The original motion of DO PASS carried 12 - 4; see roll call vote.

Amendments were then distributed for HOUSE BILL 834; Mr. Oppedahl, Legislative Council, explained the amendments; see Exhibit "A." Instead of a 50% tax credit a more modest incentive is provided for.

To get an advantage , the venture would have had to have been profitable.

Rep. Williams said he still had the same problems with the bill as he originally had. The people who invest on their own and not through an SBIC don't get an advantage.

Rep. Nordtvedt said SBIC's could never take controlling interest in the companies they started. Owners of the companies have to have options to buy the SBIC out after a certain number of years, also. SBIC's basically loan "seed money" to these companies with subordinated debt. Usually this debt has a clause that at some point the SBIC can convert the debt into stock in the company, but the SBIC can never take control and in fact it is designed to get out of the company.

It was pointed out that the Fiscal Note was no longer relevant to the bill.

Rep. Asay moved to reconsider action on the bill; motion carried with Reps. Brand, Williams, Oberg, and Dozier opposed.

Rep. Roth moved that the amendments be adopted. Rep. Oberg said he didn't think money would be invested in the SBIC's. He didn't think the amendments would encourage venture capital.

Rep. Williams was opposed to the bill. It wasn't fair to the individual investor. The SBIC's could operate without the bill being passed, he also pointed out. To discriminate against other capital is not acceptable.

Rep. Neuman pointed out that the businesses that would be financed were high risk businesses.

Rep. Dozier said the way the bill was written, now someone going into a high risk venture would take advantage of the bill, but he didn't think this would encourage anyone to invest in upcoming high risk ventures.

Rep. Williams pointed out that any loss could be counted as such on taxes, and this wasn't allowed on other investments.

The question was called for on the amendments; motion carried with Reps. Zabrocki, Oberg, Williams, Dozier, Brand, and Hart opposed.

Rep. Asay moved that the bill DO PASS: motion carried 11 - 7; see roll call vote. Rep. Nordtvedt said that this bill was a step in the right direction although discriminatory towards some investors.

A Statement of Intent for HB 834 was distributed; see Exhibit "B."

It was moved that the Statement of Intent be adopted; motion carried unanimously.

A motion was made to reconsider the Committee's action on HOUSE BILL 609; motion carried. Amendments were distributed; see Exhibit "C." Rep. Nordtvedt explained that the amendments would provide that a majority of the people in the jurisdiction would have to approve the Resolution to give the tax break, and it couldn't be done simply by the County Commissioners. Amendments proposed by John Lopach were also submitted; see reverse side of Exhibit "C."

Discussion took place regarding Rep. Nordtvedt's proposed amendments. Rep. Dozier wanted to know what would happen if the voters decided to allow the tax break and then wanted to renege on the decision, a few years later. Rep. Nordtvedt said that benefits couldn't be taken away from a facility that previously had received them. Once an industry built under this program, it cannot be cut off, although the tax break could be discontinued for future industries.

Rep. Roth wanted to know what the relationship was between the two sets of amendments. Mr. Oppedahl said that the amendments No. 1 were mutually exclusive. The rest of them could all be adopted.

Rep. Bertelsen moved Rep. Nordtvedt's amendment No. 1; motion carried unanimously.

Mr. Oppedahl explained what Mr. Lopach's amendments No. 2 and 3 did. Rep. Nordtvedt said that as the bill presently read, it wasn't clear whether or not the tax break could be cut off on an industry.


Rep. Nordtvedt moved Mr. Lopach's amendments No. 2 and 3; motion carried unanimously.

Rep. Williams moved Rep. Nordtvedt's amendment No. 2; motion carried unanimously.

Rep. Neuman moved that HOUSE BILL 609 DO PASS AS AMENDED. Discussion took place regarding the language on line 13, p. 3. An amendment which would exclude certain industries was discussed.

The question was called for; motion carried 11 - 7 that HB 609 DO PASS AS AMENDED; see roll call vote.

The meeting was adjourned at 10:00 a.m.


Rep. Ken Nordtvedt, Chairman

HB 834
House Taxation Committee

1. Title, lines 1 and 2.
Following: "TO" on line 1
Strike: line 1 through "AGAINST" on line 2
Insert: "EXEMPT CERTAIN CAPITAL GAINS AND DIVIDEND INCOME FROM"
2. Page 1, line 11.
Following: "Investment"
Strike: "Credit"
Insert: "Incentive"
3. Page 1, line 17.
Following: "tax"
Strike: "credits"
Insert: "exemptions"
4. Page 2, line 8 through page 5, line 9.
Following: line 7 on page 2
Strike: Sections 4 through 6 in their entirety
Renumber: subsequent sections
5. Page 5, line 11.
Following: "each"
Strike: "regional"
6. Page 5, line 14.
Following: "investor,"
Strike: "the region of investment,"
7. Page 5, lines 16 through 20.
Following: line 15
Strike: subsection (2) in its entirety
8. Page 5, line 24.
Following: line 23
Insert: "Section 5. Capital gains - dividends exempted. Any capital gains or dividend income realized by an individual or a corporation from an investment in an SBIC organized in accordance with this [act] is exempt from taxation under the provisions of Title 15, chapters 30 and 31."
Renumber: subsequent sections

STATEMENT OF INTENT -- HB 834
HOUSE TAXATION COMMITTEE

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Section 4 of HB 834 provides the Department of Revenue with rule making authority relating to Small Business Investment Corporations in Montana. In enacting this legislation, it is the intent of the Legislature that the Department of Revenue will adopt rules that insure for the proper reporting of investments in SBIC's and rules to establish eligibility for the capital gains and dividend treatment allowed by ~~this act.~~

House Bill 834 (Enacted)

PROPOSED AMENDMENTS
HOUSE BILL 609

Submitted by John Lopach, Economic Growth Council

1. Page 3, line 20.

Following: "period"

Insert: ", which may not exceed 18 months from the commencement of construction"

2. Page 4.

Following: line 2

Strike: "each"

Insert: "the"

Following: "county or"

Insert: "the"

3. Page 4, line 5.

Following: "for"

Strike: "their"

Insert: "its"

Following: "jurisdiction."

Insert: "The resolution shall include a definition of improvements that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. (3) The taxpayer must apply to the county assessor on a form provided by the department of revenue. The application by the taxpayer must first be approved by the appropriate local jurisdiction, indicating that the property qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section."

AND AS AMENDED
DO PASS

PROPOSED AMENDMENTS
HOUSE BILL 609
Submitted by Rep. Nordtvedt

1. Page 3, lines 17 through 21.

Following: "(1)" on line 17

Strike: line 17 through "period." on line 20.

Following: line 20

Insert: "a"

Following: "construction" on line 21

Insert: "permit is issued"

2. Page 4, line 5.

Following: "jurisdiction"

Insert: ", and the majority of the electors of the taxing jurisdiction must have approved the resolution at any general election. The electors may end the tax benefits by majority vote; however, the complete tax benefits may not be taken from an industrial facility that previously received them"

AND AS AMENDED
DO PASS